

E AND R AMENDMENTS TO LB 210

Introduced by Murante, 49, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Section 1-101, Uniform Commercial Code,  
4 Revised Statutes Cumulative Supplement, 2012, is amended to read:

5           1-101 Short titles.

6           (a) Sections 1-101 to 10-103 and section 4 of this act  
7 may be cited as the Uniform Commercial Code.

8           (b) This article may be cited as Uniform Commercial  
9 Code—General Provisions.

10          Sec. 2. Section 9-101, Uniform Commercial Code, Reissue  
11 Revised Statutes of Nebraska, is amended to read:

12          9-101 Short title.

13          This article and section 4 of this act may be cited as  
14 Uniform Commercial Code - Secured Transactions.

15          Sec. 3. Section 9-510, Uniform Commercial Code, Reissue  
16 Revised Statutes of Nebraska, is amended to read:

17          9-510 Effectiveness of filed record.

18          (a) A filed record is effective only to the extent that  
19 it was filed by a person that may file it under section 9-509 or by  
20 the filing office under section 9-513A.

21          (b) A record authorized by one secured party of record  
22 does not affect the financing statement with respect to another  
23 secured party of record.

1 (c) A continuation statement that is not filed within the  
2 six-month period prescribed by section 9-515(d) is ineffective.

3 Sec. 4. The Uniform Commercial Code is amended by adding  
4 new section:

5 9-513A Unauthorized financing statement filings;  
6 procedures; remedies.

7 (a) An individual personally, or as a representative  
8 of an organization, may file in the filing office a notarized  
9 affidavit, signed under penalty of perjury, that identifies a filed  
10 financing statement and states that:

11 (1) the individual or organization is identified as a  
12 debtor in the financing statement;

13 (2) the financing statement was not filed by a financial  
14 institution or a representative of a financial institution or by an  
15 agricultural input supplier or a representative of an agricultural  
16 input supplier; and

17 (3) the financing statement was filed by a person not  
18 entitled to do so under section 9-509, 9-708, or 9-808.

19 (b) An affidavit filed under subsection (a) shall include  
20 any pertinent information that the office of the Secretary of State  
21 may reasonably require.

22 (c) An affidavit may not be filed under subsection  
23 (a) with respect to a financing statement filed by a financial  
24 institution or a representative of a financial institution or by an  
25 agricultural input supplier or a representative of an agricultural  
26 input supplier.

27 (d) If an affidavit is filed under subsection (a), the

1 filing office may file a termination statement with respect to the  
2 financing statement identified in the affidavit. The termination  
3 statement must indicate that it was filed pursuant to this section.  
4 Except as provided in subsections (g) and (h), a termination  
5 statement filed under this subsection shall take effect thirty days  
6 after it is filed.

7 (e) On the same day that the filing office files a  
8 termination statement under subsection (d), it shall send to each  
9 secured party of record identified in the financing statement a  
10 notice advising the secured party of record that the termination  
11 statement has been filed. The notice shall be sent by certified  
12 mail, return receipt requested, to the mailing address provided for  
13 the secured party of record.

14 (f) A secured party of record identified in a financing  
15 statement as to which a termination statement has been filed under  
16 subsection (d) may bring an action within twenty business days  
17 after the termination statement is filed against the individual who  
18 filed the affidavit under subsection (a) seeking a determination as  
19 to whether the financing statement was filed by a person entitled  
20 to do so under section 9-509, 9-708, or 9-808. An action under this  
21 subsection shall have priority on the court's calendar and shall  
22 proceed by expedited hearing. The action shall be brought in the  
23 district court of the county where the filing office in which the  
24 financing statement was filed is located.

25 (g) In an action brought pursuant to subsection (f), a  
26 court may, in appropriate circumstances, order preliminary relief,  
27 including, but not limited to, an order precluding the termination

1 statement from taking effect or directing a party to take action  
2 to prevent the termination statement from taking effect. If the  
3 court issues such an order and the filing office receives a  
4 certified copy of the order before the termination statement  
5 takes effect, the termination statement shall not take effect  
6 and the filing office shall promptly file an amendment to the  
7 financing statement that indicates that an order has prevented the  
8 termination statement from taking effect. If such an order ceases  
9 to be effective by reason of a subsequent order or a final judgment  
10 of the court or by an order issued by another court and the filing  
11 office receives a certified copy of the subsequent judgment or  
12 order, the termination statement shall become immediately effective  
13 upon receipt of the certified copy and the filing office shall  
14 promptly file an amendment to the financing statement indicating  
15 that the termination statement is effective.

16 (h) If a court determines in an action brought pursuant  
17 to subsection (f) that the financing statement was filed by a  
18 person entitled to do so under section 9-509, 9-708, or 9-808 and  
19 the filing office receives a certified copy of the court's final  
20 judgment or order before the termination statement takes effect,  
21 the termination statement shall not take effect and the filing  
22 office shall remove the termination statement and any amendments  
23 filed under subsection (g) from the files. If the filing office  
24 receives the certified copy after the termination statement takes  
25 effect and within thirty days after the final judgment or order was  
26 entered, the filing office shall promptly file an amendment to the  
27 financing statement that indicates that the financing statement has

1 been reinstated.

2 (i) Except as provided in subsection (j), upon the filing  
3 of an amendment reinstating a financing statement under subsection  
4 (h) the effectiveness of the financing statement is retroactively  
5 reinstated and the financing statement shall be considered never to  
6 have been ineffective against all persons and for all purposes.

7 (j) A financing statement whose effectiveness was  
8 terminated under subsection (d) and has been reinstated under  
9 subsection (h) shall not be effective as against a person that  
10 purchased the collateral in good faith between the time the  
11 termination statement was filed and the time of the filing of the  
12 amendment reinstating the financing statement, to the extent that  
13 the person gave new value in reliance on the termination statement.

14 (k) The filing office shall not charge a fee for the  
15 filing of an affidavit or a termination statement under this  
16 section. The filing office shall not return any fee paid for filing  
17 the financing statement identified in the affidavit, whether or not  
18 the financing statement is subsequently reinstated.

19 (l) Neither the filing office nor any of its employees  
20 shall be subject to liability for the termination or amendment of a  
21 financing statement in the lawful performance of the duties of the  
22 filing office under this section.

23 (m) The Secretary of State shall adopt and make available  
24 a form of affidavit for use under this section.

25 (n) For purposes of this section:

26 (1) Agricultural input supplier means a person regularly  
27 in the business of extending credit to agricultural producers; and

1           (2) Financial institution means a person that is in  
2 the business of extending credit or servicing loans, including  
3 acquiring, purchasing, selling, brokering, or other extensions  
4 of credit and where applicable, holds whatever license, charter,  
5 or registration that is required to engage in such business.  
6 The term includes banks, savings associations, building and loan  
7 associations, consumer and commercial finance companies, industrial  
8 banks, industrial loan companies, insurance companies, investment  
9 companies, installment sellers, mortgage servicers, sales finance  
10 companies, and leasing companies.

11           Sec. 5. Original sections 9-101 and 9-510, Uniform  
12 Commercial Code, Reissue Revised Statutes of Nebraska, and section  
13 1-101, Uniform Commercial Code, Revised Statutes Cumulative  
14 Supplement, 2012, are repealed.