

---

SENATE BILL 6768

---

State of Washington

56th Legislature

2000 Regular Session

By Senators Prentice and Rasmussen

Read first time 01/26/2000. Referred to Committee on Commerce, Trade, Housing & Financial Institutions.

1 AN ACT Relating to a central filing system for farm products;  
2 amending RCW 62A.9-307; adding new sections to Title 62A RCW; creating  
3 a new section; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this  
6 section apply throughout this act unless the context clearly requires  
7 otherwise.

8 (1) "Buyer" means a person who, in the ordinary course of business,  
9 buys farm products from a person engaged in farming operations who is  
10 in the business of selling farm products.

11 (2) "Central filing system" means a system for filing effective  
12 financing statements on a state-wide basis that is operated by the  
13 department of licensing and has been certified by the secretary of the  
14 United States department of agriculture.

15 (3) "Commission merchant" means any person engaged in the business  
16 of receiving any farm product for sale, on commission, or for or on  
17 behalf of another person.

18 (4) "Effective financing statement" means a document filed with the  
19 department of licensing to register and describe farm products subject

1 to a security interest created by a debtor or seller of farm products  
2 that is an effective financing statement under the provisions of  
3 section 1324 of the food security act of 1985, (7 U.S.C. 1631). An  
4 effective financing statement does not create or perfect a security  
5 interest.

6 (5) "Farm product" means an agricultural commodity including but  
7 not limited to wheat, corn, soybeans, or a species of fish or livestock  
8 such as cattle, hogs, sheep, horses, or poultry used or produced in  
9 farming operations, or a product of such crop, fish, or livestock in  
10 its unmanufactured state, including but not limited to wool clip, milk,  
11 and eggs, that is in the possession of a person engaged in farming  
12 operations.

13 (6) "Knows" or "knowledge" means actual knowledge.

14 (7) "Security interest" means an interest in farm products that  
15 secures payment or performance of an obligation.

16 (8) "Selling agent" means any person, other than a commission  
17 merchant, who is engaged in the business of negotiating the sale and  
18 purchase of any farm product on behalf of a person engaged in farming  
19 operations.

20 NEW SECTION. **Sec. 2.** ESTABLISHMENT OF CENTRAL FILING SYSTEM FOR  
21 FARM PRODUCTS. The department of licensing shall establish, implement,  
22 and operate the central filing system for farm products. The  
23 department of licensing shall ensure that the central filing system for  
24 farm products described in sections 1 through 10 of this act complies  
25 with the requirements for a central filing system as defined by 7  
26 U.S.C. 1631 as that statute read on December 24, 1986. The department  
27 of licensing shall prescribe the rules, fees, and forms to implement  
28 and operate the central filing system. The fees prescribed by the  
29 department of licensing shall not exceed the cost of administering the  
30 central filing system.

31 NEW SECTION. **Sec. 3.** PROTECTION OF BUYERS OF FARM PRODUCTS,  
32 COMMISSION MERCHANTS, AND SELLING AGENTS--EXCEPTION. Except as  
33 provided in section 4 of this act, a buyer who in the ordinary course  
34 of business buys farm products from a seller engaged in farming  
35 operations shall take free of a security interest created by the  
36 seller, and a commission merchant or selling agent who sells in the  
37 ordinary course of business farm products for others shall not be

1 subject to a security interest created by the seller in such products,  
2 even though the security interest is perfected and the buyer or  
3 commission merchant or selling agent knows of the existence of such  
4 interest.

5 NEW SECTION. **Sec. 4.** WHEN BUYER OF FARM PRODUCT, COMMISSION  
6 MERCHANT, AND SELLING AGENT SUBJECT TO SECURITY INTEREST IN FARM  
7 PRODUCT CREATED BY SELLER. Under the central filing system for farm  
8 products, a buyer of farm products or commission merchant or selling  
9 agent who sells farm products for others shall be subject to a security  
10 interest in such farm products created by the seller if:

11 (1) The buyer or commission merchant or selling agent has failed to  
12 register with the department of licensing prior to the purchase of farm  
13 products and the secured party has filed an effective financing  
14 statement that covers the farm products being sold;

15 (2) The buyer or commission merchant or selling agent has received  
16 from the department of licensing a copy of the master list of farm  
17 products or written notice, under section 6 or 7 of this act, that  
18 names the seller and specifies the farm products being sold by such  
19 seller as being subject to an effective financing statement and the  
20 buyer or commission merchant or selling agent does not secure a waiver  
21 or release of the security interest specified in such effective  
22 financing statement from the secured party by performing any payment  
23 obligation or otherwise; or

24 (3) The buyer or commission merchant or selling agent participates  
25 in the department of licensing's computer access program that names the  
26 seller and specifies the farm products being sold by such seller as  
27 being subject to an effective financing statement and the buyer or  
28 commission merchant or selling agent does not secure a waiver or  
29 release of the security interest specified in such effective financing  
30 statement from the secured party by performing any payment obligation  
31 or otherwise.

32 NEW SECTION. **Sec. 5.** FORMAL REQUISITES OF EFFECTIVE FINANCING  
33 STATEMENT--AMENDMENT--DURATION OF FILING--LAPSE OF FILING--FEE. (1) An  
34 effective financing statement for farm products is sufficient to  
35 register a security interest in a farm product if it:

36 (a) Contains the name and address of the secured party;

1 (b) Contains the name and address of the person indebted to the  
2 secured party;

3 (c) Contains the social security number of the debtor or, in the  
4 case of a debtor doing business other than as an individual, the  
5 internal revenue service taxpayer identification number of such debtor;

6 (d) Describes the farm products subject to the security interest  
7 created by the debtor, including the amount of such products where  
8 applicable, and describes the real property concerned, including the  
9 name of the county in this state in which the property is located;

10 (e) Is signed by the secured party;

11 (f) Is signed by the debtor;

12 (g) Is an original or reproduced copy thereof; and

13 (h) Is accompanied by the required filing fee.

14 (2) An effective financing statement must be amended in writing  
15 within three months, similarly signed and filed, to reflect material  
16 changes.

17 (3) An effective financing statement for farm products remains  
18 effective for a period of five years from the date of filing, subject  
19 to extensions for additional periods of five years each by refiling or  
20 filing a continuation statement within six months before the expiration  
21 of the five-year period.

22 (4) An effective financing statement for farm products lapses on  
23 either the expiration of the effective period of the statement or the  
24 filing of a notice signed by secured party that the statement has  
25 lapsed, whichever occurs first. Unless otherwise provided in writing  
26 between the secured party and the debtor, a statement that the  
27 effective financing statement has lapsed shall be filed within thirty  
28 days after there is no outstanding secured obligation and no commitment  
29 to make advances, incur obligations, or otherwise give value under the  
30 security interest.

31 (5) The department of licensing shall, by rule, prescribe the  
32 filing fee for each effective financing statement for farm products or  
33 change thereto and continuation thereof, and the filing fee for the  
34 notice that the effective financing statement has lapsed. Each  
35 effective financing statement may reflect more than one type of farm  
36 product. The filing fee shall be per debtor name.

37 (6) An effective financing statement is sufficient if it complies  
38 with this section even though it contains minor errors that are not  
39 seriously misleading.

1 (7) If financing statements under the uniform commercial code may  
2 be filed electronically without the signature of the debtor, then an  
3 effective financing statement may be filed electronically, or it may be  
4 a paper document. An electronically filed effective financing  
5 statement need not be a paper document and need not be signed. If an  
6 original or reproduced paper document of an effective financing  
7 statement is filed, it must be signed by both the secured party and the  
8 debtor and must be filed by the secured party.

9 NEW SECTION. **Sec. 6.** OPERATION OF CENTRAL FILING SYSTEM--MASTER  
10 LIST OF FARM PRODUCTS--LIST OF BUYERS, COMMISSION MERCHANTS, AND  
11 SELLING AGENTS--DISTRIBUTION OF MASTER LIST. (1) Under the central  
12 filing system for farm products, the department of licensing shall  
13 record the date and time of filing of effective financing statements or  
14 changes thereto, and compile this information into a master list  
15 organized according to farm products. The department of licensing  
16 shall by rule determine the categories of farm products.

17 (2) Within each category of farm products, the department of  
18 licensing shall arrange the master list:

19 (a) In alphabetical order by last name of the debtor or in the case  
20 of a debtor doing business other than as an individual, by the first  
21 word in the name of such debtor;

22 (b) In numerical order according to social security number of the  
23 individual debtor or internal revenue service taxpayer identification  
24 number of debtors doing business other than as individuals;

25 (c) Geographically by county; and

26 (d) By crop year.

27 (3) The master list shall contain all the information on all the  
28 effective financing statements filed in the system that have not  
29 lapsed. The master list shall be arranged to provide delivery to any  
30 registrant of any information relating to any product, produced in any  
31 county for any crop year covered by the system, and shall be available  
32 in a form that is readable by humans without special equipment.

33 (4) The department of licensing shall maintain a list of all buyers  
34 of farm products, commission merchants, and selling agents who register  
35 with the department of licensing on a form indicating:

36 (a) The name and address of each buyer, commission merchant, and  
37 selling agent;

1 (b) The interest of each buyer, commission merchant, or selling  
2 agent in receiving the master list on farm products; and

3 (c) The farm products in which each buyer, commission merchant, and  
4 selling agent has an interest.

5 (5) The department of licensing shall distribute monthly to each  
6 buyer, commission merchant, and selling agent registered under this  
7 section a printed or micrographic copy of those portions of the master  
8 list that the buyer, commission merchant, or selling agent has  
9 registered an interest in receiving. The department of licensing shall  
10 by rule prescribe the yearly subscription fee for each type of the  
11 monthly master list.

12 NEW SECTION. **Sec. 7.** ORAL CONFIRMATION OF THE EXISTENCE OF ANY  
13 EFFECTIVE FINANCING STATEMENT. (1) On request, the department of  
14 licensing shall furnish to persons not registered under section 6 of  
15 this act oral confirmation within twenty-four hours of the existence of  
16 any effective financing statement followed by written confirmation to  
17 any buyer of farm products buying from a debtor or commission merchant  
18 or selling agent selling for a seller covered by such statement.

19 (2) The request for oral confirmation shall be in writing and shall  
20 be presented to the department of licensing during normal business  
21 hours.

22 (3) Information on an effective financing statement may be  
23 furnished by telephone to the requestor of an oral confirmation.

24 (4) Oral confirmation shall be followed by written confirmation  
25 from the department of licensing within forty-eight hours after the  
26 oral confirmation.

27 (5) The department of licensing shall by rule prescribe the service  
28 fees for processing oral and written confirmation requests on effective  
29 financing statements.

30 NEW SECTION. **Sec. 8.** COURTESY NOTICE. Nothing in sections 1  
31 through 10 of this act shall prevent a secured party from providing a  
32 courtesy notice to any person regarding the secured party's security  
33 interests in farm products. The rights or obligations of the secured  
34 party or any other person shall not be affected by the failure of a  
35 secured party to give a courtesy notice or by the accuracy or  
36 completeness of the information given in such a notice.

1        NEW SECTION.     **Sec. 9.**     PLACE OF FILING EFFECTIVE FINANCING  
2 STATEMENT.   The proper place to file an effective financing statement  
3 on farm products is in the office of the department of licensing.

4        NEW SECTION.     **Sec. 10.**    PLACE OF REGISTRATION AS BUYER OF FARM  
5 PRODUCT,   COMMISSION   MERCHANT,   OR   SELLING   AGENT--DURATION   OF  
6 REGISTRATION--FEE.   The proper place to register under section 6 of  
7 this act as a buyer of farm products or a commission merchant or  
8 selling agent of farm products is in the office of the department of  
9 licensing.   The registration is effective for one year following the  
10 date of registration.   Registration may be amended by filing a new  
11 registration.   The department of licensing shall, by rule, prescribe  
12 the registration fee.

13        NEW SECTION.     **Sec. 11.**    LIABILITY OF DEPARTMENT OF LICENSING FOR  
14 ADMINISTRATION.   The department of licensing and the department's  
15 officers and employees shall not be liable to debtors, secured parties,  
16 or any other person in administering this chapter.

17        **Sec. 12.**    RCW 62A.9-307 and 1987 c 393 s 15 are each amended to  
18 read as follows:

19        (1) Except as provided in sections 3 and 4 of this act with respect  
20 to certain buyers of farm products, a buyer in ordinary course of  
21 business (subsection (9) of RCW 62A.1-201) ((other than a person buying  
22 farm products from a person engaged in farming operations)) takes free  
23 of a security interest created by his seller even though the security  
24 interest is perfected and even though the buyer knows of its existence.

25        (2) In the case of consumer goods, a buyer takes free of a security  
26 interest even though perfected if he buys without knowledge of the  
27 security interest, for value and for his own personal, family or  
28 household purposes unless prior to the purchase the secured party has  
29 filed a financing statement covering such goods.

30        (3) A buyer other than a buyer in ordinary course of business  
31 (subsection (1) of this section) takes free of a security interest to  
32 the extent that it secures future advances made after the secured party  
33 acquires knowledge of the purchase, unless made pursuant to a  
34 commitment entered into without knowledge of the purchase.

1        NEW SECTION.   **Sec. 13.**   Captions used in this act are not any part  
2 of the law.

3        NEW SECTION.   **Sec. 14.**   Sections 1 through 11 of this act are each  
4 added to Title 62A RCW.

5        NEW SECTION.   **Sec. 15.**   This act takes effect July 1, 2001.

--- **END** ---