

1 SENATE BILL 216

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 William H. Payne

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10 AN ACT

11 RELATING TO SECURED TRANSACTIONS; CONFORMING A PROVISION TO THE
12 OFFICIAL TEXT.

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 55-9-620 NMSA 1978 (being Laws 2001,
16 Chapter 139, Section 117) is amended to read:

17 "55-9-620. ACCEPTANCE OF COLLATERAL IN FULL OR PARTIAL
18 SATISFACTION OF OBLIGATION--COMPULSORY DISPOSITION OF
19 COLLATERAL.--

20 (a) Except as otherwise provided in Subsection (g)
21 of this section, a secured party may accept collateral in full
22 or partial satisfaction of the obligation it secures only if:

23 (1) the debtor consents to the acceptance
24 under Subsection (c) of this section;

25 (2) the secured party does not receive, within

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1 the time set forth in Subsection (d) of this section, a
2 notification of objection to the proposal authenticated by:

3 (A) a person to which the secured party
4 was required to send a proposal under Section 55-9-621 NMSA
5 1978; or

6 (B) any other person, other than the
7 debtor, holding an interest in the collateral subordinate to
8 the security interest that is the subject of the proposal;

9 (3) if the collateral is consumer goods, the
10 collateral is not in the possession of the debtor when the
11 debtor consents to the acceptance; and

12 (4) Subsection (e) of this section does not
13 require the secured party to dispose of the collateral or the
14 debtor waives the requirement pursuant to Section 55-9-624 NMSA
15 1978.

16 (b) A purported or apparent acceptance of
17 collateral under this section is ineffective unless:

18 (1) the secured party consents to the
19 acceptance in an authenticated record or sends a proposal to
20 the debtor; and

21 (2) the conditions of Subsection (a) of this
22 section are met.

23 (c) For purposes of this section:

24 (1) a debtor consents to an acceptance of
25 collateral in partial satisfaction of the obligation it secures

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1 only if the debtor agrees to the terms of the acceptance in a
2 record authenticated after default; and

3 (2) a debtor consents to an acceptance of
4 collateral in full satisfaction of the obligation it secures
5 only if the debtor agrees to the terms of the acceptance in a
6 record authenticated after default or the secured party:

7 (A) sends to the debtor after default a
8 proposal that is unconditional or subject only to a condition
9 that collateral not in the possession of the secured party be
10 preserved or maintained;

11 (B) in the proposal, proposes to accept
12 collateral in full satisfaction of the obligation it secures;
13 and

14 (C) does not receive a notification of
15 objection authenticated by the debtor within twenty days after
16 the proposal is sent.

17 (d) To be effective under Paragraph (2) of
18 Subsection (a) of this section, a notification of objection
19 must be received by the secured party:

20 (1) in the case of a person to which the
21 proposal was sent pursuant to Section 55-9-621 NMSA 1978,
22 within twenty days after notification was sent to that person;
23 and

24 (2) in other cases:

25 (A) within twenty days after the last

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1 notification was sent pursuant to Section 55-9-621 NMSA 1978;
2 or

3 (B) if a notification was not sent,
4 before the debtor consents to the acceptance under Subsection
5 (c) of this section.

6 (e) A secured party that has taken possession of
7 collateral shall dispose of the collateral pursuant to Section
8 55-9-610 NMSA 1978 within the time specified in Subsection (f)
9 of this section if:

10 (1) sixty percent of the cash price has been
11 paid in the case of a purchase-money security interest in
12 consumer goods; or

13 (2) sixty percent of the principal amount of
14 the obligation secured has been paid in the case of a non-
15 purchase-money security interest in consumer goods.

16 (f) To comply with Subsection (e) of this section,
17 the secured party shall dispose of the collateral:

18 (1) within ninety days after taking
19 possession; or

20 (2) within any longer period to which the
21 debtor and all secondary obligors have agreed in an agreement
22 to that effect entered into and authenticated after default.

23 (g) In a consumer transaction, a secured party may
24 not accept collateral in partial satisfaction of the obligation
25 it secures."

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