

- 1 (5) A security interest arising under G.S. 25-2-401, 25-2-505, 25-2-711(3),
2 or 25-2A-508(5), as provided in G.S. 25-9-110; and
- 3 (6) A security interest arising under G.S. 25-4-208 or G.S. 25-5-118.
- 4 (b) Security interest in secured obligation. – The application of this Article to a
5 security interest in a secured obligation is not affected by the fact that the obligation is
6 itself secured by a transaction or interest to which this Article does not apply.
- 7 (c) Extent to which Article does not apply. – This Article does not apply to the
8 extent that:
- 9 (1) A statute, regulation, or treaty of the United States preempts this
10 Article;
- 11 ~~(2) Another statute of this State expressly governs the creation, perfection,~~
12 ~~priority, or enforcement of a security interest created by this State or a~~
13 ~~governmental unit of this State;~~
- 14 ~~(3)~~(2) A statute of another state, a foreign country, or a governmental unit of
15 another state or a foreign country, other than a statute generally
16 applicable to security interests, expressly governs creation, perfection,
17 priority, or enforcement of a security interest created by the state,
18 country, or governmental unit; or
- 19 ~~(4)~~(3) The rights of a transferee beneficiary or nominated person under a
20 letter of credit are independent and superior under G.S. 25-5-114.
- 21 (d) Inapplicability of Article. – This Article does not apply to:
- 22 (1) A landlord's lien, other than an agricultural lien;
- 23 (2) A lien, other than an agricultural lien, given by statute or other rule of
24 law for services or materials, but G.S. 25-9-333 applies with respect to
25 priority of the lien;
- 26 (3) An assignment of a claim for wages, salary, or other compensation of
27 an employee;
- 28 (4) A sale of accounts, chattel paper, payment intangibles, or promissory
29 notes as part of a sale of the business out of which they arose;
- 30 (5) An assignment of accounts, chattel paper, payment intangibles, or
31 promissory notes which is for the purpose of collection only;
- 32 (6) An assignment of a right to payment under a contract to an assignee
33 that is also obligated to perform under the contract;
- 34 (7) An assignment of a single account, payment intangible, or promissory
35 note to an assignee in full or partial satisfaction of a preexisting
36 indebtedness;
- 37 (8) A transfer of an interest in or an assignment of a claim under a policy
38 of insurance, other than an assignment by or to a health-care provider
39 of a health-care-insurance receivable and any subsequent assignment
40 of the right to payment, but G.S. 25-9-315 and G.S. 25-9-322 apply
41 with respect to proceeds and priorities in proceeds;

- 1 (9) An assignment of a right represented by a judgment, other than a
2 judgment taken on a right to payment that was collateral;
- 3 (10) A right of recoupment or setoff, but:
4 a. G.S. 25-9-340 applies with respect to the effectiveness of rights
5 of recoupment or setoff against deposit accounts; and
6 b. G.S. 25-9-404 applies with respect to defenses or claims of an
7 account debtor;
- 8 (11) The creation or transfer of an interest in or lien on real property,
9 including a lease or rents thereunder, except to the extent that
10 provision is made for:
11 a. Liens on real property in G.S. 25-9-203 and G.S. 25-9-308;
12 b. Fixtures in G.S. 25-9-334;
13 c. Fixture filings in G.S. 25-9-501, 25-9-502, 25-9-512, 25-9-516,
14 and 25-9-519; and
15 d. Security agreements covering personal and real property in G.S.
16 25-9-604;
- 17 (12) An assignment of a claim arising in tort, other than a commercial tort
18 claim, but G.S. 25-9-315 and G.S. 25-9-322 apply with respect to
19 proceeds and priorities in proceeds; or
- 20 (13) An assignment of a deposit account in a consumer transaction, but
21 G.S. 25-9-315 and G.S. 25-9-322 apply with respect to proceeds and
22 priorities in ~~proceeds~~ proceeds; or
- 23 (14) The creation, perfection, priority, or enforcement of any lien on,
24 assignment of, pledge of, or security in, any revenues, rights, funds, or
25 other tangible or intangible assets created, made, or granted by this
26 State or a governmental unit in this State, including the assignment of
27 rights as secured party in security interests granted by any party
28 subject to the provisions of this Article to this State or a governmental
29 unit in this State, to secure, directly or indirectly, any bond, note, other
30 evidence of indebtedness, or other payment obligations for borrowed
31 money issued by, or in connection with, installment or lease purchase
32 financings by, this State or a governmental unit in this State. However,
33 notwithstanding this subdivision, this Article does apply to the
34 creation, perfection, priority, and enforcement of security interests
35 created by this State or a governmental unit in this State in equipment
36 or fixtures."

37 **SECTION 3.** G.S. 25-9-310(b)(11) is repealed.

38 **SECTION 4.** G.S. 25-9-702 reads as rewritten:

39 **"§ 25-9-702. Savings clause.**

40 (a) Pre-effective-date transactions or liens. – Except as otherwise provided in this
41 Part, this act applies to a transaction or lien within its scope, even if the transaction or
42 lien was entered into or created before July 1, 2001.

1 (b) Continuing validity. – Except as otherwise provided in subsection (c) of this
2 section and G.S. 25-9-703 through G.S. 25-9-709:

3 (1) Transactions and liens that were not governed by former Article 9,
4 were validly entered into or created before July 1, 2001, and would be
5 subject to this act if they had been entered into or created after July 1,
6 2001, and the rights, duties, and interests flowing from those
7 transactions and liens remain valid after July 1, 2001; and

8 (2) The transactions and liens described in subdivision (1) of this
9 subsection may be terminated, completed, consummated, and enforced
10 as required or permitted by this act or by the law that otherwise would
11 apply if this act had not taken effect.

12 (c) Pre-effective-date proceedings. – This act does not affect an action, case, or
13 proceeding commenced before July 1, 2001.

14 (d) Special rule for certain governmental transactions. – Notwithstanding any
15 other provision of this act, security interests that were excluded under former Article 9
16 pursuant to former G.S. 25-9-104(e) or as to which the filing requirements of former
17 Article 9 did not apply pursuant to former G.S. 25-9-302(6), and which are effective
18 prior to July 1, 2001, but for which the applicable requirements for creation, perfection,
19 or enforceability under this act are not satisfied on July 1, 2001, shall nonetheless be
20 treated as valid, enforceable, and perfected security interests under this act for the
21 duration of those security interests."

22 **SECTION 5.** G.S. 63A-11(e), 143B-456.1(f), 159C-28, and 159D-23 are
23 repealed.

24 **SECTION 6.** The Revisor of Statutes shall cause to be printed along with
25 the portions of this act amending Article 9 of Chapter 25 of the General Statutes, such
26 North Carolina official comments explaining the amendments made by this act as the
27 Revisor deems appropriate.

28 **SECTION 7.** This act becomes effective July 1, 2001.