

1-1 By: Williams S.B. No. 995
1-2 (In the Senate - Filed February 7, 2003; March 13, 2003,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 April 3, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 3, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 995 By: Fraser

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to certain changes to the uniform law on secured
1-11 transactions.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subdivision (5), Subsection (a), Section 9.102,
1-14 Business & Commerce Code, is amended to read as follows:

1-15 (5) "Agricultural lien" means an interest [~~other than~~
1-16 ~~a security interest,~~] in farm products:

1-17 (A) that secures payment or performance of an
1-18 obligation for:

1-19 (i) goods or services furnished in
1-20 connection with a debtor's farming operation; or

1-21 (ii) rent on real property leased by a
1-22 debtor in connection with its farming operation;

1-23 (B) that is created by statute in favor of a
1-24 person that:

1-25 (i) in the ordinary course of its business
1-26 furnished goods or services to a debtor in connection with a
1-27 debtor's farming operation; or

1-28 (ii) leased real property to a debtor in
1-29 connection with the debtor's farming operation; and

1-30 (C) whose effectiveness does not depend on the
1-31 person's possession of the personal property.

1-32 SECTION 2. Subdivision (46), Subsection (a), Section 9.102,
1-33 Business & Commerce Code, is amended to read as follows:

1-34 (46) "Health care insurance receivable" means an
1-35 interest in or claim under a policy of insurance that is a right to
1-36 payment of a monetary obligation for health care goods or services
1-37 provided or to be provided.

1-38 SECTION 3. Subsection (b), Section 9.304, Business &
1-39 Commerce Code, is amended to read as follows:

1-40 (b) The following rules determine a bank's jurisdiction for
1-41 purposes of this subchapter:

1-42 (1) If an agreement between the bank and its customer
1-43 [~~the debtor~~] governing the deposit account expressly provides that
1-44 a particular jurisdiction is the bank's jurisdiction for purposes
1-45 of this subchapter, this chapter, or this title, that jurisdiction
1-46 is the bank's jurisdiction.

1-47 (2) If Subdivision (1) does not apply and an agreement
1-48 between the bank and its customer governing the deposit account
1-49 expressly provides that the agreement is governed by the law of a
1-50 particular jurisdiction, that jurisdiction is the bank's
1-51 jurisdiction.

1-52 (3) If neither Subdivision (1) nor Subdivision (2)
1-53 applies and an agreement between the bank and its customer
1-54 governing the deposit account expressly provides that the deposit
1-55 account is maintained at an office in a particular jurisdiction,
1-56 that jurisdiction is the bank's jurisdiction.

1-57 (4) If none of the preceding subdivisions applies, the
1-58 bank's jurisdiction is the jurisdiction in which the office
1-59 identified in an account statement as the office serving the
1-60 customer's account is located.

1-61 (5) If none of the preceding subdivisions applies, the
1-62 bank's jurisdiction is the jurisdiction in which the chief
1-63 executive office of the bank is located.

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

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

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

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

(3) a sale of a payment intangible;

(4) a sale of a promissory note;

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

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

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

(8) a security interest of an issuer or nominated person arising under Section 5.118;

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

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

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

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

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

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

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

(g) 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) 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. The purpose of the amendments to Subdivision (5), Subsection (a), Section 9.102, Subdivision (46), Subsection (a), Section 9.102, and Subsection (b), Section 9.304, Business & Commerce Code, by this Act, is to clarify existing law.

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

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

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

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

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

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