

SENATE BILL REPORT

ESB 5053

As Passed Senate, March 7, 2001

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: Senators Constantine and Johnson.

Brief History:

Committee Activity: Judiciary: 1/18/01, 1/29/01 [DP].

Passed Senate: 3/7/01, 49-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Constantine, Vice Chair; Costa, Hargrove, Johnson, Kastama, Long, McCaslin, Roach, Thibaudeau and Zarelli.

Staff: Lilah Amos (786-7421)

Background: The Uniform Commercial Code in effect in all 50 states contains rules dealing with commercial sales transactions. Article 9 of that code regulates the creation, operation and filing of security interests in all property other than land. In 2000, Washington adopted the revised and modernized Article 9A (effective July 1, 2001) which was proposed by the National Conference of Commissioners on Uniform State Laws and recommended by the Washington Bar Association. Since implementation, technical amendments have become necessary to correct inaccurate cross-references, to integrate the uniform law with existing Washington lien laws, to correct grammatical and drafting errors, and to correct references to terms which were changed or modified. Most of the changes are promulgated by the National Conference of Commissioners on Uniform State Laws, which drafted the revised Article 9A. Changes have also been requested by county auditors to exempt them from requirements that they accept an amount greater than the applicable filing fee, that they provide two-day turnaround time for acknowledgment of filing, and that on a weekly basis they offer to sell or license copies of filing records to the public.

In addition to technical changes, it is recommended that the damages which a debtor can collect from a secured party be modified to prevent a double recovery.

Summary of Bill: Procedural, technical, and clarifying amendments are made to Chapter 62A.9A RCW, the Uniform Commercial Code provisions regulating security interests in property other than land. Substantively, to the extent that a secured party's deficiency claim against a debtor is reduced or eliminated because the sale was not commercially reasonable, the debtor may not also collect statutory damages against the secured party.

Changes are also made to the Article 9A provisions enacted in 2000 to allow county auditors' offices to continue to process fixture filings according to prior procedures.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill makes technical corrections to the Uniform Commercial Code, Section 9A, which was adopted in 2000. Most of the changes are grammatical, correct references to Washington lien laws, or are proposed by the Uniform Law Committee, which drafted Section 9A. The one substantive change prevents a debtor from collecting statutory damages to the extent a deficiency claim against him is reduced because the sale of the secured property is not commercially reasonable.

Testimony Against: None.

Testified: Scott Wert, Chair, UCC Committee, WSBA.