

# COMMITTEE STATEMENT

## LB 931

HEARING DATE: January 18, 2000

COMMITTEE ON: Banking, Commerce, and Insurance

TITLE: (Landis) Change provisions relating to secured transactions

### ROLL CALL VOTE – FINAL COMMITTEE ACTION

---

Advanced to General File

Advanced to General File with Amendments

Indefinitely Postponed

#### Vote Results:

6 Yes Senators Landis, Tyson, Bourne, Jensen, Kremer,  
Schmitt

No

Present, not voting

2 Absent Senators Aguilar, Bruning

---

#### PROPOSERS

Senator David Landis

Harvey Perlman

Robert Hallstrom

---

#### REPRESENTING

Introducer

NE Commission on Uniform State Laws

NE Bankers Association

---

#### OPPOSERS

---

#### REPRESENTING

---

#### NEUTRAL

---

#### REPRESENTING

#### SUMMARY OF PURPOSE AND/OR CHANGES:

LB 931 (Landis) would amend various sections of Nebraska's version of Revised Article 9 (Secured Transactions) of the Uniform Commercial Code to adopt clarifying and clean-up changes approved in 1999 by the uniform law commissioners in the official text of Revised Article 9.

Revised Article 9 was submitted to the states in 1998 and was adopted in Nebraska with the enactment of LB 550 (Landis) in 1999 (operative July 1, 2001). Nebraska was one of the first states to adopt Revised Article 9, which also meant that

## COMMITTEE STATEMENT

these clarifying and clean-up amendments from the uniform law commissioners actually appeared after passage of LB 550.

LB 931 would also amend a transition section of Revised Article 9 to enact provisions which were inadvertently omitted from Nebraska's enactment of Revised Article 9.

LB 931 would provide, section by section, as follows:

Section 1. would amend Section 1-105 as recommended by the uniform law commissioners to insert omitted provisions to indicate that the law governing perfection, the effect of perfection or nonperfection, and the priority of "agricultural liens" as well as security interests is found in Revised Sections 9-301 to 9-307;

Section 2. would amend Revised Section 9-102 (11) as recommended by the uniform law commissioners to expand the definition of "chattel paper" in order to accommodate the practice of leasing goods and accompanying software;

Section 3. would amend Revised Section 9-104 as recommended by the uniform law commissioners to insert an omitted "deposit" modifying an occurrence of "account" in provisions regarding control of deposit accounts;

Section 4. would amend Revised Section 9-210 as recommended by the uniform law commissioners to repeal an erroneous "security" modifying "interest" from provisions regarding interests, but not "security" interests, in collateral;

Sections 5. and 6. would amend Revised Sections 9-317 and 9-323 as recommended by the uniform law commissioners to jointly clarify situations where a security interest is intended to be subordinate to the rights of a lien creditor. (A lien creditor means (A) a creditor that has acquired a lien on the property involved by attachment, levy or the like; (B) an assignee for benefit of creditors from the time of assignment; (C) a trustee in bankruptcy from the date of the filing of the petition; or (D) a receiver in equity from the time of appointment.) Section 5. would amend Revised Section 9-317 to clarify that a security interest (and not just "an unperfected" security interest) is subordinate to the rights of a person that becomes a lien creditor before the security interest is perfected or a financing statement is filed. Section 6. would amend Revised Section 9-323 to clarify that a security interest is subordinate to the rights of a person that becomes a lien creditor (and not just "while the security interest is perfected") to the extent that the security interest secures an advance made more than 45 after the person becomes a lien creditor unless the advance is made without knowledge of the lien;

Section 7. would amend Revised Section 9-331 as recommended by the uniform law commissioners to clarify that Revised Article 9 does not limit the rights of or impose

## COMMITTEE STATEMENT

liability on a person to the extent that the person is protected against the assertion of a claim, rather than just “an adverse” claim, under UCC Article 8 (Investment Securities);

Section 8. would amend Revised Section 9-334 as recommended by the uniform law commissioners to clarify an internal reference;

Sections 9. and 15. would amend Revised Sections 9-336 and 9-705 as recommended by the uniform law commissioners simply to insert an omitted “the” in each section;

Section 10. to 13. would amend Revised Sections 9-406 to 9-409 as recommended by the uniform law commissioners to insert erroneously omitted references to “assignments” and “transfers” of security interests;

Section 14. would amend Revised Section 9-504 as recommended by the uniform law commissioners to provide that a financing statement sufficiently indicates the collateral if (but not “only” if) the financing statement provides a description pursuant to Revised Section 9-108. The latter section provides an evidentiary test applicable to security agreements that was not intended to be applied to financing statements; and

Section 16. would amend Revised Section 9-709 to insert “safe harbor” provisions for continuation statements which were filed centrally with the Secretary of State between July 1, 1999 and December 31, 1999, inclusive, to continue financing statements which were filed locally with the county prior to the conversion from local filing to central filing on July 1, 1999. The proposed safe harbor provisions would provide that such transitional continuation statements shall not be ineffective solely because they (1) failed to identify the original statement by county, file number, or the date and time of filing, (2) indicated the types or described the items of the collateral indicated in the financing statement instead of listing the collateral of the original filing, or (3) failed to include a statement that the original financing statement is still effective.

EXPLANATION OF AMENDMENTS, IF ANY:

---

Senator David Landis