

CHAPTER 114.

[Substitute Senate Bill No. 42.]

UNIFORM COMMERCIAL CODE.

AN ACT relating to commercial transactions; amending sections 2-403, 4-406, 6-102, 6-109, 9-302, 9-403, 9-404, 9-405, 9-406 and 9-407, chapter 157, Laws of 1965 extraordinary session and RCW 62A.2-403, 62A.4-406, 62A.6-102, 62A.6-109, 62A.9-302, 62A.9-403, 62A.9-404, 62A.9-405, 62A.9-406, and 62A.9-407; adding new sections to chapter 157, Laws of 1965 extraordinary session and to Article 62A.9 RCW; adding new sections to chapter 11, Laws of 1961 and to chapter 15.48 RCW; and providing an effective date and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

RCW 62A.4-406 amended.

Section 1. Section 4-406, chapter 157, Laws of 1965 extraordinary session and RCW 62A.4-406 are each amended to read as follows:

Uniform Commercial Code. Bank deposits and collections.

Customer's duty to discover and report unauthorized signature or alteration. (1) When a bank sends to its customer a statement of account accompanied by items paid in good faith in support of the debit entries or holds the statement and items pursuant to a request or instructions of its customer or otherwise in a reasonable manner makes the statement and items available to the customer, the customer must exercise reasonable care and promptness to examine the statement and items to discover his unauthorized signature or any alteration on an item and must notify the bank promptly after discovery thereof.

(2) If the bank establishes that the customer failed with respect to an item to comply with the duties imposed on the customer by subsection (1) the customer is precluded from asserting against the bank

(a) his unauthorized signature or any alteration on the item if the bank also establishes that it suffered a loss by reason of such failure; and

(b) an unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank after the first item and statement was available to the customer for a reasonable period and before the bank receives notification from the customer of any such unauthorized signature or alteration.

(3) The preclusion under subsection (2) does not apply if the customer establishes lack of ordinary care on the part of the bank in paying the item(s).

(4) Without regard to care or lack of care of either the customer or the bank a customer who does not within sixty days from the time the statement and items are made available to the customer (subsection (1)) discover and report his unauthorized signature or any alteration on the face or back of the item or does not within three years from that time discover and report any unauthorized indorsement is precluded from asserting against the bank such unauthorized signature or indorsement or such alteration.

(5) If under this section a payor bank has a valid defense against a claim of a customer upon or resulting from payment of an item and waives or fails upon request to assert the defense the bank may not assert against any collecting bank or other prior party presenting or transferring the item a claim based upon the unauthorized signature or alteration giving rise to the customer's claim.

Sec. 2. Section 6-102, chapter 157, Laws of 1965 extraordinary session and RCW 62A.6-102 are each amended to read as follows:

“Bulk Transfer”; Transfers of Equipment; Enterprises subject to this Article; Bulk Transfers subject to this Article. (1) A “bulk transfer” is any transfer in bulk and not in the ordinary course of the transferor's business of a major part of the materials,

RCW 62A.6-102
amended.

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supplies, merchandise or other inventory (RCW 62A.9-109) of an enterprise subject to this Article.

(2) A transfer of all or substantially all of the equipment (RCW 62A.9-109) of such an enterprise is a bulk transfer whether or not made in connection with a bulk transfer of inventory, merchandise, materials or supplies.

(3) The enterprises subject to this Article are all those of a vendor engaged in the business of buying and selling and dealing in goods, wares or merchandise, of any kind or description, or in the business of operating a restaurant, cafe, beer parlor, tavern, hotel, club or gasoline service station.

(4) Except as limited by the following section all bulk transfers of goods located within this state are subject to this Article.

RCW 62A.6-109
amended.

Sec. 3. Section 6-109, chapter 157, Laws of 1965 extraordinary session and RCW 62A.6-109 are each amended to read as follows:

Bulk transfers.

What Creditors Protected; Credit for Payment to Particular Creditors. (1) The creditors of the transferor (or claimants against the transferor) mentioned in this Article are those to whom the transferor is indebted for or on account of services, commodities, goods, wares, or merchandise, or fixtures and equipment, used in or furnished to the business of the transferor, or for or on account of money borrowed to carry on the business of the transferor or for or on account of labor employed in the course of the business of the transferor, of which the goods, wares and merchandise, or fixtures and equipment, bargained for or purchased are a part. Creditors who become such after notice to creditors is given (RCW 62A.6-105 and RCW 62A.6-107) are not entitled to notice.

(2) Against the aggregate obligation imposed by the provisions of this Article concerning the application of the proceeds (RCW 62A.6-106 and subsection

(3) (c) of RCW 62A.6-108) the transferee or auctioneer is entitled to credit for sums paid to particular creditors of the transferor, not exceeding the sums believed in good faith at the time of the payment to be properly payable to such creditors.

Sec. 4. Section 9-302, chapter 157, Laws of 1965 extraordinary session and RCW 62A.9-302 are each amended to read as follows:

RCW 62A.9-302 amended.

(1) A financing statement must be filed to perfect all security interests except the following:

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(a) a security interest in collateral in possession of the secured party under RCW 62A.9-305;

(b) a security interest temporarily perfected in instruments or documents without delivery under RCW 62A.9-304 or in proceeds for a ten day period under RCW 62A.9-306;

(c) a purchase money security interest in farm equipment having a purchase price not in excess of two thousand five hundred dollars; but filing is required for a fixture under RCW 62A.9-313 or for a motor vehicle required to be licensed;

(d) a purchase money security interest in consumer goods; but filing is required for a fixture under RCW 62A.9-313 or for a motor vehicle required to be licensed;

(e) an assignment of accounts or contract rights which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts or contract rights of the assignor;

(f) a security interest of a collecting bank (RCW 62A.4-208) or arising under the Article on Sales (RCW 62A.9-113) or covered in subsection (3) of this section.

(2) If a secured party assigns a perfected security interest, no filing under this Article is required in order to continue the perfected status of

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the security interest against creditors of and transferees from the original debtor.

(3) The filing provisions of this Article do not apply to a security interest in property subject to a statute

(a) of the United States which provides for a national registration or filing of all security interests in such property; or

(b) of this state which provides for central filing of, or which requires indication on a certificate of title of, such security interests in such property.

(4) A security interest in property covered by a statute described in subsection (3) can be perfected only by registration or filing under that statute or by indication of the security interest on a certificate of title or a duplicate thereof by a public official.

(5) Part 4 of this Article does not apply to a security interest in property of any description created by a deed of trust or mortgage made by any corporation primarily engaged in the railroad or street railway business, the furnishing of telephone or telegraph service, the transmission of oil, gas or petroleum products by pipe line, or the production, transmission or distribution of electricity, steam, gas or water, but such security interest may be perfected under this Article by filing such deed of trust or mortgage in the office of the secretary of state. When so filed, such instrument shall remain effective until terminated, without the need for filing a continuation statement. Assignments and releases of such instruments may also be filed in the office of the secretary of state. The secretary of state shall be a filing officer for the foregoing purposes, and the uniform fee for filing, indexing and furnishing filing data pursuant to this subsection shall be five dollars.

RCW 62A.9-403
amended.

Sec. 5. Section 9-403, chapter 157, Laws of 1965 extraordinary session and RCW 62A.9-403 are each amended to read as follows:

What Constitutes Filing; Duration of Filing; Effect of Lapsed Filing; Duties of Filing Officer. (1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Article.

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(2) A filed financing statement which states a maturity date of the obligation secured of five years or less is effective until such maturity date and thereafter for a period of sixty days. Any other filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such sixty day period after a stated maturity date or on the expiration of such five year period, as the case may be, unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected. A filed financing statement which states that the obligation secured is payable on demand is effective for five years from the date of filing.

(3) A continuation statement may be filed by the secured party (i) within six months before and sixty days after a stated maturity date of five years or less, and (ii) otherwise within six months prior to the expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original

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statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.

(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement on a form conforming to standards prescribed by the secretary of state shall be three dollars, but if the form of the statement does not conform to the standards prescribed by the secretary of state the uniform fee shall be five dollars.

RCW 62A.9-404
amended.

Sec. 6. Section 9-404, chapter 157, Laws of 1965 extraordinary session and RCW 62A.9-404 are each amended to read as follows:

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—Termination
statement.

Termination Statement. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement thereof on a form conforming to standards prescribed by the secretary of state shall be one dollar,

but if the form of the statement does not conform to the standards prescribed by the secretary of state the uniform fee shall be two dollars. If the affected secured party fails to send such a termination statement within ten days after proper demand therefor he shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement he must note it in the index. The filing officer shall remove from the files, mark "terminated" and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment or statement of release pertaining thereto.

(3) There shall be no fee for filing and indexing a termination statement including sending or delivering the financing statement.

Sec. 7. Section 9-405, chapter 157, Laws of 1965 extraordinary session and RCW 62A.9-405 are each amended to read as follows:

RCW 62A.9.405
amended.

Assignment of Security Interest; Duties of Filing Officer; Fees. (1) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement, the filing officer shall mark, hold, and index the same as provided in RCW 62A.9-403 (4), and shall note the assignment on the index of the financing statement. The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment on a form conforming to standards prescribed by the secretary of state shall be three dol-

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lars, but if the form of the financing statement does not conform to the standards prescribed by the secretary of state the uniform fee shall be five dollars.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment on a form conforming to standards prescribed by the secretary of state shall be one dollar, but if the form of the financing statement does not conform to the standards prescribed by the secretary of state the uniform fee shall be two dollars.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

RCW 62A.2-403
amended.

Sec. 8. Section 2-403, chapter 157, Laws of 1965 extraordinary session and RCW 62A.2-403 are each amended as follows:

Sales—Title—
Power to
transfer, good
faith purchaser
of goods.

(1) A purchaser of goods acquires all title which his transferor had or had power to transfer except that a purchaser of a limited interest acquires rights only to the extent of the interest purchased. A person with voidable title has power to transfer a good title to a good faith purchaser for value. When goods have been delivered under a

transaction of purchase the purchaser has such power even though

(a) the transferor was deceived as to the identity of the purchaser, or

(b) the delivery was in exchange for a check which is later dishonored, or

(c) it was agreed that the transaction was to be a "cash sale".

(2) Any entrusting of possession of goods to a merchant who deals in goods of that kind gives him power to transfer all rights of the entruster to a buyer in ordinary course of business.

(3) "Entrusting" includes any delivery and any acquiescence in retention of possession regardless of any condition expressed between the parties to the delivery or acquiescence and regardless of whether the procurement of the entrusting or the possessor's disposition of the goods have been such as to be larcenous under the criminal law.

(4) The rights of other purchasers of goods and of lien creditors are governed by the Articles on Secured Transactions (Article 9), Bulk Transfers (Article 6) and Documents of Title (Article 7).

Sec. 9. Section 9-406, chapter 157, Laws of 1965 extraordinary session and RCW 62A.9-406 are each amended to read as follows:

RCW 62A.9-406 amended.

Release of Collateral; Duties of Filing Officer; Fees. A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing

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statement. The uniform fee for filing and noting such a statement of release on a form conforming to standards prescribed by the secretary of state shall be one dollar, but if the form of the statement does not conform to the standards prescribed by the secretary of state the uniform fee shall be two dollars.

RCW 62A.9-407 amended.

Sec. 10. Section 9-407, chapter 157, Laws of 1965 extraordinary session and RCW 62A.9-407 are each amended to read as follows:

Secured transaction—Filing—Information from filing officers.

Information From Filing Officer. (1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be two dollars. Upon request the filing officer shall furnish a copy of any filed financing statements or statements of assignment for a uniform fee of four dollars for each particular debtor's statements requested.

New section designated 62A.9-408.

Sec. 11. There is added to chapter 157, Laws of 1965 extraordinary session a new section to be known as section 9-408 and to Article 62A.9 RCW a new section to be known as RCW 62A.9-408 to read as follows:

Presigning of Security Agreements and Financing Statements; Prefiling of Financing Statements.

(1) Although signed prior to midnight June 30, 1967, a security agreement and a financing statement has the same effect as if signed after said time.

Secured transactions—Filing—Presigning of security agreements and financing statements, prefiling of financing statements.

(2) The provisions of this title and of all other laws relating to financing statements and the filing of financing statements apply to financing statements filed prior to midnight June 30, 1967, notwithstanding that this Title had not yet taken effect. Notwithstanding the date and hour of filing marked on the statement, each financing statement so prefled is deemed to have been filed on the date and hour when this Title became effective.

Sec. 12. There is added to chapter 157, Laws of 1965 extraordinary session and to Article 62A.9 RCW a new section to read as follows:

New section.

In relation to Article 62A.9 RCW:

(1) The secretary of state may by rule prescribe standard filing forms and uniform procedures for filing with, and obtaining information from, filing officers.

Secured transactions—Filing—Secretary of state to prescribe standard forms.

(2) Unless a filing officer has filed with the secretary of state on or before June 1, 1967, his certificate that financing statements, as defined in RCW 62A.9-402, will not be accepted by him for filing on and after June 12, 1967, such filing officer shall accept such financing statements for filing on and after June 12, 1967. Financing statements so filed shall be received, marked, indexed and filed as provided in chapter 157, Laws of 1965 extraordinary session. The filing fees for filing such statements shall be as provided in chapter 157, Laws of 1965 extraordinary session, as amended.

Sec. 13. Section 2-706, chapter 157, Laws of 1965 extraordinary session and RCW 62A.2-706, are each amended to read as follows:

RCW 62A.2-706 amended.

Seller's Resale Including Contract for Resale.

(1) Under the conditions stated in Section 2-703 on

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for resale.

seller's remedies, the seller may resell the goods concerned or the undelivered balance thereof. Where the resale is made in good faith and in a commercially reasonable manner the seller may recover the difference between the resale price and the contract price together with any incidental damages allowed under the provisions of this Article (Section 2-710), but less expenses saved in consequence of the buyer's breach.

(2) Except as otherwise provided in subsection (3) or unless otherwise agreed resale may be at public or private sale including sale by way of one or more contracts to sell or of identification to an existing contract of the seller. Sale may be as a unit or in parcels and at any time and place and on any terms but every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable. The resale must be reasonably identified as referring to the broken contract, but it is not necessary that the goods be in existence or that any or all of them have been identified to the contract before the breach.

(3) Where the resale is at private sale the seller must give the buyer reasonable notification of his intention to resell.

(4) Where the resale is at public sale

(a) only identified goods can be sold except where there is a recognized market for a public sale of futures in goods of the kind; and

(b) it must be made at a usual place or market for public sale if one is reasonably available and except in the case of goods which are perishable or threaten to decline in value speedily the seller must give the buyer reasonable notice of the time and place of the resale; and

(c) if the goods are not to be within the view of those attending the sale the notification of sale must state the place where the goods are located and

provide for their reasonable inspection by prospective bidders; and

(d) the seller may buy.

(5) A purchaser who buys in good faith at a resale takes the goods free of any rights of the original buyer even though the seller fails to comply with one or more of the requirements of this section.

(6) The seller is not accountable to the buyer for any profit made on any resale. A person in the position of a seller (Section 2-707) or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of his security interest, as hereinafter defined (subsection (3) of Section 2-711).

Sec. 14. There is added to chapter 11, Laws of 1961, and to chapter 15.48 RCW a new section to read as follows: New section.

As used in this chapter:

(1) "Seed bailment contract" means any bailment contract for the increase of agricultural seeds where the bailor retains title to seed, seed stock, plant life and the seed crop resulting therefrom.

Seed bailment
contract—Defi-
nitions.

(2) "Bailee" is any tenant farmer or landowner or both, who, for an agreed compensation agrees to plant agricultural seeds furnished by the bailor and to care for, cultivate, harvest and deliver to the bailor the seed resulting therefrom.

(3) "Bailor" is any seed contractor who delivers agricultural seed to a bailee under the terms of a seed bailment contract which requires the bailee to plant, care for, cultivate, harvest and deliver the resultant seed crop to the bailor and requires the bailor to pay the bailee the amount of compensation agreed upon in the contract for the bailees' services in producing the seed.

Sec. 15. There is added to chapter 11, Laws of 1961 and to chapter 15.48 RCW a new section to read as follows: New section.

Seed bailment contracts—No security interest under Uniform Commercial Code.

Seed bailment contracts for the increase of agricultural seeds shall not create a security interest under the terms of the Uniform Commercial Code, chapter 62A.9 RCW. No filing, recording or notice of a seed bailment contract shall be required under any of the laws of the state to establish, during the term of a seed bailment contract the validity of any such contracts, nor to establish and confirm in the bailor the title to all seed, seed stock, plant life and the resulting seed crop thereof grown or produced by the bailee under the terms of a bailment contract.

New section.

Sec. 16. There is added to chapter 11, Laws of 1961 and to chapter 15.48 RCW a new section to read as follows:

Payment of moneys pursuant to.

All payments of money required by the terms of a seed bailment contract to be made by a bailor to a bailee shall be subject to security interests perfected as required by chapter 62A.9 RCW, as amended, and all agricultural liens provided for and perfected in accordance with Title 60, RCW.

Emergency, application to parts of act.

Sec. 17. This 1967 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and sections 1 through 11 and 13 through 16 shall take effect on June 30, 1967, and section 12 shall take effect immediately.

Passed the Senate March 8, 1967.

Passed the House March 7, 1967.

Approved by the Governor March 21, 1967.