

HOUSE BILL REPORT

ESB 5053

As Reported by House Committee On:
Judiciary

Title: An act relating to technical amendments and corrections to Article 9A of the Uniform Commercial Code and related statutes.

Brief Description: Making corrections to Article 9A of the Uniform Commercial Code.

Sponsors: By Senators Constantine and Johnson.

Brief History:

Committee Activity:

Judiciary: 3/16/01, 3/27/01 [DP].

Brief Summary of Engrossed Bill

- Amends the Uniform Commercial Code governing secured transactions to make various clarifying and technical amendments and substantive changes with respect to requirements for county filing offices and statutory damages available when a sale is not commercially reasonable.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 10 members: Representatives Carrell, Republican Co-Chair; Lantz, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Boldt, Casada, Dickerson, Esser, Lovick and McDermott.

Staff: Edie Adams (786-7180).

Background:

In 2000, the Legislature adopted major revisions to the Uniform Commercial Code (UCC) dealing with secured transactions, Article 9A, which was proposed by the National Conference of Commissioners on Uniform State Laws (NCCUSL). The revised Article 9A takes effect on July 1, 2001.

Article 9A of the UCC governs the creation and operation of security interests in personal property or fixtures. A security interest is the interest of a creditor in property of a

debtor used to secure payment of a debt. Article 9A provides methods of creating and filing a security interest and the manner in which security interests may be "perfected." Perfection of a security interest is the means by which a secured creditor obtains priority over other creditors who have a security interest in the same collateral. Article 9A also provides remedies and procedures in the event that a debtor defaults on an obligation.

Since adoption of the revised Article 9A, the NCCUSL has made many technical and clarifying amendments to the official text. In addition, the UCC Committee of the Business Law Section of the Washington State Bar Association has recommended various technical and clarifying amendments to provisions of Article 9A and other areas of Washington lien law.

Summary of Bill:

Provisions of Article 9A of the Uniform Commercial Code and statutory lien laws are amended. Many technical and clarifying amendments are made to correct inaccurate cross-references, grammatical or style errors, and ambiguities or inconsistencies.

Changes are made to the requirements that apply to filings with county filing offices. A county filing office is not required to accept an amount greater than the applicable filing fee for filing a record and is not required to accept a continuation or amendment filing that does not include the name of the debtor. County filing offices are not required to meet certain filing standards that apply to the Department of Licensing, including: the requirement to refuse to accept filings that do not contain certain information or meet time specified time periods; conditions on the timing and manner of providing acknowledgments of filed records; and requirements to offer to sell or license copies of filed records.

In cases where a secured party's deficiency claim against the debtor is reduced or eliminated for failure to conduct a commercially reasonable sale, the ability of a debtor to collect statutory damages for that failure to conduct a commercially reasonable sale is eliminated.

Provisions are added specifying the process for amending a financing statement that is filed before July 1, 2001.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2001.

Testimony For: The bill makes technical and clarifying corrections to the revised UCC relating to secured transactions which was adopted last year. Most of the changes reflect changes adopted to the official text by the NCCUSL. Some of the changes peculiar to Washington law include changes to conform the article to Washington lien law, changes to address concerns raised by county auditors, and a change to a debtor's ability to get a double recovery for failure to conduct a commercially reasonable sale.

Testimony Against: None.

Testified: Senator Johnson; Scott Wert, Washington State Bar Association, Uniform Commercial Code Committee; and Daniel Ritter, Washington State Bar Association, Uniform Commercial Code Committee and Washington Bankers Association.