

AMENDED IN SENATE APRIL 8, 2013
AMENDED IN SENATE JANUARY 15, 2013

SENATE BILL

No. 6

Introduced by Senator Lieu

December 3, 2012

An act to amend, add, and repeal, Section 9321 of the Commercial Code, relating to business, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 6, as amended, Lieu. Business.

Existing law provides that a lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

This bill would, until January 1, 2015, also provide that a licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence. This bill would, notwithstanding any other law, make its provisions operative on January 1, 2013, and state the Legislature's intent in this regard.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. To ensure economic stability and continuity for
2 purposes of contract interpretation, it is the intent of the Legislature
3 to negate the repeal on January 1, 2013, of, ~~and also to enhance,~~
4 existing provisions within Section 9321 of the Commercial Code
5 relating to a licensee in ordinary course of business.

6 SEC. 2. Section 9321 of the Commercial Code is amended to
7 read:

8 9321. (a) A lessee in ordinary course of business takes its
9 leasehold interest free of a security interest in the goods created
10 by the lessor, even if the security interest is perfected and the lessee
11 knows of its existence.

12 (b) This section shall become operative on January 1, 2015.

13 SEC. 3. Section 9321 is added to the Commercial Code, to
14 read:

15 9321. (a) In this section, “licensee in ordinary course of
16 business” means a person that becomes a licensee of a general
17 intangible in good faith, without knowledge that the license violates
18 the rights of another person in the general intangible, and in the
19 ordinary course from a person in the business of licensing general
20 intangibles of that kind. A person becomes a licensee in the
21 ordinary course if the license to the person comports with the usual
22 or customary practices in the kind of business in which the licensor
23 is engaged or with the licensor’s own usual or customary practices.

24 (b) A licensee in ordinary course of business takes its rights
25 under a nonexclusive license free of a security interest in the
26 general intangible created by the licensor, even if the security
27 interest is perfected and the licensee knows of its existence.

28 (c) A lessee in ordinary course of business takes its leasehold
29 interest free of a security interest in the goods created by the lessor,
30 even if the security interest is perfected and the lessee knows of
31 its existence.

32 (d) This section shall remain in effect only until January 1, 2015,
33 and as of that date is repealed, unless a later enacted statute, that
34 is enacted before January 1, 2015, deletes or extends that date.

35 SEC. 4. Notwithstanding the operative date set forth in Section
36 2 of Chapter 315 of the Statutes of 2009, Section 9609 of the
37 Government Code, or any other provision of law, Sections 2 and
38 3 of this bill are operative commencing on January 1, 2013.

1 SEC. 5. This act is an urgency statute necessary for the
2 immediate preservation of the public peace, health, or safety within
3 the meaning of Article IV of the Constitution and shall go into
4 immediate effect. The facts constituting the necessity are:

5 In order to negate the repeal of, ~~and to enhance,~~ existing law
6 relating to a licensee in ordinary course of business to ensure
7 economic stability and continuity for purposes of contract
8 interpretation, it is necessary that this act take effect immediately.

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