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HOUSE BILL 1273

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Sheahan, Appelwick, Cody, Sherstad, Wensman and Costa

Read first time 01/21/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to a debtor's liability for a deficiency after  
2 default under a security agreement; and amending RCW 62A.9-501.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 62A.9-501 and 1981 c 41 s 34 are each amended to read  
5 as follows:

6 (1) When a debtor is in default under a security agreement, a  
7 secured party has the rights and remedies provided in this Part and  
8 except as limited by subsection (3) of this section those provided in  
9 the security agreement. He or she may reduce his or her claim to  
10 judgment, foreclose or otherwise enforce the security interest by any  
11 available judicial procedure. If the collateral is documents the  
12 secured party may proceed either as to the documents or as to the goods  
13 covered thereby. A secured party in possession has the rights,  
14 remedies and duties provided in RCW 62A.9-207. The rights and remedies  
15 referred to in this subsection are cumulative.

16 ~~((Notwithstanding any other provision of this Code, in the case of~~  
17 ~~a purchase money security interest in consumer goods taken or retained~~  
18 ~~by the seller of such collateral to secure all or part of its price,~~  
19 ~~the debtor shall not be liable for any deficiency after the secured~~

1 ~~party has disposed of such collateral under RCW 62A.9-504 or has~~  
2 ~~retained such collateral in satisfaction of the debt under subsection~~  
3 ~~(2) of RCW 62A.9-505.)~~

4 (2) After default, the debtor has the rights and remedies provided  
5 in this Part, those provided in the security agreement and those  
6 provided in RCW 62A.9-207.

7 (3) To the extent that they give rights to the debtor and impose  
8 duties on the secured party, the rules stated in the subsections  
9 referred to (~~below~~) in (a) through (e) of this subsection may not be  
10 waived or varied except as provided with respect to compulsory  
11 disposition of collateral (subsection (3) of RCW 62A.9-504 and RCW  
12 62A.9-505) and with respect to redemption of collateral (RCW 62A.9-506)  
13 but the parties may by agreement determine the standards by which the  
14 fulfillment of these rights and duties is to be measured if such  
15 standards are not manifestly unreasonable:

16 (a) subsection (2) of RCW 62A.9-502 and subsection (2) of RCW  
17 62A.9-504 insofar as they require accounting for surplus proceeds of  
18 collateral;

19 (b) subsection (3) of RCW 62A.9-504 and subsection (1) of RCW  
20 62A.9-505 which deal with disposition of collateral;

21 (c) subsection (2) of RCW 62A.9-505 which deals with acceptance of  
22 collateral as discharge of obligation;

23 (d) RCW 62A.9-506 which deals with redemption of collateral; and

24 (e) subsection (1) of RCW 62A.9-507 which deals with the secured  
25 party's liability for failure to comply with this Part.

26 (4) If the security agreement covers both real and personal  
27 property, the secured party may proceed under this Part as to the  
28 personal property or he or she may proceed as to both the real and the  
29 personal property in accordance with his or her rights and remedies in  
30 respect of the real property in which case the provisions of this Part  
31 do not apply.

32 (5) When a secured party has reduced his or her claim to judgment  
33 the lien of any levy which may be made upon his or her collateral by  
34 virtue of any execution based upon the judgment shall relate back to  
35 the date of the perfection of the security interest in such collateral.  
36 A judicial sale, pursuant to such execution, is a foreclosure of the  
37 security interest by judicial procedure within the meaning of this

1 section, and the secured party may purchase at the sale and thereafter  
2 hold the collateral free of any other requirements of this Article.

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