

Senate Study Bill 3167 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON DRISCOLL)

A BILL FOR

1 An Act establishing a central filing system relating to
2 security interests in farm products, providing fees, and
3 including contingent implementation and effective date
4 provisions.

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

1 Section 1. Section 554.9102, subsection 4, Code 2024, is
2 amended to read as follows:

3 4. *Federal Food Security Act.*

4 a. For purposes of the Federal Food Security Act, 7 U.S.C.
5 §1631, written notice shall be considered to be received by the
6 person to whom it was delivered if the notice is delivered in
7 hand to the person, or mailed by certified or registered mail
8 with the proper postage and properly addressed to the person to
9 whom it was sent. The refusal of a person to whom a notice is
10 so mailed to accept delivery of the notice shall be considered
11 receipt.

12 b. This subsection is repealed on the date that this Act is
13 implemented as provided in this Act.

14 Sec. 2. NEW SECTION. 554C.1 Definitions.

15 As used in this chapter, unless the context otherwise
16 requires:

17 1. "*Buyer in the ordinary course of business*" means a person
18 who, in the ordinary course of business, buys farm products
19 from a person engaged in farming operations who is in the
20 business of selling farm products.

21 2. "*Central filing system*" means a system for filing
22 effective financing statements, and statements amending,
23 continuing, or terminating effective financing statements as
24 provided in section 554C.4.

25 3. "*Commission merchant*" means a person engaged in the
26 business of receiving any farm product for sale, on commission,
27 or for or on behalf of another person.

28 4. "*Effective financing statement*" means a financing
29 statement required to be filed as part of the central filing
30 system as provided in section 554C.6.

31 5. "*Secretary*" means the secretary of state.

32 6. "*Selling agent*" means a person, other than a commission
33 merchant, who is engaged in the business of negotiating the
34 sale and purchase of a farm product on behalf of a person
35 engaged in farming operations.

1 Sec. 3. NEW SECTION. **554C.2 Special definitions.**

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

4 1. "*Agricultural lien*" means the same as defined in section
5 554.9102.

6 2. "*Buyer*" means a buyer in the ordinary course of business,
7 a commission merchant, or a selling agent.

8 3. "*Crop year*" means the calendar year in which a crop is or
9 will be harvested, animals are born or acquired, or poultry or
10 eggs are or will be sold.

11 4. "*Debtor*" means a person who has an interest other than a
12 security interest in a farm product, or any other person who
13 owns a farm product and subjects the farm product to a security
14 interest whether or not that person owes a debt to the secured
15 party.

16 5. "*Farm products*" means the same as defined in section
17 554.9102.

18 6. "*Farming operation*" means the same as defined in section
19 554.9102.

20 7. a. "*Secured party*" means a secured party in whose favor
21 a security interest in farm products is created.

22 b. "*Secured party*" includes the holder of a lien, including
23 an agricultural lien, on farm products.

24 8. a. "*Security interest*" means an interest in farm
25 products that secures payment or performance of an obligation.

26 b. "*Security interest*" includes a lien created by statute,
27 including an agricultural lien.

28 9. "*Signature*" means a symbol used to sign, execute, or
29 otherwise to encrypt or similarly process a record, in whole or
30 in part, with the present intent of authenticating the record
31 for purposes of identifying the person adopting or accepting
32 the record.

33 10. "*Unique identifier*" means a number, combination
34 of numbers and letters, or other identifier selected by
35 the secretary of state using a selection system or method

1 approved by the secretary of the United States department of
2 agriculture.

3 Sec. 4. NEW SECTION. **554C.3 Chapter consistent with uniform**
4 **commercial code.**

5 This chapter shall be interpreted in conjunction with
6 chapter 554, and terms and phrases used in this chapter shall,
7 to every extent practicable, be interpreted consistently with
8 chapter 554, article 9.

9 Sec. 5. NEW SECTION. **554C.4 Central filing system —**
10 **establishment and certification.**

11 1. The secretary of state shall establish and administer a
12 central filing system for the electronic filing and examining
13 of effective financing statements and statements amending,
14 continuing, or terminating effective financing statements on
15 a statewide basis.

16 2. The central filing system shall be designed to allow
17 persons to file and examine effective financing statements
18 and statements amending, continuing, or terminating effective
19 financing statements using the internet. The secretary may
20 provide for the filing and examining of statements amending,
21 continuing, or terminating effective financing statements in a
22 paper format.

23 3. The central financing system must comply with the
24 requirements set forth in 7 U.S.C. §1631, as certified by
25 the United States secretary of agriculture prior to the
26 implementation date of this Act.

27 Sec. 6. NEW SECTION. **554C.5 Effective financing statements**
28 **— filing requirements.**

29 1. The secretary of state shall provide for filing effective
30 financing statements, and statements amending, continuing, or
31 terminating effective financing statements, as provided in
32 this section. The secretary shall prescribe all forms to be
33 used for filing. The presentation for filing of an effective
34 financing statement and statement amending, continuing, or
35 terminating an effective financing statement and the acceptance

1 of any such statement by the secretary constitutes filing under
2 this section.

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

7 3. An effective financing statement must contain
8 information that the secretary requires to comply with 7 U.S.C.
9 §1631 or to administer this section. The statement must be
10 an original or reproduced copy which is signed by the secured
11 party and the debtor. If filed electronically, the debtor is
12 not required to sign the statement. The statement must be
13 filed with the secretary by the secured party. The secretary
14 shall record the date and hour of the filing of the statement.

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

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

18 b. The name and address of the debtor.

19 c. The unique identifier of the debtor.

20 d. A description of the farm products subject to the
21 security interest, the county in Iowa where the farm products
22 are produced or will be produced, the crop year unless every
23 crop of the farm product in question for the duration of
24 the effective financing statement is to be subject to the
25 particular security interest, and further details of the
26 farm products subject to the security interest if needed to
27 distinguish it from other quantities of farm products owned by
28 the same person or persons but not subject to the particular
29 security interest.

30 e. Any other information that the secretary requires to
31 comply with 7 U.S.C. §1631 or to administer this section.

32 5. The effective financing statement may cover more than one
33 farm product located in more than one county.

34 6. A continuation statement shall be signed by the secured
35 party, identify the original effective financing statement by

1 file number, and state that the original financing statement
2 is still effective.

3 Sec. 7. NEW SECTION. **554C.6 Effective financing statements**
4 **— effectiveness.**

5 1. The effective financing statement shall remain effective
6 for a period of five years from the date of filing, subject to
7 extensions for additional periods of five years each by filing
8 or refiling a continuation statement within six months before
9 the expiration of the five-year period.

10 2. Upon timely filing of a continuation statement, the
11 effectiveness of the original financing statement shall be
12 continued for five years after the last date to which the prior
13 filing was effective, whereupon it shall lapse unless another
14 continuation statement is filed prior to the lapse. Succeeding
15 continuation statements may be filed in the same manner to
16 continue the effectiveness of the original effective financing
17 statement.

18 3. The effective financing statement shall be amended in
19 writing to reflect a material change within three months of the
20 material change. The amendment shall be signed and filed as
21 required for an original effective financing statement. If the
22 statement is filed electronically, the signature of the debtor
23 shall not be required.

24 4. *a.* The effective financing statement lapses upon the
25 expiration of the effective period of the effective financing
26 statement or is terminated upon the filing of a statement
27 signed by the secured party that the effective financing
28 statement is terminated.

29 *b.* If the effective financing statement has not lapsed or is
30 not terminated and there are no outstanding secured obligations
31 and no commitments to make advances, incur obligations, or
32 otherwise give value, the debtor may notify the secured party
33 in writing to terminate the effective financing statement.

34 *c.* Until the debtor instructs the secured party in writing
35 to terminate the effective financing statement, the secured

1 party has no obligation to terminate the statement.

2 *d.* Within thirty days after receipt by the secured party
3 of the statement from the debtor to terminate the effective
4 financing statement, the secured party shall file with the
5 secretary a termination statement with respect to the effective
6 financing statement.

7 **Sec. 8. NEW SECTION. 554C.7 Master list — organization**
8 **and contents.**

9 1. The secretary of state shall compile the filed effective
10 financing statements into a master list.

11 2. The master list shall be organized according to farm
12 products. The master list shall contain information required
13 to be contained in effective financing statements filed with
14 the secretary. The secretary shall arrange the master list for
15 each farm product as follows:

16 *a.* In alphabetical order according to the last name of the
17 individual debtors or, in the case of debtors doing business
18 other than as individuals, the first word in the name of such
19 debtors.

20 *b.* In numerical order according to the unique identifiers
21 of the debtors.

22 *c.* Geographically by county.

23 *d.* By crop year.

24 3. The master list shall include information regarding
25 buyers who register with the secretary on forms prescribed by
26 the secretary as provided in this section. The secretary may
27 require that a buyer be classified as a buyer in the ordinary
28 course of business, commission merchant, or selling agent.

29 4. The secretary shall maintain a list of all buyers of farm
30 products who register with the secretary. A buyer registering
31 with the secretary shall complete forms requiring all of the
32 following information, as prescribed by the secretary:

33 *a.* The name and address of the buyer.

34 *b.* The interest of the buyer in receiving the list.

35 *c.* The farm products in which the buyer has an interest.

1 *d.* Any other information that the secretary determines is
2 necessary to comply with 7 U.S.C. §1631 or to administer this
3 section.

4 Sec. 9. NEW SECTION. **554C.8 Master list — distribution and**
5 **inquiries.**

6 1. The secretary of state shall distribute to each
7 registered buyer a copy in written, printed, or electronic form
8 of those portions of the master list relating to farm products
9 in which the buyer has registered an interest. The secretary
10 may provide for the distribution of the master list or portions
11 of the list on any other medium requested by a registered
12 buyer. If a registered buyer so requests, the information
13 provided to the buyer may be limited to a county or group of
14 counties where the farm products are produced or to a crop year
15 or crop years or to a combination of those identifiers.

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

17 *a.* The distribution shall be by first class or electronic
18 mail.

19 *b.* The secretary shall adopt rules pursuant to chapter 17A
20 establishing the dates upon which the quarterly distributions
21 will be made, the dates after which a filing of an effective
22 financing statement will not be reflected on the next quarterly
23 distribution of lists, and the dates by which a buyer must
24 complete a registration to receive the next quarterly list.

25 3. The secretary shall remove information pertaining to
26 lapsed and terminated effective financing statements from the
27 master list prior to preparation of the lists required to be
28 distributed.

29 4. Upon written notice to the secretary by a registered
30 buyer requesting termination of the distribution of the
31 list to the registered buyer, the secretary shall terminate
32 distribution of the list to the registered buyer.

33 5. Oral and written inquiries by a buyer not registered
34 pursuant to section 554C.7 may be made to the secretary during
35 hours determined by the secretary.

1 a. The secretary may provide for a computerized system
2 for inquiry and confirmation which may be used in lieu of the
3 inquiry and confirmation system otherwise provided for in this
4 section.

5 b. Written confirmation of the information provided orally
6 in response to the inquiry shall be delivered by first class
7 mail or electronic mail to the buyer, at an address provided
8 by the buyer, by the secretary not later than the second
9 regular business day following the day on which the inquiry was
10 received.

11 6. In order to verify the existence or nonexistence of a
12 security interest, a buyer may request a seller to disclose the
13 seller's unique identifier.

14 Sec. 10. NEW SECTION. **554C.9 Perfection — creation of**
15 **superior interests.**

16 1. If a buyer fails to register with the secretary of
17 state prior to the purchase of farm products, the buyer takes
18 subject to a security interest in the farm products only if the
19 secured party has filed an effective financing statement that
20 covers the farm products being sold, and the buyer could have
21 discovered the existence of the effective financing statement
22 prior to the purchase by accessing the database containing
23 effective financing statements filed electronically with the
24 secretary.

25 2. If the buyer registers with the secretary prior to the
26 purchase of the farm products, the buyer takes subject to a
27 security interest in the farm products only if the secured
28 party has filed an effective financing statement that covers
29 the farm products being sold, and the buyer does not secure
30 a waiver or release of the security interest as specified in
31 the effective financing statement from the secured party.
32 If a buyer in the ordinary course of business buying farm
33 products covered by the central filing system as provided in
34 section 554C.4 tenders to the seller the total purchase price
35 by means of a check or any other form of payment payable to

1 such seller and each security interest holder of the seller
2 identified in the central filing system for such products and
3 if such security interest holder authorizes the negotiation
4 of such check or other form of payment, such authorization or
5 endorsement and payment thereof shall constitute a waiver or
6 release of the security interest specified to the extent of
7 the amount of the instrument. Such waiver or release of the
8 security interest shall not serve to establish or alter in any
9 way security interest priorities under Iowa law.

10 Sec. 11. NEW SECTION. 554C.10 Fees.

11 1. The secretary of state shall establish fees for initially
12 filing an effective financing statement, or a statement
13 amending, continuing, or terminating an effective financing
14 statement. The fees shall not be more than provided for filing
15 financing statements as provided in section 554.9525.

16 2. Notwithstanding section 22.3, the secretary may charge
17 a buyer a fee for registering to receive a master list or
18 for receiving responses to inquiries which are accessed in a
19 printed format. The secretary shall not charge a buyer a fee
20 for registering to receive a master list or for responding to
21 buyer inquiries, including by examining or printing effective
22 financing statements, and statements amending, continuing, or
23 terminating effective financing statements which are accessed
24 in an electronic format.

25 3. All moneys received by the secretary under this section
26 shall be handled in the same manner as repayment receipts, as
27 defined in section 8.2, and shall be used by the secretary
28 exclusively for the administration of this chapter.

29 Sec. 12. NEW SECTION. 554C.11 Rules.

30 The secretary of state shall adopt rules pursuant to chapter
31 17A necessary or desirable to administer this chapter.

32 Sec. 13. DIRECTIONS TO SECRETARY OF STATE.

33 1. The secretary of state shall adopt rules necessary
34 to implement this Act, including by requesting certification
35 of a central filing system as provided in this Act pursuant

1 to 7 U.S.C. §1631. If it is necessary to obtain federal
2 certification, the secretary of state may adopt rules providing
3 additional requirements made in conformity with 7 U.S.C. §1631.

4 2. If the secretary of the United States department of
5 agriculture rejects federal certification, the secretary of
6 state shall propose legislation prior to the next session of
7 the general assembly necessary to comply with the certification
8 requirements of 7 U.S.C. §1631.

9 Sec. 14. CONTINGENT IMPLEMENTATION. The implementation of
10 this Act is contingent upon federal certification of a central
11 filing system as provided in this Act pursuant to 7 U.S.C.
12 §1631. The provisions of this Act shall be implemented on
13 the first business day three months after the date of such
14 certification. The secretary of state shall provide notice of
15 the implementation date in the Iowa administrative bulletin
16 in three consecutive issues prior to the implementation date.
17 Until the implementation date, persons shall take subject
18 to or free of a security interest, including a lien, in the
19 same manner and according to the same procedures applicable
20 immediately prior to the implementation date.

21 Sec. 15. EFFECTIVE DATES.

22 1. Except as provided in subsection 2, this Act takes effect
23 July 1, 2024.

24 2. The sections of this Act providing for the adoption
25 of rules by the secretary of state in preparation to request
26 certification of a central filing system as provided in this
27 Act pursuant to 7 U.S.C. §1631 take effect upon enactment.

28 EXPLANATION

29 The inclusion of this explanation does not constitute agreement with
30 the explanation's substance by the members of the general assembly.

31 CENTRALIZED FILING SYSTEM — GENERAL. This bill creates
32 a centralized, statewide filing system (system) for security
33 interests in farm products to notify buyers of farm products
34 subject to an attached security interest. The system is to
35 facilitate notice under Article 9 of the Uniform Commercial

1 Code (UCC) (Code chapter 554). Farm products include goods
2 other than standing timber produced as part of a farming
3 operation and includes crops, aquatic goods, livestock,
4 supplies used or produced on the farming operation, or products
5 of crops or livestock in an unmanufactured form (Code section
6 554.9102). The system must be certified by the United States
7 department of agriculture.

8 The bill allows a person who has a secured interest attached
9 to farm products to complete and file a document referred to
10 as an effective financing statement or a statement amending,
11 continuing, or terminating the effective financing statement,
12 with the secretary of state. The secretary must compile
13 information contained in the effective financing statements
14 into a master list organized according to farm products which
15 the secretary must regularly distribute to persons designated
16 as buyers of farm products registered with the secretary. This
17 includes buyers in the ordinary course of business, commission
18 merchants, and selling agents. The secretary may also respond
19 to verbal or written inquiries by buyers including unregistered
20 buyers and deliver a written confirmation to inquiring buyers
21 regarding whether a farm product is subject to a security
22 interest.

23 CENTRALIZED FILING SYSTEM — REGISTRATION. If a buyer
24 registers with the secretary prior to the purchase of farm
25 products, the registered buyer takes subject to the security
26 interest only if the secured party has filed an effective
27 financing statement that covers the farm products being
28 sold, unless the registered buyer secures a release of the
29 security interest. If a buyer fails to register with the
30 secretary, the buyer takes subject to the security interest
31 only if the secured party has filed an effective financing
32 statement that covers the farm products, and the buyer could
33 have discovered the existence of the effective financing
34 statement by conducting an inquiry and receiving a response and
35 confirmation.

1 CENTRALIZED FILING SYSTEM — FEES. The bill authorizes
2 the secretary to establish fees for secured parties filing
3 effective financing statements and buyers registering with
4 the secretary. The secretary must adopt rules as necessary
5 to implement, administer, and enforce the provisions of the
6 system. The system is implemented on the first business day
7 occurring three months after certification by the United States
8 department of agriculture. The secretary must publish notice
9 of the certification in the Iowa administrative bulletin.

10 EFFECTIVE DATES. The bill takes effect July 1, 2024, except
11 for the provisions relating to rulemaking and certification
12 which take effect upon enactment.

13 BACKGROUND. Article 9 of the UCC provides an exception for
14 buyers in the ordinary course of business who generally take
15 free of a security interest created by the seller even in cases
16 in which the security interest has been perfected and the buyer
17 is aware of its existence (Code section 554.9320). However,
18 notwithstanding this exception, a buyer who purchases a farm
19 product from a person engaged in farming operations may not
20 take free of a security interest. The federal Food Security
21 Act of 1985, in relevant part (7 U.S.C. §1631), preempts the
22 state's Article 9 requirements by providing that a buyer in
23 the ordinary course of business, a commission merchant, or
24 a selling agent (buyer) may buy farm products without being
25 subject to a security interest created by the seller but only
26 if the buyer does not have actual or constructive notice of
27 that security interest. The federal law allows states to
28 elect between two notification options: (1) Iowa's current
29 law requiring the secured party to deliver direct notice to
30 potential buyers of a secured party's interest in the farm
31 products within one year prior to sale, or (2) the system
32 described in the bill. In either case, the federal law does
33 not supersede Article 9 requirements that establish priorities
34 among creditors.