

2018 Kansas Statutes

16a-5-103. (UCCC) Restrictions on deficiency judgments. (1) This section applies to a deficiency on a consumer credit sale of goods or services and on a consumer loan in which the lender is subject to defenses arising from sales (K.S.A. 16a-3-405, and amendments thereto); a consumer is not liable for a deficiency unless the creditor has disposed of the goods in good faith and in a commercially reasonable manner.

(2) If the seller repossesses or voluntarily accepts surrender of goods which were the subject of the sale and in which he has a security interest, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale of a commercial unit of goods of which the cash sale price was \$1,000 or less, and the seller is not obligated to resell the collateral unless the buyer has paid 60% or more of the cash price and has not signed after default a statement renouncing his rights in the collateral.

(3) If the seller repossesses or voluntarily accepts surrender of goods which were not the subject of the sale but in which the seller has a security interest to secure a debt arising from a sale of goods or services or a combined sale of goods and services and the cash price of the sale was \$1,000 or less, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale, and the seller's duty to dispose of the collateral is governed by the provisions on disposition of collateral (K.S.A. 84-9-610, and amendments thereto) of the uniform commercial code.

(4) If the lender takes possession or voluntarily accepts surrender of goods in which he has a security interest to secure a debt arising from a consumer loan in which the lender is subject to defenses arising from sales (K.S.A. 16a-3-405, and amendments thereto) and the net proceeds of the loan paid to or for the benefit of the debtor were \$1,000 or less, the debtor is not personally liable to the lender for the unpaid balance of the debt arising from the loan and the lender's duty to dispose of the collateral is governed by the provisions on disposition of collateral (K.S.A. 84-9-610, and amendments thereto) of the uniform commercial code.

(5) For the purpose of determining the unpaid balance of consolidated debts or debts pursuant to open end credit, the allocation of payments to a debt shall be determined in the same manner as provided for determining the amount of debt secured by various security interests (K.S.A. 16a-3-303, and amendments thereto).

(6) The consumer may be liable in damages to the creditor if the consumer has wrongfully damaged the collateral or if, after default and demand, the consumer has wrongfully failed to make the collateral available to the creditor.

(7) If the creditor elects to bring an action against the consumer for a debt arising from a consumer credit sale of goods or services or from a consumer loan in which the lender is subject to defenses arising from sales (K.S.A. 16a-3-405, and amendments thereto), when under this section the creditor would not be entitled to a deficiency judgment if the creditor took possession of the collateral, and obtains judgment:

- (a) The creditor may not take possession of the collateral, and
- (b) the collateral is not subject to levy or sale on execution or similar proceedings pursuant to the judgment.

History: L. 1973, ch. 85, § 82; L. 2005, ch. 144, § 16; July 1.