

House Research Act Summary

CHAPTER: 31 (S.F. 194/H.F. 444)

SESSION: 2011 Regular Session

TOPIC: Uniform Commercial Code, Article 9

Date: May 18, 2011

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Overview

This act is prepared and recommended to states by the National Conference of Commissioners on Uniform State Laws, usually referred to as the "Uniform Laws Commission." The act makes a variety of technical and substantive changes in article 9 of the Uniform Commercial Code ("UCC"), which is included in chapter 336 of Minnesota Statutes. Article 9 of the UCC deals with "secured transactions," which refers to commercial transactions that involve the creation of a security interest (a lien) on collateral, such as business inventory, livestock, equipment, and accounts. Article 9 filings provide the method by which creditors protect their security interests in collateral owned by their debtors. The filing system for article 9 filings in Minnesota is operated by the Minnesota secretary of state.

The most significant sections of this act appear to be article 1, sections 5 and 11.

Section

Article 1: Amendments to the Uniform Commercial Code Article 9

Overview

This article proposes miscellaneous amendments to article 9.

- 1 Definitions and index of definitions.** Adds and defines a new term "public organic record." Makes technical changes.

- 2 **Control of electronic chattel paper.** Provides a new general overarching rule for determining control of chattel paper, retaining the existing criteria for control for use in determining whether the new general rule is satisfied.
- 3 **Location of debtor.** Makes a technical change in a law governing where certain types of organizations are considered to be located.
- 4 **Perfection of security interests in property subject to certain statutes, regulations, and treaties.** Makes a purely technical change in wording.
- 5 **Effect of change in governing law.** Adds new language governing what happens to the creditor's rights in collateral when the debtor moves to a new jurisdiction, such as from one state to another. Also adds new language to govern what happens when the collateral is transferred to a different debtor located in a different jurisdiction.
- 6 **Interests that take priority over or take free of security interest or agricultural liens.** States that licensees and buyers of intangible assets take them free of a security interest if the licensee or buyer pays for the asset without knowledge of the security interest and before it is perfected.
- 7 **Priority of security interests created by new debtor.** Adds a reference to the new language added to section 5, subsection (i) of this article. Makes technical changes.
- 8 **Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.** Adds to subsection (e) two exceptions to the principle that subsection (d) of this section does not apply to the sale of a payment intangible or promissory note.
- 9 **Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.** Similar to preceding section, but makes those same two exceptions not apply to a sale of the payment intangible or promissory note.
- 10 **Contents of financing statement; record of mortgage as financing statement; time of filing finance statement.** Provides that a record of a mortgage filed as a fixture filing or as a financing statement covering collateral to be extracted or timber to be cut satisfies the requirements of a financing statement under article 9 if the record provides the name of an individual debtor by providing "the individual name" of the debtor or the debtor's surname and first personal name of the debtor, even if subsection (a)(4) (driver's license or state-issued ID card) of the next section of this act applies.
- 11 **Name of debtor and secured party.** States the principles that apply to the determination of whether a financing statement sufficiently provides the name of the debtor, depending upon the type of debtor, such as a business entity, estate, trust, or individual. If the debtor is an individual to whom a driver's license or state-issued ID card has been issued, this section requires that the name on the financing statement match the name on the driver's license or state-issued ID card. That provision would adopt what is known as "Alternative A" within the Uniform Laws Commission recommendations on the issue of the name of an individual. "Alternative B" would permit use of the driver's license or ID card name, the debtor's actual name, or the debtor's surname and first personal name.

- 12** **Effect of certain events on effectiveness of financing statement.** States that if the name on a financing statement becomes seriously misleading, it remains effective for four months after it became seriously misleading.
- 13** **Duration and effectiveness of financing statement; effect of lapsed financing statement.** Makes a technical change regarding the continuing effectiveness of financing statements filed by a transmitting utility.
- 14** **What constitutes filing; effectiveness of filing.** Provides that filing of a financing statement does not occur if the filing office rejects the filing due to inadequate information regarding the filer's name.
- 15** **Claim concerning inaccurate or wrongfully filed record.** Permits a secured party to file an information statement with regard to a record that the secured party believes the filer was not entitled to file. Says what the information statement must include. Says that filing of an information statement does not affect the effectiveness of an initial financing statement or other record.
- 16 - 24** **Transition provisions for 2010 amendments.** Makes this act effective January 1, 2013. Specifies various transition rules that apply in the meantime and afterwards.

Article 2: Conforming Changes

Overview

This purely technical article simply renumbers cross-references to definitions to conform to article 1.