

SENATE BILL REPORT

SB 6573

As Reported By Senate Committee On:
Law & Justice, February 1, 1996

Title: An act relating to the enforcement of termination statements.

Brief Description: Enforcing termination statements.

Sponsors: Senators Owen, Newhouse, Snyder and Smith; by request of Department of Licensing.

Brief History:

Committee Activity: Law & Justice: 2/1/96 [DP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Smith, Chair; Fairley, Vice Chair; Goings, Hargrove, Haugen, Johnson, Long and Schow.

Staff: Dick Armstrong (786-7460)

Background: Article 9 of the Uniform Commercial Code (UCC) establishes a system for filing consensual liens on personal property, such as consumer goods, equipment and farm products. A lender generally files such a lien with the Department of Licensing (DOL) to protect the lender's financial interests in the property.

When the obligation of the debtor has been satisfied, the lender is statutorily required to provide a termination statement to DOL upon the request of the debtor. If the termination statement is not provided, the lender is subject to a penalty of \$100, plus any damages suffered by the debtor.

At the present time there is not a statutory method for debtors to remove an invalid lien under UCC Article 9. DOL is finding that liens are being placed on property for harassment purposes or lenders are not complying with the request to file termination statements.

Summary of Bill: A statutory process is established under UCC Article 9 to have invalid liens removed from a person's property.

If a lender fails to file a termination statement as required, a debtor may petition a superior court to direct the person filing such a lien to appear in court to determine the validity of such a lien. If the person fails to appear, the court may release the lien and require the payment of costs and attorneys' fees. If a hearing is held on the validity of the lien, the prevailing party is entitled to costs and attorneys' fees. The court may also prohibit a lender from filing future liens under UCC Article 9 unless authorized by the court. The penalty for failing to file a termination statement is increased from \$100 to \$500.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Some of the UCC filings are not based on consensual agreements and invalid liens are being wrongfully placed on people's property. DOL is required to accept the liens and only a court can remove the liens. DOL is requesting an expedited process to allow people to remove invalid liens that are detrimental to their credit ratings.

Testimony Against: None.

Testified: Linda Bramer, DOL; Meara Nisbet, Bankers Assn.