

HOUSE RESEARCH

Bill Summary

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Overview

This bill enacts a new version of Article 9 of the Uniform Commercial Code (UCC) and repeals Minnesota's current Article 9 in its entirety. This is the first major revision of Article 9 since 1972.

Understanding Article 9 requires understanding of the terms it uses. Article 9 deals with "secured transactions" and "security interests." A "secured transaction" is a transaction in which personal property is pledged as collateral in a "security agreement." In the security agreement, the debtor grants the creditor a "security interest" in the personal property, making the creditor a "secured party." Personal property is almost anything except real estate and can include household goods, livestock, bank accounts, investment assets, business inventory, growing crops, business accounts receivable, and so on. A secured party "perfects" its security interest by filing a "financing statement" in the proper government office. This perfects the security interest by giving it "priority" over later-filed financing statements.

Section

Article 1: Revised Article 9; Secured Transactions

- 10110 **Part 1. General provisions.** These sections define terms, including separate definitions of purchase-money security interest and control; and specify the types of transactions to which Article 9 does and does not apply. One change from current law is that Article 9 would now cover statutory agricultural liens, such as veterinarians' liens and agricultural production input liens, in regard to filing, priority, and enforcement.
- 201120 **Part 2. Effectiveness of attachment, and rights of parties.** These sections specify the extent to which a security agreement is effective, when a security interest attaches to collateral, and the rights and duties of parties to a security agreement.
- 622162 **Part 3. Perfection and priority.** These sections deal with choice of law in perfection and priority of security interests. Choice of law involves specifying which state's laws apply to a secured transaction. A security interest is usually perfected by filing notice of it, called a

financing statement, in the appropriate government office. Under current law, the location of collateral largely determines which state's laws govern and where to file. This bill would provide that filing for business collateral would be in the state under whose laws the business is incorporated or otherwise organized, regardless of where the business is headquartered or where the collateral is located. Consumer and farmer collateral filing would be governed by the laws of the state of the debtor's principal residence.

- 716371 **Part 4. Rights of third parties.** These sections deal with the rights of third parties - that is, parties other than the debtor and the secured party under a financing agreement. The types of third parties usually involved are persons who acquire ownership of the property that is subject to the security interest and persons who acquire the security interest.
- **Part 5. Filing.** These sections deal with the filing of financing statements and related documents in the appropriate government office, in order to "perfect" the security interest and maintain "priority" over other secured parties who may have a security interest in the same collateral. Under current law financing statements involving consumer and farmer collateral are filed in the county recorders' offices, and ones involving business collateral are filed with the secretary of state. Under this new version of Article 9, all filings except "fixture filings" (collateral attached to real estate) would be with the secretary of state. However, sections 98 to 101 permit the secretary of state to establish satellite offices in the county recorder offices for purposes of this article of the UCC.
- 102-129 **Part 6. Default.** These sections set forth the rights of the debtor and the secured party when the debtor has defaulted on the obligations secured by the security agreement. This involves the secured party obtaining possession of the collateral and selling it, in order to apply the proceeds against the debt. Sections 126 to 129 deal with the consequences of a secured party failing to comply with Article 9 in disposing of collateral.
- 130-140 **Part 7. Transition.** These sections deal with transition to the new Article 9. The effective date is July 1, 2001.

Article 2: Conforming Amendments

Article 2 of this bill makes changes in other articles of the UCC necessary to conform to the new UCC Article 9 enacted in this bill.

Article 3: Funding

- 1 **Deposit of uniform commercial code fees.** Provides that all UCC fees received by the secretary of state must be deposited in the UCC account and are continuously appropriated to the secretary of state. Provides that this deposit does not occur until the Cambridge bank judgment bonds debt service account is fully funded.
- 2 **Appropriation.** Appropriates \$2 million from the general fund for the secretary of state's central filing system (satellite offices in county recorders' offices).
- 3 **Agency base.** Provides that the secretary of state's appropriation will be reduced by the amount of UCC fees received, beginning with fiscal year 2002.