

3/21/00 Removed from Calendar

FEB 23 2000

Place On Calendar

HOUSE FILE 2396  
BY COMMITTEE ON COMMERCE  
AND REGULATION

(SUCCESSOR TO HF 399)

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

**A BILL FOR**

1 An Act relating to security interests in farm products, providing  
2 for fees, and providing an effective date.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

HF 2396

1 Section 1. Section 554.9307, subsection 1, Code 1999, is  
2 amended to read as follows:

3 1. ~~Except-as-provided-in-subsection-47-a~~ A buyer in the  
4 ordinary course of business as defined in section 554.1201,  
5 subsection 9, takes free of a security interest created by  
6 that person's seller even though the security interest is  
7 perfected and even though the buyer knows of its existence.  
8 However, this section does not apply to buyers of farm  
9 products as provided in section 554.9307A. For purposes of  
10 this section, a buyer or buyer in the ordinary course of  
11 business includes any commission merchant, selling agent, or  
12 other person engaged in the business of receiving livestock as  
13 defined in section 189A.2 on commission for or on behalf of  
14 another.

15 Sec. 2. Section 554.9307, subsections 4 through 6, Code  
16 1999, are amended by striking the subsections.

17 Sec. 3. NEW SECTION. 554.9307A FARM PRODUCTS.

18 1. As used in this section, unless the context otherwise  
19 requires:

20 a. "Buyer" means a person who, in the ordinary course of  
21 business, buys farm products from a person engaged in farming  
22 operations who is in the business of selling farm products. A  
23 buyer includes a commission merchant and selling agent as  
24 defined in this section.

25 b. "Central filing system" means a system for filing  
26 effective financing statements, and statements amending,  
27 continuing, or terminating effective financing statements as  
28 provided in subsection 2.

29 c. "Commission merchant" means a person engaged in the  
30 business of receiving any farm product for sale, on  
31 commission, or for or on behalf of another person.

32 d. "Crop year" means the calendar year in which a crop is  
33 or will be harvested, animals are born or acquired, or poultry  
34 or eggs are or will be sold.

35 e. "Debtor" means a person who owns a farm product and

1 subjects it to a security interest, whether or not that person  
2 owes a debt to the secured party.

3 f. "Effective financing statement" means a financing  
4 statement required to be filed as part of the central filing  
5 system as provided in subsection 2.

6 g. "Farm product" means an agricultural commodity such as  
7 wheat, corn, soybeans, or a species of livestock such as  
8 cattle, hogs, sheep, horses, or poultry used or produced in  
9 farming operations. "Farm product" also means a product of  
10 such crop or livestock in its unmanufactured state that is in  
11 the possession of a person engaged in farming operations. The  
12 secretary, by rule, shall create a list of farm products which  
13 may include the list of farm products set forth in 9 C.F.R. §  
14 205.206.

15 h. "Internet" means the federated system composed of  
16 allied computer networks and organizational computer  
17 facilities, including educational, scientific, and commercial  
18 institutions, that is international in scope and that  
19 facilitates data communication, as developed from the network  
20 established by the United States advanced research projects  
21 agency.

22 i. "Knows" means having actual knowledge. "Knowledge"  
23 means actual knowledge.

24 j. "Secretary" means the secretary of state.

25 k. "Security interest" means an interest in a farm product  
26 that secures payment or performance of an obligation.

27 l. "Selling agent" means a person, other than a commission  
28 merchant, who is engaged in the business of negotiating the  
29 sale and purchase of a farm product on behalf of a person  
30 engaged in farming operations.

31 2. The secretary of state shall establish and administer a  
32 central filing system for filing effective financing  
33 statements or statements amending, continuing, or terminating  
34 effective financing statements on a statewide basis. The  
35 central filing system shall provide for the electronic filing

1 and examining of effective financing statements, or statements  
2 amending, continuing, or terminating effective financing  
3 statements. The central filing system shall be designed to  
4 allow persons to file and examine these documents using the  
5 internet. Until July 1, 2004, the central filing system may  
6 provide for the filing and examining of these documents in a  
7 paper format, including the compilation of master lists as  
8 provided in this section. The central financing system must  
9 comply with the requirements set forth in 7 U.S.C. § 1631 and  
10 which has been certified by the United States secretary of  
11 agriculture prior to implementation.

12 a. The secretary of state shall provide for filing  
13 effective financing statements, and statements amending,  
14 continuing, or terminating effective financing statements, as  
15 provided in this paragraph. The secretary shall prescribe all  
16 forms to be used for filing. Presentation for filing of a  
17 statement and the acceptance of the statement by the secretary  
18 constitutes filing under this subsection.

19 (1) An effective financing statement shall be valid if it  
20 substantially complies with the requirements of this paragraph  
21 "a" even though it contains minor errors that are not  
22 seriously misleading. An effective financing statement shall  
23 comply with all of the following:

24 (a) The statement must be an original or reproduced copy  
25 which is signed by the secured party and debtor. The  
26 statement must be filed with the secretary by the secured  
27 party. The secretary shall record the date and hour of the  
28 filing of the effective financing statement. The statement  
29 must contain information that the secretary requires to comply  
30 with 7 U.S.C. § 1631 or to administer this section.

31 (b) The statement must contain all of the following:

32 (i) The name and address of the secured party.

33 (ii) The name and address of the debtor.

34 (iii) The social security number of the debtor or, in the  
35 case of a debtor doing business other than as an individual,

1 the internal revenue service taxpayer identification number of  
2 the debtor.

3 (iv) A description of the farm products subject to the  
4 security interest, the county in Iowa where the farm products  
5 are produced or will be produced, the crop year unless every  
6 crop of the farm product in question for the duration of the  
7 effective financing statement is to be subject to the  
8 particular security interest, further details of the farm  
9 product subject to the security interest if needed to  
10 distinguish it from other quantities of the farm product owned  
11 by the same person or persons but not subject to the  
12 particular security interest, and other information that the  
13 secretary requires to administer this section. The effective  
14 financing statement may cover more than one farm product  
15 located in more than one county.

16 (v) Whether the secured party demands that a buyer issue a  
17 check for payment jointly to the debtor and the secured party  
18 for the purchase of the farm products.

19 (2) The following shall apply to an effective financing  
20 statement:

21 (a) The statement shall remain effective for a period of  
22 five years from the date of filing, subject to extensions for  
23 additional periods of five years each by filing or refileing a  
24 continuation statement within six months before the expiration  
25 of the five-year period. A continuation statement shall be  
26 signed by the secured party and the debtor, identify the  
27 original effective financing statement by file number, and  
28 state that the original financing statement is still  
29 effective. Upon timely filing of a continuation statement,  
30 the effectiveness of the original financing statement shall be  
31 continued for five years after the last date to which the  
32 filing was effective, whereupon it shall lapse unless another  
33 continuation statement is filed prior to the lapse.  
34 Succeeding continuation statements may be filed in the same  
35 manner to continue the effectiveness of the original effective

1 financing statement.

2 (b) The statement shall be amended in writing to reflect a  
3 material change, within three months of the change. The  
4 amendment shall be signed and filed as required for an  
5 original effective financing statement.

6 (c) The statement lapses upon the expiration of the  
7 effective period of the effective financing statement or  
8 terminates upon the filing of a statement signed by the  
9 secured party that the effective financing statement is  
10 terminated. If the effective financing statement has not  
11 lapsed or terminated and there is no outstanding secured  
12 obligation and no commitment to make advances, incur  
13 obligations, or otherwise give value, the debtor may notify  
14 the secured party in writing to terminate the effective  
15 financing statement. Until the debtor instructs the secured  
16 party in writing to terminate the effective financing  
17 statement, the secured party has no obligation to terminate  
18 the effective financing statement. Within thirty days after  
19 receipt by the secured party of the statement from the debtor  
20 to terminate the effective financing statement, the secured  
21 party shall file with the secretary a termination statement  
22 with respect to the effective financing statement.

23 b. Until July 1, 2004, the secretary shall compile the  
24 effective financing statements into a master list subject to  
25 all of the following:

26 (1) The master list shall be organized according to farm  
27 products. The master list shall contain information required  
28 to be contained in effective financing statements filed with  
29 the secretary. The secretary shall arrange the master list  
30 for each farm product as follows:

31 (a) In alphabetical order according to the last name of  
32 the individual debtors or, in the case of debtors doing  
33 business other than as individuals, the first word in the name  
34 of such debtors.

35 (b) In numerical order according to the social security

1 numbers of the individual debtors or, in the case of debtors  
2 doing business other than as individuals, the internal revenue  
3 service taxpayer identification numbers of the debtors.

4 (c) Geographically by county.

5 (d) By crop year.

6 (2) The master list shall include information regarding  
7 buyers who register with the secretary on forms prescribed by  
8 the secretary as provided in subparagraph (3).

9 (3) The secretary shall maintain a list of all buyers of  
10 farm products who register with the secretary. A buyer  
11 registering with the secretary shall complete forms requiring  
12 all of the following information, as prescribed by the  
13 secretary:

14 (a) The name and address of the buyer.

15 (b) The interest of the buyer in receiving the lists  
16 described in this paragraph "b".

17 (c) The farm products in which the buyer has an interest.

18 (d) Whether the secured party demands that a buyer issue a  
19 check for payment jointly to the debtor and the secured party  
20 for the purchase of the farm products.

21 (4) The secretary shall distribute to each registered  
22 buyer a copy in written, printed, or electronic form of those  
23 portions of the master list relating to farm products in which  
24 the buyer has registered an interest. The secretary may  
25 provide for the distribution of the master list or portions of  
26 the list on any other medium requested by a registered buyer.  
27 If a registered buyer so requests, the information provided to  
28 the buyer may be limited to a county or group of counties  
29 where the farm product is produced or to a crop year or crop  
30 years or to a combination of those identifiers. Distribution  
31 is subject to all of the following:

32 (a) The distribution shall be by postal or electronic  
33 mail.

34 (b) The secretary shall, by rule, establish the dates upon  
35 which the quarterly distributions will be made, the dates

1 after which a filing of an effective financing statement will  
2 not be reflected on the next quarterly distribution of lists,  
3 and the dates by which a buyer must complete a registration to  
4 receive the next quarterly list.

5 (c) The secretary shall remove information pertaining to  
6 lapsed and terminated effective financing statements from the  
7 master list prior to preparation of the lists required to be  
8 distributed.

9 (d) Upon written notice to the secretary by a registered  
10 buyer, the secretary shall terminate distribution of the list  
11 to the registered buyer.

12 Oral and written inquiries by a buyer not registered  
13 pursuant to subparagraph (3) may be made to the secretary  
14 during hours determined by the secretary. The secretary shall  
15 maintain a toll-free telephone line for purposes of responding  
16 to oral inquiries. An oral response to inquiries shall be  
17 available to an inquiring nonregistered buyer not later than  
18 on the regular business day following the day on which the  
19 inquiry was received, at or before the time of day when it was  
20 received. Written confirmation of the information provided  
21 orally in response to the inquiry shall be delivered by first  
22 class mail or electronic mail to the buyer, at an address  
23 provided by the buyer, by the secretary not later than the  
24 second regular business day following the day on which the  
25 inquiry was received.

26 In order to verify the existence or nonexistence of a  
27 security interest, a buyer may request a seller to disclose  
28 the seller's social security number or, in the case of a  
29 seller doing business other than as an individual, the  
30 internal revenue service taxpayer identification number of the  
31 seller.

32 3. Except as provided in this subsection, a buyer who buys  
33 farm products from a seller engaged in farming operations  
34 shall take free of a security interest created by the seller,  
35 even though the security interest is perfected and the buyer

1 knows of the existence of the interest.

2 a. Until the secretary establishes an electronic central  
3 filing system as provided in subsection 2, the following shall  
4 apply:

5 (1) If the buyer fails to register with the secretary  
6 prior to the purchase of farm products, the buyer takes  
7 subject to a security interest in the farm products only if  
8 the secured party has filed an effective financing statement  
9 that covers the farm products being sold, the secured party  
10 demands that a buyer issue a check for payment jointly to the  
11 debtor and the secured party for the purchase of the farm  
12 products as memorialized in the effective financing statement,  
13 and the buyer could have discovered the existence of the  
14 effective financing statement prior to the purchase by making  
15 an inquiry as provided in subsection 2. The buyer shall take  
16 free of the security interest, if the buyer could not have  
17 discovered the existence of a filed effective financing  
18 statement because it is not available for public disclosure.

19 (2) If the buyer registers with the secretary prior to the  
20 purchase of the farm products, the buyer takes subject to a  
21 security interest in the farm products only if the secured  
22 party has filed an effective financing statement that covers  
23 the farm products being sold, and the buyer receives from the  
24 secretary a master list or a portion of the master list that  
25 identifies both the seller and the farm products being sold by  
26 the seller as being subject to an effective financing  
27 statement, and the buyer does not secure a waiver or release  
28 of the security interest as specified in the effective  
29 financing statement.

30 b. When the secretary establishes an electronic central  
31 filing system as provided in subsection 2, the buyer of farm  
32 products takes subject to a security interest in the farm  
33 product if the secured party has filed an effective financing  
34 statement that covers the farm products being sold, the  
35 secured party demands that a buyer issue a check for payment

1 jointly to the debtor and the secured party for the purchase  
2 of the farm products as memorialized in the effective  
3 financing statement, and the buyer could have discovered the  
4 existence of the effective financing statement prior to the  
5 purchase by accessing the data base containing effective  
6 financing statements filed electronically with the secretary.  
7 The buyer shall take free of the security interest, if the  
8 buyer could not have discovered the existence of a filed  
9 effective financing statement because it is not available for  
10 public disclosure.

11 c. The secretary shall establish fees for filing effective  
12 financing statements. The fees shall not be more than  
13 provided for filing financing statements as provided in  
14 section 554.9403. The secretary shall not charge a buyer a  
15 fee for registering to receive a master list or for responding  
16 to buyer inquiries, including by examining or printing  
17 effective financing statements, and statements amending,  
18 continuing, or terminating effective financing statements  
19 which are accessed in an electronic format.

20 Sec. 4. DIRECTIONS TO THE SECRETARY OF STATE. The  
21 secretary of state shall adopt rules necessary to implement  
22 this division of this Act. If necessary to obtain federal  
23 certification of the central filing system, additional or  
24 alternative requirements made in conformity with 7 U.S.C. §  
25 1631 may be imposed by the secretary of state by rule. The  
26 secretary of state may computerize the central filing system.

27 Sec. 5. EFFECTIVE DATE. This Act takes effect January 1,  
28 2001.

29 EXPLANATION

30 Under Code section 554.9307 of Iowa's uniform commercial  
31 code, a buyer in the ordinary course of business takes free of  
32 a security interest created by the seller, unless the buyer  
33 purchases farm products. This is sometimes referred to as  
34 "the farm products rule". In 1985, Congress enacted  
35 legislation providing two approaches for notifying buyers of

1 farm products; a system of certified central filing and the  
2 already-existing system for actual notification.

3 In 1987, the general assembly enacted legislation requiring  
4 actual notification to buyers. Under current law, a buyer in  
5 the ordinary course of business buying farm products from a  
6 debtor engaged in farming operations takes subject to a  
7 security interest created by the debtor only if within one  
8 year before the sale of the farm products the buyer receives  
9 prior written notice of the security interest.

10 The bill creates a centralized filing system for this  
11 state. The system is administered by the secretary of state  
12 who must provide for filing effective financing statements on  
13 a statewide basis. The secretary of state must produce a  
14 master list of information required to be contained in the  
15 effective financing statements. The bill provides  
16 requirements for the contents and duration of an effective  
17 financing statement. The bill provides for the distribution  
18 of information by the secretary regarding effective financing  
19 statements to interested persons by sending the information to  
20 buyers registered with the secretary and by answering specific  
21 oral and written inquiries. The bill provides that the  
22 secretary of state must establish an electronic system for  
23 filing and accessing effective financing statements.

24 The bill authorizes the secretary of state to establish  
25 fees for filing effective financing statements. The bill  
26 restricts the secretary of state from imposing other fees.  
27 The bill takes effect on January 1, 2001.

28

29

30

31

32

33

34

35

HOUSE FILE 2396

H-8301

1 Amend House File 2396 as follows:

2 1. Page 7, by striking lines 32 and 33, and  
3 inserting the following:

4 "\_\_\_\_. The following shall apply:

5 a. A buyer engaged in farming operations who buys  
6 farm products from a seller who is also engaged in  
7 farming operations shall take free of a security  
8 interest created by the seller, even though the  
9 security interest is perfected and the buyer knows of  
10 the existence of the interest.

11 b. Except as provided in this paragraph, a buyer  
12 who is not engaged in farming operations who buys farm  
13 products from a seller engaged in farming operations".

14 2. Page 8, line 2, by striking the word "a." and  
15 inserting the following: "(1)".

16 3. Page 8, line 5, by striking the figure "(1)"  
17 and inserting the following: "(a)".

18 4. Page 8, line 19, by striking the figure "(2)"  
19 and inserting the following: "(b)".

20 5. Page 8, line 23, by inserting after the word  
21 "sold," the following: "the secured party demands  
22 that a buyer issue a check for payment jointly to the  
23 debtor and secured party for the purchase of the farm  
24 products as memorialized in the effective financing  
25 statement,".

26 6. Page 8, line 30, by striking the word "b." and  
27 inserting the following: "(2)".

28 7. Page 9, line 11, by striking the word "c." and  
29 inserting the following: "(3)".

By DIX of Butler

H-8301 FILED MARCH 9, 2000

**HOUSE FILE 2396  
FISCAL NOTE**

---

A fiscal note for House File 2396 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

---

House File 2396 provides for a statewide centralized filing system to notify buyers of farm products. The system will be established and administered by the Secretary of State.

**ASSUMPTIONS**

1. The cost of application and software expense to create the electric filing system will be \$350,000.
2. The cost for computer equipment will be \$25,000. This is a one-time expense.
3. A project manager for the initial creation of the system will cost \$50,000. This would be a one-time expense to develop and implement the system.
4. The Office of the Secretary of State will need 3.00 FTE positions to maintain and update the filings at an annual cost of \$100,000.
5. A \$10 fee will be established for the cost of filing the financial statements. The actual amount that would be collected from the fee is unknown. Any fees collected would be deposited in the General Fund.

**FISCAL IMPACT**

House File 2396 will increase General Fund expenditures for the Secretary of State by \$525,000 in FY 2001 and \$100,000 in subsequent years. The estimate does not take into consideration any filing fees that would be collected.

**SOURCES**

Secretary of State  
Information Technology Services

(LSB 6777HV, CRS)

FILED MARCH 1, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR