

21-510. FINANCING ARRANGEMENTS: REMEDIES OR ENFORCEMENT.

(A) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION, ON MATERIAL BREACH OF A FINANCIAL ACCOMMODATION CONTRACT BY THE ACCOMMODATED LICENSEE, THE FOLLOWING RULES APPLY:

(1) THE FINANCIER MAY CANCEL THE FINANCIAL ACCOMMODATION CONTRACT.

(2) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, THE FINANCIER MAY PURSUE ITS REMEDIES AGAINST THE ACCOMMODATED LICENSEE UNDER THE FINANCIAL ACCOMMODATION CONTRACT.

(3) IF THE FINANCIER BECAME A LICENSEE AND MADE A TRANSFER OR SUBLICENSE THAT WAS EFFECTIVE UNDER § 21-508 OF THIS SUBTITLE, IT MAY EXERCISE THE REMEDIES OF A LICENSOR FOR BREACH, INCLUDING THE RIGHTS OF AN AGGRIEVED PARTY UNDER § 21-815 OF THIS TITLE, SUBJECT TO THE LIMITATIONS OF § 21-816 OF THIS TITLE.

(4) IF THE FINANCIER DID NOT BECOME A LICENSEE OR DID NOT MAKE A TRANSFER THAT WAS EFFECTIVE UNDER § 21-508 OF THIS SUBTITLE, IT MAY ENFORCE A CONTRACTUAL RIGHT CONTAINED IN THE FINANCIAL ACCOMMODATION CONTRACT TO PRECLUDE THE LICENSEE'S FURTHER USE OF THE INFORMATION. HOWEVER, THE FOLLOWING RULES APPLY:

(A) THE FINANCIER HAS NO RIGHT TO TAKE POSSESSION OF COPIES, USE THE INFORMATION OR INFORMATIONAL RIGHTS, OR TRANSFER ANY CONTRACTUAL INTEREST IN THE LICENSE.

(B) IF THE ACCOMMODATED LICENSEE AGREED TO TRANSFER POSSESSION OF COPIES TO THE FINANCIER IN THE EVENT OF MATERIAL BREACH OF THE FINANCIAL ACCOMMODATION CONTRACT, THE FINANCIER MAY ENFORCE THAT CONTRACTUAL RIGHT ONLY IF PERMITTED TO DO SO UNDER SUBSECTION (B)(1) OF THIS SECTION AND § 21-503 OF THIS SUBTITLE.

(B) THE FOLLOWING ADDITIONAL LIMITATIONS APPLY TO A FINANCIER'S REMEDIES UNDER SUBSECTION (A) OF THIS SECTION:

(1) A FINANCIER DESCRIBED IN SUBSECTION (A)(3) OF THIS SECTION WHICH IS ENTITLED UNDER THE FINANCIAL ACCOMMODATION CONTRACT TO TAKE POSSESSION OR PREVENT USE OF INFORMATION, COPIES, OR RELATED MATERIALS MAY DO SO ONLY IF THE LICENSOR CONSENTS OR IF DOING SO WOULD NOT RESULT IN A MATERIAL ADVERSE CHANGE OF THE DUTY OF THE LICENSOR, MATERIALLY INCREASE THE BURDEN OR RISK IMPOSED ON THE LICENSOR, DISCLOSE OR THREATEN TO DISCLOSE TRADE SECRETS OR CONFIDENTIAL MATERIAL OF THE LICENSOR, OR MATERIALLY IMPAIR THE LICENSOR'S LIKELIHOOD OR EXPECTATION OF OBTAINING RETURN PERFORMANCE.

(2) THE FINANCIER MAY NOT OTHERWISE EXERCISE CONTROL OVER, HAVE ACCESS TO, OR SELL, TRANSFER, OR OTHERWISE USE THE INFORMATION OR COPIES WITHOUT THE CONSENT OF THE LICENSOR UNLESS THE FINANCIER OR TRANSFEREE IS SUBJECT TO THE TERMS OF THE LICENSE AND: