

**554.9323 Future advances.**

1. *When priority based on time of advance.* Except as otherwise provided in subsection 3, for purposes of determining the priority of a perfected security interest under section 554.9322, subsection 1, paragraph “a”, perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

a. is made while the security interest is perfected only:

- (1) under section 554.9309 when it attaches; or
- (2) temporarily under section 554.9312, subsection 5, 6, or 7; and

b. is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under section 554.9309 or 554.9312, subsection 5, 6, or 7.

2. *Lien creditor.* Except as otherwise provided in subsection 3, a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than forty-five days after the person becomes a lien creditor unless the advance is made:

- a. without knowledge of the lien; or
- b. pursuant to a commitment entered into without knowledge of the lien.

3. *Buyer of receivables.* Subsections 1 and 2 do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignee.

4. *Buyer of goods.* Except as otherwise provided in subsection 5, a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

- a. the time the secured party acquires knowledge of the buyer’s purchase; or
- b. forty-five days after the purchase.

5. *Advances made pursuant to commitment — priority of buyer of goods.* Subsection 4 does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer’s purchase and before the expiration of the forty-five-day period.

6. *Lessee of goods.* Except as otherwise provided in subsection 7, a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

- a. the time the secured party acquires knowledge of the lease; or
- b. forty-five days after the lease contract becomes enforceable.

7. *Advances made pursuant to commitment — priority of lessee of goods.* Subsection 6 does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five-day period.

2000 Acts, ch 1149, §43, 187

Referred to in §554.9328, 554.13307