

§ 28:9—309. Protection of purchasers of instruments and documents

Nothing in this article limits the rights of a holder in due course of a negotiable instrument (section 28:3—302) or a holder to whom a negotiable document of title has been duly negotiated (section 28:7—501) or a bona fide purchaser of a security (section 28:8—301) and such holders or purchasers take priority over an earlier security interest even though perfected. Filing under this article does not constitute notice of the security interest to such holders or purchasers.

§ 28:9—310. Priority of certain liens arising by operation of law

When a person in the ordinary course of his business furnishes services or materials with respect to goods subject to a security interest, a lien upon goods in the possession of such person given by statute or rule of law for such materials or services takes priority over a perfected security interest unless the lien is statutory and the statute expressly provides otherwise.

§ 28:9—311. Alienability of debtor's rights; judicial process

The debtor's rights in collateral may be voluntarily or involuntarily transferred (by way of sale, creation of a security interest, attachment, levy, garnishment or other judicial process) notwithstanding a provision in the security agreement prohibiting any transfer or making the transfer constitute a default.

§ 28:9—312. Priorities among conflicting security interests in the same collateral

(1) The rules of priority stated in the following sections shall govern where applicable: section 28:4—208 with respect to the security interest of collecting banks in items being collected, accompanying documents and proceeds; section 28:9—301 on certain priorities; section 28:9—304 on goods covered by documents; section 28:9—306 on proceeds and repossessions; section 28:9—307 on buyers of goods; section 28:9—308 on possessory against non-possessory interests in chattel paper or non-negotiable instruments; section 28:9—309 on security interests in negotiable instruments, documents or securities; section 28:9—310 on priorities between perfected security interests and liens by operation of law; section 28:9—313 on security interests in fixtures as against interests in real estate; section 28:9—314 on security interests in accessions as against interest in goods; section 28:9—315 on conflicting security interests where goods lose their identity or become part of a product; and section 28:9—316 on contractual subordination.

(2) A perfected security interest in crops for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A purchase money security interest in inventory collateral has priority over a conflicting security interest in the same collateral if

(a) the purchase money security interest is perfected at the time the debtor receives possession of the collateral; and

(b) any secured party whose security interest is known to the holder of the purchase money security interest or who, prior to the date of the filing made by the holder of the purchase money security interest, had filed a financing statement covering the same items or type of inventory, has received notification of the purchase money security interest before the debtor receives possession of the collateral covered by the purchase money security interest; and

(c) such notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within ten days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined as follows:

(a) in the order of filing if both are perfected by filing, regardless of which security interest attached first under section 28:9—204(1) and whether it attached before or after filing;