



Ohio Revised Code

Section 1309.334 Priority of security interests in fixtures and crops - UCC 9-334.

Effective: July 1, 2001

Legislation: Senate Bill 74 - 124th General Assembly

(A) A security interest under this chapter may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this chapter in ordinary building materials incorporated into an improvement on land.

(B) This chapter does not prevent creation of an encumbrance upon fixtures pursuant to real property law.

(C) In cases not governed by divisions (D) to (H) of this section, a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(D) Except as otherwise provided in division (H) of this section, a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

(1) The security interest is a purchase money security interest;

(2) The interest of the encumbrancer or owner arises before the goods become fixtures; and

(3) The security interest is perfected by a fixture filing before the goods become fixtures or within twenty days thereafter.

(E) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) The debtor has an interest of record in the real property or is in possession of the real property, and the security interest:



- (a) Is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and
 - (b) Has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;
- (2) Before the goods became fixtures, the security interest is perfected by any method permitted by this chapter, and the fixtures are readily removable:
- (a) Factory or office machines;
 - (b) Equipment that is not primarily used or leased for use in the operation of the real property; or
 - (c) Replacements of domestic appliances that are consumer goods;
- (3) The conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this chapter; or
- (4) The security interest is:
- (a) Created in a manufactured home in a manufactured home transaction; and
 - (b) Perfected pursuant to a section listed in division (A)(2) of section 1309.311 of the Revised Code.
- (F) A security interest in fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real property if:
- (1) The encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures; or
 - (2) The debtor has a right to remove the goods as against the encumbrancer or owner.
- (G) The priority of the security interest under division (F)(2) of this section continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner



terminates.

(H) A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in divisions (E) and (F) of this section, a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(I) A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

(J) Division (I) of this section prevails over any inconsistent statutes not specifically enumerated under division (D)(2) of section 1309.109 of the Revised Code and applicable by their terms.