

Fiscal: No Fiscal Impact

Revenue: No Revenue Impact

Action Date: 06/01/15

Action: Do Pass.

Meeting Dates: 05/06, 06/01

Vote:

Yeas: 11 - Barreto, Barton, Doherty, Esquivel, Evans, Fagan, Heard, Holvey, Kennemer, Nosse, Weidner

Prepared By: Jan Nordlund, Committee Administrator

WHAT THE MEASURE DOES:

Changes provisions of the secured transactions section of the Uniform Commercial Code. Provides that a record is effective as financing statement if record satisfies requirement for financing statement and sufficiently provides name of debtor. Requires financing statement to show name of individual debtor as indicated on unexpired driver license or identification card for sufficiency of name on financing statement. Provides phase-in period for financing statements perfected under current law. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Recommendation of Oregon Law Commission for status quo
- Value of uniformity across states for lenders
- Effect on real property transactions
- Interstate transactions are increasingly common
- Phase-in period
- Principle of “first in time, first in right”
- Whether smaller, less sophisticated filer will mistakenly record name on financing statement

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

The Uniform Commercial Code (UCC) was developed by the National Conference of Commissioners on Uniform State Laws (NCCUSL) and the American Law Institute (ALI) and has been adopted in some form by all 50 states. States may adopt the Code as it is written, or they may make specific changes. The UCC governs commercial transactions and has nine articles; Article 9 governs secured transactions and its Oregon counterpart can be found in Chapter 79 of Oregon Revised Statutes.

ORS 79.0502 provides the information required on a financing statement: the name of the debtor, the name of secured party, and the collateral covered by the financing statement. To sufficiently provide the name of the debtor when the debtor is an individual, the financing statement must provide the individual name, the surname and first personal name, or the name on an unexpired Oregon-issued driver license or identification card. The names of debtors and priority liens associated with those debtors are catalogued on the Secretary of State’s searchable database.

Senate Bill 462-A requires the name of the debtor on the financing statement to be the name on an unexpired Oregon-issued driver license or identification card; if such a license or identification is not held by the debtor, then the financing statement shall provide the debtor's individual name or surname and first personal name. Currently, 45 states have adopted this requirement, including all on the west coast.