

BILL ANALYSIS

S.B. 995
By: Williams
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The 76th Texas Legislature revised Chapter 9 of the Texas Business & Commerce Code, and the 77th Texas Legislature added technical amendments. Even after the revision and amendments some portions of Chapter 9 remain unclear. As proposed, S.B. 995 adds language to clarify the focus of certain sections of Chapter 9, Business & Commerce Code. This bill also adds a security interest that is automatically perfected upon attachment and provides that a record of a mortgage is effective as a financing statement that covers as-extracted collateral or timber that is to be cut.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 9.102(a)(5), Business & Commerce Code, to redefine "agricultural lien" by deleting the exemption of a security interest from the definition.

SECTION 2. Amends Section 9.102(a)(46), Business & Commerce Code, to redefine "health care insurance receivable" to include services to be provided, in addition to services provided.

SECTION 3. Amends Section 9.304(b), Business & Commerce Code, to amend the first rule in the list of rules used to determine a bank's jurisdiction, for the purposes of this subchapter, by replacing the reference to "the debtor" with "its customer."

SECTION 4. Amends Section 9.039, Business & Commerce Code, to include a sale by an individual of an account that is a right to payment of winnings in a lottery or other game of chance in the list of interests that are perfected through attachment.

SECTION 5. Amends Section 9.515(g), Business & Commerce Code, to provide that a record of a mortgage that is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under Section 9.502(c) (Contents of Financing Statement; Record of Mortgage as Financing Statement; Time of Financing Filing Financing Statement) remains effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

SECTION 6. Provides that the purpose of the amendments to Sections 9.102 (Definitions and Index of Definitions) and 9.304 (Law Governing Perfection and Priority of Security), Business & Commerce Code, by this Act is, is to clarify existing law.

SECTION 7.

(a) Makes application of Act prospective, except as provided by Subsection (b) of this section.

(b) Provides that a security interest described by Section 9.309(14) (Security Interest Perfected Upon Attachment), Business & Commerce Code, as added by Act, that attached but was not perfected before the effective date of Act is perfected automatically on the effective date of Act.

(c) Makes application of Act prospective.

(d) Provides that nothing in Section 4 of Act is intended to replace or affect any requirement of Chapter 466 of the Government Code.

SECTION 8. Effective date: September 1, 2003.

EFFECTIVE DATE

September 1, 2003.