

*West's*  
**ANNOTATED  
CALIFORNIA CODES**



**COMMERCIAL CODE**  
**Sections 7101 to 10099**

The sections below have been moved around in the current Commercial Code but the definitions and reasons for the classifications remain the same.

## § 9108

## SECURED TRANSACTIONS

## GENERAL PRO

### Library References

Secured Transactions § 11.  
WESTLAW Topic No. 349A.  
C.J.S. Secured Transactions § 11.

### Notes of Decisions

#### In general 1

##### 1. In general

Under financing agreement between bank and automobile dealer, bank and perfected security interest of bank, on acquisition of each

automobile by dealer, which subsequently filed voluntary petition in bankruptcy, would be deemed, under California law, to have been made for new value rather than as security for antecedent debt and hence would not be preferred. *Algebra v. Southwest Bank* (D.C.1971) 322 F.Supp. 62.

### § 9109. Classification of Goods; "Consumer Goods"; "Equipment"; "Farm Products"; "Inventory"

Goods are

(1) "Consumer goods" if they are used or bought for use primarily for personal, family or household purposes;

(2) "Equipment" if they are used or bought for use primarily in business (including farming or a profession) or by a debtor who is a nonprofit organization or a governmental subdivision or agency or if the goods are not included in the definitions of inventory, farm products or consumer goods;

(3) "Farm products" if they are crops or livestock or supplies used or produced in farming operations or if they are products of crops or livestock in their unmanufactured states (such as ginned cotton, wool clip, maple syrup, milk and eggs), and if they are in the possession of a debtor engaged in raising, fattening, grazing or other farming operations. If goods are farm products they are neither equipment nor inventory;

(4) "Inventory" if they are held by a person who holds them for sale or lease or to be furnished under contracts of service or if he has so leased or furnished them, or if they are raw materials, work in process or materials used or consumed in a business. Inventory of a person is not to be classified as his equipment.

(Stats.1963, c. 819, § 9109. Amended by Stats.1974, c. 997, p. 2121, § 12, eff. Jan. 1, 1976.)

### California Code Comment

By John A. Bohn and Charles J. Williams

#### → Prior California Law

1. The classification of goods in this section is new statutory law. The significance of this classification is described in Official Comment 1.

→ Although goods cannot belong to more than one category at any time, they may change their classification depending

upon who holds them and for what reason. Each classification is mutually exclusive but the four classifications described are intended to include all goods. Official Comment 2.

#### Changes from U.C.C. (1962 Official Text)

2. In subdivision (3) the word "honey" has been added to the enumeration.

A car CAN NOT be "consumer goods" AND "equipment" at the same time. A cab is a "motor vehicle" and is used for business and therefore is classified as EQUIPMENT as defined by the Legislature. A car used to go buy groceries isn't EQUIPMENT because the party using the car isn't being compensated for the use of the GOODS.

3. In subdivision "or" have been added

Prior Uniform Statute None.

#### Purposes:

1. This section covers consumer goods, equipment and inventory. The important in many situations for example, in determining persons who buy subject to a security interest (Section 9-307), in certain cases (Section 9-312), in determining rights after default (Section 9-505 to Section 9-509) of the special rules for certain classes of collateral.

2. The classes are exclusive; the same goods cannot be both equipment and inventory at the same time and be both equipment and inventory. In borderline cases, such as a car or a farmer's car or a farmer's car, the principal use to which the goods should be put should be controlling. Goods can be used at different times; the goods in the hands of a person.

3. The principle is whether goods are held for immediate use. Implicit in the definition is that the prospective course of business is manufacturing, for sale and not inventory. The continuing policy is to sell machinery when used for service are inventory. The arrangement under which the goods are furnished is not technically an enterprise is engaged in leasing a stock of

3. In subdivision (4) the words "leased or" have been added before the phrase "so furnished them". This language was added to clarify the subdivision.

Uniform Commercial Code Comment

Prior Uniform Statutory Provision:

None.

Purposes:

1. This section classifies goods as consumer goods, equipment, farm products and inventory. The classification is important in many situations: it is relevant, for example, in determining the rights of persons who buy from a debtor goods subject to a security interest (Section 9-307), in certain questions of priority (Section 9-312), in determining the place of filing (Section 9-401) and in working out rights after default (Part 5). Comment 5 to Section 9-102 contains an index of the special rules applicable to different classes of collateral.

2. **The classes of goods are mutually exclusive:** the same property cannot at the same time and as to the same person be both equipment and inventory, for example. In borderline cases—a physician's car or a farmer's jeep which might be either consumer goods or equipment—the principal use to which the property is put should be considered as determinative. Goods can fall into different classes at different times; a radio is inventory in the hands of a dealer and consumer goods in the hands of a householder.

3. The principal test to determine whether goods are inventory is that they are held for immediate or ultimate sale. Implicit in the definition is the criterion that the prospective sale is in the ordinary course of business. Machinery used in manufacturing, for example, is equipment and not inventory even though it is the continuing policy of the enterprise to sell machinery when it becomes obsolete. Goods to be furnished under a contract of service are inventory even though the arrangement under which they are furnished is not technically a sale. When an enterprise is engaged in the business of leasing a stock of products to users (for

example, the fleet of cars owned by a car rental agency), that stock is also included within the definition of "inventory". It should be noted that one class of goods which is not held for disposition to a purchaser or user is included in inventory: "Materials used or consumed in a business". Examples of this class of inventory are fuel to be used in operations, scrap metal produced in the course of manufacture, and containers to be used to package the goods. In general it may be said that goods used in a business are equipment when they are fixed assets or have, as identifiable units, a relatively long period of use; but are inventory, even though not held for sale, if they are used up or consumed in a short period of time in the production of some end product.

4. Goods are "farm products" only if they are in the possession of a debtor engaged in farming operations. Animals in a herd of livestock are covered whether they are acquired by purchase or result from natural increase. Products of crops or livestock remain farm products so long as they are in the possession of a debtor engaged in farming operations and have not been subjected to a manufacturing process. The terms "crops", "livestock" and "farming operations" are not defined; however, it is obvious from the text that "farming operations" includes raising livestock as well as crops; similarly, since eggs are products of livestock, livestock includes fowl.

When crops or livestock or their products come into the possession of a person not engaged in farming operations they cease to be "farm products". If they come into the possession of a marketing agency for sale or distribution or of a manufacturer or processor as raw materials, they become inventory.

Products of crops or livestock, even though they remain in the possession of a