

ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011
COMMITTEE STATEMENT
LB90

Hearing Date: Tuesday February 01, 2011
Committee On: Banking, Commerce and Insurance
Introducer: Harr
One Liner: Change provisions relating to secured transactions under Article 9 of the Uniform Commercial Code

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Christensen, Gloor, Langemeier, McCoy, Pahls, Pankonin,
Pirsch, Utter

Nay:

Absent:

Present Not Voting:

Proponents:

Senator Burke Harr
Robert Hallstrom
Rocky Weber
Larry Ruth
Colleen Byelick

Representing:

Introducer
NE Bankers Assn.
NE Cooperative Council
Uniform Law Commission
Secretary of State

Opponents:

Herbert Sampson

Representing:

NE State Bar Assn.

Neutral:

Representing:

Summary of purpose and/or changes:

LB90 (Harr) would enact 2010 amendments to Uniform Commercial Code (UCC) Article 9 ("2010 amendments") as adopted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) and recommended to the states for enactment.

UCC Article 9 governs secured transactions in personal property. It was substantially revised in 1998 and now Revised UCC Article 9 is in effect in all states and the District of Columbia. Nebraska enacted Revised UCC Article 9 in 1999 and it became operative in 2001.

The 2010 amendments modify existing UCC Article 9 to respond to filing issues and address other matters that have arisen in practice after a decade of experience.

Of most importance, the 2010 amendments provide greater guidance as to the name of the individual debtor to be provided on a financing statement. The 2010 amendments provide that, if the debtor holds a driver's license issued by the state where the financing statement is filed, the debtor's name as it appears on the driver's license is the name required to be used on the financing statement. If the debtor does not have such a driver's license, either the debtor's actual name or the debtor's surname and first personal name may be used on the financing statement.

The 2010 amendments further improve the filing system for the filing of financing statements. More detailed guidance is provided for the debtor's name on a financing statement when the debtor is a corporation, limited liability company, or limited partnership or when the collateral is held in a statutory or common law trust or in a decedent's estate. Some extraneous information currently provided on financing statements will no longer be required.

In addition, the 2010 amendments provide greater protection for an existing secured party having a security interest in after-acquired property when its debtor relocates to another state or merges with another entity.

The 2010 amendments also contain a number of technical changes that respond to issues arising in the marketplace and contain a set of transition rules.

LB90 also contains clean-up and correction changes adopted by NCCUSL in 2001

Explanation of amendments:

The committee amendments (AM141) would make clean-up changes in the bill so that it is consistent with the final version of the 2010 amendments to UCC Article 9 as adopted by the uniform law commissioners.

1. The committee amendments would strike an unnecessary occurrence of the word "that" in section 2 of the bill. (UCC Section 9-102(a)(68).)
2. The committee amendments would strike three incorrect occurrences of "financial" statement and replace them with "financing" statement in section 14 of the bill. (UCC Section 9-503(a)(4), (5), and (6).)
3. The committee amendments would insert the lead-in phrase "In this section, the" in front of a definition of "name of the settlor or testator" in section 14 of the bill. (UCC Section 9-503(h).)

Rich Pahls, Chairperson