

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 646

Short Title: Revise UCC/Crop Liens.

(Public)

Sponsors: Representative Daughtry.

Referred to: Judiciary I.

March 27, 1997

A BILL TO BE ENTITLED

AN ACT TO REVISE THE UNIFORM COMMERCIAL CODE TO ESTABLISH A PRODUCTION MONEY SECURITY INTEREST IN CROPS THAT HAS PRIORITY OVER OTHER SECURITY INTERESTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25-9-312 reads as rewritten:

"§ 25-9-312. Priorities among conflicting security interests in the same collateral.

(1) The rules of priority stated in other sections of this part and in the following sections shall govern when applicable: G.S. 25-4-208 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; G.S. 25-9-103 on security interests related to other jurisdictions; G.S. 25-9-114 on consignments.

(2) (a) A perfected security interest in crops for new value given to enable the debtor to purchase agricultural supplies to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise takes priority over an earlier any perfected security interest in those crops, to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had

1 knowledge of the earlier security interest. Priority of security interests  
2 in crops for new value given to enable the debtor to purchase  
3 agricultural supplies not more than three months before the crops  
4 became growing crops is governed by subdivision (5) of this section.

5 (b) Within five days of perfecting a security interest in crops for new value  
6 given to enable the debtor to purchase agricultural supplies, the holder  
7 of the security interest shall notify in writing by certified mail,  
8 addressee only, the holder of the conflicting security interest that the  
9 person giving the notice has or expects to acquire a security interest in  
10 the crops of the debtor. The notice shall identify the debtor, describe the  
11 type of crops, state the year or years in which the crops will be grown,  
12 and describe the land where the crops are growing or to be grown.

13 (c) Creating or perfecting a security interest in crops for new value given to  
14 enable the debtor to purchase agricultural supplies shall not operate  
15 under any circumstances as a default on, an accelerating event under, or  
16 otherwise as a breach of any note or other instrument or agreement of  
17 any kind or nature to pay debt, any loan or credit agreement, or any  
18 security arrangement of any kind or nature where the collateral is real or  
19 personal property.

20 (d) As used in this subdivision, 'agricultural supplies' includes agricultural  
21 seeds as defined in G.S. 106-277.2, soil additives as defined in G.S.  
22 106-50.31, fertilizer materials as defined in G.S. 106-657, liming  
23 materials as defined in G.S. 106-92.3, pesticides as defined in G.S. 106-  
24 65.24, and herbicides as defined in G.S. 143-460.

25 (3) A perfected purchase money security interest in inventory has priority over a  
26 conflicting security interest in the same inventory and also has priority in identifiable  
27 cash proceeds received on or before the delivery of the inventory to a buyer if:

28 (a) ~~the~~ The purchase money security interest is perfected at the time the  
29 debtor receives possession of the inventory; and

30 (b) ~~the~~ The purchase money secured party gives notification in writing to  
31 the holder of the conflicting security interest if the holder had filed a  
32 financing statement covering the same types of inventory (i) before the  
33 date of the filing made by the purchase money secured party, or (ii)  
34 before the beginning of the 21-day period where the purchase money  
35 security interest is temporarily perfected without filing or possession  
36 (subsection (5) of G.S. 25-9-304); and

37 (c) ~~the~~ The holder of the conflicting security interest receives the  
38 notification within five years before the debtor receives possession of  
39 the inventory; and

40 (d) ~~the~~ The notification states that the person giving the notice has or  
41 expects to acquire a purchase money security interest in inventory of the  
42 debtor, describing such inventory by item or type.

1 (4) A purchase money security interest in collateral other than inventory has  
2 priority over a conflicting security interest in the same collateral or its proceeds if the  
3 purchase money security interest is perfected at the time the debtor receives possession of  
4 the collateral or within 20 days thereafter.

5 (5) In all cases not governed by other rules stated in this section (including cases  
6 of purchase money security interests which do not qualify for the special priorities set  
7 forth in subsections (3) and (4) of this section), priority between conflicting security  
8 interests in the same collateral shall be determined according to the following rules:

9 (a) Conflicting security interests rank according to priority in time of filing  
10 or perfection. Priority dates from the time a filing is first made covering  
11 the collateral or the time the security interest is first perfected,  
12 whichever is earlier, provided that there is no period thereafter when  
13 there is neither filing nor perfection.

14 (b) So long as conflicting security interests are unperfected, the first to  
15 attach has priority.

16 (6) For the purposes of subsection (5) a date of filing or perfection as to collateral  
17 is also a date of filing or perfection as to proceeds.

18 (7) If future advances are made while a security interest is perfected by filing, the  
19 taking of possession, or under G.S. 25-8-321 on securities, the security interest has the  
20 same priority for the purposes of subsection (5) with respect to the future advances as it  
21 does with respect to the first advance. If a commitment is made before or while the  
22 security interest is so perfected, the security interest has the same priority with respect to  
23 advances made pursuant thereto. In other cases a perfected security interest has priority  
24 from the date the advance is made."

25 Section 2. This act becomes effective October 1, 1997, and applies to security  
26 interests perfected on or after that date, but shall not affect any contract entered into or  
27 security interest or lien perfected prior to that date.