

Senate Bill No. 6

Passed the Senate April 11, 2013

Secretary of the Senate

Passed the Assembly June 24, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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.

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

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

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

9321. (a) 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.

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

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

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

(b) 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.

(c) 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.

(d) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

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

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

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

Approved _____, 2013

Governor