

FEB 19 2001

Agriculture

HOUSE FILE

311

BY DIX

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 their expenditure, and providing for the Act's
3 applicability.

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

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HF 311

1 Section 1. Section 554.9302, as enacted by 2000 Iowa Acts,
2 chapter 1149, section 22, is amended to read as follows:

3 554.9302 LAW GOVERNING PERFECTION AND PRIORITY OF
4 AGRICULTURAL LIENS.

5 While farm products are located in ~~a-jurisdiction~~ this
6 state, the ~~local-law-of-that-jurisdiction-governs~~ perfection,
7 the effect of perfection or nonperfection, and the priority of
8 an agricultural lien on the farm products shall be governed by
9 provisions of this Code, including but not limited to chapters
10 554E, 570, 570A, 579, 579A, 579B, 580, and 581.

11 Sec. 2. NEW SECTION. 554E.1 DEFINITIONS.

12 As used in this chapter, unless the context otherwise
13 requires:

14 1. "Buyer" means a person who, in the ordinary course of
15 business, buys farm products from a person engaged in farming
16 operations who is in the business of selling farm products. A
17 buyer includes a commission merchant and selling agent.

18 2. "Central filing system" means a system for filing
19 effective financing statements, and statements amending,
20 continuing, or terminating effective financing statements as
21 provided in section 554E.5.

22 3. "Commission merchant" means a person engaged in the
23 business of receiving any farm product for sale, on
24 commission, or for or on behalf of another person.

25 4. "Crop year" means the calendar year in which a crop is
26 or will be harvested, animals are born or acquired, or poultry
27 or eggs are or will be sold.

28 5. "Debtor" means a person who owns a farm product and
29 subjects it to a security interest, whether or not that person
30 owes a debt to the secured party.

31 6. "Effective financing statement" means a financing
32 statement required to be filed as part of the central filing
33 system as provided in section 554E.6.

34 7. "Farm product" means an agricultural commodity such as
35 wheat, corn, soybeans, or a species of livestock such as

1 cattle, hogs, sheep, horses, or poultry used or produced in
2 farming operations. "Farm product" also means a product of
3 such crop or livestock in its unmanufactured state that is in
4 the possession of a person engaged in farming operations.

5 8. "Knows" means having actual knowledge. "Knowledge"
6 means actual knowledge.

7 9. "Secretary" means the secretary of state.

8 10. "Security interest" means an interest in a farm
9 product that secures payment or performance of an obligation.

10 11. "Selling agent" means a person, other than a
11 commission merchant, who is engaged in the business of
12 negotiating the sale and purchase of a farm product on behalf
13 of a person engaged in farming operations.

14 Sec. 3. NEW SECTION. 554E.2 SPECIAL DEFINITIONS.

15 To every extent consistent with the application of federal
16 law, unless the context otherwise requires:

17 1. "Agricultural lien" means the same as defined in
18 section 554.9102, as enacted in 2000 Iowa Acts, chapter 1149,
19 section 2.

20 2. "Farming operation" means the same as defined in
21 section 554.9102, as enacted in 2000 Iowa Acts, chapter 1149,
22 section 2.

23 3. "Internet" means the federated system composed of
24 allied computer networks and organizational computer
25 facilities, including educational, scientific, and commercial
26 institutions that is international in scope and that
27 facilitates data communication, as developed from the network
28 established by the United States advanced research projects
29 agency.

30 Sec. 4. NEW SECTION. 554E.3 UNIFORM COMMERCIAL CODE.

31 This chapter shall be interpreted in conjunction with
32 chapter 554, and terms and phrases used in this chapter shall,
33 to every extent practicable, be interpreted consistently with
34 chapter 554, article 9.

35 Sec. 5. NEW SECTION. 554E.4 AGRICULTURAL LIENS.

1 A security interest perfected under this chapter does not
2 create a superior interest to an agricultural lien created in
3 another chapter which expressly provides that its provisions
4 are superior.

5 Sec. 6. NEW SECTION. 554E.5 CENTRAL FILING SYSTEM --
6 ESTABLISHMENT AND CERTIFICATION.

7 The secretary of state shall establish and administer a
8 central filing system for filing effective financing
9 statements or statements amending, continuing, or terminating
10 effective financing statements on a statewide basis.

11 1. The central filing system shall provide for the
12 electronic filing and examining of effective financing
13 statements, or statements amending, continuing, or terminating
14 effective financing statements.

15 2. The central filing system shall be designed to allow
16 persons to file and examine these documents using the
17 internet. Until July 1, 2005, the secretary shall provide for
18 the filing and examining of these documents in a paper format,
19 including the compilation and distribution of master lists as
20 provided in this chapter. After that date the secretary may
21 provide for the filing and examining of the documents in a
22 paper format.

23 3. The secretary, by rules adopted pursuant to chapter
24 17A, shall list farm products that may include the list of
25 farm products set forth in 9 C.F.R. § 205.206.

26 4. The central financing system must comply with the
27 requirements set forth in 7 U.S.C. § 1631 which has been
28 certified by the United States secretary of agriculture prior
29 to implementation.

30 Sec. 7. NEW SECTION. 554E.6 EFFECTIVE FINANCING
31 STATEMENTS -- FILING REQUIREMENTS.

32 The secretary of state shall provide for filing effective
33 financing statements, and statements amending, continuing, or
34 terminating effective financing statements, as provided in
35 this section. The secretary shall prescribe all forms to be

1 used for filing. Presentation for filing of a statement and
2 the acceptance of the statement by the secretary constitutes
3 filing under this section.

4 1. An effective financing statement shall be valid if it
5 substantially complies with the requirements of this section
6 even though it contains minor errors that are not seriously
7 misleading.

8 2. An effective financing statement must be an original or
9 reproduced copy which is signed by the secured party and the
10 debtor. The statement must be filed with the secretary by the
11 secured party. The secretary shall record the date and hour
12 of the filing of the effective financing statement. The
13 statement must contain information that the secretary requires
14 to comply with 7 U.S.C. § 1631 or to administer this section.

15 3. An effective financing statement must contain all of
16 the following:

17 a. The name and address of the secured party.

18 b. The name and address of the debtor.

19 c. The social security number of the debtor or, in the
20 case of a debtor doing business other than as an individual,
21 the internal revenue service taxpayer identification number of
22 the debtor.

23 d. A description of the farm products subject to the
24 security interest, the county in Iowa where the farm products
25 are produced or will be produced, the crop year unless every
26 crop of the farm product in question for the duration of the
27 effective financing statement is to be subject to the
28 particular security interest, further details of the farm
29 product subject to the security interest if needed to
30 distinguish it from other quantities of the farm product owned
31 by the same person or persons but not subject to the
32 particular security interest, and other information that the
33 secretary requires to administer this section. The effective
34 financing statement may cover more than one farm product
35 located in more than one county.

1 e. Whether the secured party demands that a buyer issue a
2 check for payment jointly to the debtor and the secured party
3 for the purchase of the farm products.

4 4. A continuation statement shall be signed by the secured
5 party and the debtor, identify the original effective
6 financing statement by file number, and state that the
7 original financing statement is still effective.

8 Sec. 8. NEW SECTION. 554E.7 EFFECTIVE FINANCING
9 STATEMENTS -- EFFECTIVENESS.

10 The following shall apply to an effective financing
11 statement:

12 1. The effective financing statement shall remain
13 effective for a period of five years from the date of filing,
14 subject to extensions for additional periods of five years
15 each by filing or refiling a continuation statement within six
16 months before the expiration of the five-year period.

17 2. Upon timely filing of a continuation statement, the
18 effectiveness of the original financing statement shall be
19 continued for five years after the last date to which the
20 filing was effective, whereupon it shall lapse unless another
21 continuation statement is filed prior to the lapse.
22 Succeeding continuation statements may be filed in the same
23 manner to continue the effectiveness of the original effective
24 financing statement.

25 3. The effective financing statement shall be amended in
26 writing to reflect a material change within three months of
27 the change. The amendment shall be signed and filed as
28 required for an original effective financing statement.

29 4. The effective financing statement lapses upon the
30 expiration of the effective period of the effective financing
31 statement or terminates upon the filing of a statement signed
32 by the secured party that the effective financing statement is
33 terminated.

34 a. If the effective financing statement has not lapsed or
35 terminated and there is no outstanding secured obligation and

1 no commitment to make advances, incur obligations, or
2 otherwise give value, the debtor may notify the secured party
3 in writing to terminate the effective financing statement.

4 b. Until the debtor instructs the secured party in writing
5 to terminate the effective financing statement, the secured
6 party has no obligation to terminate the effective financing
7 statement.

8 c. Within thirty days after receipt by the secured party
9 of the statement from the debtor to terminate the effective
10 financing statement, the secured party shall file with the
11 secretary a termination statement with respect to the
12 effective financing statement.

13 Sec. 9. NEW SECTION. 554E.8 MASTER LIST -- ORGANIZATION
14 AND CONTENTS.

15 The secretary shall compile the effective financing
16 statements into a master list subject to all of the following:

17 1. The master list shall be organized according to farm
18 products. The master list shall contain information required
19 to be contained in effective financing statements filed with
20 the secretary. The secretary shall arrange the master list
21 for each farm product as follows:

22 a. In alphabetical order according to the last name of the
23 individual debtors or, in the case of debtors doing business
24 other than as individuals, the first word in the name of such
25 debtors.

26 b. In numerical order according to the social security
27 numbers of the individual debtors or, in the case of debtors
28 doing business other than as individuals, the internal revenue
29 service taxpayer identification numbers of the debtors.

30 c. Geographically by county.

31 d. By crop year.

32 2. The master list shall include information regarding
33 buyers who register with the secretary on forms prescribed by
34 the secretary as provided in this section.

35 3. The secretary shall maintain a list of all buyers of

1 farm products who register with the secretary. A buyer
2 registering with the secretary shall complete forms requiring
3 all of the following information, as prescribed by the
4 secretary:

- 5 a. The name and address of the buyer.
- 6 b. The interest of the buyer in receiving the list.
- 7 c. The farm products in which the buyer has an interest.
- 8 d. Whether the secured party demands that a buyer issue a
9 check for payment jointly to the debtor and the secured party
10 for the purchase of the farm products.

11 Sec. 10. NEW SECTION. 554E.9 MASTER LIST -- DISTRIBUTION
12 AND INQUIRIES.

13 1. The secretary shall distribute to each registered buyer
14 a copy in written, printed, or electronic form of those
15 portions of the master list relating to farm products in which
16 the buyer has registered an interest. The secretary may
17 provide for the distribution of the master list or portions of
18 the list on any other medium requested by a registered buyer.
19 If a registered buyer so requests, the information provided to
20 the buyer may be limited to a county or group of counties
21 where the farm product is produced or to a crop year or crop
22 years or to a combination of those identifiers.

23 2. Distribution is subject to all of the following:

- 24 a. The distribution shall be by postal or electronic mail.
- 25 b. The secretary shall, by rule, establish the dates upon
26 which the quarterly distributions will be made, the dates
27 after which a filing of an effective financing statement will
28 not be reflected on the next quarterly distribution of lists,
29 and the dates by which a buyer must complete a registration to
30 receive the next quarterly list.

31 3. The secretary shall remove information pertaining to
32 lapsed and terminated effective financing statements from the
33 master list prior to preparation of the lists required to be
34 distributed.

35 4. Upon written notice to the secretary by a registered

1 buyer, the secretary shall terminate distribution of the list
2 to the registered buyer.

3 5. Oral and written inquiries by a buyer not registered
4 pursuant to section 554E.8 may be made to the secretary during
5 hours determined by the secretary.

6 a. The secretary shall maintain a toll-free telephone line
7 for purposes of responding to oral inquiries. An oral
8 response to inquiries shall be available to an inquiring
9 nonregistered buyer not later than on the regular business day
10 following the day on which the inquiry was received, at or
11 before the time of day when it was received.

12 b. Written confirmation of the information provided orally
13 in response to the inquiry shall be delivered by first class
14 mail or electronic mail to the buyer, at an address provided
15 by the buyer, by the secretary not later than the second
16 regular business day following the day on which the inquiry
17 was received.

18 6. In order to verify the existence or nonexistence of a
19 security interest, a buyer may request a seller to disclose
20 the seller's social security number or, in the case of a
21 seller doing business other than as an individual, the
22 internal revenue service taxpayer identification number of the
23 seller.

24 Sec. 11. NEW SECTION. 554E.10 PERFECTION -- CREATION OF
25 SUPERIOR INTERESTS.

26 1. The following shall apply:

27 a. A buyer who is engaged in farming operations and who
28 buys farm products from a seller who is also engaged in
29 farming operations shall take free of a security interest
30 created by the seller, even though the security interest is
31 perfected and the buyer knows of the existence of the security
32 interest.

33 b. Except as provided in this subsection, a buyer who is
34 not engaged in farming operations and who buys farm products
35 from a seller engaged in farming operations shall take free of

1 a security interest created by the seller, even though the
2 security interest is perfected and the buyer knows of the
3 existence of the interest.

4 2. Until the secretary establishes an electronic central
5 filing system as provided in section 554E.5, the following
6 shall apply:

7 a. If the buyer fails to register with the secretary prior
8 to the purchase of farm products, the buyer takes subject to a
9 security interest in the farm products only if the secured
10 party has filed an effective financing statement that covers
11 the farm products being sold, the secured party demands that a
12 buyer issue a check for payment jointly to the debtor and the
13 secured party for the purchase of the farm products as
14 memorialized in the effective financing statement, and the
15 buyer could have discovered the existence of the effective
16 financing statement prior to the purchase by making an inquiry
17 as provided in section 554E.9. The buyer shall take free of
18 the security interest if the buyer could not have discovered
19 the existence of a filed effective financing statement because
20 it is not available for public disclosure.

21 b. If the buyer registers with the secretary prior to the
22 purchase of the farm products, the buyer takes subject to a
23 security interest in the farm products only if the secured
24 party has filed an effective financing statement that covers
25 the farm products being sold, the secured party demands that
26 the buyer issue a check for payment jointly to the debtor and
27 the secured party for the purchase of the farm products as
28 memorialized in the effective financing statement, and the
29 buyer receives from the secretary a master list or a portion
30 of the master list that identifies both the seller and the
31 farm products being sold by the seller as being subject to an
32 effective financing statement, and the buyer does not secure a
33 waiver or release of the security interest as specified in the
34 effective financing statement.

35 3. When the secretary establishes an electronic central

1 filing system as provided in section 554E.5, the buyer of farm
2 products takes subject to a security interest in the farm
3 product if the secured party has filed an effective financing
4 statement that covers the farm products being sold, the
5 secured party demands that a buyer issue a check for payment
6 jointly to the debtor and the secured party for the purchase
7 of the farm products as memorialized in the effective
8 financing statement, and the buyer could have discovered the
9 existence of the effective financing statement prior to the
10 purchase by accessing the data base containing effective
11 financing statements filed electronically with the secretary.
12 The buyer shall take free of the security interest, if the
13 buyer could not have discovered the existence of a filed
14 effective financing statement because it is not available for
15 public disclosure.

16 Sec. 12. NEW SECTION. 554E.11 FEES.

17 The secretary shall establish fees for initially filing
18 effective financing statements, or a statement amending,
19 continuing, or terminating an effective financing statement.
20 The fees shall not be more than provided for filing financing
21 statements as provided in section 554.9525 as enacted in 2000
22 Iowa Acts, chapter 1149, section 96. Notwithstanding section
23 22.2, on July 1, 2005, the secretary of state may charge a
24 buyer a fee for registering to receive a master list or for
25 receiving responses to inquiries which are accessed in a
26 printed format. The secretary shall not charge a buyer a fee
27 for registering to receive a master list or for responding to
28 buyer inquiries, including by examining or printing effective
29 financing statements, and statements amending, continuing, or
30 terminating effective financing statements which are accessed
31 in an electronic format. All moneys received by the secretary
32 under this section shall be handled in the same manner as
33 repayment receipts as defined in section 8.2, and shall be
34 used by the secretary exclusively for the administration of
35 this chapter.

1 section 554.9320, which relates to farm products. The
2 exception for farm products is sometimes referred to as "the
3 farm products rule".

4 In 1985, Congress enacted legislation providing two
5 approaches for notifying buyers of farm products: a system of
6 certified central filing and the already-existing system for
7 actual notification.

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

15 On July 1, 2001, Iowa's version of the farm products rule
16 contained in Code section 554.9407 will be eliminated and the
17 federal notification provisions which are substantially
18 similar to the Iowa rule will govern since the state has not
19 adopted a system of central notification.

20 The bill creates a centralized filing system for this
21 state. The system is administered by the secretary of state,
22 who must provide for filing effective financing statements on
23 a statewide basis. The secretary of state must produce a
24 master list of information required to be contained in the
25 effective financing statements in printed and electronic
26 formats. The bill provides requirements for the contents and
27 duration of an effective financing statement. The bill
28 provides for the distribution of information by the secretary
29 of state regarding effective financing statements to
30 interested persons by sending the information to buyers
31 registered with the secretary and by answering specific oral
32 and written inquiries. The bill provides that the secretary
33 of state must establish an electronic system for filing and
34 accessing effective financing statements and related
35 statements.

1 The bill authorizes the secretary of state to establish
2 fees for filing effective financing statements. The bill
3 authorizes the secretary of state to establish fees for
4 distributing printed versions of the master list and
5 responding in writing to questions on and after July 1, 2005.

6 The bill provides special applicability provisions. The
7 secretary of state is required to establish the centralized
8 filing system and obtain federal certification. Centralized
9 filing must be implemented three months following
10 certification. Until that date the federal version of the
11 notice procedures will continue to apply.

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