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AGRICULTURE: Husak, Chair: Boswell and Soorholtz

FILED JAN 13 1987

SENATE FILE 13
BY COMMITTEE ON AGRICULTURE
Approved 1/12/87 (g. 31)

Passed Senate, Date 3-25-87 (g. 904) Passed House, Date _____
Vote: Ayes 49 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the protection of buyers of farm products
2 against the enforcement of liens by secured parties and
3 providing dates for the effectiveness and applicability of the
4 Act.

5 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 1987, is
2 amended to read as follows:

3 1. ~~Except as provided in the federal Food Security Act of~~
4 ~~1985, Pub. L. No. 99-198, § 1324, a~~ A buyer in ordinary course
5 of business as defined in section 554.1201, subsection 9,
6 takes free of a security interest created by that person's
7 seller even though the security interest is perfected and even
8 though the buyer knows of its existence, unless the buyer
9 fails to comply with the requirements of subsection 6 or 7.
10 For purposes of this section, a buyer or buyer in ordinary
11 course of business includes any commission merchant, selling
12 agent, or other person engaged in the business of receiving
13 livestock as defined in section 189A.2 on commission for or on
14 behalf of another.

15 Sec. 2. Section 554.9307, subsection 5, Code 1987, is
16 amended by striking the subsection and inserting in lieu
17 thereof the following:

18 The secretary of state, as required by the federal Food
19 Security Act of 1985, Pub. Law No. 99-198, § 1324, shall
20 establish and supervise a central filing system for filing
21 effective financing statements or notices of effective
22 financing statements by secured parties, if the collateral is
23 farm products. The central filing system shall operate in
24 compliance with the following requirements:

25 a. The secretary of the United States department of
26 agriculture must certify the system before it is put into
27 operation.

28 b. The date and hour that each financing statement or
29 notice of a financing statement is filed shall be recorded.

30 c. All statements or notices of statements shall be
31 compiled into a master list which:

32 (1) Is organized according to farm product categories;

33 (2) Is arranged within each product category in the
34 following manner:

35 (a) In alphabetical order according to the last names of

1 the individual debtors, or, in the case of debtors doing
2 business other than as individuals, the first words in the
3 name of the debtors; and

4 (b) In numerical order according to the social security
5 numbers of the individual debtors or, in the case of debtors
6 doing business other than as individuals, the Internal Revenue
7 Service taxpayer identification numbers of the debtors; and

8 (c) Geographically by county; and

9 (d) By crop year.

10 (3) Contains all the information required to be included
11 in an effective financing statement. For purposes of this
12 section, an effective financing statement means a statement
13 that:

14 (a) Is an original or reproduced copy of a financing
15 statement;

16 (b) Is signed and filed with the secretary of state of a
17 state by the secured party;

18 (c) Is signed by the debtor;

19 (d) Contains:

20 (i) The name and address of the secured party;

21 (ii) The name and address of the person indebted to the
22 secured party;

23 (iii) The social security number of the debtor or, in the
24 case of a debtor doing business other than as an individual,
25 the Internal Revenue Service taxpayer identification number of
26 the debtor;

27 (iv) A description of the farm products subject to the
28 security interest created by the debtor, including the amount
29 of the products where applicable; and a reasonable description
30 of the property, including the county in which the property is
31 located;

32 (e) Must be amended in writing, within three months,
33 similarly signed and filed, to reflect material changes;

34 (f) Remains effective for a period of five years from the
35 date of filing, subject to extensions for additional periods

1 of five years each by refileing or filing a continuation
2 statement within six months before the expiration of the
3 initial five-year period;

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

8 (h) Is accompanied by the requisite filing fee set by the
9 secretary of state; and

10 (i) Substantially complies with the requirements of this
11 subparagraph even though it contains minor errors that are not
12 seriously misleading.

13 d. The secretary of state shall maintain a list of all
14 buyers of farm products who register with the secretary of
15 state, on a form that indicates all of the following:

16 (1) The name and address of each buyer.

17 (2) The interest of each buyer receiving the lists.

18 (3) The farm products in which each buyer has an interest.

19 e. The secured party and the debtor shall each pay one-
20 half of the costs of filing a financing statement or notice of
21 a financing statement. However, if on the date that the
22 secured party contracted to finance property subject to a
23 security interest by the lender, the rate of interest for the
24 loan is at least three percent greater than the prime rate of
25 interest charged by banking and savings and loan institutions
26 in the city of Des Moines, Iowa, the secured party shall pay
27 the entire cost of filing.

28 f. The secretary of state shall distribute to each buyer
29 whose name appears on the buyers list, at least once each
30 three months, a copy in written or printed form, of those
31 portions of the master list that cover the farm products in
32 which that buyer has registered an interest. The secretary of
33 state may terminate distribution of any portion of the master
34 list to a buyer, upon notice by the buyer requesting
35 termination, or after one year following the first distribu-

1 tion of the buyers list to the buyer.

2 g. The secretary of state shall furnish on request to any
3 person who is not registered with the secretary of state on
4 the buyers list, oral confirmation of any effective financing
5 statement, within twenty-four hours followed by written
6 confirmation to any buyer of farm products buying from a
7 debtor, or commission merchant or selling agent selling for a
8 seller covered by that statement.

9 Sec. 3. Section 554.9307, subsection 6, Code 1987, is
10 amended by striking the subsection and inserting in lieu
11 thereof the following:

12 6. In the case of a farm product produced in the state a
13 buyer of farm products takes subject to a security interest
14 created by the seller, if:

15 a. The buyer failed to register with the secretary of
16 state prior to the purchase of farm products; and the secured
17 party filed an effective financing statement or notice that
18 covers the farm products being sold; or

19 b. The buyer receives from the secretary of state written
20 notice that specifies both the seller and the farm product
21 being sold by the seller as being subject to an effective
22 financing statement or notice, and the buyer does not secure a
23 waiver or release of the security interest specified in the
24 effective financing statement or notice from the secured party
25 by performing any payment obligation or otherwise.

26 Sec. 4. Section 554.9307, subsection 7, Code 1987, is
27 amended by striking the subsection.

28 Sec. 5. Section 554.9307, subsection 8, Code 1987, is
29 amended by striking the subsection.

30 Sec. 6. Section 554.9307, subsection 9, Code 1987, is
31 amended by striking the subsection.

32 Sec. 7. This Act, being deemed of immediate importance,
33 takes effect ten days after the Act has been approved by the
34 governor or ten days after the Act has been passed over the
35 governor's objection. The amendments contained in this Act to

1 subsections 1 and 5 through 9 of section 554.9307 are
2 applicable to all security interests granted on or after
3 December 23, 1986.

4 EXPLANATION

5 This bill relates to the protection of a secured party
6 against future buyers of a farm product covered by the
7 security agreement. The sections of the bill provide as fol-
8 lows:

9 Section 1 provides that unless a buyer has followed the
10 requirements established in the section, the security interest
11 on the farm products will continue to exist.

12 Section 2 provides for the establishment of a central
13 filing system, pursuant to federal law, which records informa-
14 tion regarding secured parties, buyers, and farm products sub-
15 ject to security interests. The section provides that notice
16 of relevant security interests on farm products shall be fur-
17 nished to buyers or other persons inquiring about the
18 property.

19 Section 3 provides that a buyer of farm products takes
20 subject to any security interest if the secured party perfects
21 by filing an effective financing statement with the secretary
22 of state or the buyer receives notice from the secretary that
23 the farm products are subject to a security interest.

24 Sections 4, 5, and 6 provide that section 554.9307,
25 subsections 7, 8, and 9 have been stricken.

26 Section 7 provides for the effective date of the Act. It
27 also provides that all security interests created on or after
28 December 23, 1986 shall be covered by the Act.

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SENATE FILE 13

S-3247

1 Amend the amendment, S-3231, to Senate File 13, as
2 follows:

3 1. Page 1, by striking lines 2 through 33 and
4 inserting the following:

5 " _____. By striking everything after the enacting
6 clause and inserting the following:

7 "Section 1. Section 554.9307, subsection 1, Code
8 1987, is amended by striking the subsection and
9 inserting in lieu thereof the following:

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

21 Sec. 2. Section 554.9307, subsection 4, Code 1987,
22 is amended by striking the subsection and inserting in
23 lieu thereof the following:

24 4. a. A buyer in ordinary course of business
25 buying farm products from a person engaged in farming
26 operations takes subject to a security interest
27 created by that person's seller even though the
28 security interest is perfected, if within one year
29 before the sale of the farm products the buyer
30 receives prior written notice of the security interest
31 which complies with this subsection and the buyer
32 fails to perform the payment obligations specified in
33 the notice.

34 b. A written notice complies with this subsection
35 if the written notice is given to the buyer by the
36 secured party or the seller of the farm products and
37 complies with the following:

38 (1) Is an original or reproduced copy of the
39 financing statement; and

40 (2) Contains all of the following:

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

42 (b) The name and address of the person indebted to
43 the secured party.

44 (c) The social security number of the debtor or,
45 in the case of a debtor doing business other than as
46 an individual, the internal revenue service taxpayer
47 identification number of the debtor.

48 (d) A description of the farm products subject to
49 the security interest created by the debtor, including
50 the amount of the products where applicable.

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

3 (f) An identification of the county in which the
4 farm products were produced.

5 (g) A reasonable description of the property on
6 which the farm products were produced.

7 (h) A statement of any payment obligations imposed
8 on the buyer by the secured party as a condition for
9 waiver or release of the security interest.

10 c. The secured party may require, in documents
11 creating the security interest, that a debtor engaged
12 in farming operations, who creates a security interest
13 in a farm product, furnish to the secured party a list
14 of potential buyers to or through whom the debtor may
15 sell the farm product. Before a potential buyer who
16 is not on the list may receive from the secured party
17 written notice of a security interest in a farm
18 product, the secured party shall notify the debtor of
19 the name and address of the potential buyer.

20 d. A written notice shall be amended by the
21 secured party within three months of any material
22 change and transmitted to the potential buyer by
23 either the secured party or the seller of the farm
24 products. The notice lapses on the earlier of either
25 one year from the date the notice was received by the
26 buyer or the date the buyer receives a notice signed
27 by the secured party that the security interest has
28 lapsed.

29 Sec. 3. Section 554.9307 is amended by striking
30 subsection 5 and inserting in lieu thereof the
31 following:

32 5. If the notice to a potential buyer by a secured
33 party satisfies the requirements of subsection 4,
34 paragraph "b", the debtor engaged in farming
35 operations when creating the security interest, and
36 the debtor sells the farm products subject to the
37 security interest to a buyer not included on the list
38 as a potential buyer as required in subsection 4,
39 paragraph "c", or to any other buyer, if the name and
40 address of the buyer was not received by the debtor
41 pursuant to subsection 4, paragraph "c", then the
42 debtor is subject to a civil penalty of the greater of
43 either five thousand dollars or fifteen percent of the
44 value or benefits received by the debtor for the farm
45 products described in the security agreement.

46 However, the penalty provided in this subsection
47 shall not be imposed on the debtor if the debtor has
48 complied with any of the following:

49 a. Notified the secured party in writing of the
50 identity of the buyer at least seven days prior to the

March 25, 1987

S-3247 pg. 3

1 sale.

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

4 Sec. 4. Section 554.9307, Code 1987, is amended by
5 striking subsection 6 and inserting in lieu thereof
6 the following:

7 6. For purposes of this section, written notice
8 shall be considered to be received by the person to
9 whom it was delivered if the notice is delivered in
10 hand to the person with a written receipt returned, or
11 mailed by certified or registered mail with the proper
12 postage and properly addressed to the person to whom
13 it was sent. The refusal of a person to whom a notice
14 is sent to accept delivery of the notice shall be
15 considered receipt.

16 Sec. 5. Section 554.9307, Code 1987, is amended by
17 striking subsections 7 through 9.

18 Sec. 6. This Act, being deemed of immediate
19 importance, takes effect ten days after the Act has
20 been approved by the governor or ten days after the
21 Act has been passed over the governor's objection.
22 The provisions contained in this Act shall apply
23 retroactively to all security interests granted on or
24 after December 23, 1986. If a security interest was
25 granted before December 23, 1986, the provisions
26 contained in this Act shall apply retroactively on and
27 after September 1, 1987, to those security in-
28 terests.""

S-3247

Filed March 24, 1987

4/25 3/25/87 (J 904)

BY EMIL J. HUSAK
LEONARD L. BOSWELL
JOHN A. PETERSON
BERL E. PRIEBE
JOHN E. SOORHOLTZ

SENATE FILE 13

S-3176

1 Amend Senate File 13 as follows:

2 1. Page 1, lines 8 and 9, by striking the words
3 and figures: "unless the buyer fails to comply with
4 the requirements of subsection 6 or 7".

5 2. By striking page 1, line 15 through page 5,
6 line 3.

S-3176

Filed March 17, 1987

4/25 3/25 (J 904)

BY JOHN E. PETERSON

3231

1 Amend Senate File 13 as follows:

2 1. Page 1, by striking everything after the
3 enacting clause and inserting the following:
4 "Section 1. Section 554.9307, subsection 1, Code
5 1987, is amended by striking the subsection and
6 inserting in lieu thereof the following:

7 1. A buyer in the 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.
12 However, a buyer who in the ordinary course of
13 business buys a farm product from a seller engaged in
14 farming operations shall take subject to a security
15 interest created by the seller if the buyer is
16 notified of the interest as required under a
17 centralized filing system established by the secretary
18 of state pursuant to the federal Food Security Act of
19 1985, Pub. L. No. 99-198 § 1324. For purposes of this
20 section, a buyer or buyer in the ordinary course of
21 business includes any commission merchant, selling
22 agent, or other person engaged in the business of
23 receiving livestock as defined in section 189A.2 on
24 commission for or on behalf of another.

25 Sec. 2. Section 554.9307, Code 1987, is amended by
26 striking subsections 4 through 9.

27 Sec. 3. This Act, being deemed of immediate
28 importance, takes effect ten days after the Act has
29 been approved by the governor or ten days after the
30 Act has been passed over the governor's objection.
31 The provisions contained in this Act shall apply
32 retroactively to all security interests granted on or
33 after December 23, 1986."

S-3231

Filed March 23, 1987

BY BERL E. PRIEBE

Adopted as amended by 3264 3/25/87 (p. 904)

SENATE FILE 13

S-3002

1 Amend Senate File 13 as follows:

2 1. Page 1, lines 8 and 9, by striking the words
3 "unless the buyer fails to comply with the
4 requirements of subsection 6 or 7" and inserting the
5 words "except as provided in subsection 6".

6 2. Page 1, line 20, by inserting after the word
7 "establish" the words ", within sixty days following
8 the effective date of this Act,".

9 3. Page 3, line 17, by inserting after the word
10 "buyer" the word "in".

S-3002 Filed January 13, 1987

BY BERL E. PRIEBE

H/B 3/25 (p. 904)

SENATE FILE 13

S-3264

1 Amend the amendment, S-3231, to Senate File 13, as
2 follows:

3 1. Page 1, by striking lines 2 through 33 and
4 inserting the following:

5 "____. By striking everything after the enacting
6 clause and inserting the following:

7 "Section 1. Section 554.9307, subsection 1, Code
8 1987, is amended by striking the subsection and
9 inserting in lieu thereof the following:

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

21 Sec. 2. Section 554.9307, subsection 4, Code 1987,
22 is amended by striking the subsection and inserting in
23 lieu thereof the following:

24 4. a. A buyer in the ordinary course of business
25 buying farm products from a debtor engaged in farming
26 operations takes subject to a security interest
27 created by the debtor, if within one year before the
28 sale of the farm products the buyer receives prior
29 written notice of the security interest which complies
30 with this subsection and the buyer fails to perform
31 the payment obligations specified in the notice.

32 b. A written notice complies with this subsection
33 if the written notice is delivered to the buyer by the
34 secured party or the debtor who sells the farm
35 products and it complies with the following:

36 (1) Is an original or reproduced copy of the
37 written notice; and

38 (2) Is signed by either the secured party or the
39 debtor, who transmits the notice to the potential
40 buyer.

41 (3) Contains all of the following:

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

43 (b) The name and address of the person indebted to
44 the secured party.

45 (c) The social security number of the debtor or,
46 in the case of a debtor doing business other than as
47 an individual, the internal revenue service taxpayer
48 identification number of the debtor.

49 (d) A description of the farm products subject to
50 the security interest created by the debtor, including

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1 the amount of the products where applicable.

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

4 (f) An identification of the county in which the
5 farm products were produced.

6 (g) A reasonable description of the property on
7 which the farm products were produced.

8 (h) A statement of any payment obligations imposed
9 on the buyer by the secured party as a condition for
10 waiver or release of the security interest.

11 c. The secured party may require, in documents
12 creating the security interest, that a debtor engaged
13 in farming operations, who creates a security interest
14 in a farm product, furnish to the secured party a list
15 of potential buyers to or through whom the debtor may
16 sell the farm product. Before a potential buyer who
17 is not on the list may receive from the secured party
18 written notice of a security interest in a farm
19 product, the secured party shall notify the debtor of
20 the name and address of the potential buyer.

21 d. A written notice shall be amended by the
22 secured party within three months of any material
23 change. The amended notice must be signed and
24 transmitted to the potential buyer similarly to the
25 original notice, by either the secured party or the
26 debtor selling the farm products. The notice lapses
27 on the earlier of either one year from the date the
28 notice was received by the buyer or the date the buyer
29 receives a notice signed by the secured party that the
30 security interest has lapsed.

31 Sec. 3. Section 554.9307 is amended by striking
32 subsection 5 and inserting in lieu thereof the
33 following:

34 5. If the notice to a potential buyer by a secured
35 party or debtor satisfies the requirements of
36 subsection 4, paragraph "b", and the debtor sells the
37 farm products subject to the security interest to a
38 buyer not included on the list as a potential buyer as
39 required in subsection 4, paragraph "c", or to any
40 other buyer, if the name and address of the buyer was
41 not received by the debtor pursuant to subsection 4,
42 paragraph "c", then the debtor is subject to a civil
43 penalty of the greater of either five thousand dollars
44 or fifteen percent of the value or benefits received
45 by the debtor for the farm products described in the
46 documents creating the security interest.

47 However, the penalty provided in this subsection
48 shall be imposed on the debtor in lieu of but not in
49 addition to the penalty described in the federal Food
50 Security Act of 1985, Pub. L. No. 99-198, § 1324. A

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1 penalty shall not be imposed on the debtor if the
2 debtor has complied with any of the following:

3 a. Notified the secured party in writing of the
4 identity of the buyer at least seven days prior to the
5 sale.

6 b. Accounted to the secured party for the proceeds
7 of the sale not later than ten days after the sale.

8 Sec. 4. Section 554.9307, Code 1987, is amended by
9 striking subsection 6 and inserting in lieu thereof
10 the following:

11 6. For purposes of this section, written notice
12 shall be considered to be received by the person to
13 whom it was delivered if the notice is delivered in
14 hand to the person with a written receipt returned, or
15 mailed by certified or registered mail with the proper
16 postage and properly addressed to the person to whom
17 it was sent. The refusal of a person to whom a notice
18 is mailed to accept delivery of the notice shall be
19 considered receipt.

20 Sec. 5. Section 554.9307, Code 1987, is amended by
21 striking subsections 7 through 9.

22 Sec. 6. This Act, being deemed of immediate
23 importance, takes effect ten days after the Act has
24 been approved by the governor or ten days after the
25 Act has been passed over the governor's objection.
26 The provisions contained in this Act shall apply
27 retroactively to all security interests granted on or
28 after December 23, 1986. If a security interest was
29 granted before December 23, 1986, the provisions
30 contained in this Act shall apply retroactively on and
31 after September 1, 1987, to those security in-
32 terests."

S-3264
Filed March 25, 1987

ADOPTED (p. 904)

BY EMIL J. HUSAK
LEONARD L. BOSWELL
JOHN A. PETERSON
BERL E. PRIEBE
JOHN E. SOORHOLTZ

House Ag 3/31/87 To Pass 4/9/87 (p. 1240)

SENATE FILE 13
BY COMMITTEE ON AGRICULTURE

(AS AMENDED AND PASSED BY THE SENATE MARCH 25, 1987)

ALL New Language by the Senate

Passed Senate, Date 3/25/87 (p. 904) Passed House, Date 4-14-87 (p. 1306)
Vote: Ayes 49 Nays 6 Vote: Ayes 89 Nays 6
Approved April 27, 1987 (p. 1541)

A BILL FOR

1 An Act relating to the protection of buyers of farm products
2 against the enforcement of liens by secured parties and
3 providing dates for the effectiveness and applicability of the
4 Act.

5 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 1987, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

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

14 Sec. 2. Section 554.9307, subsection 4, Code 1987, is
15 amended by striking the subsection and inserting in lieu
16 thereof the following:

17 4. a. A buyer in the ordinary course of business buying
18 farm products from a debtor engaged in farming operations
19 takes subject to a security interest created by the debtor, if
20 within one year before the sale of the farm products the buyer
21 receives prior written notice of the security interest which
22 complies with this subsection and the buyer fails to perform
23 the payment obligations specified in the notice.

24 b. A written notice complies with this subsection if the
25 written notice is delivered to the buyer by the secured party
26 or the debtor who sells the farm products and it complies with
27 the following:

28 (1) Is an original or reproduced copy of the written
29 notice; and

30 (2) Is signed by either the secured party or the debtor,
31 who transmits the notice to the potential buyer.

32 (3) Contains all of the following:

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

34 (b) The name and address of the person indebted to the
35 secured party.

1 (c) The social security number of the debtor or, in the
2 case of a debtor doing business other than as an individual,
3 the internal revenue service taxpayer identification number of
4 the debtor.

5 (d) A description of the farm products subject to the
6 security interest created by the debtor, including the amount
7 of the products where applicable.

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

10 (f) An identification of the county in which the farm
11 products were produced.

12 (g) A reasonable description of the property on which the
13 farm products were produced.

14 (h) A statement of any payment obligations imposed on the
15 buyer by the secured party as a condition for waiver or
16 release of the security interest.

17 c. The secured party may require, in documents creating
18 the security interest, that a debtor engaged in farming
19 operations, who creates a security interest in a farm product,
20 furnish to the secured party a list of potential buyers to or
21 through whom the debtor may sell the farm product. Before a
22 potential buyer who is not on the list may receive from the
23 secured party written notice of a security interest in a farm
24 product, the secured party shall notify the debtor of the name
25 and address of the potential buyer.

26 d. A written notice shall be amended by the secured party
27 within three months of any material change. The amended
28 notice must be signed and transmitted to the potential buyer
29 similarly to the original notice, by either the secured party
30 or the debtor selling the farm products. The notice lapses on
31 the earlier of either one year from the date the notice was
32 received by the buyer or the date the buyer receives a notice
33 signed by the secured party that the security interest has
34 lapsed.

35 Sec. 3. Section 554.9307 is amended by striking subsection

1 5 and inserting in lieu thereof the following:

2 5. If the notice to a potential buyer by a secured party
3 or debtor satisfies the requirements of subsection 4,
4 paragraph "b", and the debtor sells the farm products subject
5 to the security interest to a buyer not included on the list
6 as a potential buyer as required in subsection 4, paragraph
7 "c", or to any other buyer, if the name and address of the
8 buyer was not received by the debtor pursuant to subsection 4,
9 paragraph "c", then the debtor is subject to a civil penalty
10 of the greater of either five thousand dollars or fifteen
11 percent of the value or benefits received by the debtor for
12 the farm products described in the documents creating the
13 security interest.

14 However, the penalty provided in this subsection shall be
15 imposed on the debtor in lieu of but not in addition to the
16 penalty described in the federal Food Security Act of 1985,
17 Pub. L. No. 99-198, § 1324. A penalty shall not be imposed on
18 the debtor if the debtor has complied with any of the
19 following:

20 a. Notified the secured party in writing of the identity
21 of the buyer at least seven days prior to the sale.

22 b. Accounted to the secured party for the proceeds of the
23 sale not later than ten days after the sale.

24 Sec. 4. Section 554.9307, Code 1987, is amended by
25 striking subsection 6 and inserting in lieu thereof the
26 following:

27 6. For purposes of this section, written notice shall be
28 considered to be received by the person to whom it was
29 delivered if the notice is delivered in hand to the person
30 with a written receipt returned, or mailed by certified or
31 registered mail with the proper postage and properly addressed
32 to the person to whom it was sent. The refusal of a person to
33 whom a notice is mailed to accept delivery of the notice shall
34 be considered receipt.

35 Sec. 5. Section 554.9307, Code 1987, is amended by

1 striking subsections 7 through 9.

2 Sec. 6. This Act, being deemed of immediate importance,
3 takes effect ten days after the Act has been approved by the
4 governor or ten days after the Act has been passed over the
5 governor's objection. The provisions contained in this Act
6 shall apply retroactively to all security interests granted on
7 or after December 23, 1986. If a security interest was
8 granted before December 23, 1986, the provisions contained in
9 this Act shall apply retroactively on and after September 1,
10 1987, to those security interests.

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section, a buyer or buyer in the 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 1987, is amended by striking the subsection and inserting in lieu thereof the following:

4. a. A buyer in the ordinary course of business buying farm products from a debtor engaged in farming operations takes subject to a security interest created by the debtor, if within one year before the sale of the farm products the buyer receives prior written notice of the security interest which complies with this subsection and the buyer fails to perform the payment obligations specified in the notice.

b. A written notice complies with this subsection if the written notice is delivered to the buyer by the secured party or the debtor who sells the farm products and it complies with the following:

- (1) Is an original or reproduced copy of the written notice; and
- (2) Is signed by either the secured party or the debtor, who transmits the notice to the potential buyer.
- (3) Contains all of the following:
 - (a) The name and address of the secured party.
 - (b) The name and address of the person indebted to the secured party.
 - (c) The social security number of the debtor or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the debtor.
 - (d) A description of the farm products subject to the security interest created by the debtor, including the amount of the products where applicable.

SENATE FILE 13

AN ACT

RELATING TO THE PROTECTION OF BUYERS OF FARM PRODUCTS AGAINST THE ENFORCEMENT OF LIENS BY SECURED PARTIES AND PROVIDING DATES FOR THE EFFECTIVENESS AND APPLICABILITY OF THE ACT.

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

Section 1. Section 554.9307, subsection 1, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

Except as provided in subsection 4, a buyer in the 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

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

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

(g) A reasonable description of the property on which the farm products were produced.

(h) A statement of any payment obligations imposed on the buyer by the secured party as a condition for waiver or release of the security interest.

c. The secured party may require, in documents creating the security interest, that a debtor engaged in farming operations, who creates a security interest in a farm product, furnish to the secured party a list of potential buyers to or through whom the debtor may sell the farm product. Before a potential buyer who is not on the list may receive from the secured party written notice of a security interest in a farm product, the secured party shall notify the debtor of the name and address of the potential buyer.

d. A written notice shall be amended by the secured party within three months of any material change. The amended notice must be signed and transmitted to the potential buyer similarly to the original notice, by either the secured party or the debtor selling the farm products. The notice lapses on the earlier of either one year from the date the notice was received by the buyer or the date the buyer receives a notice signed by the secured party that the security interest has lapsed.

Sec. 3. Section 554.9307, Code 1987, is amended by striking subsection 5 and inserting in lieu thereof the following:

5. If the notice to a potential buyer by a secured party or debtor satisfies the requirements of subsection 4, paragraph "b", and the debtor sells the farm products subject to the security interest to a buyer not included on the list as a potential buyer as required in subsection 4, paragraph

"c", or to any other buyer, if the name and address of the buyer was not received by the debtor pursuant to subsection 4, paragraph "c", 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 products described in the documents creating the security interest.

However, the penalty provided in this subsection shall be imposed on the debtor in lieu of but not in addition to the penalty described in the federal Food Security Act of 1985, Pub. L. No. 99-198, § 1324. A penalty shall not be imposed on the debtor if the debtor has complied with any of the following:

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

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

Sec. 4. Section 554.9307, Code 1987, is amended by striking subsection 6 and inserting in lieu thereof the following:

6. For purposes of this section, written notice shall be considered to be received by the person to whom it was delivered if the notice is delivered in hand to the person with a written receipt returned, or mailed by certified or 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 mailed to accept delivery of the notice shall be considered receipt.

Sec. 5. Section 554.9307, Code 1987, is amended by striking subsections 7 through 9.

Sec. 6. This Act, being deemed of immediate importance, takes effect ten days after the Act has been approved by the governor or ten days after the Act has been passed over the governor's objection. The provisions contained in this Act shall apply retroactively to all security interests granted on

or after December 23, 1986. If a security interest was granted before December 23, 1986, the provisions contained in this Act shall apply retroactively on and after September 1, 1987, to those security interests.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 13, Seventy-second General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 27, 1987

TERRY E. BRANSTAD
Governor

S.F. 13