

By: Williams

S.B. No. 995

A BILL TO BE ENTITLED

AN ACT

relating to certain changes to the uniform law on secured transactions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (5), Subsection (a), Section 9.102, Business & Commerce Code, is amended to read as follows:

(5) "Agricultural lien" means an interest [~~, other than a security interest,~~] in farm products:

(A) that secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) that is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

SECTION 2. Subdivision (46), Subsection (a), Section 9.102,

1 Business & Commerce Code, is amended to read as follows:

2 (46) "Health care insurance receivable" means an  
3 interest in or claim under a policy of insurance that is a right to  
4 payment of a monetary obligation for health care goods or services  
5 provided or to be provided.

6 SECTION 3. Subsection (b), Section 9.304, Business &  
7 Commerce Code, is amended to read as follows:

8 (b) The following rules determine a bank's jurisdiction for  
9 purposes of this subchapter:

10 (1) If an agreement between the bank and its customer  
11 [~~the debtor~~] governing the deposit account expressly provides that  
12 a particular jurisdiction is the bank's jurisdiction for purposes  
13 of this subchapter, this chapter, or this title, that jurisdiction  
14 is the bank's jurisdiction.

15 (2) If Subdivision (1) does not apply and an agreement  
16 between the bank and its customer governing the deposit account  
17 expressly provides that the agreement is governed by the law of a  
18 particular jurisdiction, that jurisdiction is the bank's  
19 jurisdiction.

20 (3) If neither Subdivision (1) nor Subdivision (2)  
21 applies and an agreement between the bank and its customer  
22 governing the deposit account expressly provides that the deposit  
23 account is maintained at an office in a particular jurisdiction,  
24 that jurisdiction is the bank's jurisdiction.

25 (4) If none of the preceding subdivisions applies, the  
26 bank's jurisdiction is the jurisdiction in which the office  
27 identified in an account statement as the office serving the

1 customer's account is located.

2 (5) If none of the preceding subdivisions applies, the  
3 bank's jurisdiction is the jurisdiction in which the chief  
4 executive office of the bank is located.

5 SECTION 4. Section 9.309, Business & Commerce Code, is  
6 amended to read as follows:

7 Sec. 9.309. SECURITY INTEREST PERFECTED UPON ATTACHMENT.  
8 The following security interests are perfected when they attach:

9 (1) a purchase money security interest in consumer  
10 goods, except as otherwise provided in Section 9.311(b) with  
11 respect to consumer goods that are subject to a statute or treaty  
12 described in Section 9.311(a);

13 (2) an assignment of accounts or payment intangibles  
14 that does not by itself or in conjunction with other assignments to  
15 the same assignee transfer a significant part of the assignor's  
16 outstanding accounts or payment intangibles;

17 (3) a sale of a payment intangible;

18 (4) a sale of a promissory note;

19 (5) a security interest created by the assignment of a  
20 health-care-insurance receivable to the provider of the health care  
21 goods or services;

22 (6) a security interest arising under Section 2.401,  
23 2.505, 2.711(c), or 2A.508(e), until the debtor obtains possession  
24 of the collateral;

25 (7) a security interest of a collecting bank arising  
26 under Section 4.210;

27 (8) a security interest of an issuer or nominated

1 person arising under Section 5.118;

2 (9) a security interest arising in the delivery of a  
3 financial asset under Section 9.206(c);

4 (10) a security interest in investment property  
5 created by a broker or securities intermediary;

6 (11) a security interest in a commodity contract or a  
7 commodity account created by a commodity intermediary;

8 (12) an assignment for the benefit of all the  
9 creditors of the transferor and subsequent transfers by the  
10 assignee thereunder; ~~and~~

11 (13) a security interest created by an assignment of a  
12 beneficial interest in a decedent's estate; and

13 (14) a sale by an individual of an account that is a  
14 right to payment of winnings in a lottery or other game of chance.

15 SECTION 5. Subsection (g), Section 9.515, Business &  
16 Commerce Code, is amended to read as follows:

17 (g) A record of a mortgage that is effective as a financing  
18 statement filed as a fixture filing or as a financing statement  
19 covering as-extracted collateral or timber to be cut under Section  
20 9.502(c) remains effective as a financing statement filed as a  
21 fixture filing or as a financing statement covering as-extracted  
22 collateral or timber to be cut until the mortgage is released or  
23 satisfied of record or its effectiveness otherwise terminates as to  
24 the real property.

25 SECTION 6. The purpose of the amendments to Subdivision  
26 (5), Subsection (a), Section 9.102, Subdivision (46), Subsection  
27 (a), Section 9.102, and Subsection (b), Section 9.304, Business &

1 Commerce Code, by this Act, is to clarify existing law.

2 SECTION 7. (a) Except as provided by Subsection (b) of  
3 this section, the change in law made by Section 4 of this Act  
4 applies only to a security interest perfected on or after the  
5 effective date of this Act.

6 (b) A security interest described by Subdivision (14),  
7 Section 9.309, Business & Commerce Code, as added by this Act, that  
8 attached but was not perfected before the effective date of this Act  
9 is perfected automatically on the effective date of this Act.

10 (c) A security interest perfected before the effective date  
11 of this Act is governed by the law in effect when the security  
12 interest was perfected, and the former law is continued in effect  
13 for that purpose.

14 (d) Nothing in Section 4 of this Act is intended to replace  
15 or otherwise affect any requirement of Chapter 466, Government  
16 Code.

17 SECTION 8. This Act takes effect September 1, 2003.