

AMENDMENTS TO LB 82

(Amendments to Final Reading copy)

1           1. Insert the following new sections:

2           "Sec. 8. Section 9-317, Uniform Commercial Code, is  
3 amended to read:

4           9-317. Interests that take priority over or take free of  
5 security interest or agricultural lien.

6           (a) A security interest or agricultural lien is  
7 subordinate to the rights of:

8           (1) a person entitled to priority under section 9-322;  
9 and

10          (2) except as otherwise provided in subsection (e), a  
11 person that becomes a lien creditor before the earlier of the time:

12          (A) the security interest or agricultural lien is  
13 perfected; or

14          (B) one of the conditions specified in section  
15 9-203(b)(3) is met and a financing statement covering the  
16 collateral is filed.

17          (b) Except as otherwise provided in subsection (e), a  
18 buyer, other than a secured party, of tangible chattel paper,  
19 documents, goods, instruments, or a security certificate takes free  
20 of a security interest or agricultural lien if the buyer gives  
21 value and receives delivery of the collateral without knowledge of  
22 the security interest or agricultural lien and before it is  
23 perfected.

1           (c) Except as otherwise provided in subsection (e), a  
2 lessee of goods takes free of a security interest or agricultural  
3 lien if the lessee gives value and receives delivery of the  
4 collateral without knowledge of the security interest or  
5 agricultural lien and before it is perfected.

6           (d) A licensee of a general intangible or a buyer, other  
7 than a secured party, of accounts, electronic chattel paper,  
8 general intangibles, or investment property other than a  
9 certificated security takes free of a security interest if the  
10 licensee or buyer gives value without knowledge of the security  
11 interest and before it is perfected.

12           (e) Except as otherwise provided in sections 9-320 and  
13 9-321, if a person files a financing statement with respect to a  
14 purchase-money security interest before or within ~~twenty~~ thirty  
15 days after the debtor receives delivery of the collateral, the  
16 security interest takes priority over the rights of a buyer,  
17 lessee, or lien creditor which arise between the time the security  
18 interest attaches and the time of filing.

19           Sec. 9.     Section 9-324, Uniform Commercial Code, is  
20 amended to read:

21           9-324. Priority of purchase-money security interests.

22           (a) Except as otherwise provided in subsection (g), a  
23 perfected purchase-money security interest in goods other than  
24 inventory or livestock has priority over a conflicting security  
25 interest in the same goods, and, except as otherwise provided in  
26 section 9-327, a perfected security interest in its identifiable  
27 proceeds also has priority, if the purchase-money security interest

1 is perfected when the debtor receives possession of the collateral  
2 or within ~~twenty~~ thirty days thereafter.

3 (b) Subject to subsection (c) and except as otherwise  
4 provided in subsection (g), a perfected purchase-money security  
5 interest in inventory has priority over a conflicting security  
6 interest in the same inventory, has priority over a conflicting  
7 security interest in chattel paper or an instrument constituting  
8 proceeds of the inventory and in proceeds of the chattel paper, if  
9 so provided in section 9-330, and, except as otherwise provided in  
10 section 9-327, also has priority in identifiable cash proceeds of  
11 the inventory to the extent the identifiable cash proceeds are  
12 received on or before the delivery of the inventory to a buyer, if:

13 (1) the purchase-money security interest is perfected  
14 when the debtor receives possession of the inventory;

15 (2) the purchase-money secured party sends an  
16 authenticated notification to the holder of the conflicting  
17 security interest;

18 (3) the holder of the conflicting security interest  
19 receives the notification within five years before the debtor  
20 receives possession of the inventory; and

21 (4) the notification states that the person sending the  
22 notification has or expects to acquire a purchase-money security  
23 interest in inventory of the debtor and describes the inventory.

24 (c) Subdivisions (b)(2) through (4) apply only if the  
25 holder of the conflicting security interest had filed a financing  
26 statement covering the same types of inventory:

27 (1) if the purchase-money security interest is perfected

1 by filing, before the date of the filing; or

2 (2) if the purchase-money security interest is  
3 temporarily perfected without filing or possession under section  
4 9-312(f), before the beginning of the twenty-day period thereunder.

5 (d) Subject to subsection (e) and except as otherwise  
6 provided in subsection (g), a perfected purchase-money security  
7 interest in livestock that are farm products has priority over a  
8 conflicting security interest in the same livestock, and, except as  
9 otherwise provided in section 9-327, a perfected security interest  
10 in their identifiable proceeds and identifiable products in their  
11 unmanufactured states also has priority, if:

12 (1) the purchase-money security interest is perfected  
13 when the debtor receives possession of the livestock;

14 (2) the purchase-money secured party sends an  
15 authenticated notification to the holder of the conflicting  
16 security interest;

17 (3) the holder of the conflicting security interest  
18 receives the notification within six months before the debtor  
19 receives possession of the livestock; and

20 (4) the notification states that the person sending the  
21 notification has or expects to acquire a purchase-money security  
22 interest in livestock of the debtor and describes the livestock.

23 (e) Subdivisions (d)(2) through (4) apply only if the  
24 holder of the conflicting security interest had filed a financing  
25 statement covering the same types of livestock:

26 (1) if the purchase-money security interest is perfected  
27 by filing, before the date of the filing; or

1           (2) if the purchase-money security interest is  
2 temporarily perfected without filing or possession under section  
3 9-312(f), before the beginning of the twenty-day period thereunder.

4           (f) Except as otherwise provided in subsection (g), a  
5 perfected purchase-money security interest in software has priority  
6 over a conflicting security interest in the same collateral, and,  
7 except as otherwise provided in section 9-327, a perfected security  
8 interest in its identifiable proceeds also has priority, to the  
9 extent that the purchase-money security interest in the goods in  
10 which the software was acquired for use has priority in the goods  
11 and proceeds of the goods under this section.

12           (g) If more than one security interest qualifies for  
13 priority in the same collateral under subsection (a), (b), (d), or  
14 (f):

15           (1) a security interest securing an obligation incurred  
16 as all or part of the price of the collateral has priority over a  
17 security interest securing an obligation incurred for value given  
18 to enable the debtor to acquire rights in or the use of collateral;  
19 and

20           (2) in all other cases, section 9-322(a) applies to the  
21 qualifying security interests.

22           Sec. 10. Sections 8, 9, and 11 of this act become  
23 operative on October 17, 2005. The other sections of this act  
24 become operative on their effective date.

25           Sec. 11. Original sections 9-317 and 9-324, Uniform  
26 Commercial Code, are repealed."

27           2. On page 1, line 3, after "Nebraska" insert ", and

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1 sections 9-317 and 9-324, Uniform Commercial Code"; in line 7,  
2 after the semicolon insert "to change provisions relating to  
3 purchase-money security interests; and in line 8 after the  
4 semicolon insert "to provide operative dates;".

5 4. Renumber the remaining section accordingly.