

Reprinted 2/14/86

SENATE FILE 2050  
BY COMMITTEE ON AGRICULTURE  
*(Approved (p. 82))*

FILED JAN 13 1986

Passed Senate, Date 1-20-86 (p. 94) Passed House, Date 4-3-86 (p. 1199)  
Vote: Ayes 43 Nays 1 Vote: Ayes 84 Nays 11  
Approved April 28, 1986 (p. 1428)

*Meeting recorded (p. 100) with 2/12/86*

**A BILL FOR**

1 An Act relating to the security interest in farm products and  
2 providing an effective date.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2050

1 Section 1. Section 554.9307, subsection 1, Code Supplement  
2 1985, is amended by striking the subsection and inserting in  
3 lieu thereof the following:

4 1. A buyer in ordinary course of business as defined in  
5 section 554.1201, subsection 9, takes free of a security in-  
6 terest created by that person's seller even though the  
7 security interest is perfected and even though the buyer knows  
8 of its existence. For purposes of this section, a buyer or  
9 buyer in ordinary course of business includes any commission  
10 merchant, selling agent, or other person engaged in the  
11 business of receiving livestock as defined in section 189A.2  
12 on commission for or on behalf of another.

13 Sec. 2. Section 554.9307, subsection 4, Code Supplement  
14 1985, is amended by striking the subsection.

15 Sec. 3. This Act, being deemed of immediate importance,  
16 takes effect from and after its publication in the Kossuth  
17 County Advance, a newspaper published in Algona, Iowa, and in  
18 the Lake Mills Graphic, a newspaper published in Lake Mills,  
19 Iowa.

20 EXPLANATION

21 This bill provides that a buyer in ordinary course of busi-  
22 ness takes free of a security interest created by the person's  
23 seller. It removes an exception in the uniform commercial  
24 code that currently provides that a person who buys farm  
25 products from a person engaged in farming operations might  
26 under some circumstances take the farm products subject to the  
27 security interest. It retains existing language regarding the  
28 treatment of a commission merchant or selling agent as a buyer  
29 or buyer in ordinary course of business. The bill is  
30 effective upon publication.

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SENATE FILE 2050

S-5008

1 Amend Senate File 2050 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. Section 554.9307, subsection 1, Code  
5 Supplement 1985, is amended by striking the subsection  
6 and inserting in lieu thereof the following:

7 1. A buyer in ordinary course of business as  
8 defined in section 554.1201, subsection 9, takes free  
9 of a security interest created by that person's seller  
10 even though the security interest is perfected and  
11 even though the buyer knows of its existence. For  
12 purposes of this section, a buyer or buyer in ordinary  
13 course of business includes any commission merchant,  
14 selling agent, or other person engaged in the business  
15 of receiving livestock as defined in section 189A.2 on  
16 commission for or on behalf of another.

17 Sec. 2. Section 554.9307, subsection 4, Code  
18 Supplement 1985, is amended by striking the subsection  
19 and inserting the following:

20 4. A secured party may request the buyer to issue  
21 any check for payment or partial payment of a good  
22 subject to a security interest jointly in the name of  
23 both the seller and the secured party only if the  
24 secured party has included in the documents creating  
25 the security interest a written provision that a joint  
26 check would be requested or required and if the  
27 provision has been specifically signed and dated by  
28 the person granting the security interest.

29 Sec. 3. This Act, being deemed of immediate  
30 importance, takes effect from and after its  
31 publication in the Kossuth County Advance, a newspaper  
32 published in Algona, Iowa, and in the Lake Mills  
33 Graphic, a newspaper published in Lake Mills, Iowa."

S-5008 Filed and adopted January 20, 1986 BY PRIEBE, HUSAK,  
(p. 99) TIEDEN

Agriculture Fogarty, Chair, Carter, Rensink, Van Maanen and Zimmerman

SENATE FILE 2050  
BY COMMITTEE ON AGRICULTURE

(AS AMENDED AND PASSED BY THE SENATE JANUARY 20, 1986)  
ALL NEW LANGUAGE BY THE SENATE

*By* Passed Senate, Date 4-11-86 (p. 1199) Passed House, Date 4-3-86 (p. 1199)  
Vote: Ayes 42 Nays 0 Vote: Ayes 84 Nays 11  
Approved April 28, 1986 (p. 1428)  
*Repassed House 4-16-86 (p. 1542)*  
82-15

A BILL FOR

1 An Act relating to the security interest in farm products and  
2 providing an effective date.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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*S.F. 2050*

1 Section 1. Section 554.9307, subsection 1, Code Supplement  
2 1985, is amended by striking the subsection and inserting in  
3 lieu thereof the following:

4 1. A buyer in ordinary course of business as defined in  
5 section 554.1201, subsection 9, takes free of a security  
6 interest created by that person's seller even though the  
7 security interest is perfected and even though the buyer knows  
8 of its existence. For purposes of this section, a buyer or  
9 buyer in ordinary course of business includes any commission  
10 merchant, selling agent, or other person engaged in the  
11 business of receiving livestock as defined in section 189A.2  
12 on commission for or on behalf of another.

13 Sec. 2. Section 554.9307, subsection 4, Code Supplement  
14 1985, is amended by striking the subsection and inserting the  
15 following:

16 4. A secured party may request the buyer to issue any  
17 check for payment or partial payment of a good subject to a  
18 security interest jointly in the name of both the seller and  
19 the secured party only if the secured party has included in  
20 the documents creating the security interest a written  
21 provision that a joint check would be requested or required  
22 and if the provision has been specifically signed and dated by  
23 the person granting the security interest.

24 Sec. 3. This Act, being deemed of immediate importance,  
25 takes effect from and after its publication in the Kossuth  
26 County Advance, a newspaper published in Algona, Iowa, and in  
27 the Lake Mills Graphic, a newspaper published in Lake Mills,  
28 Iowa.

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SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 2050  
H-5828

- 1 Amend S-5508 to Senate File 2050 as amended,  
2 passed, and reprinted by the Senate as follows:  
3 1. Page 1, line 7, by striking the word and  
4 figure "subsection 4" and inserting the following:  
5 "subsection-4 the federal Food Security Act of 1985,  
6 Public Law 99-198, section 1324".  
7 2. By striking page 1, line 21 through page 2,  
8 line 19 and inserting the following:  
9 "4. A secured party may request the buyer to issue  
10 any check for payment or partial payment of a good  
11 subject to a security interest jointly in the name of  
12 both the seller and the secured party only if the  
13 secured party has included in the documents creating  
14 the security interest a written provision that a joint  
15 check would be requested or required and if the  
16 provision has been specifically signed and dated by  
17 the person granting the security interest."  
18 3. Page 2, line 20, by striking the word and  
19 figure "subsection 1,".  
20 4. Page 2, by striking lines 23 through 46.  
21 5. Page 2, by striking lines 49 and 50 and  
22 inserting the following: "pursuant to subsection 4  
23 and meet the requirements of subsection 4, the debtor  
24 is engaged in farming".  
25 6. Page 3, line 47, by striking the words  
26 "federal law" and inserting the following: "Public  
27 Law 99-198, section 1324".  
28 7. Page 3, line 48, by striking the words  
29 "federal law" and inserting the following: "Public  
30 Law 99-198, section 1324".  
31 8. Page 4, line 6, by striking the word "One" and  
32 inserting the following: "Two".  
33 9. Page 4, line 8, by inserting after the word  
34 "notified" the following: "pursuant to Public Law 99-  
35 198, section 1324".  
36 10. Page 4, lines 18 and 19, by striking the  
37 words "this section" and inserting the following:  
38 "Public Law 99-198, section 1324".  
39 11. Page 4, line 20, by striking the word "buyer"  
40 and inserting the following: "buyer."  
41 12. Page 4, by striking line 21.  
42 13. Page 4, by striking lines 30 through 40 and  
43 inserting the following: "receives a written notice  
44 pursuant to Public Law 99-198, section 1324, shall not  
45 publicly display or disseminate the written notice or  
46 information based upon the written notice."  
47 14. Page 4, lines 42 and 43, by striking the  
48 words "one thousand" and inserting the following:  
49 "two hundred".  
50 15. Page 5, lines 13 and 14, by striking the

PAGE THREE, APRIL 16, 1986

HOUSE CLIP SHEET

H-5828

Page Two

1 words "this subsection" and inserting the following:  
2 "Public Law 99-198, section 1324, and this section".  
3 16. By striking page 5, line 21 through page 6,  
4 line 10.  
5 17. Renumber and change internal references as  
6 necessary.

H-5828 FILED APRIL 15, 1986 RECEIVED FROM THE SENATE

*House concurred 4/17 (p. 15427)*

SENATE FILE 2050

S-5685

1 Amend S-5608 to Senate File 2050 as amended,  
2 passed, and reprinted by the Senate as follows:

3 1. Page 1, line 7, by striking the word and  
4 figure "subsection 4" and inserting the following:  
5 "subsection-4 the federal Food Security Act of 1985,  
6 Public Law 99-198, section 1324".

7 2. By striking page 1, line 21 through page 2,  
8 line 19 and inserting the following:

9 "4. A secured party may request the buyer to issue  
10 any check for payment or partial payment of a good  
11 subject to a security interest jointly in the name of  
12 both the seller and the secured party only if the  
13 secured party has included in the documents creating  
14 the security interest a written provision that a joint  
15 check would be requested or required and if the  
16 provision has been specifically signed and dated by  
17 the person granting the security interest."

18 3. Page 2, line 20, by striking the word and  
19 figure "subsection 1,".

20 4. Page 2, by striking lines 23 through 46.

21 5. Page 2, by striking lines 49 and 50 and  
22 inserting the following: "pursuant to subsection 4  
23 and meet the requirements of subsection 4, the debtor  
24 is engaged in farming".

25 6. Page 3, line 47, by striking the words  
26 "federal law" and inserting the following: "Public  
27 Law 99-198, section 1324".

28 7. Page 3, line 48, by striking the words  
29 "federal law" and inserting the following: "Public  
30 Law 99-198, section 1324".

31 8. Page 4, line 6, by striking the word "One" and  
32 inserting the following: "Two".

33 9. Page 4, line 8, by inserting after the word  
34 "notified" the following: "pursuant to Public Law 99-  
35 198, section 1324".

36 10. Page 4, lines 18 and 19, by striking the  
37 words "this section" and inserting the following:  
38 "Public Law 99-198, section 1324".

39 11. Page 4, line 20, by striking the word "buyer"  
40 and inserting the following: "buyer."

41 12. Page 4, by striking line 21.

42 13. Page 4, by striking lines 30 through 40 and  
43 inserting the following: "receives a written notice  
44 pursuant to Public Law 99-198, section 1324, shall not  
45 publicly display or disseminate the written notice or  
46 information based upon the written notice."

47 14. Page 4, lines 42 and 43, by striking the  
48 words "one thousand" and inserting the following:  
49 "two hundred".

50 15. Page 5, lines 13 and 14, by striking the

SENATE \*\*  
April 1, 4 1986

S-5685 Page 2

1 words "this subsection" and inserting the following:  
2 "Public Law 99-198, section 1324, and this section".  
3 16. By striking page 5, line 21 through page 6,  
4 line 10.  
5 17. Renumber and change internal references as  
6 necessary.

S-5685 Filed April 11, 1986

BY PRIEBE, VANDE HOEF, FRAISE, WALDSTEIN, HUSAK,  
SOORHOLTZ, BOSWELL, MILLER - ADOPTED

*Adopted 4/11 (p. 1199)*

SENATE FILE 2050

H-5641

1 Amend amendment H-5587 to Senate File 2050 as  
2 amended, passed, and reprinted by the Senate as  
3 follows:

4 1. Page 2, line 39, by inserting after the word  
5 "incurred" the following: "or at any other time that  
6 the secured party and debtor have agreed to in  
7 writing".

8 2. Page 3, by striking line 12 and inserting the  
9 following: "list of potential buyers and does not  
10 reasonably expect to be able to collect".

11 3. Page 3, line 18, by inserting after the word  
12 "loss." the following: "However, if the secured party  
13 does ultimately recover under the security agreement,  
14 then the secured party shall remit to the state  
15 general fund the moneys collected under this  
16 subsection to the extent of the recovery."

17 4. Page 4, by inserting after line 17 the  
18 following:

19 "The penalty imposed pursuant to this paragraph "b"  
20 shall not apply if the debtor does in fact sell all or  
21 part of the farm product subject to the security  
22 interest to the person to whom the notice was sent."

H-5641 FILED APRIL 2, 1986 BY FOGARTY of Palo Alto  
*Adopted ~~4/3~~ 4/3 (p. 1187)*

SENATE FILE 2050

H-5663

1 Amend amendment H-5587 to Senate File 2050 as  
2 amended, passed, and reprinted by the Senate as  
3 follows:

4 1. By striking page 1, line 5, through page 6,  
5 line 5, and inserting the following:

6 "Section 1. Section 554.9307, subsection 1, Code  
7 Supplement 1985, is amended by striking the subsection  
8 and inserting in lieu thereof the following:

9 1. A buyer in the ordinary course of business as  
10 defined in section 554.1201, subsection 9, other than  
11 a person buying farm products from a person engaged in  
12 farming operations, takes free of a security interest  
13 even though the security interest is perfected and  
14 even though the buyer knows of its existence.

15 Sec. 2. Section 554.9307, subsection 4, Code  
16 Supplement 1985, is amended by striking the  
17 subsection."

BY STUELAND of Clinton  
VAN MAANEN of Mahaska  
MAULSBY of Calhoun  
BRANSTAD of Winnebago  
DAGGETT of Taylor  
DE GROOT of Lyon

KREMER of Buchanan  
MUHLBAUER of Crawford  
OXLEY of Linn  
SCHNEKLOTH of Scott  
ZIMMERMAN of Dallas  
COREY of Louisa

H-5663 FILED APRIL 2, 1986

*Lost 4/3 (p. 1189)*

1 Amend H-5587 to Senate File 2050 as amended,  
 2 passed, and reprinted by the Senate as follows:  
 3 1. By striking page 1, line 5 through page 6,  
 4 line 5 and inserting the following:  
 5 "Section 1. Section 554.9307, subsection 1, Code  
 6 Supplement 1985, is amended by striking the subsection  
 7 and inserting in lieu thereof the following:  
 8 1. A buyer in ordinary course of business as  
 9 defined in section 554.1201, subsection 9, takes free  
 10 of a security interest created by that person's seller  
 11 even though the security interest is perfected and  
 12 even though the buyer knows of its existence.  
 13 Sec. 2. Section 554.9307, subsection 4, Code  
 14 Supplement 1985, is amended by striking the  
 15 subsection.

BY HARBOR of Mills

H-5679 FILED APRIL 3, 1986

BRANSTAD of Winnebago

LOST (p. 1199)

## SENATE FILE 2050

H-5637

1 Amend the amendment H-5587 to Senate File 2050 as  
 2 amended, passed, and reprinted by the Senate as  
 3 follows:  
 4 1. Page 2, by inserting after line 14 the  
 5 following:  
 6 "e. A buyer of farm products takes subject to a  
 7 security interest created by the seller if the buyer  
 8 has received the notice provided for in subsection 4  
 9 and fails to perform the payment obligations specified  
 10 in the notice."  
 11 2. Page 2, by striking lines 40 through 44.  
 12 3. Page 2, line 45, by striking the figure "7"  
 13 and inserting the figure "6".  
 14 4. Page 3, line 46, by striking the figure "8"  
 15 and inserting the figure "7".  
 16 5. Page 4, line 16, by striking the figure "7"  
 17 and inserting the figure "6".  
 18 6. Page 4, line 18, by striking the figure "9"  
 19 and inserting the figure "8".  
 20 7. Page 4, line 34, by striking the figure "10"  
 21 and inserting the figure "9".  
 22 8. Page 4, line 35, by striking the word and  
 23 figures "8 and 9" and inserting the following: "7 and  
 24 8".  
 25 9. Page 4, line 36, by striking the word and  
 26 figures "8 or 9" and inserting the following: "7 or  
 27 8".  
 28 10. Page 4, line 40, by striking the word and  
 29 figures "8 or 9" and inserting the following: "7 or  
 30 8".  
 31 11. Page 4, line 44, by striking the word and  
 32 figures "7, 8, or 9" and inserting the following: "6,  
 33 7, or 8".  
 34 12. Page 4, line 45, by striking the figure "7"  
 35 and inserting the figure "6".  
 36 13. Page 4, line 46, by striking the word and  
 37 figures "8 and 9" and inserting the following: "7 and  
 38 8".  
 39 14. Page 5, line 2, by striking the figure "11"  
 40 and inserting the figure "10".

H-5637 FILED APRIL 2, 1986

BY FOGARTY of Palo Alto

Adopted 4/3 (p. 1186)

HOUSE AMENDMENT TO  
SENATE FILE 2050

S-5608

1 Amend Senate File 2050 as amended, passed, and  
2 reprinted by the Senate as follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. Section 554.9307, subsection 1, Code  
6 Supplement 1985, is amended to read as follows:

7 1. Except as provided in subsection 4, a buyer in  
8 ordinary course of business as defined in section  
9 554.1201, subsection 9, takes free of a security  
10 interest created by that person's seller even though  
11 the security interest is perfected and even though the  
12 buyer knows of its existence. For purposes of this  
13 section, a buyer or buyer in ordinary course of  
14 business includes any commission merchant, selling  
15 agent, or other person engaged in the business of  
16 receiving livestock as defined in section 189A.2 on  
17 commission for or on behalf of another.

18 Sec. 2. Section 554.9307, subsection 4, Code  
19 Supplement 1985, is amended by striking the subsection  
20 and inserting in lieu thereof the following:

21 4. a. A buyer in ordinary course of business  
22 buying farm products from a person engaged in farming  
23 operations takes free of a security interest created  
24 by that person's seller even though the security  
25 interest is perfected, unless within one year before  
26 the sale of the farm products the buyer receives prior  
27 written notice of the security interest which complies  
28 with this subsection.

29 b. A written notice complies with this subsection  
30 if the notice is given to the buyer by the secured  
31 party or the seller of the farm products and complies  
32 with both of the following:

33 (1) Is an original or reproduced copy of the  
34 financing statement.

35 (2) Contains all of the following:

36 (a) The name and address of the secured party.

37 (b) The name and address of the person indebted to  
38 the secured party.

39 (c) The social security number of the debtor or,  
40 in the case of a debtor doing business other than as  
41 an individual, the internal revenue service taxpayer  
42 identification number of the debtor.

43 (d) A description of the farm products subject to  
44 the security interest created by the debtor, including  
45 the amount of the products where applicable.

46 (e) An identification of the crop year in which  
47 the farm products were produced.

48 (f) An identification of the county in which the  
49 farm products were produced.

50 (g) A reasonable description of the property on

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1 which the farm products were produced.

2 c. In addition to the requirements of paragraph  
3 "b", the notice shall contain a statement of any  
4 payment obligations imposed on the buyer by the  
5 secured party as conditions for waiver or release of  
6 the security interest.

7 d. A written notice shall be amended by the  
8 secured party within three months of any material  
9 change and transmitted to the potential buyer by  
10 either the secured party or the seller of the farm  
11 products. The notice lapses on the earlier of either  
12 one year from the date the notice was received by the  
13 buyer or the buyer receives a notice signed by the  
14 secured party that the security interest has lapsed.

15 e. A buyer of farm products takes subject to a  
16 security interest created by the seller if the buyer  
17 has received the notice provided for in subsection 4  
18 and fails to perform the payment obligations specified  
19 in the notice.

20 Sec. 3. Section 554.9307, subsection 1, Code Sup-  
21 plement 1985, is amended by adding the following new  
22 subsections:

23 NEW SUBSECTION. 5. A secured party may request a  
24 debtor to provide the secured party with a list of  
25 potential buyers to whom the debtor anticipates  
26 selling the farm products to be subject to a security  
27 interest. The secured party may also request the  
28 buyer to issue any check for payment or partial  
29 payment of a product subject to a security interest  
30 jointly in the name of both the seller and the secured  
31 party. However, before the secured party may exercise  
32 either right provided in this section, the secured  
33 party shall have included in the documents creating  
34 the security interest a written provision stating that  
35 the secured party intends to notify any person listed  
36 as a potential buyer of the existence of the security  
37 interest and to request a joint check. The provision  
38 making such disclosure shall be separately signed and  
39 dated by the person granting the security interest for  
40 the provision to be effective. A debtor who signs  
41 such a separate provision shall provide the secured  
42 party with a list of potential buyers of the farm  
43 product subject to the security interest created at  
44 the time the debt is incurred or at any other time  
45 that the secured party and debtor have agreed to in  
46 writing.

47 NEW SUBSECTION. 6. a. If the documents creating  
48 a security interest contain the provisions permitted  
49 pursuant to subsection 5 and meet the requirements of  
50 subsection 5, the debtor is engaged in farming

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1 operations, and the debtor sells the farm products  
2 subject to a security interest created by the debtor  
3 to a buyer not included on the list as a potential  
4 buyer, then the debtor is subject to a civil penalty  
5 of the greater of either five thousand dollars or  
6 fifteen percent of the value or benefits received by  
7 the debtor for the farm product described in the  
8 security agreement. The penalty shall be deposited in  
9 the state general fund. However, if the secured party  
10 can demonstrate in state district court upon  
11 application by the secured party that the secured  
12 party has sustained a monetary loss as a result of the  
13 debtor selling to a person other than a person on the  
14 list of potential buyers and does not reasonably  
15 expect to be able to collect under the security  
16 agreement, then to the extent that the secured party  
17 can prove by competent evidence the amount of the  
18 monetary loss and the inability to collect under the  
19 security agreement, the court shall award the secured  
20 party so much of the civil penalty as necessary to  
21 cover the secured party's loss. However, if the  
22 secured party does ultimately recover under the  
23 security agreement, then the secured party shall remit  
24 to the state general fund the moneys collected under  
25 this subsection to the extent of the recovery. The  
26 penalty provided in this subsection shall not be  
27 imposed on the debtor if the debtor has complied with  
28 any of the following:

29 (1) Notified the secured party in writing of the  
30 identity of the buyer at least seven days prior to the  
31 sale.

32 (2) Accounted to the secured party for the  
33 proceeds of the sale not later than ten days after the  
34 sale.

35 (3) Acted in conformity with a written agreement  
36 between the secured party and the debtor regarding  
37 prior notification of a sale or payment of the  
38 proceeds.

39 b. In addition to the civil penalty provided in  
40 this section, a debtor who sells a farm product  
41 subject to a security interest created by the debtor  
42 to a buyer not included on the list as a potential  
43 buyer may also be guilty of committing theft pursuant  
44 to section 714.1, subsection 5.

45 c. The civil penalty provided in paragraph "a" is  
46 in lieu of and not in addition to any penalty imposed  
47 under federal law. If a debtor is required to pay a  
48 fine or penalty under federal law and the debtor has  
49 previously also been required to pay a civil penalty  
50 pursuant to paragraph "a", then the debtor is entitled

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1 to a reimbursement of any moneys required to be paid  
2 due to a violation of paragraph "a".

3 NEW SUBSECTION. 7. A secured party is subject to  
4 the following civil penalties that shall be paid to  
5 the state general fund:

6 a. One hundred dollars if the secured party fails  
7 to send a written notice to any person the secured  
8 party notified as a potential buyer that the security  
9 interest has been terminated within fifteen days after  
10 all obligations for which the security interest was  
11 granted have been fulfilled, unless the debtor signs a  
12 written statement after the obligations secured by the  
13 security interest have been fulfilled waiving the  
14 requirement of the secured party to provide notice to  
15 potential buyers that the obligation has been  
16 fulfilled.

17 b. Two hundred dollars for each person the secured  
18 party has sent a written notice pursuant to this  
19 section who was not either of the following:

20 (1) Listed by the debtor as a potential buyer  
21 pursuant to the provision permitted in subsection 5.

22 (2) A person who was identified by the debtor  
23 pursuant to subsection 6, paragraph "a", subparagraph  
24 (1).

25 The penalty imposed pursuant to this paragraph "b"  
26 shall not apply if the debtor does in fact sell all or  
27 part of the farm product subject to the security  
28 interest to the person to whom the notice was sent.

29 NEW SUBSECTION. 8. a. A potential buyer who  
30 receives a written notice pursuant to subsection 4  
31 shall not do either of the following:

32 (1) Publicly display the written notice or any  
33 writing or document containing information obtained  
34 from or based upon the written notice.

35 (2) Disseminate the written notice or any writing  
36 or document containing information obtained from or  
37 based upon the written notice to any person other than  
38 those agents or employees of the potential buyer who  
39 reasonably require the information to comply with this  
40 section.

41 b. A potential buyer who violates paragraph "a" is  
42 liable for a civil penalty in an amount of one  
43 thousand dollars. The penalty shall be paid to the  
44 state general fund.

45 NEW SUBSECTION. 9. a. In addition to any civil  
46 penalty imposed pursuant to subsections 7 and 8, a  
47 person who violates subsection 7 or 8 is liable to the  
48 debtor for any loss caused by the person resulting  
49 from the violation that the debtor can prove in court.  
50 The person may also recover from the person violating

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1 subsection 7 or 8 a penalty in an amount determined by  
2 the court not less than one hundred dollars nor more  
3 than one thousand dollars.

4 b. In an action in which it is found that a person  
5 has violated subsections 6, 7, or 8, the court shall  
6 award to the secured party under subsection 6 or the  
7 debtor under subsections 7 and 8 the court costs and  
8 to that party's attorneys their reasonable fees.

9 Reasonable attorney's fees shall be determined by the  
10 value of the time reasonably expended by the attorney  
11 and not by the amount of recovery on behalf of the  
12 secured party or debtor.

13 NEW SUBSECTION. 10. For purposes of this  
14 subsection, a written notice shall be considered to be  
15 received by the person to whom it was sent if the  
16 notice is mailed by registered mail with the proper  
17 postage and properly addressed to the person to whom  
18 it was sent. The refusal of a person to whom a notice  
19 is sent to accept delivery of the notice shall be  
20 considered receipt.

21 Sec. 4. Section 554.9402, subsection 3, Code  
22 Supplement 1985, is amended to read as follows:

23 3. A form substantially as follows is sufficient  
24 to comply with subsection 1:

25 Name of debtor (or assignor).....  
26 Address.....  
27 Name of secured party (or assignee).....  
28 Address.....  
29 Social security number of debtor if debtor is an  
30 individual or the internal revenue service taxpayer  
31 identification number of the debtor if the debtor is  
32 not an individual.....

33 (1) This financing statement covers the following  
34 types (or items) of property:

35 (Describe: If collateral is farm products,  
36 describe the farm products including the amount of the  
37 products where applicable and the crop year in which  
38 the products were produced and the county in which the  
39 products were produced).....

40 .....  
41 (2) (If collateral is crops) The above described  
42 crops are growing or are to be grown on:

43 (Describe Real Estate).....

44 (3) (If applicable) The above goods are to become  
45 fixtures on

46 Where appropriate either add or substitute "The above timber  
47 is standing on ....." or "The above minerals or  
48 the like (including oil and gas) are located on ....."  
49 or "The above accounts will be financed at the wellhead or mine-  
50 head of the well or mine located on ....."

SENATE 12  
April 8, 1986

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1 or any or all of these  
2 (Describe Real Estate) ..... and this  
3 financing statement is to be filed for record in the real estate  
4 records. (If the debtor does not have an interest of record)  
5 The name of a record owner is .....  
6 (4) (If products of collateral are claimed)  
7 Products of the collateral are also covered.  
8 (use whichever is applicable).....  
9 Signature of Debtor (or Assignor).....  
10 Signature of Secured Party (or Assignee).....  
11 Sec. 5. This bill is effective on December 24,  
12 1986 and shall apply to all security interests granted  
13 on or after December 24, 1986."  
14 2. Title page, line 1, by inserting after the  
15 word "products" the following: ", prohibiting certain  
16 acts, providing for penalties,".

S-5608 Filed April 7, 1986 REC'D FROM THE HOUSE

*Senate amended (5685) & Conferred  
4/11 (p. 1199)*

## SENATE FILE 2050

H-5587

1 Amend Senate File 2050 as amended, passed, and  
2 reprinted by the Senate as follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. Section 554.9307, subsection 1, Code  
6 Supplement 1985, is amended to read as follows:

7 1. Except as provided in subsection 4, a buyer in  
8 ordinary course of business as defined in section  
9 554.1201, subsection 9, takes free of a security  
10 interest created by that person's seller even though  
11 the security interest is perfected and even though the  
12 buyer knows of its existence. For purposes of this  
13 section, a buyer or buyer in ordinary course of  
14 business includes any commission merchant, selling  
15 agent, or other person engaged in the business of  
16 receiving livestock as defined in section 189A.2 on  
17 commission for or on behalf of another.

18 Sec. 2. Section 554.9307, subsection 4, Code  
19 Supplement 1985, is amended by striking the subsection  
20 and inserting in lieu thereof the following:

21 4. a. A buyer in ordinary course of business  
22 buying farm products from a person engaged in farming  
23 operations takes free of a security interest created  
24 by that person's seller even though the security  
25 interest is perfected, unless within one year before  
26 the sale of the farm products the buyer receives prior  
27 written notice of the security interest which complies  
28 with this subsection.

29 b. A written notice complies with this subsection  
30 if the notice is given to the buyer by the secured  
31 party or the seller of the farm products and complies  
32 with both of the following:

33 (1) Is an original or reproduced copy of the  
34 financing statement.

35 (2) Contains all of the following:

36 (a) The name and address of the secured party.

37 (b) The name and address of the person indebted to  
38 the secured party.

39 (c) The social security number of the debtor or,  
40 in the case of a debtor doing business other than as  
41 an individual, the internal revenue service taxpayer  
42 identification number of the debtor.

43 (d) A description of the farm products subject to  
44 the security interest created by the debtor, including  
45 the amount of the products where applicable.

46 (e) An identification of the crop year in which  
47 the farm products were produced.

48 (f) An identification of the county in which the  
49 farm products were produced.

50 (g) A reasonable description of the property on

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Page Two

1 which the farm products were produced.

2 c. In addition to the requirements of paragraph  
3 "b", the notice shall contain a statement of any  
4 payment obligations imposed on the buyer by the  
5 secured party as conditions for waiver or release of  
6 the security interest.

7 d. A written notice shall be amended by the  
8 secured party within three months of any material  
9 change and transmitted to the potential buyer by  
10 either the secured party or the seller of the farm  
11 products. The notice lapses on the earlier of either  
12 one year from the date the notice was received by the  
13 buyer or the buyer receives a notice signed by the  
14 secured party that the security interest has lapsed.

15 Sec. 3. Section 554.9307, subsection 1, Code Sup-  
16 plement 1985, is amended by adding the following new  
17 subsections:

18 NEW SUBSECTION. 5. A secured party may request a  
19 debtor to provide the secured party with a list of  
20 potential buyers to whom the debtor anticipates  
21 selling the farm products to be subject to a security  
22 interest. The secured party may also request the  
23 buyer to issue any check for payment or partial  
24 payment of a product subject to a security interest  
25 jointly in the name of both the seller and the secured  
26 party. However, before the secured party may exercise  
27 either right provided in this section, the secured  
28 party shall have included in the documents creating  
29 the security interest a written provision stating that  
30 the secured party intends to notify any person listed  
31 as a potential buyer of the existence of the security  
32 interest and to request a joint check. The provision  
33 making such disclosure shall be separately signed and  
34 dated by the person granting the security interest for  
35 the provision to be effective. A debtor who signs  
36 such a separate provision shall provide the secured  
37 party with a list of potential buyers of the farm  
38 product subject to the security interest created at  
39 the time the debt is incurred.

40 NEW SUBSECTION. 6. A buyer of farm products takes  
41 subject to a security interest created by the seller  
42 if the buyer has received the notice provided for in  
43 subsection 4 and fails to perform the payment  
44 obligations specified in the notice.

45 NEW SUBSECTION. 7. a. If the documents creating  
46 a security interest contain the provisions permitted  
47 pursuant to subsection 5 and meet the requirements of  
48 subsection 5, the debtor is engaged in farming  
49 operations, and the debtor sells the farm products  
50 subject to a security interest created by the debtor

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1 to a buyer not included on the list as a potential  
2 buyer, then the debtor is subject to a civil penalty  
3 of the greater of either five thousand dollars or  
4 fifteen percent of the value or benefits received by  
5 the debtor for the farm product described in the  
6 security agreement. The penalty shall be deposited in  
7 the state general fund. However, if the secured party  
8 can demonstrate in state district court upon  
9 application by the secured party that the secured  
10 party has sustained a monetary loss as a result of the  
11 debtor selling to a person other than a person on the  
564/ 12 list of potential buyers and is unable to collect  
13 under the security agreement, then to the extent that  
14 the secured party can prove by competent evidence the  
15 amount of the monetary loss and the inability to  
16 collect under the security agreement, the court shall  
17 award the secured party so much of the civil penalty  
564/ 18 as necessary to cover the secured party's loss. The  
19 penalty provided in this subsection shall not be  
20 imposed on the debtor if the debtor has complied with  
21 any of the following:

22 (1) Notified the secured party in writing of the  
23 identity of the buyer at least seven days prior to the  
24 sale.

25 (2) Accounted to the secured party for the  
26 proceeds of the sale not later than ten days after the  
27 sale.

28 (3) Acted in conformity with a written agreement  
29 between the secured party and the debtor regarding  
30 prior notification of a sale or payment of the  
31 proceeds.

32 b. In addition to the civil penalty provided in  
33 this section, a debtor who sells a farm product  
34 subject to a security interest created by the debtor  
35 to a buyer not included on the list as a potential  
36 buyer may also be guilty of committing theft pursuant  
37 to section 714.1, subsection 5.

38 c. The civil penalty provided in paragraph "a" is  
39 in lieu of and not in addition to any penalty imposed  
40 under federal law. If a debtor is required to pay a  
41 fine or penalty under federal law and the debtor has  
42 previously also been required to pay a civil penalty  
43 pursuant to paragraph "a", then the debtor is entitled  
44 to a reimbursement of any moneys required to be paid  
45 due to a violation of paragraph "a".

563/ 46 NEW SUBSECTION. 8. A secured party is subject to  
47 the following civil penalties that shall be paid to  
48 the state general fund:

49 a. One hundred dollars if the secured party fails  
50 to send a written notice to any person the secured

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Page Four

1 party notified as a potential buyer that the security  
2 interest has been terminated within fifteen days after  
3 all obligations for which the security interest was  
4 granted have been fulfilled, unless the debtor signs a  
5 written statement after the obligations secured by the  
6 security interest have been fulfilled waiving the  
7 requirement of the secured party to provide notice to  
8 potential buyers that the obligation has been  
9 fulfilled.

10 b. Two hundred dollars for each person the secured  
11 party has sent a written notice pursuant to this  
12 section who was not either of the following:

565 13 (1) Listed as a potential buyer pursuant to the  
14 provision permitted in subsection 5.

564 15 (2) A person who was identified by the debtor  
563 16 pursuant to subsection 7, paragraph "a", subparagraph

562 17 (1).

561 18 NEW SUBSECTION. 9. a. A potential buyer who  
19 receives a written notice pursuant to subsection 4  
20 shall not do either of the following:

21 (1) Publicly display the written notice or any  
22 writing or document containing information obtained  
23 from or based upon the written notice.

24 (2) Disseminate the written notice or any writing  
25 or document containing information obtained from or  
26 based upon the written notice to any person other than  
27 those agents or employees of the potential buyer who  
28 reasonably require the information to comply with this  
29 section.

30 b. A potential buyer who violates paragraph "a" is  
31 liable for a civil penalty in an amount of one  
32 thousand dollars. The penalty shall be paid to the  
33 state general fund.

56 34 NEW SUBSECTION. 10. a. In addition to any civil  
35 penalty imposed pursuant to subsections 8 and 9, a  
36 person who violates subsection 8 or 9 is liable to the  
37 debtor for any loss caused by the person resulting  
38 from the violation that the debtor can prove in court.  
39 The person may also recover from the person violating  
40 subsection 8 or 9 a penalty in an amount determined by  
41 the court not less than one hundred dollars nor more  
42 than one thousand dollars.

43 b. In an action in which it is found that a person  
44 has violated subsections 7, 8, or 9, the court shall  
45 award to the secured party under subsection 7 or the  
46 debtor under subsections 8 and 9 the court costs and  
47 to that party's attorneys their reasonable fees.  
48 Reasonable attorney's fees shall be determined by the  
49 value of the time reasonably expended by the attorney  
50 and not by the amount of recovery on behalf of the

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1 secured party or debtor.

2 NEW SUBSECTION. 11. For purposes of this  
3 subsection, a written notice shall be considered to be  
4 received by the person to whom it was sent if the  
5 notice is mailed by registered mail with the proper  
6 postage and properly addressed to the person to whom  
7 it was sent. The refusal of a person to whom a notice  
8 is sent to accept delivery of the notice shall be  
9 considered receipt.

10 Sec. 4. Section 554.9402, subsection 3, Code  
11 Supplement 1985, is amended to read as follows:

12 3. A form substantially as follows is sufficient  
13 to comply with subsection 1:

- 14 Name of debtor (or assignor).....
- 15 Address.....
- 16 Name of secured party (or assignee).....
- 17 Address.....
- 18 Social security number of debtor if debtor is an
- 19 individual or the internal revenue service taxpayer
- 20 identification number of the debtor if the debtor is
- 21 not an individual.....

22 (1) This financing statement covers the following  
23 types (or items) of property:

24 (Describe: If collateral is farm products,  
25 describe the farm products including the amount of the  
26 products where applicable and the crop year in which  
27 the products were produced and the county in which the  
28 products were produced).....

29 .....  
30 (2) (If collateral is crops) The above described  
31 crops are growing or are to be grown on:

32 (Describe Real Estate).....

33 (3) (If applicable) The above goods are to become  
34 fixtures on

35 Where appropriate either add or substitute "The above timber  
36 is standing on ....." or "The above minerals or  
37 the like (including oil and gas) are located on ....."  
38 or "The above accounts will be financed at the wellhead or mine-  
39 head of the well or mine located on ....."  
40 or any or all of these

41 (Describe Real Estate) ..... and this  
42 financing statement is to be filed for record in the real estate  
43 records. (If the debtor does not have an interest of record)  
44 The name of a record owner is .....

45 (4) (If products of collateral are claimed)  
46 Products of the collateral are also covered.

47 (use whichever is applicable).....  
48 Signature of Debtor (or Assignor).....  
49 Signature of Secured Party (or Assignee).....

50 Sec. 5. This bill is effective on December 24,

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Page Six

1 1986 and shall apply to all security interests granted  
2 on or after December 24, 1986."  
3 2. Title page, line 1, by inserting after the  
4 word "products" the following: ", prohibiting certain  
5 acts, providing for penalties,".

H-5587 FILED MARCH 27, 1986 BY COMMITTEE ON AGRICULTURE

*Adopted as amended by 5637, 5641, 5650  
3/4 (p. 1199)*

SENATE FILE 2050

H-5650

1 Amend amendment H-5587 to Senate File 2050 as  
2 amended, passed and reprinted by the Senate as follows:  
3 1. Page 4, line 13, by inserting after the word  
4 "Listed" the words "by the debtor".

H-5650 FILED APRIL 2, 1986 BY CARTER of Henry

*Adopted 4/3 (p. 1187)*

SSB 2013

AGRICULTURE: A. Miller, Chair; Boswell, Husak, Soorholtz and Hester.

*Nav  
SF 2050*

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the security interest in farm products.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 554.9307, subsection 1, Code Supplement  
2 1985, is amended by striking the subsection and inserting in  
3 lieu thereof the following:

4 1. A buyer in ordinary course of business as defined in  
5 section 554.1201, subsection 9, takes free of a security in-  
6 terest created by that person's seller even though the  
7 security interest is perfected and even though the buyer knows  
8 of its existence.

9 Sec. 2. Section 554.9307, subsection 4, Code Supplement  
10 1985, is amended by striking the subsection.

11 EXPLANATION

12 This bill provides that a buyer in ordinary course of busi-  
13 ness takes free of a security interest created by the person's  
14 seller. It removes an exception in the uniform commercial  
15 code that currently provides that a person who buys farm  
16 products from a person engaged in farming operations might  
17 under some circumstances take the farm products subject to the  
18 security interest.

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SENATE FILE 2050

AN ACT

RELATING TO THE SECURITY INTEREST IN FARM PRODUCTS, PROHIBITING CERTAIN ACTS, PROVIDING FOR PENALTIES, AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 554.9307, subsection 1, Code Supplement 1985, is amended to read as follows:

1. Except as provided in subsection-4 the federal Food Security Act of 1985, Public Law 99-198, section 1324, a buyer in ordinary course of business as defined in section 554.1201, subsection 9, takes free of a security interest created by that person's seller even though the security interest is perfected and even though the buyer knows of its existence. For purposes of this section, a buyer or buyer in ordinary course of business includes any commission merchant, selling agent, or other person engaged in the business of receiving livestock as defined in section 189A.2 on commission for or on behalf of another.

Sec. 2. Section 554.9307, subsection 4, Code Supplement 1985, is amended by striking the subsection and inserting in lieu thereof the following:

4. A secured party may request the buyer to issue any check for payment or partial payment of a good subject to a security interest jointly in the name of both the seller and the secured party only if the secured party has included in the documents creating the security interest a written

provision that a joint check would be requested or required and if the provision has been specifically signed and dated by the person granting the security interest.

Sec. 3. Section 554.9307, Code Supplement 1985, is amended by adding the following new subsections:

NEW SUBSECTION. 5. a. If the documents creating a security interest contain the provisions permitted pursuant to subsection 4 and meet the requirements of subsection 4, the debtor is engaged in farming operations, and the debtor sells the farm products subject to a security interest created by the debtor to a buyer not included on the list as a potential buyer, then the debtor is subject to a civil penalty of the greater of either five thousand dollars or fifteen percent of the value or benefits received by the debtor for the farm product described in the security agreement. The penalty shall be deposited in the state general fund. However, if the secured party can demonstrate in state district court upon application by the secured party that the secured party has sustained a monetary loss as a result of the debtor selling to a person other than a person on the list of potential buyers and does not reasonably expect to be able to collect under the security agreement, then to the extent that the secured party can prove by competent evidence the amount of the monetary loss and the inability to collect under the security agreement, the court shall award the secured party so much of the civil penalty as necessary to cover the secured party's loss. However, if the secured party does ultimately recover under the security agreement, then the secured party shall remit to the state general fund the moneys collected under this subsection to the extent of the recovery. The penalty provided in this subsection shall not be imposed on the debtor if the debtor has complied with any of the following:

(1) Notified the secured party in writing of the identity of the buyer at least seven days prior to the sale.

(2) Accounted to the secured party for the proceeds of the sale not later than ten days after the sale.

(3) Acted in conformity with a written agreement between the secured party and the debtor regarding prior notification of a sale or payment of the proceeds.

b. In addition to the civil penalty provided in this section, a debtor who sells a farm product subject to a security interest created by the debtor to a buyer not included on the list as a potential buyer may also be guilty of committing theft pursuant to section 714.1, subsection 5.

c. The civil penalty provided in paragraph "a" is in lieu of and not in addition to any penalty imposed under Public Law 99-198, section 1324. If a debtor is required to pay a fine or penalty under Public Law 99-198, section 1324 and the debtor has previously also been required to pay a civil penalty pursuant to paragraph "a", then the debtor is entitled to a reimbursement of any moneys required to be paid due to a violation of paragraph "a".

NEW SUBSECTION. 6. A secured party is subject to the following civil penalties that shall be paid to the state general fund:

a. Two hundred dollars if the secured party fails to send a written notice to any person the secured party notified pursuant to Public Law 99-198, section 1324 as a potential buyer that the security interest has been terminated within fifteen days after all obligations for which the security interest was granted have been fulfilled, unless the debtor signs a written statement after the obligations secured by the security interest have been fulfilled waiving the requirement of the secured party to provide notice to potential buyers that the obligation has been fulfilled.

b. Two hundred dollars for each person the secured party has sent a written notice pursuant to Public Law 99-198, section 1324 who was not either of the following:

(1) Listed by the debtor as a potential buyer.

(2) A person who was identified by the debtor pursuant to subsection 5, paragraph "a", subparagraph (1).

The penalty imposed pursuant to this paragraph "b" shall not apply if the debtor does in fact sell all or part of the farm product subject to the security interest to the person to whom the notice was sent.

NEW SUBSECTION. 7. a. A potential buyer who receives a written notice pursuant to Public Law 99-198, section 1324, shall not publicly display or disseminate the written notice or information based upon the written notice.

b. A potential buyer who violates paragraph "a" is liable for a civil penalty in an amount of two hundred dollars. The penalty shall be paid to the state general fund.

NEW SUBSECTION. 8. a. In addition to any civil penalty imposed pursuant to subsections 6 and 7, a person who violates subsection 6 or 7 is liable to the debtor for any loss caused by the person resulting from the violation that the debtor can prove in court. The person may also recover from the person violating subsection 6 or 7 a penalty in an amount determined by the court not less than one hundred dollars nor more than one thousand dollars.

b. In an action in which it is found that a person has violated subsection 5, 6, or 7, the court shall award to the secured party under subsection 5 or the debtor under subsections 6 and 7 the court costs and to that party's attorneys their reasonable fees. Reasonable attorney's fees shall be determined by the value of the time reasonably expended by the attorney and not by the amount of recovery on behalf of the secured party or debtor.

NEW SUBSECTION. 9. For purposes of Public Law 99-198, section 1324, and this section, a written notice shall be considered to be received by the person to whom it was sent if the notice is mailed by registered mail with the proper postage and properly addressed to the person to whom it was sent. The refusal of a person to whom a notice is sent to accept delivery of the notice shall be considered receipt.

Sec. 4. This bill is effective on December 24, 1986 and shall apply to all security interests granted on or after December 24, 1986.

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ROBERT T. ANDERSON  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2050, Seventy-first General Assembly.

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K. MARIE THAYER  
Secretary of the Senate

Approved April 28, 1986

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TERRY E. BRANSTAD  
Governor