654.12B Priority of recorded purchase money mortgage lien.

1. The lien created by a recorded purchase money mortgage shall have priority over and is senior to preexisting judgments against the purchaser and any other right, title, interest, or lien arising either directly or indirectly by, through, or under the purchaser. A mortgage is a purchase money mortgage to the extent it is either:

a. Taken or retained by the seller of the real estate to secure all or part of its price, including all costs in connection with the purchase.

b. Taken by a lender who, by making an advance or incurring an obligation, provides funds to enable the purchaser to acquire rights in the real estate, including all costs in connection with the purchase, if the funds are in fact so used. Except when it is a refinancing of an existing purchase money mortgage between the same lender and purchaser and no new funds are advanced, a mortgage given to secure funds which are used to pay off another mortgage is not a purchase money mortgage.

2. If more than one purchase money mortgage exists, the first mortgage to be recorded has priority. In order to be entitled to the rights provided by this section, the mortgage must contain a recital that it is a purchase money mortgage. However, failure to include the recital in the mortgage shall not prevent a mortgage otherwise qualifying as a purchase money mortgage from being a purchase money mortgage for purposes other than this section. The rights in this section are in addition to, and the obligations are not in derogation of, all rights provided by common law.

95 Acts, ch 175, §2; 96 Acts, ch 1137, §1, 2; 2013 Acts, ch 30, §261
Referred to in §561.13