



OREGON LAW COMMISSION

MEASURE: HB 4035
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SUBMITTED BY: Wendy Johnson

SUMMARY OF HB 4035

245 WINTER STREET SE
SALEM, OREGON 97301

PHONE 503-370-6973
FAX 503-370-3158
www.willamette.edu/wucl/oic

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How this Bill Changes Current Law

Secured transaction laws are the rules for loans in situations where creditors rely on the borrower's personal property as collateral for the loan. ORS Chapter 79 governs secured transactions, and, like the amendments in this bill, the Uniform Law Commission (ULC) and American Law Institute (ALI) recommended the substance of Chapter 79 as a uniform code for nation-wide use. Chapter 79's last major revision occurred in 2001 and coincided with nation-wide changes to UCC Article 9. This bill will address issues that have arisen in the last ten years, largely technical in nature. The ULC and ALI expect that all 50 states and territories will implement these new changes by the recommended July 13, 2013, effective date. Nine states have already done so. In order to stay in step with other states and for Oregon businesses to realize the cost savings from uniform transactions, it is important for Oregon to adopt the changes by the effective date.

Key Substantive Points of Bill

- *Public Notice of an Individual Debtor's Secured Loan:* Creditors must file a financing statement to provide notice of a secured transaction; the financing statement must state the individual debtor's name. Also, when weighing the adequacy of a debtor's collateral for a loan, creditors can search the debtor's name in a UCC database (administered by the Secretary of State) showing the prior pledges of collateral. The current law has little guidance on what satisfies the debtor's name requirement. This bill provides that the name on the debtor's valid driver's license or identification card satisfies the requirement and will indeed serve as a "safe harbor" provision. Alternatively, the financing statement may list the debtor's individual name or the debtor's surname and first personal name. **(HB 4035 §§12(d))**
- *Public Notice of an Organizational Debtor's Secured Loan:* Similar to the problem with an individual debtor's name, the bill specifies what name to use for an organizational entity. With this bill, the name shall be the one on the public organic record for the entity most recently filed with (or issued by) the state. **(See HB 4035 §§12(1)(a) & §§1)**
- *Reliability of Collateral When Debtor's Location Changes:* This bill fixes problems that arise when property like a business's inventory guarantees a loan, but, under the current law, would no longer be included collateral when a business moves out of state. The bill extends the same grace period to file in the new state to four months from the business's relocation. **(HB 4035 §§6(8))**
- *Reliability of Collateral Following Merger:* This bill handles an additional problem of when the debtor undergoes a merger, which causes similar problems for a creditor who intends after-acquired property to be included as collateral. Like the change of location revision, this bill also extends the grace period for creditors to refile to four months. **(HB 4035 §§6(9))**



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