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**SUBSTITUTE SENATE BILL 5561**

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**State of Washington                      58th Legislature                      2003 Regular Session**

**By Senate Committee on Financial Services, Insurance & Housing**  
**(originally sponsored by Senator Prentice)**

READ FIRST TIME 02/21/03.

1            AN ACT Relating to restrictions on assignments under Article 9A of  
2 the uniform commercial code; amending RCW 62A.9A-406 and 62A.9A-408;  
3 providing an effective date; and declaring an emergency.

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

5            **Sec. 1.** RCW 62A.9A-406 and 2001 c 32 s 34 are each amended to read  
6 as follows:

7            (a) **Discharge of account debtor; effect of notification.** Subject  
8 to subsections (b) through ~~((i))~~ (j) of this section, an account  
9 debtor on an account, chattel paper, or a payment intangible may  
10 discharge its obligation by paying the assignor until, but not after,  
11 the account debtor receives a notification, authenticated by the  
12 assignor or the assignee, that the amount due or to become due has been  
13 assigned and that payment is to be made to the assignee. After receipt  
14 of the notification, the account debtor may discharge its obligation by  
15 paying the assignee and may not discharge the obligation by paying the  
16 assignor.

17            (b) **When notification ineffective.** Subject to subsection (h) of  
18 this section, notification is ineffective under subsection (a) of this  
19 section:

1 (1) If it does not reasonably identify the rights assigned;

2 (2) To the extent that an agreement between an account debtor and  
3 a seller of a payment intangible limits the account debtor's duty to  
4 pay a person other than the seller and the limitation is effective  
5 under law other than this Article; or

6 (3) At the option of an account debtor, if the notification  
7 notifies the account debtor to make less than the full amount of any  
8 installment or other periodic payment to the assignee, even if:

9 (A) Only a portion of the account, chattel paper, or payment  
10 intangible has been assigned to that assignee;

11 (B) A portion has been assigned to another assignee; or

12 (C) The account debtor knows that the assignment to that assignee  
13 is limited.

14 (c) **Proof of assignment.** Subject to subsection (h) of this  
15 section, if requested by the account debtor, an assignee shall  
16 seasonably furnish reasonable proof that the assignment has been made.  
17 Unless the assignee complies, the account debtor may discharge its  
18 obligation by paying the assignor, even if the account debtor has  
19 received a notification under subsection (a) of this section.

20 (d) **Term restricting assignment generally ineffective.** Except as  
21 otherwise provided in subsection (e) of this section and RCW 62A.2A-303  
22 and 62A.9A-407, and subject to subsections (h) and (j) of this section,  
23 a term in an agreement between an account debtor and an assignor or in  
24 a promissory note is ineffective to the extent that it:

25 (1) Prohibits, restricts, or requires the consent of the account  
26 debtor or person obligated on the promissory note to the assignment or  
27 transfer of, or the creation, attachment, perfection, or enforcement of  
28 a security interest in, the account, chattel paper, payment intangible,  
29 or promissory note; or

30 (2) Provides that the assignment or transfer or the creation,  
31 attachment, perfection, or enforcement of the security interest may  
32 give rise to a default, breach, right of recoupment, claim, defense,  
33 termination, right of termination, or remedy under the account, chattel  
34 paper, payment intangible, or promissory note.

35 (e) **Inapplicability of subsection (d) to certain sales.** Subsection  
36 (d) of this section does not apply to the sale of a payment intangible  
37 or promissory note.

38 (f) [Reserved]

1 (g) **Subsection (b)(3) not waivable.** Subject to subsection (h) of  
2 this section, an account debtor may not waive or vary its option under  
3 subsection (b)(3) of this section.

4 (h) **Rule for individual under other law.** This section is subject  
5 to law other than this Article which establishes a different rule for  
6 an account debtor who is an individual and who incurred the obligation  
7 primarily for personal, family, or household purposes.

8 (i) **Inapplicability to health-care-insurance receivable.** This  
9 section does not apply to an assignment of a health-care-insurance  
10 receivable.

11 (j)(1) Inapplicability of subsection (d) of this section to certain  
12 transactions. After July 1, 2003, subsection (d) of this section does  
13 not apply to the assignment or transfer of or creation of a security  
14 interest in:

15 (A) A claim or right to receive compensation for injuries or  
16 sickness as described in 26 U.S.C. Sec. 104(a)(1) or (2); or

17 (B) A claim or right to receive benefits under a special needs  
18 trust as described in 42 U.S.C. Sec. 1396p(d)(4).

19 (2) This subsection will not affect a transfer of structured  
20 settlement payment rights under chapter 19.205 RCW.

21 **Sec. 2.** RCW 62A.9A-408 and 2000 c 250 s 9A-408 are each amended to  
22 read as follows:

23 (a) **Term restricting assignment generally ineffective.** Except as  
24 otherwise provided in subsection (b) of this section, a term in a  
25 promissory note or in an agreement between an account debtor and a  
26 debtor which relates to a health-care-insurance receivable or a general  
27 intangible, including a contract, permit, license, or franchise, and  
28 which term prohibits, restricts, or requires the consent of the person  
29 obligated on the promissory note or the account debtor to, the  
30 assignment or transfer of, or creation, attachment, or perfection of a  
31 security interest in, the promissory note, health-care-insurance  
32 receivable, or general intangible, is ineffective to the extent that  
33 the term:

34 (1) Would impair the creation, attachment, or perfection of a  
35 security interest; or

36 (2) Provides that the assignment or transfer or the creation,  
37 attachment, or perfection of the security interest may give rise to a

1 default, breach, right of recoupment, claim, defense, termination,  
2 right of termination, or remedy under the promissory note, health-care-  
3 insurance receivable, or general intangible.

4 (b) **Applicability of subsection (a) of this section to sales of**  
5 **certain rights to payment.** Subsection (a) of this section applies to  
6 a security interest in a payment intangible or promissory note only if  
7 the security interest arises out of a sale of the payment intangible or  
8 promissory note.

9 (c) **Legal restrictions on assignment generally ineffective.** A rule  
10 of law, statute, or regulation that prohibits, restricts, or requires  
11 the consent of a government, governmental body or official, person  
12 obligated on a promissory note, or account debtor to the assignment or  
13 transfer of, or creation of a security interest in, a promissory note,  
14 health-care-insurance receivable, or general intangible, including a  
15 contract, permit, license, or franchise between an account debtor and  
16 a debtor, is ineffective to the extent that the rule of law, statute,  
17 or regulation:

18 (1) Would impair the creation, attachment, or perfection of a  
19 security interest; or

20 (2) Provides that the assignment or transfer or the creation,  
21 attachment, or perfection of the security interest may give rise to a  
22 default, breach, right of recoupment, claim, defense, termination,  
23 right of termination, or remedy under the promissory note, health-care-  
24 insurance receivable, or general intangible.

25 (d) **Limitation on ineffectiveness under subsections (a) and (c) of**  
26 **this section.** To the extent that a term in a promissory note or in an  
27 agreement between an account debtor and a debtor which relates to a  
28 health-care-insurance receivable or general intangible or a rule of  
29 law, statute, or regulation described in subsection (c) of this section  
30 would be effective under law other than this Article but is ineffective  
31 under subsection (a) or (c) of this section, the creation, attachment,  
32 or perfection of a security interest in the promissory note, health-  
33 care-insurance receivable, or general intangible:

34 (1) Is not enforceable against the person obligated on the  
35 promissory note or the account debtor;

36 (2) Does not impose a duty or obligation on the person obligated on  
37 the promissory note or the account debtor;

1 (3) Does not require the person obligated on the promissory note or  
2 the account debtor to recognize the security interest, pay or render  
3 performance to the secured party, or accept payment or performance from  
4 the secured party;

5 (4) Does not entitle the secured party to use or assign the  
6 debtor's rights under the promissory note, health-care-insurance  
7 receivable, or general intangible, including any related information or  
8 materials furnished to the debtor in the transaction giving rise to the  
9 promissory note, health-care-insurance receivable, or general  
10 intangible;

11 (5) Does not entitle the secured party to use, assign, possess, or  
12 have access to any trade secrets or confidential information of the  
13 person obligated on the promissory note or the account debtor; and

14 (6) Does not entitle the secured party to enforce the security  
15 interest in the promissory note, health-care-insurance receivable, or  
16 general intangible.

17 (e)(1) Inapplicability of subsections (a) and (c) of this section  
18 to certain payment intangibles. After July 1, 2003, subsections (a)  
19 and (c) of this section do not apply to the assignment or transfer of  
20 or creation of a security interest in:

21 (A) A claim or right to receive compensation for injuries or  
22 sickness as described in 26 U.S.C. Sec. 104(a)(1) or (2); or

23 (B) A claim or right to receive benefits under a special needs  
24 trust as described in 42 U.S.C. Sec. 1396p(d)(4).

25 (2) This subsection will not affect a transfer of structured  
26 settlement payment rights under chapter 19.205 RCW.

27 NEW SECTION. Sec. 3. This act is necessary for the immediate  
28 preservation of the public peace, health, or safety, or support of the  
29 state government and its existing public institutions, and takes effect  
30 July 1, 2003.

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