

5163

Sponsor(s): Senators Haugen and Schow

Brief Title: Filing financing statements.

SB 5163.E - DIGEST

(DIGEST AS PASSED LEGISLATURE)

Provides that, immediately following a date which is four and one-half years after filing, the director of licensing must provide notice of the five-year expiration period and the availability and effect of using a continuation statement. Failure to provide this notice does not give rise to a cause of action against the state or its officers or employees.

VETO MESSAGE ON SB 5163

April 17, 1997

To the Honorable President and Members,
The Senate of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Senate Bill No. 5163 entitled:

"AN ACT Relating to the expiration of filed financing statements;"

This legislation provides that the Department of Licensing shall notify all creditors who file a UCC financing statement, four and one-half years after filing, that the lien expires after five years unless a continuation statement is filed. Failure to provide this notice does not create a cause of action against the state.

No change to the Uniform Commercial Code should be made lightly and without first studying its affect on the transaction of business and considering the recommendations of the National Conference of Commissioners on Uniform State Laws. This bill would make Washington's law non-uniform, creating uncertainty for those doing business in Washington and between Washington and other states. Although it protects the state from liability if a notice is not received by a creditor, it would create difficulties in enforcing security interests in cases where a UCC financing statement has lapsed and no warning notice was received. Uncertainty in such a fundamental aspect of commercial law is simply not acceptable to me.

It might be more practical to require that a Washington UCC financing statement contain a clear and simple warning statement that it will expire, that expiration could leave the creditor without security, and the date of expiration.

State government should not insert itself into the everyday operation of business unless there is a compelling public safety or other interest to be served. This bill does not meet that test. Most of the beneficiaries of this service would be banks and other sophisticated, well-financed organizations with their own internal system of flagging due dates such as this.

Finally, since no funds are currently included in the bill or

budgets passed by the legislature for this new service, the Department of Licensing would have to absorb this new task into its current appropriation, or, more likely, institute a fee increase. A fee increase to provide for a service that most beneficiaries feel is redundant and unnecessary is not justified.

For these reasons, I have vetoed Engrossed Senate Bill No. 5163 in its entirety.

Respectfully submitted,
Gary Locke
Governor