

CHAPTER 117

[Engrossed Substitute Senate Bill No. 2565]

UNIFORM COMMERCIAL CODE—ADMINISTRATION, TRANSFER FROM SECRETARY
OF STATE TO DEPARTMENT OF MOTOR VEHICLES

AN ACT Relating to state government; amending section 9-302, chapter 157, Laws of 1965 ex. sess. as amended by section 4, chapter 114, Laws of 1967 and RCW 62A.9-302; amending section 9-401, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-401; amending section 9-403, chapter 157, Laws of 1965 ex. sess. as amended by section 5, chapter 114, Laws of 1967 and RCW 62A.9-403; amending section 9-404, chapter 157, Laws of 1965 ex. sess. as amended by section 6, chapter 114, Laws of 1967 and RCW 62A.9-404; amending section 9-405, chapter 157, Laws of 1965 ex. sess. as amended by section 7, chapter 114, Laws of 1967 and RCW 62A.9-405; amending section 9-406, chapter 157, Laws of 1965 ex. sess. as amended by section 9, chapter 114, Laws of 1967 and RCW 62A.9-406; amending section 12, chapter 114, Laws of 1967 and RCW 62A.9-409; adding new sections to chapter 43.07 RCW; providing an effective date; and declaring an emergency.

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

NEW SECTION. Section 1. There is added to chapter 43.07 RCW a new section to read as follows:

All powers, duties, and functions vested by law in the secretary of state relating to the Uniform Commercial Code are transferred to the department of motor vehicles.

NEW SECTION. Sec. 2. There is added to chapter 43.07 RCW a new section to read as follows:

The lawfully adopted rules of the secretary of state relating to the Uniform Commercial Code in effect on June 30, 1977, shall continue to have full force and effect and be applicable until superseded by or repealed by rules lawfully adopted by the department of motor vehicles relating to the Uniform Commercial Code.

NEW SECTION. Sec. 3. There is added to chapter 43.07 RCW a new section to read as follows:

All equipment, reports, documents, surveys, books, records, files, papers, or other writings in the possession of the secretary of state relating to the Uniform Commercial Code shall be delivered on the effective date of this 1977 amendatory act, to the custody of the department of motor vehicles.

NEW SECTION. Sec. 4. There is added to chapter 43.07 RCW a new section to read as follows:

All state officials required to maintain contact with or provide services for the secretary of state in regards to any functions transferred by section 1 of this 1977 amendatory act shall continue to perform such functions for the department of motor vehicles.

NEW SECTION. Sec. 5. There is added to chapter 43.07 RCW a new section to read as follows:

Any appropriations or portions thereof heretofore made to the secretary of state for the purpose of carrying out the powers, duties, and functions relating to the Uniform Commercial Code shall on the effective date of this 1977 amendatory act, be transferred and credited to the department of motor vehicles for the purpose of carrying out such powers, duties, and functions as are transferred to it by section 1 of this 1977 amendatory act.

All employees of the secretary of state, who exclusively or principally perform functions relating to the Uniform Commercial Code, and all funds relative to their functions, shall be transferred to the department of motor vehicles of the effective date of this 1977 amendatory act.

Sec. 6. Section 9-302, chapter 157, Laws of 1965 ex. sess. as amended by section 4, chapter 114, Laws of 1967 and RCW 62A.9-302 are each amended to read as follows:

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

(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 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~~) with the department of motor vehicles. 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)) with the department of motor vehicles. The ((secretary of state)) director of motor vehicles 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.

Sec. 7. Section 9-401, chapter 157, Laws of 1965 ex. sess. and RCW 62A.9-401 are each amended to read as follows:

(1) The proper place to file in order to perfect a security interest is as follows:

(a) when the collateral is equipment used in farming operations, or farm products, or accounts, contract rights or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the auditor in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the auditor in the county where the goods are kept, and in addition when the collateral is crops in the office of the auditor in the county where the land on which the crops are growing or to be grown is located;

(b) when the collateral is goods which at the time the security interest attaches are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded;

(c) in all other cases, ~~((in the office of the secretary of state))~~ with the department of motor vehicles.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this Article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) If collateral is brought into this state from another jurisdiction, the rules stated in RCW 62A.9-103 determine whether filing is necessary in this state.

Sec. 8. Section 9-403, chapter 157, Laws of 1965 ex. sess. as amended by section 5, chapter 114, Laws of 1967 and RCW 62A.9-403 are each amended to read as follows:

(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.

(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 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))~~ department of motor vehicles shall be three dollars, but if the form of the statement does not conform to the standards prescribed by the ~~((secretary of state))~~ department the uniform fee shall be five dollars.

Sec. 9. Section 9-404, chapter 157, Laws of 1965 ex. sess. as amended by section 6, chapter 114, Laws of 1967 and RCW 62A.9-404 are each amended to read as follows:

(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))~~ department of motor vehicles shall be one dollar, but if the form of the statement does not conform to the standards prescribed by the ~~((secretary of state))~~ department 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. 10. Section 9-405, chapter 157, Laws of 1965 ex. sess. as amended by section 7, chapter 114, Laws of 1967 and RCW 62A.9-405 are each amended to read as follows:

(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))~~ department of motor vehicles shall be three dollars, but if the form of the financing statement does not conform to the standards prescribed by the ~~((secretary of state))~~ department 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))~~ department shall be one dollar, but if the form of the financing statement does not conform to the standards prescribed by the ~~((secretary of state))~~ department 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.

Sec. 11. Section 9-406, chapter 157, Laws of 1965 ex. sess. as amended by section 9, chapter 114, Laws of 1967 and RCW 62A.9-406 are each amended to read as follows:

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 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))~~ department of motor vehicles shall be one dollar, but if the form of the statement does not conform to

the standards prescribed by the (~~secretary of state~~) department the uniform fee shall be two dollars.

Sec. 12. Section 12, chapter 114, Laws of 1967 and RCW 62A.9-409 are each amended to read as follows:

In relation to Article 62A.9 RCW:

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

(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.

NEW SECTION. Sec. 13. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 14. This 1977 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 shall take effect July 1, 1977.

Passed the Senate April 22, 1977.

Passed the House May 20, 1977.

Approved by the Governor May 31, 1977.

Filed in Office of Secretary of State May 31, 1977.

CHAPTER 118

[Substitute Senate Bill No. 2591]

REGENTS AND TRUSTEES—TRAVEL EXPENSES

AN ACT Relating to postsecondary education; and amending section 28B.10.525, chapter 223, Laws of 1969 ex. sess. as amended by section 72, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 28B.10.525.

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

Section 1. Section 28B.10.525, chapter 223, Laws of 1969 ex. sess. as amended by section 72, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 28B.10.525 are each amended to read as follows:

Each member of a university board of regents or college board of trustees of a state institution of higher education, shall be entitled to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter