S T A T E O F N E W Y O R K

S. 963 A. 690

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 5, 2011

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the uniform commercial code, in relation to deeming goods to be on sale or return as to creditor claims when goods delivered to person dealing in goods of the kind involved

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The section heading and subsection 2 of section 2-326 of the uniform commercial code, as amended by chapter 84 of the laws of 2001, are amended and a new subsection 4 is added to read as follows:

Sale on Approval and Sale or Return; CONSIGNMENT SALES AND Rights of Creditors.

(2) [Goods] EXCEPT AS PROVIDED IN SUBSECTION (4), GOODS held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

(4) WHERE GOODS ARE DELIVERED TO A PERSON FOR SALE AND SUCH PERSON MAINTAINS A PLACE OF BUSINESS AT WHICH HE DEALS IN GOODS OF THE KIND INVOLVED, UNDER A NAME OTHER THAN THE NAME OF THE PERSON MAKING DELIVERY, THEN WITH RESPECT TO CLAIMS OF CREDITORS OF THE PERSON CONDUCTING THE BUSINESS THE GOODS ARE DEEMED TO BE ON SALE OR RETURN. THE PROVISIONS OF THIS SUBSECTION ARE APPLICABLE EVEN THOUGH AN AGREEMENT PURPORTS TO RESERVE TITLE TO THE PERSON MAKING DELIVERY UNTIL PAYMENT OR RESALE OR USES SUCH WORDS AS "ON CONSIGNMENT" OR "ON MEMORANDUM". HOWEVER, THIS SUBSECTION IS NOT APPLICABLE IF THE PERSON MAKING DELIVERY

(A) COMPLIES WITH AN APPLICABLE LAW PROVIDING FOR A CONSIGNOR'S INTEREST OR THE LIKE TO BE EVIDENCED BY A SIGN, OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD03746-01-1

(B) ESTABLISHES THAT THE PERSON CONDUCTING THE BUSINESS IS GENERALLY KNOWN BY HIS CREDITORS TO BE SUBSTANTIALLY ENGAGED IN SELLING THE GOODS OF OTHERS, OR

(C) COMPLIES WITH THE FILING PROVISIONS OF THE ARTICLE ON SECURED TRANSACTIONS (ARTICLE 9).

S 2. This act shall take effect immediately.