

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 464

Introduced by Harr, 8.

Read first time January 20, 2015

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to liens; to amend sections 52-1307, 52-1312,
- 2 and 52-1317, Reissue Revised Statutes of Nebraska; to change
- 3 provisions relating to information provided on effective financing
- 4 statements as prescribed; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 52-1307, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 52-1307 Effective financing statement means a statement that:

4 (1) Is an original or reproduced copy thereof;

5 (2) Is filed by the secured party in the office of the Secretary of
6 State;

7 (3) Is signed, authorized, or otherwise authenticated by the debtor,
8 unless filed electronically, in which case the signature of the debtor
9 shall not be required;

10 (4) Contains (a) the name and address of the secured party, (b) the
11 name and address of the debtor, (c) the ~~social security number or other~~
12 ~~approved unique identifier of the debtor or, in the case of a debtor~~
13 ~~doing business other than as an individual, the Internal Revenue Service~~
14 ~~taxpayer identification number or other approved unique identifier of~~
15 ~~such debtor~~, (d) a description of the farm products subject to the
16 security interest, (e) each county in Nebraska where the farm product is
17 produced or located, (f) crop year unless every crop of the farm product
18 in question, for the duration of the effective financing statement, is to
19 be subject to the particular security interest, (g) further details of
20 the farm product subject to the security interest if needed to
21 distinguish it from other quantities of such product owned by the same
22 person or persons but not subject to the particular security interest,
23 and (h) such other information that the Secretary of State may require to
24 comply with section 1324 of the Food Security Act of 1985, Public Law
25 99-198, or to more efficiently carry out his or her duties under sections
26 52-1301 to 52-1322;

27 (5) Shall be amended in writing, within three months, and signed,
28 authorized, or otherwise authenticated by the debtor and filed, to
29 reflect material changes. If the statement is filed electronically, the
30 signature of the debtor shall not be required;

31 (6) Remains effective for a period of five years from the date of

1 filing, subject to extensions for additional periods of five years each
2 by refileing or filing a continuation statement within six months before
3 the expiration of the five-year period;

4 (7) Lapses on either the expiration of the effective period of the
5 statement or the filing of a notice signed by the secured party that the
6 statement is terminated, whichever occurs first;

7 (8) Is accompanied by the requisite filing fee set by section
8 52-1313; and

9 (9) Substantially complies with the requirements of this section
10 even though the statement contains minor errors that are not seriously
11 misleading.

12 An effective financing statement properly filed with a social
13 security number or an Internal Revenue Service taxpayer identification
14 number shall maintain its effectiveness regardless that such numbers are
15 not required on such statement.

16 An effective financing statement may, for any given debtor or
17 debtors, cover more than one farm product located in more than one
18 county.

19 Sec. 2. Section 52-1312, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 52-1312 The Secretary of State shall design and implement a central
22 filing system for effective financing statements. The Secretary of State
23 shall be the system operator. The system shall provide a means for filing
24 effective financing statements or notices of such financing statements on
25 a statewide basis. The system shall include requirements:

26 (1) That an effective financing statement or notice of such
27 financing statement shall be filed in the office of the Secretary of
28 State. A debtor's residence shall be presumed to be the residence shown
29 on the filing. The showing of an improper residence shall not affect the
30 validity of the filing. The filing officer shall mark the statement or
31 notice with a consecutive file number and with the date and hour of

1 filing and shall hold the statement or notice or a microfilm or other
2 photographic copy thereof for public inspection. In addition, the filing
3 officer shall index the statements and notices according to the name of
4 the debtor and shall note in the index the file number and the address of
5 the debtor given in the statement;

6 (2) That the Secretary of State compile information from all
7 effective financing statements or notices filed with the Secretary of
8 State into a master list (a) organized according to farm product, (b)
9 arranged within each such product (i) in alphabetical order according to
10 the last name of the individual debtors or, in the case of debtors doing
11 business other than as individuals, the first word in the name of such
12 debtors, (ii) in numerical order according to the ~~social security number~~
13 ~~or other approved unique identifier of the individual debtors or, in the~~
14 ~~case of debtors doing business other than as individuals, the Internal~~
15 ~~Revenue Service taxpayer identification number or other approved unique~~
16 ~~identifier of such debtors,~~ (iii) geographically by county, and (iv) by
17 crop year, and (c) containing the information referred to in subdivision
18 (4) of section 52-1307;

19 (3) That the Secretary of State cause the information on the master
20 list to be published in lists (a) by farm product arranged alphabetically
21 by debtor and (b) by farm product arranged numerically by the debtor's
22 ~~social security number or other approved unique identifier for individual~~
23 ~~debtors or, in the case of debtors doing business other than as~~
24 ~~individuals, the Internal Revenue Service taxpayer identification number~~
25 ~~or other approved unique identifier of such debtors.~~ If a registered
26 buyer so requests, the list or lists for such buyer may be limited to any
27 county or group of counties where the farm product is produced or located
28 or to any crop year or years or a combination of such identifiers;

29 (4) That all buyers of farm products, commission merchants, selling
30 agents, and other persons may register with the Secretary of State to
31 receive lists described in subdivision (3) of this section. Any buyer of

1 farm products, commission merchant, selling agent, or other person
2 conducting business from multiple locations shall be considered as one
3 entity. Such registration shall be on an annual basis. The Secretary of
4 State shall provide the form for registration which shall include the
5 name and address of the registrant and the list or lists described in
6 subdivision (3) of this section which such registrant desires to receive.
7 A registration shall not be completed until the form provided is properly
8 completed and received by the Secretary of State accompanied by the
9 proper registration fee. The fee for annual registration shall be thirty
10 dollars.

11 A registrant shall pay an additional annual fee to receive quarterly
12 lists described in subdivision (3) of this section. For each farm product
13 list provided on microfiche, the annual fee shall be twenty-five dollars.
14 For each farm product list provided on paper, the annual fee shall be two
15 hundred dollars. The annual fee for a special list which is a list
16 limited to fewer than all counties or less than all crop years shall be
17 one hundred fifty dollars for each farm product.

18 The Secretary of State shall maintain a record of the registrants
19 and the lists and contents of the lists received by the registrants for a
20 period of five years;

21 (5) That the lists as identified pursuant to subdivision (4) of this
22 section be distributed by the Secretary of State on a quarterly basis and
23 be in written or printed form. A registrant may choose in lieu of
24 receiving a written or printed form to receive statewide lists on
25 microfiche. The Secretary of State may provide for the distribution of
26 the lists on any other medium and establish reasonable charges therefor.
27 The distribution shall be made by either certified or registered mail,
28 return receipt requested.

29 The Secretary of State shall, by rule and regulation, establish the
30 dates upon which the quarterly distributions will be made, the dates
31 after which a filing of an effective financing statement will not be

1 reflected on the next quarterly distribution of lists, and the dates by
2 which a registrant must complete a registration to receive the next
3 quarterly list; and

4 (6) That the Secretary of State remove lapsed and terminated
5 effective financing statements or notices of such financing statements
6 from the master list prior to preparation of the lists required to be
7 distributed by subdivision (5) of this section.

8 Effective financing statements or any amendments or continuations of
9 effective financing statements originally filed in the office of the
10 county clerk that have been indexed and entered on the Secretary of
11 State's central filing system need not be retained by the county filing
12 office and may be disposed of or destroyed.

13 The Secretary of State shall apply to the Secretary of the United
14 States Department of Agriculture for (a) certification of the central
15 filing system and (b) approval of the system or method of selecting an
16 approved unique identifier.

17 The Secretary of State shall deposit any funds received pursuant to
18 subdivision (4) of this section in the Uniform Commercial Code Cash Fund.

19 Sec. 3. Section 52-1317, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 52-1317 In order to verify the existence or nonexistence of a
22 security interest, a buyer, commission merchant, or selling agent may
23 request a seller to disclose such seller's ~~social security number or~~
24 ~~approved unique identifier or, in the case of a seller doing business~~
25 ~~other than as an individual, the Internal Revenue Service taxpayer~~
26 ~~identification number or approved unique identifier of such seller.~~

27 Sec. 4. Original sections 52-1307, 52-1312, and 52-1317, Reissue
28 Revised Statutes of Nebraska, are repealed.