

UNIFORM COMMERCIAL CODE

CHAPTER 428

HOUSE BILL NO. 1233
(R. Peterson, Atkinson)

PRIORITY OF SECURITY INTERESTS IN FIXTURES

AN ACT to amend and reenact subsection 5 of section 41-09-34 of the North Dakota Century Code relating to the priority of a real estate interest in fixtures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 5 of section 41-09-34 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. A real estate interest in a fixture of any encumbrancer or owner of the real estate who is not the debtor has priority over a conflicting security interest except as follows:
 - a. The security interest has priority over a lien upon the fixture by legal or equitable proceedings obtained after the security interest was perfected by fixture filing or otherwise.
 - b. The security interest has priority over the real estate interest (other than a construction mortgage to finance a construction or improvement including the fixture which is of record before the goods become a fixture) if the security interest is a purchase money security interest, the debtor has an interest of record in the real estate, and the security interest is perfected by a fixture filing and recorded before the goods become a fixture or within ten days thereafter.
 - c. The security interest has priority over an encumbrance if the debtor has an interest of record in the real estate and the security interest is perfected by a fixture filing and recorded before the encumbrance is recorded.

Approved March 12, 1971

CHAPTER 429

SENATE BILL NO. 2459
(Holand)

SECURED PARTY'S RIGHT
TO POSSESSION OF SECURITY

AN ACT to amend and reenact section 41-09-49 of the North Dakota Century Code, relating to a secured party's right to take possession after default.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 41-09-49 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

41-09-49. (9-503) SECURED PARTY'S RIGHT TO TAKE POSSESSION AFTER DEFAULT.) Unless otherwise agreed and subject to Chapter 28-29 of the North Dakota Century Code as amended, a secured party has, on default, the right to take possession of the collateral. In taking possession a secured party may proceed without judicial process if this can be done without breach of the peace or may proceed by action. If the security agreement so provides the secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties. Without removal a secured party may render equipment unusable, and may dispose of collateral on the debtor's premises under section 41-09-50.

Approved March 18, 1971