

HOUSE AMENDMENTS TO HOUSE BILL 2708

By COMMITTEE ON JUDICIARY

April 12

- 1 On page 1 of the printed bill, line 2, after “ORS” insert “79.0109,”.
- 2 On page 3, after line 24, insert:
- 3 “**SECTION 9.** ORS 79.0109 is amended to read:
- 4 “79.0109. (1) Except as otherwise provided in subsections (3) and (4) of this section, this chapter
- 5 applies to:
- 6 “(a) A transaction, regardless of its form, that creates a security interest in personal property
- 7 or fixtures by contract;
- 8 “(b) An agricultural lien;
- 9 “(c) A sale of accounts, chattel paper, payment intangibles or promissory notes;
- 10 “(d) A consignment;
- 11 “(e) A security interest arising under ORS 72.4010, 72.5050, 72.7110 (3), or 72A.5080 (5), as pro-
- 12 vided in ORS 79.0110; and
- 13 “(f) A security interest arising under ORS 74.2100 or 75.1180.
- 14 “(2) The application of this chapter to a security interest in a secured obligation is not affected
- 15 by the fact that the obligation is itself secured by a transaction or interest to which this chapter
- 16 does not apply.
- 17 “(3) This chapter does not apply to the extent that:
- 18 “(a) A statute, regulation or treaty of the United States preempts this chapter;
- 19 “(b) Another statute of this state expressly governs the creation, perfection, priority or
- 20 enforcement of a security interest created by this state or a governmental unit of this state;
- 21 “(c) A statute of another state, a foreign country, or a governmental unit of another state or a
- 22 foreign country, other than a statute generally applicable to security interests, expressly governs
- 23 creation, perfection, priority, or enforcement of a security interest created by the state, country, or
- 24 governmental unit; [or]
- 25 “(d) The rights of a transferee beneficiary or nominated person under a letter of credit are in-
- 26 dependent and superior under ORS 75.1140[.]; **or**
- 27 “**(e) A provision of this chapter conflicts with a provision of ORS 359.200 to 359.255.**
- 28 “(4) This chapter does not apply to:
- 29 “(a) A landlord’s lien, other than an agricultural lien;
- 30 “(b) A lien, other than an agricultural lien, given by statute or other rule of law for services
- 31 or materials, but ORS 79.0333 applies with respect to priority of the lien;
- 32 “(c) An assignment of a claim for wages, salary or other compensation of an employee;
- 33 “(d) A sale of accounts, chattel paper, payment intangibles or promissory notes as part of a sale
- 34 of the business out of which they arose;
- 35 “(e) An assignment of accounts, chattel paper, payment intangibles or promissory notes which

1 is for the purpose of collection only;

2 “(f) An assignment of a right to payment under a contract to an assignee that is also obligated
3 to perform under the contract;

4 “(g) An assignment of a single account, payment intangible or promissory note to an assignee
5 in full or partial satisfaction of a preexisting indebtedness;

6 “(h) A transfer of an interest in or an assignment of a claim under a policy of insurance, other
7 than an assignment by or to a health-care provider of a health-care-insurance receivable and any
8 subsequent assignment of the right to payment, but ORS 79.0315 and 79.0322 apply with respect to
9 proceeds and priorities in proceeds;

10 “(i) An assignment of a right represented by a judgment, other than a judgment taken on a right
11 to payment that was collateral;

12 “(j) A right of recoupment or setoff, but:

13 “(A) ORS 79.0340 applies with respect to the effectiveness of rights of recoupment or setoff
14 against deposit accounts; and

15 “(B) ORS 79.0404 applies with respect to defenses or claims of an account debtor;

16 “(k) The creation or transfer of an interest in or lien on real property, including a lease or rents
17 thereunder, or a seller’s or purchaser’s interest in a land sale contract and the proceeds thereof,
18 except to the extent that provision is made for:

19 “(A) Liens on real property in ORS 79.0203 and 79.0308;

20 “(B) Fixtures in ORS 79.0334;

21 “(C) Fixture filings in ORS 79.0501, 79.0502, 79.0512, 79.0516 and 79.0519; and

22 “(D) Security agreements covering personal and real property in ORS 79.0604;

23 “(L) An assignment of a claim arising in tort, other than a commercial tort claim, but ORS
24 79.0315 and 79.0322 apply with respect to proceeds and priorities in proceeds; or

25 “(m) An assignment, in a consumer transaction, of a deposit account from which, under the
26 terms of the account agreement, third party payments may be made by means of a check, draft, ne-
27 gotiable order of withdrawal or other order, but ORS 79.0315 and 79.0322 apply with respect to
28 proceeds and priorities in proceeds.”.

29 In line 25, delete “9” and insert “10”.

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