

Senate Study Bill 3147 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON FRAISE)

A BILL FOR

1 An Act amending provisions in the uniform commercial code
2 relating to secured transactions, and including effective
3 date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 554.9102, subsection 1, paragraph g,
2 subparagraph (2), Code 2011, is amended to read as follows:

3 ~~(2) to execute or otherwise adopt a symbol, or encrypt~~
4 ~~or similarly process a record in whole or in part, with the~~
5 ~~present intent of the authenticating person to identify the~~
6 ~~person and adopt or accept a record~~ to adopt or accept a
7 record, to attach to or logically associate with the record an
8 electronic sound, symbol, or process.

9 Sec. 2. Section 554.9102, subsection 1, paragraphs j, ax,
10 and br, Code 2011, are amended to read as follows:

11 *j.* "Certificate of title" means a certificate of title
12 with respect to which a statute provides for the security
13 interest in question to be indicated on the certificate as
14 a condition or result of the security interest's obtaining
15 priority over the rights of a lien creditor with respect to the
16 collateral. The term includes another record maintained as
17 an alternative to a certificate of title by the governmental
18 unit that issues certificates of title if a statute permits the
19 security interest in question to be indicated on the record
20 as a condition or result of the security interest's obtaining
21 priority over the rights of a lien creditor with respect to the
22 collateral.

23 *ax.* "Jurisdiction of organization", with respect to a
24 registered organization, means the jurisdiction under whose law
25 the organization is formed or organized.

26 *br.* "Registered organization" means an organization formed
27 or organized solely under the law of a single state or the
28 United States and as to which the state or the United States
29 must maintain a public record showing the organization to have
30 been organized by the filing of a public organic record with,
31 the issuance of a public organic record by, or the enactment
32 of legislation by the state or the United States. The term
33 includes a business trust that is formed under the law of a
34 single state if a statute of the state governing business
35 trusts requires that the business trust's organic record be

1 filed with the state.

2 Sec. 3. Section 554.9102, subsection 1, Code 2011, is
3 amended by adding the following new paragraph:

4 NEW PARAGRAPH. *Obp.* "Public organic record" means a record
5 that is available to the public for inspection and is:

6 (1) a record consisting of the record initially filed with
7 or issued by a state or the United States to form or organize
8 an organization and any record filed with or issued by the
9 state or the United States which amends or restates the initial
10 record;

11 (2) an organic record of a business trust consisting of
12 the record initially filed with a state and any record filed
13 with the state which amends or restates the initial record, if
14 a statute of the state governing business trusts requires that
15 the record be filed with the state; or

16 (3) a record consisting of legislation enacted by the
17 legislature of a state or the Congress of the United States
18 which forms or organizes an organization, any record amending
19 the legislation, and any record filed with or issued by the
20 state or the United States which amends or restates the name of
21 the organization.

22 Sec. 4. Section 554.9105, Code 2011, is amended to read as
23 follows:

24 **554.9105 Control of electronic chattel paper.**

25 1. General rule: control of electronic chattel paper. A
26 secured party has control of electronic chattel paper if a
27 system employed for evidencing the transfer of interests in the
28 chattel paper reliably establishes the secured party as the
29 person to which the chattel paper was assigned.

30 2. Specific facts giving control. A system satisfies

31 subsection 1 if the record or records comprising the chattel
32 paper are created, stored, and assigned in such a manner that:

33 ±. a. a single authoritative copy of the record or records
34 exists which is unique, identifiable and, except as otherwise
35 provided in subsections 4, 5, and 6 paragraphs "d", "e", and

1 "f", unalterable;

2 ~~2.~~ b. the authoritative copy identifies the secured party
3 as the assignee of the record or records;

4 ~~3.~~ c. the authoritative copy is communicated to and
5 maintained by the secured party or its designated custodian;

6 ~~4.~~ d. copies or ~~revisions~~ amendments that add or change an
7 identified assignee of the authoritative copy can be made only
8 with the ~~participation~~ consent of the secured party;

9 ~~5.~~ e. each copy of the authoritative copy and any copy
10 of a copy is readily identifiable as a copy that is not the
11 authoritative copy; and

12 ~~6.~~ f. any ~~revision~~ amendment of the authoritative copy is
13 readily identifiable as an authorized or unauthorized revision.

14 Sec. 5. Section 554.9307, subsection 6, paragraph b, Code
15 2011, is amended to read as follows:

16 b. in the state that the registered organization, branch, or
17 agency designates, if the law of the United States authorizes
18 the registered organization, branch, or agency to designate its
19 state of location, including by designating its main office,
20 home office, or other comparable office; or

21 Sec. 6. Section 554.9311, subsection 1, paragraphs b and c,
22 Code 2011, are amended to read as follows:

23 b. any certificate-of-title statute, including as provided
24 in chapter 321, covering automobiles, trailers, mobile homes,
25 boats, farm tractors, or the like, which provides for a
26 security interest to be indicated on ~~the~~ a certificate of title
27 as a condition or result of perfection; or

28 c. a ~~certificate-of-title~~ statute of another jurisdiction
29 which provides for a security interest to be indicated on
30 ~~the~~ a certificate of title as a condition or result of the
31 security interest's obtaining priority over the rights of a
32 lien creditor with respect to the property.

33 Sec. 7. Section 554.9316, Code 2011, is amended by adding
34 the following new subsections:

35 NEW SUBSECTION. 8. *Effect on filed financing statement*

1 *of change in governing law.* The following rules apply to
2 collateral to which a security interest attaches within
3 four months after the debtor changes its location to another
4 jurisdiction:

5 *a.* A financing statement filed before the change pursuant
6 to the law of the jurisdiction designated in section 554.9301,
7 subsection 1, or section 554.9305, subsection 3, is effective
8 to perfect a security interest in the collateral if the
9 financing statement would have been effective to perfect a
10 security interest in the collateral had the debtor not changed
11 its location.

12 *b.* If a security interest perfected by a financing statement
13 that is effective under paragraph "a" becomes perfected under
14 the law of the other jurisdiction before the earlier of the
15 time the financing statement would have become ineffective
16 under the law of the jurisdiction designated in section
17 554.9301, subsection 1, or section 554.9305, subsection 3, or
18 the expiration of the four-month period, it remains perfected
19 thereafter. If the security interest does not become perfected
20 under the law of the other jurisdiction before the earlier time
21 or event, it becomes unperfected and is deemed never to have
22 been perfected as against a purchaser of the collateral for
23 value.

24 NEW SUBSECTION. 9. *Effect of change in governing law*
25 *on financing statement filed against original debtor.* If a
26 financing statement naming an original debtor is filed pursuant
27 to the law of the jurisdiction designated in section 554.9301,
28 subsection 1, or section 554.9305, subsection 3, and the new
29 debtor is located in another jurisdiction, the following rules
30 apply:

31 *a.* The financing statement is effective to perfect a
32 security interest in collateral acquired by the new debtor
33 before, and within four months after, the new debtor becomes
34 bound under section 554.9203, subsection 4, if the financing
35 statement would have been effective to perfect a security

1 interest in the collateral had the collateral been acquired by
2 the original debtor.

3 *b.* A security interest perfected by the financing statement
4 and which becomes perfected under the law of the other
5 jurisdiction before the earlier of the time the financing
6 statement would have become ineffective under the law of
7 the jurisdiction designated in section 554.9301, subsection
8 1, or section 554.9305, subsection 3, or the expiration
9 of the four-month period remains perfected thereafter. A
10 security interest that is perfected by the financing statement
11 but which does not become perfected under the law of the
12 other jurisdiction before the earlier time or event becomes
13 unperfected and is deemed never to have been perfected as
14 against a purchaser of the collateral for value.

15 Sec. 8. Section 554.9317, subsections 2 and 4, Code 2011,
16 are amended to read as follows:

17 2. *Buyers that receive delivery.* Except as otherwise
18 provided in subsection 5, a buyer, other than a secured
19 party, of tangible chattel paper, tangible documents, goods,
20 instruments, or a ~~security certificate~~ certificated security
21 takes free of a security interest or agricultural lien if the
22 buyer gives value and receives delivery of the collateral
23 without knowledge of the security interest or agricultural lien
24 and before it is perfected.

25 4. *Licensees and buyers of certain collateral.* A licensee of
26 a general intangible or a buyer, other than a secured party,
27 of ~~accounts, electronic chattel paper, electronic documents,~~
28 ~~general intangibles, or investment property~~ collateral other
29 than tangible chattel paper, tangible documents, goods,
30 instruments, or a certificated security takes free of a
31 security interest if the licensee or buyer gives value without
32 knowledge of the security interest and before it is perfected.

33 Sec. 9. Section 554.9326, Code 2011, is amended to read as
34 follows:

35 **554.9326 Priority of security interests created by new**

1 debtor.

2 1. *Subordination of security interest created by new*
3 *debtor.* Subject to subsection 2, a security interest that
4 is created by a new debtor which is in collateral in which
5 the new debtor has or acquires rights and is perfected solely
6 by a filed financing statement that is effective solely
7 under section 554.9508 in collateral in which a new debtor
8 has or acquires rights would be ineffective to perfect the
9 security interest but for the application of section 554.9316,
10 subsection 9, paragraph "a", or section 554.9508 is subordinate
11 to a security interest in the same collateral which is
12 perfected other than by such a filed financing statement ~~that~~
13 ~~is effective solely under section 554.9508.~~

14 2. *Priority under other provisions — multiple original*
15 *debtors.* The other provisions of this part determine the
16 priority among conflicting security interests in the same
17 collateral perfected by filed financing statements ~~that are~~
18 ~~effective solely under section 554.9508~~ described in subsection
19 1. However, if the security agreements to which a new debtor
20 became bound as debtor were not entered into by the same
21 original debtor, the conflicting security interests rank
22 according to priority in time of the new debtor's having become
23 bound.

24 Sec. 10. Section 554.9406, subsection 5, Code 2011, is
25 amended to read as follows:

26 5. *Inapplicability of subsection 4 to certain sales.*
27 Subsection 4 does not apply to the sale of a payment intangible
28 or promissory note, other than a sale pursuant to a disposition
29 under section 554.9610 or an acceptance of collateral under
30 section 554.9620.

31 Sec. 11. Section 554.9408, subsection 2, Code 2011, is
32 amended to read as follows:

33 2. *Applicability of subsection 1 to sales of certain rights*
34 *to payment.* Subsection 1 applies to a security interest in
35 a payment intangible or promissory note only if the security

1 interest arises out of a sale of the payment intangible or
2 promissory note, other than a sale pursuant to a disposition
3 under section 554.9610 or an acceptance of collateral under
4 section 554.9620.

5 Sec. 12. Section 554.9502, subsection 3, paragraph c, Code
6 2011, is amended to read as follows:

7 c. the record satisfies the requirements for a financing
8 statement in this section, other than an indication but:

9 (1) the record need not indicate that it is to be filed in
10 the real property records; and

11 (2) the record sufficiently provides the name of a debtor
12 who is an individual if it provides the individual name of the
13 debtor or the surname and first personal name of the debtor,
14 even if the debtor is an individual to whom section 554.9503,
15 subsection 1, paragraph "d" applies; and

16 Sec. 13. Section 554.9503, subsection 1, paragraphs a
17 through d, Code 2011, are amended to read as follows:

18 a. except as otherwise provided in paragraph "c", if the
19 debtor is a registered organization or if the collateral is
20 held in a trust that is a registered organization, only if the
21 financing statement provides the name of the debtor indicated
22 that is stated to be the registered organization's name on
23 the public organic record of most recently filed with or
24 issued or enacted by the debtor's registered organization's
25 jurisdiction of organization which shows the debtor to have
26 been organized purports to state, amend, or restate the
27 registered organization's name;

28 b. subject to subsection 6, if the debtor is a decedent's
29 estate collateral is being administered by the personal
30 representative of a decedent, only if the financing statement
31 provides, as the name of the debtor, the name of the decedent
32 and, in a separate part of the financing statement, indicates
33 that the debtor is an estate collateral is being administered
34 by a personal representative;

35 c. if the debtor is a trust or a trustee acting with respect

~~1 to property held in trust, only if the financing statement
2 collateral is held in a trust that is not a registered
3 organization, only if the financing statement:~~

~~4 (1) provides as the name specified for the trust in its
5 organic documents or, if no name is specified, provides the
6 name of the settlor and additional information sufficient to
7 distinguish the debtor from other trusts having one or more of
8 the same settlors; and of the debtor:~~

~~9 (a) if the organic record of the trust specifies a name for
10 the trust, the name specified; or~~

~~11 (b) if the organic record of the trust does not specify a
12 name for the trust, the name of the settlor or testator; and~~

~~13 (2) indicates, in the debtor's name or otherwise, that
14 the debtor is a trust or is a trustee acting with respect to
15 property held in trust; and in a separate part of the financing
16 statement:~~

~~17 (a) if the name is provided in accordance with subparagraph
18 (1), subparagraph division (a), indicates that the collateral
19 is held in a trust; or~~

~~20 (b) if the name is provided in accordance with subparagraph
21 (1), subparagraph division (b), provides additional information
22 sufficient to distinguish the trust from other trusts having
23 one or more of the same settlors or the same testator and
24 indicates that the collateral is held in a trust, unless the
25 additional information so indicates;~~

~~26 d. subject to subsection 7, if the debtor is an individual
27 to whom this state has issued a driver's license under chapter
28 321 that has not expired, only if the financing statement
29 provides the name of the individual which is indicated on the
30 driver's license;~~

~~31 e. if the debtor is an individual to whom paragraph "d"
32 does not apply, only if the financing statement provides the
33 individual name of the debtor or the surname and first personal
34 name of the debtor; and~~

~~35 f. in other cases:~~

1 (1) if the debtor has a name, only if it the financing
2 statement provides the ~~individual~~ or organizational name of the
3 debtor; and

4 (2) if the debtor does not have a name, only if it provides
5 the names of the partners, members, associates, or other
6 persons comprising the debtor, in a manner that each name
7 provided would be sufficient if the person named were the
8 debtor.

9 Sec. 14. Section 554.9503, subsection 2, paragraph b, Code
10 2011, is amended to read as follows:

11 b. unless required under subsection 1, paragraph ~~"d"~~ "f",
12 subparagraph (2), names of partners, members, associates, or
13 other persons comprising the debtor.

14 Sec. 15. Section 554.9503, Code 2011, is amended by adding
15 the following new subsections:

16 NEW SUBSECTION. 6. *Name of decedent.* The name of the
17 decedent indicated on the order appointing the personal
18 representative of the decedent issued by the court having
19 jurisdiction over the collateral is sufficient as the "name of
20 the decedent" under subsection 1, paragraph "b".

21 NEW SUBSECTION. 7. *Multiple driver's licenses.* If this
22 state has issued to an individual more than one driver's
23 license under chapter 321 of a kind described in subsection 1,
24 paragraph "d", the one that was issued most recently is the one
25 to which subsection 1, paragraph "d" refers.

26 NEW SUBSECTION. 8. *Definition.* In this section, the "*name*
27 *of the settlor or testator*" means:

28 a. if the settlor is a registered organization, the name
29 that is stated to be the settlor's name on the public organic
30 record most recently filed with or issued or enacted by the
31 settlor's jurisdiction of organization which purports to state,
32 amend, or restate the settlor's name; or

33 b. in other cases, the name of the settlor or testator
34 indicated in the trust's organic record.

35 Sec. 16. Section 554.9507, subsection 3, Code 2011, is

1 amended to read as follows:

2 3. *Change in debtor's name.* If a ~~debtor so changes its~~ the
3 name that a filed financing statement provides for a debtor
4 becomes insufficient as the name of the debtor under section
5 554.9503, subsection 1, so that the financing statement becomes
6 seriously misleading under section 554.9506:

7 a. the financing statement is effective to perfect a
8 security interest in collateral acquired by the debtor before,
9 or within four months after, the change filed financing
10 statement becomes seriously misleading; and

11 b. the financing statement is not effective to perfect a
12 security interest in collateral acquired by the debtor more
13 than four months after the change filed financing statement
14 becomes seriously misleading, unless an amendment to the
15 financing statement which renders the financing statement not
16 seriously misleading is filed within four months after ~~the~~
17 change the financing statement became seriously misleading.

18 Sec. 17. Section 554.9515, subsection 6, Code 2011, is
19 amended to read as follows:

20 6. *Transmitting utility financing statement.* If a debtor is
21 a transmitting utility and a filed initial financing statement
22 so indicates, the financing statement is effective until a
23 termination statement is filed.

24 Sec. 18. Section 554.9516, subsection 2, paragraph c,
25 subparagraph (2), unnumbered paragraph 1, Code 2011, is amended
26 to read as follows:

27 in the case of an amendment or ~~correction~~ information
28 statement, the record:

29 Sec. 19. Section 554.9516, subsection 2, paragraph c,
30 subparagraph (3), Code 2011, is amended to read as follows:

31 (3) in the case of an initial financing statement that
32 provides the name of a debtor identified as an individual or
33 an amendment that provides a name of a debtor identified as an
34 individual which was not previously provided in the financing
35 statement to which the record relates, the record does not

1 identify the debtor's ~~last name~~ surname; or

2 Sec. 20. Section 554.9516, subsection 2, paragraph e, Code
3 2011, is amended to read as follows:

4 e. in the case of an initial financing statement or an
5 amendment that provides a name of a debtor which was not
6 previously provided in the financing statement to which the
7 amendment relates, the record does not:

8 (1) provide a mailing address for the debtor; or

9 (2) indicate whether the name provided as the name of the
10 debtor is the name of an individual or an organization; ~~or~~

11 ~~(3) if the financing statement indicates that the debtor is~~
12 ~~an organization, provide:~~

13 ~~(a) a type of organization for the debtor;~~

14 ~~(b) a jurisdiction of organization for the debtor; or~~

15 ~~(c) an organizational identification number for the debtor~~
16 ~~or indicate that the debtor has none;~~

17 Sec. 21. Section 554.9518, Code 2011, is amended to read as
18 follows:

19 **554.9518 Claim concerning inaccurate or wrongfully filed**
20 **record.**

21 1. ~~Correction statement~~ Statement with respect to record
22 indexed under person's name. A person may file in the filing
23 office ~~a correction~~ an information statement with respect to
24 a record indexed there under the person's name if the person
25 believes that the record is inaccurate or was wrongfully filed.

26 2. ~~Sufficiency Contents of correction statement under~~
27 subsection 1. ~~A correction~~ An information statement under
28 subsection 1 must:

29 a. identify the record to which it relates ~~by:~~

30 ~~(1)~~ by the file number assigned to the initial financing
31 statement to which the record relates; ~~and~~

32 ~~(2) if the correction statement relates to a record filed~~
33 ~~or recorded in a filing office described in section 554.9501,~~
34 ~~subsection 1, paragraph "a", the date and time that the initial~~
35 ~~financing statement was filed or recorded and the information~~

1 ~~specified in section 554.9502, subsection 2;~~

2 b. indicate that it is a ~~correction~~ an information
3 statement; and

4 c. provide the basis for the person's belief that the record
5 is inaccurate and indicate the manner in which the person
6 believes the record should be amended to cure any inaccuracy or
7 provide the basis for the person's belief that the record was
8 wrongfully filed.

9 3. *Statement by secured party of record.* A person may file
10 in the filing office an information statement with respect to a
11 record filed there if the person is a secured party of record
12 with respect to the financing statement to which the record
13 relates and believes that the person that filed the record was
14 not entitled to do so under section 554.9509, subsection 4.

15 4. *Contents of statement under subsection 3.* An information
16 statement under subsection 3 must:

17 a. identify the record to which it relates by the file
18 number assigned to the initial financing statement to which the
19 record relates;

20 b. indicate that it is an information statement; and

21 c. provide the basis for the person's belief that the person
22 that filed the record was not entitled to do so under section
23 554.9509, subsection 4.

24 ~~3.~~ 5. *Record not affected by ~~correction~~ information*
25 *statement.* The filing of a ~~correction~~ an information statement
26 does not affect the effectiveness of an initial financing
27 statement or other filed record.

28 Sec. 22. Section 554.9607, subsection 2, paragraph b,
29 subparagraph (1), Code 2011, is amended to read as follows:

30 (1) a default has occurred with respect to the obligation
31 secured by the mortgage; and

32 Sec. 23. Section 554.9625, subsection 3, Code 2011, is
33 amended to read as follows:

34 3. *Persons entitled to recover damages — statutory*
35 *damages in ~~consumer-goods transaction~~ if collateral is consumer*

1 goods. Except as otherwise provided in section 554.9628:

2 *a.* a person that, at the time of the failure, was a debtor,
3 was an obligor, or held a security interest in or other lien
4 on the collateral may recover damages under subsection 2 for
5 its loss; and

6 *b.* if the collateral is consumer goods, a person that was
7 a debtor or a secondary obligor at the time a secured party
8 failed to comply with this part may recover for that failure
9 in any event an amount not less than the credit service charge
10 plus ten percent of the principal amount of the obligation or
11 the time-price differential plus ten percent of the cash price.

12 Sec. 24. NEW SECTION. **554.9801 Effective date.** The
13 amendments to this Article, as enacted in this Act, take effect
14 on July 1, 2013.

15 Sec. 25. NEW SECTION. **554.9802 Savings clause.**

16 1. *Pre-effective-date transactions or liens.* Except
17 as otherwise provided in this part, this Act applies to a
18 transaction or lien within its scope, even if the transaction
19 or lien was entered into or created before July 1, 2013.

20 2. *Pre-effective date proceedings.* This Act does not affect
21 an action, case, or proceeding commenced before July 1, 2013.

22 Sec. 26. NEW SECTION. **554.9803 Security interest perfected**
23 **before effective date.**

24 1. *Continuing perfection: perfection requirements*
25 *satisfied.* A security interest that is a perfected security
26 interest immediately before July 1, 2013, is a perfected
27 security interest under this Article, as amended by this Act,
28 if on July 1, 2013, the applicable requirements for attachment
29 and perfection under this Article, as amended by this Act, are
30 satisfied without further action.

31 2. *Continuing perfection: perfection requirements not*
32 *satisfied.* Except as otherwise provided in section 554.9805,
33 if immediately before July 1, 2013, a security interest is a
34 perfected security interest, but the applicable requirements
35 for perfection under this Article, as amended by this Act, are

1 not satisfied on July 1, 2013, the security interest remains
2 perfected thereafter only if the applicable requirements for
3 perfection under this Article, as amended by this Act, are
4 satisfied within one year after July 1, 2013.

5 **Sec. 27. NEW SECTION. 554.9804 Security interest**
6 **unperfected before effective date.**

7 A security interest that is an unperfected security interest
8 immediately before July 1, 2013, becomes a perfected security
9 interest:

10 1. without further action, on July 1, 2013, if the
11 applicable requirements for perfection under this Article, as
12 amended by this Act, are satisfied before or on July 1, 2013;
13 or

14 2. when the applicable requirements for perfection are
15 satisfied if the requirements are satisfied after July 1, 2013.

16 **Sec. 28. NEW SECTION. 554.9805 Effectiveness of action**
17 **taken before effective date.**

18 1. *Pre-effective-date filing effective.* The filing of
19 a financing statement before July 1, 2013, is effective to
20 perfect a security interest to the extent the filing would
21 satisfy the applicable requirements for perfection under this
22 Article, as amended by this Act.

23 2. *When pre-effective-date filing becomes ineffective.* This
24 Act does not render ineffective an effective financing
25 statement that, before July 1, 2013, is filed and satisfies
26 the applicable requirements for perfection under the law of
27 the jurisdiction governing perfection as provided in this
28 Article, as it existed before July 1, 2013. However, except as
29 otherwise provided in subsections 3 and 4 and section 554.9806,
30 the financing statement ceases to be effective:

31 *a.* if the financing statement is filed in this state, at the
32 time the financing statement would have ceased to be effective
33 had this Act not taken effect; or

34 *b.* if the financing statement is filed in another
35 jurisdiction, at the earlier of:

1 (1) the time the financing statement would have ceased to be
2 effective under the law of that jurisdiction; or

3 (2) June 30, 2018.

4 3. *Continuation statement.* The filing of a continuation
5 statement on or after July 1, 2013, does not continue the
6 effectiveness of a financing statement filed before July 1,
7 2013. However, upon the timely filing of a continuation
8 statement on or after July 1, 2013, and in accordance with
9 the law of the jurisdiction governing perfection as provided
10 in this Article, as amended by this Act, the effectiveness
11 of a financing statement filed in the same office in that
12 jurisdiction before July 1, 2013, continues for the period
13 provided by the law of that jurisdiction.

14 4. *Application of subsection 2, paragraph "b", subparagraph*
15 *(2) to transmitting utility financing statement.* Subsection
16 2, paragraph "b", subparagraph (2) applies to a financing
17 statement that, before July 1, 2013, is filed against a
18 transmitting utility and satisfies the applicable requirements
19 for perfection under the law of the jurisdiction governing
20 perfection as provided in this Article, as it existed before
21 July 1, 2013, only to the extent that this Article, as amended
22 by this Act, provides that the law of a jurisdiction other than
23 the jurisdiction in which the financing statement is filed
24 governs perfection of a security interest in collateral covered
25 by the financing statement.

26 5. *Application of Part 5.* A financing statement that
27 includes a financing statement filed before July 1, 2013,
28 and a continuation statement filed on or after July 1,
29 2013, is effective only to the extent that the financing
30 statement satisfies the requirements of Part 5, as amended by
31 this Act, for an initial financing statement. A financing
32 statement that indicates that the debtor is a decedent's
33 estate indicates that the collateral is being administered
34 by a personal representative within the meaning of section
35 554.9503, subsection 1, paragraph "b", as amended by this Act.

1 A financing statement that indicates that the debtor is a trust
2 or is a trustee acting with respect to property held in trust
3 indicates that the collateral is held in a trust within the
4 meaning of section 554.9503, subsection 1, paragraph "c", as
5 amended by this Act.

6 Sec. 29. NEW SECTION. 554.9806 When initial financing
7 statement suffices to continue effectiveness of financing
8 statement.

9 1. *Initial financing statement in lieu of continuation*
10 *statement.* The filing of an initial financing statement
11 in the office specified in section 554.9501 continues the
12 effectiveness of a financing statement filed before July 1,
13 2013, if:

14 a. the filing of an initial financing statement in that
15 office would be effective to perfect a security interest under
16 this Article, as amended by this Act;

17 b. the pre-effective-date financing statement was filed in
18 an office in another state; and

19 c. the initial financing statement satisfies subsection 3.

20 2. *Period of continued effectiveness.* The filing of an
21 initial financing statement under subsection 1 continues the
22 effectiveness of the pre-effective-date financing statement:

23 a. if the initial financing statement is filed before
24 July 1, 2013, for the period provided in section 554.9515, as
25 it existed before July 1, 2013, with respect to an initial
26 financing statement; and

27 b. if the initial financing statement is filed on or after
28 July 1, 2013, for the period provided in section 554.9515,
29 as amended by this Act, with respect to an initial financing
30 statement.

31 3. *Requirements for initial financing statement under*
32 *subsection 1.* To be effective for purposes of subsection 1, an
33 initial financing statement must:

34 a. satisfy the requirements of Part 5, as amended by this
35 Act, for an initial financing statement;

1 **b.** identify the pre-effective-date financing statement by
2 indicating the office in which the financing statement was
3 filed and providing the dates of filing and file numbers,
4 if any, of the financing statement and of the most recent
5 continuation statement filed with respect to the financing
6 statement; and

7 **c.** indicate that the pre-effective-date financing statement
8 remains effective.

9 Sec. 30. NEW SECTION. **554.9807 Amendment of**
10 **pre-effective-date financing statement.**

11 1. *“Pre-effective-date financing statement”.* In this
12 section, *“pre-effective-date financing statement”* means a
13 financing statement filed before July 1, 2013.

14 2. *Applicable law.* On or after July 1, 2013, a person may
15 add or delete collateral covered by, continue or terminate the
16 effectiveness of, or otherwise amend the information provided
17 in, a pre-effective-date financing statement only in accordance
18 with the law of the jurisdiction governing perfection as
19 provided in this Article, as amended by this Act. However,
20 the effectiveness of a pre-effective-date financing statement
21 also may be terminated in accordance with the law of the
22 jurisdiction in which the financing statement is filed.

23 3. *Method of amending: general rule.* Except as otherwise
24 provided in subsection 4, if the law of this state governs
25 perfection of a security interest, the information in a
26 pre-effective-date financing statement may be amended on or
27 after July 1, 2013, only if:

28 **a.** the pre-effective-date financing statement and an
29 amendment are filed in the office specified in section
30 554.9501;

31 **b.** an amendment is filed in the office specified in section
32 554.9501 concurrently with, or after the filing in that office
33 of, an initial financing statement that satisfies section
34 554.9806, subsection 3; or

35 **c.** an initial financing statement that provides the

1 information as amended and satisfies section 554.9806,
2 subsection 3, is filed in the office specified in section
3 554.9501.

4 4. *Method of amending: continuation.* If the law of
5 this state governs perfection of a security interest, the
6 effectiveness of a pre-effective-date financing statement may
7 be continued only under section 554.9805, subsections 3 and 5,
8 or section 554.9806.

9 5. *Method of amending: additional termination rule.* Whether
10 or not the law of this state governs perfection of a security
11 interest, the effectiveness of a pre-effective-date financing
12 statement filed in this state may be terminated on or after
13 July 1, 2013, by filing a termination statement in the office
14 in which the pre-effective-date financing statement is filed,
15 unless an initial financing statement that satisfies section
16 554.9806, subsection 3, has been filed in the office specified
17 by the law of the jurisdiction governing perfection as provided
18 in this Article, as amended by this Act, as the office in which
19 to file a financing statement.

20 Sec. 31. NEW SECTION. 554.9808 **Person entitled to file**
21 **initial financing statement or continuation statement.**

22 A person may file an initial financing statement or a
23 continuation statement under this part if:

24 1. the secured party of record authorizes the filing; and

25 2. the filing is necessary under this part:

26 a. to continue the effectiveness of a financing statement
27 filed before July 1, 2013; or

28 b. to perfect or continue the perfection of a security
29 interest.

30 Sec. 32. NEW SECTION. 554.9809 **Priority.**

31 This Act determines the priority of conflicting claims to
32 collateral. However, if the relative priorities of the claims
33 were established before July 1, 2013, this Article, as it
34 existed before July 1, 2013, determines priority.

35 Sec. 33. CODE EDITOR DIRECTIVE. Section 554.9316, Code

1 2011, is amended by striking from the headnote the words
2 "Continued perfection of security interest following change in
3 governing law." and inserting in lieu thereof the words "Effect
4 of change in governing law."

5 Sec. 34. REPEAL. Sections 554.9701 through 554.9710, Code
6 2011, are repealed effective July 1, 2017.

7 Sec. 35. REPEAL. Sections 554.9801 through 554.9809 are
8 repealed effective July 1, 2017.

9 Sec. 36. GENERAL SAVINGS PROVISION. The repeals of sections
10 554.9701 through 554.9710, and sections 554.9801 through
11 554.9809 in this Act are subject to the application of section
12 4.13, relating to general savings provisions.

13 Sec. 37. EFFECTIVE DATE. This Act takes effect July 1,
14 2013.

15 EXPLANATION

16 BACKGROUND. This bill makes changes in Article 9 of
17 the Uniform Commercial Code (UCC). Generally, Article 9
18 regulates transactions involving the collateralization of
19 debt in personal property and provides rights to competing
20 creditors. It allows a creditor to take a lien (a security
21 interest) in the collateral with the possibility of enforcing
22 the lien if the debtor defaults upon a contractual obligation.
23 The Article includes detailed requirements relating to the
24 creation and perfection of the creditor's security interest in
25 the collateral, and the right to acquire priority over other
26 creditors (e.g., by filing a financing statement with the
27 secretary of state, possessing or controlling the property, or
28 acquiring some form of automatic attachment), and for taking
29 legal action to satisfy the debt by acquiring the collateral or
30 rights to property associated with the contract.

31 BACKGROUND — MODEL ACT. Iowa's version of the UCC is
32 codified in Code chapter 554 based on a model Act drafted and
33 recommended, in association with the American law institute, by
34 the national conference of commissioners on uniform state laws
35 (NCCUSL), also known as the uniform law commission (ULC), which

1 includes Iowa members appointed by the governor (Code chapter
2 5). In 2000, the general assembly substantially amended
3 Article 9 in conformance with the NCCUSL's 1998 recommended
4 revisions (2000 Iowa Acts, ch. 1149). This bill provides for
5 further revisions to the revised Article 9 again as recommended
6 by the NCCUSL.

7 GENERAL PROVISIONS — DEFINITIONS (CODE SECTION 554.9102).
8 The bill changes definitional provisions, including terms
9 related to records produced or stored in an electronic format
10 including the authentication of records and certificates of
11 title.

12 DEFINITIONS — AUTHENTICATION. The bill amends the
13 definition of "authenticate" to include attaching or logically
14 associating an electronic sound, symbol, or process with a
15 record.

16 DEFINITIONS — CERTIFICATE OF TITLE. The law defines
17 "record" as information inscribed on a tangible medium or
18 stored in an electronic or other medium that can be retrieved
19 in a perceivable form. The bill amends the definition of
20 "certificate of title" to include a record maintained as an
21 alternative to a certificate of title by the issuing government
22 unit.

23 DEFINITIONS — PUBLIC ORGANIC RECORD. The bill creates a
24 new definition for a "public organic record" to mean one of
25 three items: (1) a record available for public inspection that
26 is initially filed with or issued by a state or the federal
27 government to form an organization; (2) an organic record of
28 a business trust initially filed with a state or which amends
29 that record; or (3) a record consisting of federal or state
30 legislation that forms an organization.

31 DEFINITIONS — REGISTERED ORGANIZATION. Under current law,
32 a "registered organization" is formed solely under state or
33 federal law for which the state or federal government must
34 maintain a public record. The bill provides that a registered
35 organization is formed in one of three ways: (1) by filing

1 a public organic record under state or federal law, (2) the
2 issuance of a public organic record by a state or the federal
3 government, or (3) pursuant to state or federal legislation.
4 The bill specifies that this expressly includes a business
5 trust (e.g., a so-called Massachusetts business trust) formed
6 under a state law that requires public organic records to be
7 filed with the state (e.g., secretary of state).

8 ELECTRONIC CHATTEL PAPER (CODE SECTION 554.9105). A
9 chattel paper transaction involves a written agreement in
10 which a seller or lessor transfers possession and control of
11 property to another while retaining a security interest or
12 lease interest in the property. The writing evidencing the
13 debt constitutes chattel paper. Under current law, a security
14 interest is perfected by control of the paper, and the UCC
15 sets forth a six-factor test to determine if a secured party
16 has control of electronic chattel paper. The bill retains the
17 six-factor test but allows a secured party to establish control
18 by using a system that reliably establishes the secured party
19 as the person to whom the chattel paper was assigned.

20 PERFECTION AND PRIORITY — LOCATION OF A DEBTOR (CODE
21 SECTION 554.9307). This provision applies to either a
22 registered organization formed under the laws of the United
23 States or a branch or agency of a bank that is not organized
24 under the law of the United States or a state. A registered
25 organization can designate its state of location in a manner
26 described in federal law. The bill provides that when
27 referenced in federal law, a registered organization's "main
28 office" or "home office" means the organization's location (for
29 purposes of filing a financing statement).

30 PERFECTION AND PRIORITY — PERFECTION OF SECURITY INTEREST
31 IN PROPERTY (CODE SECTION 554.9311). The bill makes changes to
32 conform with the bill's revised definition of "certificate of
33 title" (See Code section 554.9101 as amended in the bill).

34 PERFECTION AND PRIORITY — EFFECT OF CHANGE IN GOVERNING
35 LAW (CODE SECTION 554.9316). The bill provides protection

1 for a secured party whose security interest in after-acquired
2 property would become unperfected if the debtor relocated to
3 another jurisdiction (e.g., state). Under current law, by
4 comparison, a security interest that attached to collateral
5 prior to a debtor's move to another jurisdiction remains
6 perfected for four months after the move. The four-month
7 grace period is limited to collateral in which the security
8 party's interest was perfected at the time that the debtor's
9 location changed. The bill adds the same grace period for
10 the after-acquired property. It provides that the security
11 interest attaches within the four-month period if the secured
12 party does whatever would have been necessary to perfect the
13 security interest in the original jurisdiction. The collateral
14 remains perfected for the four-month period. The secured party
15 may continue perfection beyond the four-month period by filing
16 a financing statement or otherwise perfecting under the law
17 of the new jurisdiction. Similarly, the rule applies to a
18 security interest in after-acquired property if a new debtor
19 becomes bound by the original debtor's security agreement and
20 the new debtor is located in a different jurisdiction from the
21 jurisdiction in which the original debtor was located.

22 PERFECTION AND PRIORITY — INTERESTS THAT TAKE PRIORITY OVER
23 OR TAKE FREE OF SECURITY INTERESTS (CODE SECTION 554.9317).

24 Currently, a licensee of general intangible property or a buyer
25 (other than a secured party) takes free of a security interest
26 if the licensee or buyer gives value without knowledge of a
27 security interest before the security interest is perfected.
28 The bill strikes the list of types of property subject to this
29 exclusion (accounts, electronic chattel paper, electronic
30 documents, general intangibles, or investment property other
31 than a certificated security) and provides that the licensee
32 or buyer takes free of an unperfected security in collateral
33 other than tangible chattel paper, tangible documents, goods,
34 instruments, or a certificated security.

35 PERFECTION AND PRIORITY — PRIORITY OF SECURITY INTERESTS

1 CREATED BY A NEW DEBTOR (CODE SECTION 554.9326). The current
2 law provides for contests involving priority that may arise
3 when a new debtor becomes bound by a security agreement of an
4 original debtor and each debtor has a secured creditor. The
5 bill makes changes to correspond to a change made in the bill
6 to Code section 554.9316. It provides for the subordinate
7 position of a secured party who has a security interest in the
8 original debtor's collateral and who has filed a financing
9 statement against the new debtor in a different jurisdiction,
10 but the financing statement would not otherwise be sufficient
11 to obtain priority.

12 RIGHTS OF THIRD PARTIES — PAYMENT INTANGIBLES AND
13 PROMISSORY NOTES (CODE SECTIONS 554.9406 AND 554.9408). Two
14 similar provisions are affected. Both relate to a term
15 restricting an assignment in an agreement between an account
16 debtor and an assignor or in a promissory note.

17 RIGHTS OF THIRD PARTIES — GENERAL PROVISION (CODE
18 SECTION 554.9406). The first section applies generally to
19 accounts, chattel paper, payment intangibles, and promissory
20 notes, by making such a term ineffective (Code section
21 554.9406). However, an exception applies to the sale of a
22 payment intangible or promissory note. Under the bill, this
23 exception does not apply when the sale is under a disposition
24 of collateral after default (Code section 554.9610) or on
25 acceptance of collateral in full or partial satisfaction of
26 obligation (Code section 554.9620).

27 RIGHTS OF THIRD PARTIES — SPECIFIC PROVISION (CODE SECTION
28 554.9408). The second section applies to restrict but not
29 prohibit the assignment of a general intangible, health care
30 insurance receivable, or promissory note. Under current law,
31 a qualifying restriction applies to a security interest in a
32 payment intangible or promissory note only if the security
33 interest arises out of a sale of the payment intangible or
34 promissory note. The bill amends this qualification, again
35 to provide that it does not apply to a security interest that

1 arises out of a sale under a disposition of collateral after
2 default or on acceptance of collateral in full or partial
3 satisfaction of obligation.

4 FILING — NAME OF DEBTOR AND SECURED PARTY (CODE SECTIONS
5 554.9502, 554.9503, AND 554.9507). The current law provides
6 when a financing statement sufficiently provides the correct
7 name of a debtor. The bill provides that for a registered
8 organization, the name of the debtor is sufficient if it
9 matches the name on the public organic record most recently
10 filed in the jurisdiction of organization. In addition,
11 the bill adopts the so-called model Act's "Alternative A",
12 sometimes known as the "only-if" rule which requires the
13 financing statement to include the name of the debtor as it
14 appears on the debtor's unexpired driver's license. In lieu of
15 the driver's license information, a variation of the current
16 rule applies. Specifically, the financing statement must use
17 the debtor's legal name or debtor's surname and first personal
18 name.

19 FILING — DURATION AND EFFECTIVENESS OF A FINANCING
20 STATEMENT FOR TRANSMITTING UTILITIES (CODE SECTION 554.9515).
21 Under current law, a financing statement listing a transmitting
22 utility as a debtor does not lapse but continues until the
23 secured party files a termination statement. The bill requires
24 that the designation of a debtor as a transmitting utility must
25 be made on the initial financing statement.

26 FILING — WHAT CONSTITUTES FILING — EFFECTIVENESS OF FILING
27 (CODE SECTION 554.9516). The bill eliminates a requirement
28 that certain information about a debtor that is an organization
29 must be stated on a financing statement. The secretary
30 of state is not required to reject a financing statement
31 because it fails to list type of organization, jurisdiction of
32 organization, and organizational identification number.

33 FILING — CLAIM CONCERNING INACCURATE OR WRONGFULLY FILED
34 RECORD (CODE SECTION 554.9518). Currently, a person may file
35 a statement correcting an incorrect statement on record (a

1 so-called UCC-5 Correction Statement) without legal effect.
2 The bill renames this document as an "information statement"
3 and provides that a secured party may also file such statement.
4 It adopts the model Act's 1998 Alternative A version, by
5 eliminating a provision in current law that requires the
6 statement to include the date and time that the initial
7 financing statement was filed or recorded.

8 FILING — COLLECTION AND ENFORCEMENT OF A MORTGAGE INTEREST
9 OUTSIDE FORECLOSURE (CODE SECTION 554.9607). Under current
10 law, a secured party may enforce a mortgage (e.g., securing
11 a promissory note) pursuant to a nonjudicial proceeding
12 (foreclosure sale) in part by recording the security agreement
13 and affidavit in the place where the mortgage is recorded. The
14 affidavit must include a provision verifying that a default
15 has occurred. The bill provides that the affidavit must
16 verify that the default involved an obligation secured by the
17 mortgage.

18 TRANSITION PROVISIONS — GENERAL. The bill provides for the
19 scope and application of its provisions, including by referring
20 to its effective date (Code section 554.9801) and including a
21 general savings clause (Code section 554.9802). Generally,
22 the transition provisions detail the requirements of secured
23 parties that acquired or perfected a security interest prior
24 to the bill's effective date (pre-effective-date) including by
25 filing a pre-effective-date financing statement in this state
26 or another jurisdiction (state) and specifying the necessary
27 requirements to comply with the bill's provisions on and after
28 its effective date.

29 TRANSITION PROVISIONS — SECURITY INTERESTS. The bill
30 provides that a pre-effective-date security interest remains
31 effective on and after the bill's effective date, unless it
32 fails to satisfy the bill's requirements with a one-year grace
33 period provided (Code section 554.9803). A pre-effective-date
34 unperfected security interest will become perfected upon
35 the effective date if it satisfies the bill's perfection

1 requirements. Otherwise, it will remain unperfected until the
2 bill's perfection requirements are satisfied (Code section
3 554.9804).

4 TRANSITION PROVISION — EFFECTIVENESS OF FINANCING
5 AND CONTINUATION STATEMENTS. The bill provides that a
6 pre-effective-date financing statement continues in effect
7 as long as it satisfies the bill's requirements and other
8 provisions applicable to such financing statements. It
9 also provides that a financing statement filed in another
10 jurisdiction may remain effective for as long as it would
11 remain effective in the other jurisdiction or June 30, 2018
12 whichever is earlier (Code section 554.9805). The bill
13 provides that the filing of an initial financing statement may
14 continue the effectiveness of a pre-effective-date financing
15 statement rather than a continuation statement that would
16 otherwise be filed (Code section 554.9806). Generally, a
17 financing statement is effective for five years or until it
18 lapses (Code section 554.9515). The bill provides for the
19 amendment or termination of a pre-effective-date financing
20 statement (Code section 554.9807). A person may file an
21 initial financing statement or a continuation statement to
22 the extent authorized by the secured party and the filing is
23 necessary to comply with the bill's transition provisions
24 (Code section 554.9808). The bill expressly states that its
25 provisions govern relative priorities of conflicting claims,
26 except to the extent that the priorities were established
27 before the bill's effective date.

28 HEADNOTE CHANGE. The bill expressly amends a section's
29 headnote to comply with codification requirements provided in
30 Code section 3.3.

31 REPEAL OF TRANSITION PROVISION. The bill repeals existing
32 transition provisions enacted in 2000 Iowa Acts, chapter 1149,
33 and transition provisions included in the bill. The repeals
34 take effect July 1, 2017, when such provisions will be out of
35 date. The bill includes a general savings clause.

S.F. _____

1 EFFECTIVE DATE. The bill takes effect July 1, 2013, in the
2 same manner as other states which have adopted the model act.