

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 116

Introduced By: Pahls, 31;

Read first time: January 8, 2007

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to secured transactions; to amend section
2 9-324, Uniform Commercial Code, Revised Statutes Cumulative
3 Supplement, 2006; to change provisions relating to priority
4 of purchase-money security interests; and to repeal the
5 original section.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 9-324, Uniform Commercial Code, Revised
2 Statutes Cumulative Supplement, 2006, is amended to read:

3 9-324. (a) Except as otherwise provided in subsection (g), a
4 perfected purchase-money security interest in goods other than
5 inventory or livestock has priority over a conflicting security
6 interest in the same goods, and, except as otherwise provided in
7 section 9-327, a perfected security interest in its identifiable
8 proceeds also has priority, if the purchase-money security interest is
9 perfected when the debtor receives possession of the collateral or
10 within thirty days thereafter.

11 (b) Subject to subsection (c) and except as otherwise
12 provided in subsection (g), a perfected purchase-money security
13 interest in inventory has priority over a conflicting security
14 interest in the same inventory, has priority over a conflicting
15 security interest in chattel paper or an instrument constituting
16 proceeds of the inventory and in proceeds of the chattel paper, if so
17 provided in section 9-330, and, except as otherwise provided in
18 section 9-327, also has priority in identifiable cash proceeds of the
19 inventory to the extent the identifiable cash proceeds are received on
20 or before the delivery of the inventory to a buyer, if:

21 (1) the purchase-money security interest is perfected when
22 the debtor receives possession of the inventory;

23 (2) the purchase-money secured party sends an authenticated
24 notification to the holder of the conflicting security interest;

25 (3) the holder of the conflicting security interest receives
26 the notification within five years before the debtor receives
27 possession of the inventory; and

1 (4) the notification states that the person sending the
2 notification has or expects to acquire a purchase-money security
3 interest in inventory of the debtor and describes the inventory.

4 (c) Subdivisions (b)(2) through (4) apply only if the holder
5 of the conflicting security interest had filed a financing statement
6 covering the same types of inventory:

7 (1) if the purchase-money security interest is perfected by
8 filing, before the date of the filing; or

9 (2) if the purchase-money security interest is temporarily
10 perfected without filing or possession under section 9-312(f), before
11 the beginning of the twenty-day period thereunder.

12 ~~(d)~~ (d)(1) Subject to subsection (e) and except as
13 otherwise provided in subsection (g), a perfected purchase-money
14 security interest in livestock that are farm products has priority
15 over a conflicting security interest in the same livestock, and,
16 except as otherwise provided in section 9-327, a perfected security
17 interest in their identifiable proceeds and identifiable products in
18 their unmanufactured states also has priority, if:

19 ~~(1)~~ (A) the purchase-money security interest is
20 perfected when the debtor receives possession of the livestock;

21 ~~(2)~~ (B) the purchase-money secured party sends an
22 authenticated notification to the holder of the conflicting security
23 interest;

24 ~~(3)~~ (C) the holder of the conflicting security interest
25 receives the notification within six months before the debtor receives
26 possession of the livestock; and

27 ~~(4)~~ (D) the notification states that the person sending

1 the notification has or expects to acquire a purchase-money security
2 interest in livestock of the debtor and describes the livestock.

3 (2) For purposes of this subsection, possession means (A)
4 possession by the debtor or (B) possession by a third party on behalf
5 of or at the direction of the debtor, including, but not limited to,
6 possession by a bailee or an agent of the debtor.

7 (e) Subdivisions ~~(d)(2) through (4)~~ (d)(1)(B) through (D)
8 apply only if the holder of the conflicting security interest had
9 filed a financing statement covering the same types of livestock:

10 (1) if the purchase-money security interest is perfected by
11 filing, before the date of the filing; or

12 (2) if the purchase-money security interest is temporarily
13 perfected without filing or possession under section 9-312(f), before
14 the beginning of the twenty-day period thereunder.

15 (f) Except as otherwise provided in subsection (g), a
16 perfected purchase-money security interest in software has priority
17 over a conflicting security interest in the same collateral, and,
18 except as otherwise provided in section 9-327, a perfected security
19 interest in its identifiable proceeds also has priority, to the extent
20 that the purchase-money security interest in the goods in which the
21 software was acquired for use has priority in the goods and proceeds
22 of the goods under this section.

23 (g) If more than one security interest qualifies for
24 priority in the same collateral under subsection (a), (b), (d), or
25 (f):

26 (1) a security interest securing an obligation incurred as
27 all or part of the price of the collateral has priority over a

1 security interest securing an obligation incurred for value given to
2 enable the debtor to acquire rights in or the use of collateral; and

3 (2) in all other cases, section 9-322(a) applies to the
4 qualifying security interests.

5 Sec. 2. Original section 9-324, Uniform Commercial Code,
6 Revised Statutes Cumulative Supplement, 2006, is repealed.