

UNIFORM COMMERCIAL CODE

CHAPTER 431

HOUSE BILL NO. 1369
(Conmy)

ENTERPRISES SUBJECT TO BULK TRANSFER PROVISIONS

AN ACT to amend and reenact subsection 3 of section 41-06-02 of the North Dakota Century Code, relating to enterprises subject to the bulk transfer provisions of the uniform commercial code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 41-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The enterprises subject to this chapter are all those whose principal business is the sale of merchandise from stock, including those who manufacture what they sell, or whose principal business is a restaurant, cafe, tavern, liquor store, or cocktail lounge, whether or not that business is the sale of merchandise from stock.

Approved March 5, 1981

CHAPTER 432

SENATE BILL NO. 2115
(Committee on Industry, Business, and Labor)
(At the request of the Secretary of State)

PURCHASE MONEY SECURITY INTEREST FILING TIME

AN ACT to amend and reenact subsection 2 of section 41-09-22 and subsection 4 of section 41-09-33 of the North Dakota Century Code, relating to the time limit for filing to perfect a purchase money security interest.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 41-09-22 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If the secured party files with respect to a purchase money security interest before or within ~~ten~~ twenty days after the debtor receives possession of the collateral, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

SECTION 2. AMENDMENT. Subsection 4 of section 41-09-33 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within ~~ten~~ twenty days thereafter.

Approved March 11, 1981

CHAPTER 433

HOUSE BILL NO. 1112
(Committee on Industry, Business, and Labor)
(At the request of the Secretary of State)

UNIFORM COMMERCIAL CODE FILING FEES

AN ACT to amend and reenact section 41-09-42 of the North Dakota Century Code, relating to the fees for uniform commercial code filings in the secretary of state's office.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 41-09-42 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

41-09-42. (9-403) WHAT CONSTITUTES FILING - DURATION OF FILING - EFFECT OF LAPSED FILING - DUTIES OF FILING OFFICER - FEES.

1. Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this chapter.
2. Except as provided in subsection 6, a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five-year period, whichever occurs later. Upon lapse, the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.
3. A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in subsection 2. Any such continuation

statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection 2 of section 41-09-40, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective, whereupon it lapses in the same manner as provided in subsection 2 unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection 6 shall be retained.

4. Except as provided in subsection 7, a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition, the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.
5. The fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be as ~~provided by section 11-18-05~~ follows:
 - a. For filing and indexing any statement under the uniform commercial code, three dollars, and when a nonstandard statement is presented for filing, an additional fee of two dollars shall be made.
 - b. For making certified copies of any recorded instrument, three dollars.
 - c. For completing a certificate requesting information, three dollars for the first five entries and one

dollar for each additional five entries or fraction thereof.

d. For completing a certificate requesting copies, three dollars for the first three copies or fraction thereof, and one dollar for each additional copy.

e. For furnishing copies only of any filed instrument, one dollar.

6. If the debtor is a transmitting utility (subsection 5 of section 41-09-40) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection 9 of section 41-09-41 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.
7. When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection 5 of section 41-09-03, or is filed as a fixture filing, it shall be filed for record. Upon payment of the fee required for recording the same, the filing officer shall also record the financing statement and index it in the same fashion as if the financing statement were a mortgage of the real estate described.

Approved March 12, 1981