

# SENATE BILL REPORT

## SB 6186

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As Reported By Senate Committee On:  
Judiciary, January 24, 2000

**Title:** An act relating to secured transactions.

**Brief Description:** Revising Article 9 of the Uniform Commercial Code.

**Sponsors:** Senators Heavey, Johnson and Gardner.

**Brief History:**

**Committee Activity:** Judiciary: 1/14/2000, 1/24/2000 [DPS].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 6186 be substituted therefor, and the substitute bill do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Goings, Hargrove, Haugen, Johnson, Long, McCaslin, Roach and Thibaudeau.

**Staff:** Karen Lundahl (786-7421)

**Background:** The Uniform Commercial Code (UCC) is a model code drafted by the National Conference of Commissioners on Uniform State Laws for the purpose of providing a consistent and integrated framework of rules to deal with all phases of a commercial sales transaction. All 50 states have now adopted the Uniform Commercial Code. In 1965, Washington adopted Article 9 of the Uniform Commercial Code, regulating the creation, operation and filing of security interests in all property other than land. There were major revisions in 1981, but no significant changes since then. The National Conference of Commissioners on Uniform State Laws has now proposed a revised Article 9 for adoption by the states. The intent is to modernize Article 9 with a major overhaul and expansion which better fits new developments in technology and consumer finance, addresses issues not covered in the earlier version, and incorporates a major simplification of the filing system. The Washington State Bar Association has reviewed the official version of revised Article 9 and recommended its adoption with some changes to better conform it to other areas of Washington law.

**Summary of Substitute Bill:** Washington's current version of UCC Article 9 is repealed and replaced with the revised UCC Article 9, which incorporates a number of significant changes. The scope of Article 9 is expanded to include security interests in forms of property not covered in the previous version, including deposit accounts, health care insurance receivables, credit card receivables, promissory notes and commercial tort claims.

A simplified system of filing financing statements is provided, allowing all filing to be at the location of the debtor, replacing the prior rule requiring filing where the collateral is located. If the debtor is a corporation, filing is at the place of registration in the debtor's state of

incorporation. A simplified national form of financing statement, which is set forth in the text of the act, must be used. In transactions other than consumer transactions, collateral can be described as all property— of the debtor, rather than being specifically described. Documents previously required to be signed can now be authenticated— or authorized electronically, which will facilitate electronic agreements.

Electronic filing is permitted. Filings must be indexed within two business days of receipt. Information requests regarding filings must also be answered within two business days of the request. The Department of Licensing is authorized to set filing fees and fees for responding to information requests.

In the case of a debtor's default, a sale of the collateral without a court order is allowed. The debtor and all other secured creditors must be notified of the sale at least ten days in advance of the sale in the case of default in a commercial transaction. If the debtor is a consumer, reasonable— notice must be given. Whether notice is reasonable is a question of fact. The secured party has the burden of proving that any foreclosure sale was commercially reasonable and must explain to the debtor how a deficiency is calculated before recovering a deficiency in a consumer transaction.

Free assignability of contracts is ensured by prohibiting restrictions on assignment of payment rights of any kind.

Consumer transactions not exceeding \$40,000 for personal use are given protections not available for larger or strictly commercial transactions. Consumer checking accounts are excluded from coverage under Article 9. A \$500 penalty is imposed on any secured party who does not file a timely termination statement of a financing statement for both consumer and commercial transactions if the secured party fails to respond promptly after a request from a debtor.

**Substitute Bill Compared to Original Bill:** The substitute bill has an expanded title section to reflect the fact that changes are made to statutes other than Title 62A.

The bill was changed to preserve the current exemption from filing of a financing statement for an agricultural lien for orchard crop handlers.

Changes were made to ensure that the fee-setting authority of the Department of Licensing would not lapse, and that any disclosure of a list of names required under this bill would be specifically authorized to prevent conflict with the Public Disclosure Act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** July 1, 2001.

**Testimony For:** This revision of Article 9 is necessary to modernize Article 9, address issues not previously covered and simplify the filing system for security interests.

**Testimony Against:** None.

**Testified:** PRO: Daniel Ritter, Daniel Hungate, WA State Bar Association; Judge Marlin Appelwick, Court of Appeals, National Conference of Commissioners on Uniform State Laws; Dick Ducharme, Wenatchee Valley Traffic Association; Jon Donellan, Dept. of Licensing, UCC Division.