

§9-1207. Rights and duties of secured party having possession or control of collateral

(1). Except as otherwise provided in subsection (4), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(2). Except as otherwise provided in subsection (4), if a secured party has possession of collateral:

(a). Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use or operation of the collateral, are chargeable to the debtor and are secured by the collateral; [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(b). The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage; [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(c). The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(d). The secured party may use or operate the collateral:

(i) For the purpose of preserving the collateral or its value;

(ii) As permitted by an order of a court having competent jurisdiction; or

(iii) Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

[PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(3). Except as otherwise provided in subsection (4), a secured party having possession of collateral or control of collateral under section 7-1106, 9-1104, 9-1105, 9-1106 or 9-1107:

(a). May hold as additional security any proceeds, except money or funds, received from the collateral; [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(b). Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(c). May create a security interest in the collateral. [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

[PL 2009, c. 324, Pt. B, §30 (AMD); PL 2009, c. 324, Pt. B, §48 (AFF).]

(4). If the secured party is a buyer of accounts, chattel paper, payment intangibles or promissory notes or a consignor:

(a). Subsection (1) does not apply unless the secured party is entitled under an agreement:

(i) To charge back uncollected collateral; or

(ii) Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and [PL 1999, c. 699, Pt. A, §2 (NEW); PL 1999, c. 699, Pt. A, §4 (AFF).]

(b). Subsections (2) and (3) do not apply. [PL 2003, c. 510, Pt. C, §1 (NEW).]

[PL 2003, c. 510, Pt. C, §1 (AMD).]

(5).

[PL 2003, c. 510, Pt. C, §2 (RP).]

SECTION HISTORY

PL 1999, c. 699, §A2 (NEW). PL 1999, c. 699, §A4 (AFF). PL 2003, c. 510, §§C1,2 (AMD).
PL 2009, c. 324, Pt. B, §30 (AMD). PL 2009, c. 324, Pt. B, §48 (AFF).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular and First Special Session of the 131st Maine Legislature and is current through November 1, 2023. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.