

(B) DETERMINATION OF KNOWING PARTICIPATION IN SALE.

IN DETERMINING THAT A LENDER KNOWINGLY PARTICIPATED IN A SALE TRANSACTION, THE FOLLOWING FACTORS, AMONG OTHERS, MAY BE CONSIDERED:

(1) THE LENDER WAS A PERSON RELATED TO THE SELLER, UNLESS THE RELATIONSHIP WAS REMOTE OR WAS NOT A FACTOR IN THE SALE OR LOAN;

(2) THE PROCEEDS OF THE LOAN WERE MADE PAYABLE IN WHOLE OR IN PART TO THE SELLER;

(3) THE LENDER TOOK A PURCHASE-MONEY SECURITY INTEREST IN THE GOODS WHICH WERE THE SUBJECT OF THE SALE;

(4) THE SELLER GUARANTEED THE LOAN OR OTHERWISE ASSUMED THE RISK OF LOSS BY THE LENDER ON THE LOAN;

(5) THE LENDER DIRECTLY SUPPLIED TO THE SELLER A FORM USED BY THE BORROWER TO EVIDENCE OR SECURE THE LOAN; OR

(6) THE LOAN WAS CONDITIONED ON PURCHASE BY THE BORROWER OF THE GOODS OR SERVICES FROM THE PARTICULAR SELLER, BUT THE PAYMENT BY THE LENDER OF ANY PROCEEDS OF THE LOAN TO THE SELLER DOES NOT ESTABLISH IN ITSELF THAT THE LOAN WAS SO CONDITIONED.

(C) EXTENT OF LENDER'S LIABILITY.

(1) THE LIABILITY OF A LENDER UNDER THIS SECTION MAY NOT EXCEED THE AMOUNT OWED TO THE LENDER WITH RESPECT TO THE SALE AT THE TIME THE LENDER HAS NOTICE OF A CLAIM OR DEFENSE OF THE BUYER AGAINST THE SELLER.

(2) IF TWO OR MORE LOANS ARE CONSOLIDATED, THE MAXIMUM AMOUNT OWED TO THE LENDER UNDER PARAGRAPH (1) OF THIS SUBSECTION IS DETERMINED AS FOLLOWS:

(i) IF THE CONSOLIDATED LOANS AROSE FROM SALES MADE ON THE SAME DAY, THE PAYMENTS RECEIVED AFTER THE CONSOLIDATION ARE CONSIDERED TO BE APPLIED FIRST TO THE SMALLEST LOAN; AND

(ii) IN ANY OTHER CASE, THE PAYMENTS RECEIVED AFTER THE CONSOLIDATION ARE CONSIDERED TO BE APPLIED FIRST TO PAYMENT OF THE LOAN FIRST MADE.

(D) SUBROGATION OF LENDER.

THE LENDER IS SUBROGATED TO EACH RIGHT AND REMEDY WHICH THE BORROWER HAS AGAINST THE SELLER.