



## Ohio Revised Code

### Section 1309.408 Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective - UCC 9-408.

Effective: July 1, 2013

Legislation: Senate Bill 208 - 129th General Assembly

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(A) Except as otherwise provided in division (B) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is not effective to the extent that the term:

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

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

(B) Division (A) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under section 1309.610 of the Revised Code or an acceptance of collateral under section 1309.620 of the Revised Code.

(C) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is not effective to the extent that the rule of law, statute, or regulation:



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

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

(D) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in division (C) of this section would be effective under law other than this chapter but is ineffective under division (A) or (C) of this section, the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

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

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

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

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

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

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



(E) Divisions (A) and (C) of this section do not apply to:

(1) A claim or right to receive compensation for injuries or sickness as described in section 104(a)(1) or (2) of the Internal Revenue Code as amended; or

(2) A claim or right to receive benefits under a special needs trust as described in the "Omnibus Budget Reconciliation Act of 1993," 107 Stat. 312, 42 U.S.C. 1396p(d)(4), as amended.

(F) Divisions (A), (C), and (E) of this section apply only to a security interest created on or after July 1, 2001. Nothing in this section shall supersede the provisions of sections 2323.58 to 2323.587 of the Revised Code. This section shall be interpreted consistently with sections 2323.58 to 2323.587 of the Revised Code.