

## LEGISLATIVE BILL 943

Approved by the Governor March 8, 1988

Introduced by Remmers, 1; Rogers, 41; R. Johnson, 34

AN ACT relating to commercial transactions; to amend sections 52-202, 52-501, 52-701, 52-902, 52-1102, 54-201, and 54-208, Reissue Revised Statutes of Nebraska, 1943, sections 52-504, 52-702, 52-905, 52-1104, 52-1202, and 54-209, Revised Statutes Supplement, 1986, sections 52-1312, 52-1315, 52-1402, 52-1407, and 52-1409, Revised Statutes Supplement, 1987, and sections 9-403, 9-404, 9-414, 9-415, and 9-420, Uniform Commercial Code; to change provisions relating to notification of liens; to provide for termination statements as prescribed; to change provisions relating to liability; to change a fee; to provide duties for the Revisor of Statutes; to eliminate provisions relating to the Uniform Commercial Code Filing Council; to harmonize provisions; and to repeal the original sections, and also sections 9-416 to 9-419, Uniform Commercial Code.

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

Section 1. That section 52-202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

52-202. Any person who makes, alters, repairs, or in any way enhances the value of any vehicle, automobile, machinery, or farm implement or tool, or shoes a horse or horses, or mule or mules, at the request of or with the consent of the owner or owners thereof, shall have a lien upon such vehicle, automobile, machinery, farm implement or tool, horse or horses, or mule or mules, in cases where he when he or she has parted with the possession thereof, for his or her reasonable or agreed charges, for work done or material furnished. ~~The~~ ~~;~~ ~~PROVIDED,~~ ~~the~~ person making such repairs, or furnishing such material, or performing such work shall file in the office of the clerk of the county in which such work was done, or material was furnished, or in which such property is kept, within sixty days after performing such work or furnishing such material, a verified statement ~~and~~ containing (1) the

name and address and the social security number or federal tax identification number of such person, (2) the name and address and the social security number or federal tax identification number, if known, of the person for whom the work was done or the material was furnished, (3) a description of the work done or material furnished, (4) and a description of the article so made, repaired, altered, or enhanced in value, or for which material was furnished or upon which such work was performed, and (5) the amount due for such work done or material furnished. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the work was done or material was furnished.

Sec. 2. When a lien provided by section 52-202 is satisfied, the lienholder shall file in the office where the lien is filed a termination statement to the effect that he or she no longer claims an interest under the lien, which shall be identified by file number. A termination statement signed by a person other than the lienholder of record shall be accompanied by a separate written statement of assignment signed by the lienholder of record complying with subsection (2) of section 9-405, Uniform Commercial Code, including payment of the required fee. If the affected lienholder fails to file such a termination statement within thirty days after such lienholder no longer claims an interest, he or she shall be liable to the person for whom the work was done or the material was furnished for any losses caused to such person by such failure and for reasonable attorney's fees and court costs.

On presentation to the filing officer of such a termination statement, he or she shall note it in the index. If the filing officer has received the termination statement in duplicate, he or she shall return one copy of the termination statement to the lienholder stamped to show the time of receipt.

Sec. 3. That section 52-501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

52-501. (1) The owner or operator of any threshing machine or combine used in threshing, combining, or hulling grain or seed, (2) the owner or operator of any mechanical cornpicker or mechanical cornhusker used in picking or husking corn, and (3) the owner or operator of any cornsheller used in shelling corn shall have and hold a lien upon such grain, seed,

or corn which he or she shall thresh, combine, hull, pick, husk, or shell with such machine or machines to secure the payment to him or her by the owner of such grain, seed, or corn of such charges for such threshing, combining, hulling, picking, husking, or shelling as may be agreed upon or, if no charges are agreed upon, for such charges as may be reasonable for such threshing, combining, hulling, picking, husking, or shelling. Such owner or operator of a threshing machine, combine, mechanical cornpicker, mechanical cornhusker, or cornsheller, so used in threshing, combining, hulling, picking, husking, or shelling grain, seed, or corn, shall file in the office of the county clerk of the county where such threshing, combining, hulling, picking, husking, or shelling was done a notice of such lien, which notice shall ~~(a)~~ designate (a) the name and address and the social security number or federal tax identification number of such owner or operator, (b) the name and address and the social security number or federal tax identification number, if known, of the person for whom the threshing, combining, hulling, picking, husking, or shelling was done, (b) (c) the amount due for such services, (e) (d) the amount of grain, seed, or corn covered by the lien, (d) (e) the place where the grain, seed, or corn is located, and (e) (f) the date on which the threshing, combining, hulling, picking, husking, or shelling was done. Such notice shall be filed within thirty days after the threshing, combining, hulling, picking, husking, or shelling was done. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the threshing, combining, hulling, picking, husking, or shelling was done. In the event the ~~party~~ person for whom the threshing, combining, hulling, picking, husking, or shelling was done desires to sell or deliver the grain, seed, or corn so threshed, picked, husked, hulled, shelled, or combined to a grain elevator, or to any other person, such ~~party~~ person desiring to sell or deliver the grain, seed, or corn shall notify the consignee or purchaser that the threshing, combining, hulling, picking, husking, or shelling bill has not been paid, and the lien ~~herein~~ given in this section on such grain, seed, or corn shall shift therefrom to the purchase price thereof in the hands of the purchaser or consignee above mentioned. In the event the grain, seed, or corn is sold or consigned with the consent or knowledge of the ~~party~~ person entitled to a lien

thereon, as provided ~~herein~~ in this section, within thirty days after the date of such threshing, combining, hulling, picking, husking, or shelling, such lien shall not attach to the grain, seed, or corn or to the purchase price thereof unless the ~~party person~~ entitled to the lien shall notify notifies the purchaser in writing of the lien. The lien may be foreclosed in the manner and form provided for the foreclosure of secured transactions as provided in Article 9, Uniform Commercial Code, except that such foreclosure shall be instituted within thirty days after the filing of the lien. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Sec. 4. That section 52-504, Revised Statutes Supplement, 1986, be amended to read as follows:

52-504. When a lien provided by section 52-501 is satisfied, the ~~holder of the lien~~ lienholder shall ~~on written demand by the debtor send the debtor file in the office where the lien is filed~~ a termination statement to the effect that he or she no longer claims a ~~security~~ an interest under the lien, which shall be identified by file number. A termination statement signed by a person other than the lienholder of record shall be accompanied by a separate written statement of assignment signed by the lienholder of record complying with subsection (2) of section 9-405, Uniform Commercial Code, including payment of the required fee. If the affected lienholder fails to ~~send file~~ send file such a termination statement within ~~ten~~ ten ~~thirty~~ thirty days after ~~proper demand~~ such lienholder no longer claims an interest, he or she shall be liable to the ~~debtor person~~ debtor person for whom the threshing, combining, hulling, picking, husking, or shelling was done for ~~one hundred dollars~~ one hundred dollars and any losses caused to the ~~debtor~~ debtor such person by such failure and for reasonable attorney's fees and court costs.

On presentation to the filing officer of such a termination statement, he or she shall note it in the index. If the filing officer has received the termination statement in duplicate, he or she shall return one copy of the termination statement to the lienholder stamped to show the time of receipt.

Sec. 5. That section 52-701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

52-701. Whenever any person shall procure, contract with, or hire any person licensed to practice veterinary medicine and surgery to treat, relieve, or in

any way take care of any kind of livestock, such veterinarian shall have a first, paramount, and prior lien upon such livestock so treated for the contract price agreed upon, ~~and or~~, in case no price has been agreed upon, for the reasonable value of the services and any medicines or biologics furnished. The person entitled to a lien under ~~the provisions of~~ this section may foreclose the same in the manner provided by law for the foreclosing of secured transactions as provided in Article 9, Uniform Commercial Code. Such veterinarian who wishes to use the provisions of this section shall file with the clerk of the county in which such livestock was kept, within ninety days from the furnishing of the services and any medicines or biologics, a statement verified by affidavit of his or her account containing (1) the name and address and the social security number or federal tax identification number of such veterinarian, (2) the name and address and the social security number or federal tax identification number, if known, of the person to whom the services and medicines or biologics were furnished, (3) a correct description of the livestock to be charged with the lien, and (4) the amount of the services and medicines or biologics furnished. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person to whom the services and medicines or biologics were furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Sec. 6. That section 52-702, Revised Statutes Supplement, 1986, be amended to read as follows:

52-702. When a lien provided by section 52-701 is satisfied, ~~the holder of the lien~~ lienholder shall file in the office where the lien is filed on written demand by the debtor send the debtor a termination statement to the effect that he or she no longer claims ~~a security~~ an interest under the lien, which shall be identified by file number. A termination statement signed by a person other than the lienholder of record shall be accompanied by a separate written statement of assignment signed by the lienholder of record complying with subsection (2) of section 9-405, Uniform Commercial Code, including payment of the required fee. If the affected lienholder fails to ~~send file~~ such a termination statement within ~~ten~~ thirty days after ~~proper demand~~ such lienholder no longer claims an

interest, he or she shall be liable to the debtor person to whom the services and medicines or biologics were furnished for one hundred dollars and any losses caused to the debtor such person by such failure and for reasonable attorney's fees and court costs.

On presentation to the filing officer of such a termination statement, he or she shall note it in the index. If the filing officer has received the termination statement in duplicate, he or she shall return one copy of the termination statement to the lienholder stamped to show the time of receipt.

Sec. 7. That section 52-902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

52-902. Within six months after the fuel or lubricant, referred to in section 52-901, has been furnished, the person selling such fuel or lubricant shall file with the clerk of the county in which the crop, referred to in section 52-901, is produced a verified notice of such lien, which notice shall show (1) the name and address and the social security number or federal tax identification number of the person claiming the lien, (2) the name and address and the social security number or federal tax identification number, if known, of the person to whom such fuel or lubricant has been furnished for use in farm machinery in the production of crops, (3) a description of the land upon which such crop or crops were grown, (4) the amount of fuel or lubricant furnished, and (5) the amount due for furnishing such products. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person to whom the fuel or lubricant was furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Sec. 8. That section 52-905, Revised Statutes Supplement, 1986, be amended to read as follows:

52-905. When a lien provided by section 52-901 is satisfied, the lienholder holder of the lien shall file in the office where the lien is filed on written demand by the debtor send the debtor a termination statement to the effect that he or she no longer claims a security an interest under the lien, which shall be identified by file number. A termination statement signed by a person other than the lienholder of record shall be accompanied by a separate written statement of assignment signed by the lienholder of

record complying with subsection (2) of section 9-405, Uniform Commercial Code, including payment of the required fee. If the affected lienholder fails to send file such a termination statement within ten thirty days after proper demand such lienholder no longer claims an interest, he or she shall be liable to the debtor person to whom the fuel or lubricant was furnished for one hundred dollars and any losses caused to the debtor such person by such failure and for reasonable attorney's fees and court costs.

On presentation to the filing officer of such termination statement, he or she shall note it in the index. If the filing officer has received the termination statement in duplicate, he or she shall return one copy of the termination statement to the lienholder stamped to show the time of receipt.

Sec. 9. That section 52-1102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

52-1102. Any lien under section 52-1101 shall be perfected by filing a notice of lien with the county clerk of the county where the land is located upon which the crops are growing or are to be planted. The notice of lien shall state (1) the name and address and the social security number or federal tax identification number, if known, of the person to whom any product, machinery, or equipment was furnished or for whom work or labor was done, (2) the name and address and the social security number or federal tax identification number of the person claiming the lien, (3) the last date upon which such product, machinery, or equipment was furnished or work or labor done under the contract, (4) the amount due for the product, machinery, or equipment furnished or work or labor done, and ~~(4)~~ (5) the legal description of the land upon which the crops are growing or are to be planted. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person to whom the product, machinery, or equipment was furnished or for whom the work or labor was done. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Sec. 10. That section 52-1104, Revised Statutes Supplement, 1986, be amended to read as follows:

52-1104. When a lien provided by section 52-1101 is satisfied, the holder of the lien lienholder

shall file in the office where the lien is filed on written demand by the debtor send the debtor a termination statement to the effect that he or she no longer claims a security an interest under the lien, which shall be identified by file number. A termination statement signed by a person other than the lienholder of record shall be accompanied by a separate written statement of assignment signed by the lienholder of record complying with subsection (2) of section 9-405, Uniform Commercial Code, including payment of the required fee. If the affected lienholder fails to send file such a termination statement within ten thirty days after proper demand such lienholder no longer claims an interest, he or she shall be liable to the debtor person to whom the product, machinery, or equipment was furnished or for whom the work or labor was done for one hundred dollars and any losses caused to the debtor such person by such failure and for reasonable attorney's fees and court costs.

On presentation to the filing officer of such a termination statement, he or she shall note it in the index. If the filing officer has received the termination statement in duplicate, he or she shall return one copy of the termination statement to the lienholder stamped to show the time of receipt.

Sec. 11. That section 52-1202, Revised Statutes Supplement, 1986, be amended to read as follows:

52-1202. The lien provided in section 52-1201 may be perfected by filing a notice of the lien with the county clerk of the county where the crop is growing or will be grown within sixty days of the last date on which (1) the seed was furnished or (2) the meter was read with respect to the electrical power or energy furnished.

The notice of lien shall state (a) the name and address and the social security number or federal tax identification number of the person claiming the lien, (b) the name and address and the social security number or federal tax identification number, if known, of the person to whom the seed or electrical power or energy has been furnished, (c) the contract price or reasonable value of the seed or electrical power or energy, (d) the type and amount of the seed and the date of delivery of the seed or the type and amount of the electrical power or energy and the period during which such power or energy was furnished, and (e) the social security or federal identification number of the debtor or debtors, if known, and (f) the legal description of



the land upon which the crop is growing or will be grown. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person to whom the seed or electrical power and energy was furnished. The fee for filing, amending, or releasing the lien shall be as provided in section 9-403, Uniform Commercial Code.

Sec. 12. When a lien as provided in section 52-1201 is satisfied, the lienholder shall file in the office where the lien is filed a termination statement to the effect that he or she no longer claims an interest under the lien, which shall be identified by file number. A termination statement signed by a person other than the lienholder of record shall be accompanied by a separate written statement of assignment signed by the lienholder of record complying with subsection (2) of section 9-405, Uniform Commercial Code, including payment of the required fee. If the affected lienholder fails to file such a termination statement within thirty days after such lienholder no longer claims an interest, he or she shall be liable to the person to whom the seed or electrical power and energy was furnished for any losses caused to such person by such failure and for reasonable attorney's fees and court costs.

On presentation to the filing officer of such a termination statement, he or she shall note it in the index. If the filing officer has received the termination statement in duplicate, he or she shall return one copy of the termination statement to the lienholder stamped to show the time of receipt.

Sec. 13. That section 52-1312, Revised Statutes Supplement, 1987, be amended to read as follows:

52-1312. The Secretary of State shall design and implement a central filing system for effective financing statements. The Secretary of State shall be the system operator. County clerks, for purposes of section 1324 of the Food Security Act of 1985, Public Law 99-198, shall be designees of the State of Nebraska to perform the functions set out in sections 52-1301 to 52-1321. The system shall provide a means for filing effective financing statements or notices of such financing statements on a statewide basis. The system shall include requirements:

(1) That an effective financing statement or notice of such financing statement shall be filed in the

office of the county clerk in the county of the debtor's residence or, if the debtor is not a resident of this state, in the office of the county clerk in any county in which any of the farm products are used or produced. A debtor's residence shall be presumed to be the residence shown on the filing. The showing of an improper residence shall not affect the validity of the filing. The county clerk shall mark the statement or notice with a consecutive file number and with the date and hour of filing and shall hold the statement or notice or a microfilm or other photographic copy thereof for public inspection. In addition the county clerk shall index the statements and notices 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;

(2) That the county clerks transmit to the Secretary of State on the day received sufficient information from all effective financing statements filed pursuant to subdivision (1) of this section to permit the compilation of the master list required by subdivision (3) of this section;

(3) That the Secretary of State compile all such statements or notices into a master list (a) organized according to farm product, (b) arranged within each such product (i) in alphabetical order according to the last name of the individual debtors or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors, (ii) in numerical order according to the social security number of the individual debtors or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of such debtors, (iii) geographically by county, and (iv) by crop year, and (c) containing the information referred to in subdivision (4) of section 52-1307;

(4) That the Secretary of State cause the information on the master list to be published in lists (a) by farm product arranged alphabetically by debtor and (b) by farm product arranged numerically by the debtor's social security number for individual debtors or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of such debtors. If a registered buyer so requests, the list or lists for such buyer may be limited to any county or group of counties where the farm product is used or produced or to any crop year or years or a combination of such identifiers;

(5) That all buyers of farm products,

commission merchants, selling agents, and other persons may register with the Secretary of State to receive lists described in subdivision (4) of this section. Any buyer of farm products, commission merchant, selling agent, or other person conducting business from multiple locations shall be considered as one entity. Such registration shall be on an annual basis, ~~except that the first registration and fee shall be for calendar years 1986 and 1987.~~ The Secretary of State shall provide the form for registration which shall include the name and address of the registrant and the list or lists described in subdivision (4) of this section which such registrant desires to receive. A registration shall not be completed until the form provided is properly completed and received by the Secretary of State accompanied by the proper registration fee. The fee for annual registration shall be thirty dollars.

A registrant shall pay an additional annual fee to receive quarterly lists described in subdivision (4) of this section, ~~except that the first fee for a list shall be for calendar years 1986 and 1987.~~ For each farm product list provided on microfiche, the annual fee shall be twenty-five dollars. For each farm product list provided on paper, the annual fee shall be one hundred dollars, and beginning for calendar year 1989, the annual fee shall be two hundred dollars. The annual fee for a special list which is a list limited to fewer than all counties or less than all crop years shall be one hundred fifty dollars for each farm product.

The Secretary of State shall maintain a record of the registrants and the lists and contents of the lists received by the registrants for a period of five years;

(6) That the lists as identified pursuant to subdivision (5) of this section be distributed by the Secretary of State on a quarterly basis and ~~shall~~ be in written or printed form. A registrant may choose in lieu of receiving a written or printed form to receive statewide lists on microfiche. The Secretary of State may provide for the distribution of the lists on any other medium and establish reasonable charges therefor. The distribution shall be made by either certified or registered mail, return receipt requested.

The Secretary of State shall, by rule and regulation, establish the dates upon which the quarterly distributions will be made, the dates after which a filing of an effective financing statement will not be reflected on the next quarterly distribution of lists,

and the dates by which a registrant must complete a registration to receive the next quarterly list; and

(7) That the Secretary of State remove lapsed and terminated effective financing statements or notices of such financing statements from the master list prior to preparation of the lists required to be distributed by subdivision (6) of this section.

The Secretary of State shall apply to the Secretary of the United States Department of Agriculture for certification of the central filing system.

The Secretary of State shall deposit any funds received pursuant to subdivision (5) of this section in the Uniform Commercial Code Cash Fund.

Sec. 14. That section 52-1315, Revised Statutes Supplement, 1987, be amended to read as follows:

52-1315. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall notify the debtor in writing of his or her right to have a notice of lapse of his or her effective financing statement filed which shall lead to the removal of his or her name from the files and lists compiled by the Secretary of State. In lieu of such notice, the secured party may acquire a waiver of the debtor of such right and a request by the debtor that his or her effective financing statement be retained on file. Such notice may be given or waiver acquired by the secured party at any time prior to the time specified in this subsection for giving the notice.

(2) If the secured party does not furnish the notice or obtain the waiver specified in subsection (1) of this section, the secured party shall, within ten days of final payment of all secured obligations, provide the debtor with a written notification of the debtor's right to have a notice of lapse filed. The secured party shall on written demand by the debtor send the debtor a notice of lapse to the effect that he or she no longer claims a security interest under the effective financing statement, which shall be identified by file number. The notice of lapse need only be signed by the secured party.

(3) If the affected secured party fails to send a notice of lapse within ten days after proper demand, pursuant to subsection (2) of this section, he or she shall be liable to the debtor for ~~one hundred dollars and in addition for~~ any loss caused to the debtor by such failure.

(4) On presentation to the county clerk of a

notice of lapse, he or she shall treat it as a termination statement and note it in the index. If he or she has received the ~~termination statement~~ notice of lapse in duplicate, he or she shall return one copy of the notice of lapse to the filing party stamped to show the time of receipt thereof.

(5) There shall be no fee for filing a notice of lapse or termination statement.

Sec. 15. That section 52-1402, Revised Statutes Supplement, 1987, be amended to read as follows:

52-1402. (1) A person supplying an agricultural production input may notify a lender of an agricultural production input lien by providing a lien-notification statement to the lender in an envelope marked IMPORTANT -- LEGAL NOTICE and sent by certified mail or another verifiable method.

(2) The lien-notification statement shall be in the form approved by the Secretary of State and shall disclose the following:

(a) The name and business address of any lender;

(b) The name, address, and signature of the supplier claiming the lien;

(c) A description and the date or anticipated date or dates of the transaction or transactions and the retail cost or anticipated costs of the agricultural production input;

(d) The name, residential address, and signature of the person to whom the agricultural production input was furnished or is to be furnished;

(e) The name and residential address of the owner and a description of the real estate sufficient to identify the same where the crops to which the lien attaches are growing or are to be grown or, if livestock, the name and residential address of the owner of the livestock, the location where the livestock will be raised, and a description of the livestock;

(f) A statement that the products and proceeds of the crops or livestock are covered by the agricultural input lien; ~~and~~

(g) The social security number or federal tax identification number of the person to whom the agricultural production input was furnished, if known; and

(h) The social security number or federal tax identification number of the supplier claiming the lien.

Sec. 16. That section 52-1407, Revised Statutes Supplement, 1987, be amended to read as

follows:

52-1407. (1) To perfect an agricultural production input lien, the lien shall attach and the supplier entitled to the lien shall file a lien-notification statement containing the information required in subsection (2) of section 52-1402 with the appropriate filing office for the filing of security interests in farm products within three months after the last date that the agricultural production input was furnished. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. Perfection occurs as of the date such lien-notification statement is filed.

(2) An agricultural production input lien that is not perfected has the priority of an unperfected security interest under section 9-312, Uniform Commercial Code.

(3) The filing officer shall enter the time of day and date of filing on the lien-notification statement and shall otherwise file it in the manner provided by section 9-403, Uniform Commercial Code, for a financing statement.

(4) The holder of an agricultural production input lien may enforce the lien in the manner provided in sections 9-501 to 9-507, Uniform Commercial Code. For purposes of enforcement of the lien, the lienholder is the secured party and the person for whom the agricultural production input was furnished is the debtor, and each has the respective rights and duties of a secured party and a debtor under sections 9-501 to 9-507, Uniform Commercial Code.

Sec. 17. That section 52-1409, Revised Statutes Supplement, 1987, be amended to read as follows:

52-1409. When an agricultural production input lien is satisfied, the holder of the lien lienholder shall file in the office where the lien is filed send the person to whom an agricultural production input was furnished a termination statement to the effect that he or she no longer claims an interest under the lien, which shall be identified by file number. A termination statement signed by a person other than the lienholder of record shall be accompanied by a separate written statement of assignment signed by the lienholder of record complying with subsection (2) of section 9-405, Uniform Commercial Code, including payment of the required fee. If the affected lienholder fails to send file such a termination statement within fifteen thirty days after the holder of such lien lienholder no longer

claims an interest, he or she shall be liable to the person to whom the agricultural production input was furnished for one hundred dollars and any losses caused to such person by such failure and for reasonable attorney's fees and court costs.

On presentation to the filing officer of such a termination statement, he or she shall note it in the index. If the filing officer has received the termination statement in duplicate, he or she shall return one copy of the termination statement to the lienholder stamped to show the time of receipt.

Sec. 18. That section 54-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-201. (1) When any person, firm, corporation, or partnership not provided for in subsection (2) of this section shall procure, contract with, or hire any other person to feed and take care of any kind of livestock, the person so procured, contracted with, or hired shall have a first, paramount, and prior lien upon such property livestock for the feed and care bestowed by him or her upon the same for the contract price agreed upon; and or, in case no price has been agreed upon, then for the reasonable value of such feed and care, as long as the holders of any prior liens shall have agreed in writing to the contract for the feed and care of the livestock involved. The person, firm, corporation, or partnership entitled to a lien under the provisions of this section may foreclose the same in the manner provided by law for foreclosure of secured transactions as provided in Article 9 of the Uniform Commercial Code. Prior to removal of such livestock from his or her premises, the person, firm, corporation, or partnership entitled to a lien shall file in the office of the county clerk, in the county in which such livestock may be fed and kept, an affidavit containing the name and address and the social security number or federal tax identification number of such person, firm, corporation, or partnership and the name and address and the social security number or federal tax identification number, if known, of the person for whom the feeding and keeping were furnished and describing the livestock and setting forth the amount justly due for the feeding and keeping of the same. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the feeding and keeping were furnished. The fee for filing,

amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

(2) When any person, firm, corporation, or partnership whose residence or principal place of business is located outside the State of Nebraska shall procure, contract with, or hire any other person, firm, corporation, or partnership within the State of Nebraska to feed and take care of any kind of livestock, the person so procured, contracted with, or hired shall have a first, paramount, and prior lien upon such property livestock for the feed and care bestowed by him or her upon the same for the contract price agreed upon; and or, in case no price has been agreed upon, then for the reasonable value of such feed and care. The person, firm, corporation, or partnership entitled to a lien under the provisions of this subsection may foreclose the same in the manner provided by law for the foreclosure of secured transactions as provided in Article 9 of the Uniform Commercial Code. Prior to removal of such livestock from his or her premises, the person, firm, corporation, or partnership entitled to a lien shall file in the office of the county clerk, in the county in which such livestock may be fed and kept, an affidavit containing the name and address and the social security number or federal tax identification number of such person, firm, corporation, or partnership and the name and address and the social security number or federal tax identification number, if known, of the person for whom the feeding and keeping were furnished and describing the livestock and setting forth the amount justly due for the feeding and keeping of the same. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the feeding and keeping were furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Sec. 19. That section 54-208, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-208. When any person, firm, partnership, or corporation contracts or agrees with another to deliver any feed or feed ingredients for any kind of livestock, the person, firm, partnership, or corporation so procured, contracted with, agreed with, or hired shall have a lien upon such livestock for the feed or feed ingredients and related costs incurred in the



delivery of such feed or feed ingredients for the agreed upon contract price or, in case no price has been agreed upon, then for the reasonable value of such feed or feed ingredients and related delivery costs, which shall be a first, paramount, and prior lien if the holders of any prior liens have agreed in writing to the contract for the feed or feed ingredients and related delivery costs. The lien may only be foreclosed against the person who has contracted or agreed for such feed or feed ingredients and related costs incurred in the delivery of such feed or feed ingredients.

Such person, firm, partnership, or corporation delivering feed or feed ingredients or incurring delivery costs shall file a notice in the office of the county clerk of the county in which such livestock are located. Such notice of lien shall designate:

(1) The name and address and the social security number or federal tax identification number of such person, firm, partnership, or corporation;

(2) The name and address and the social security number or federal tax identification number, if known, of the person for whom such feed or feed ingredients were delivered;

(3) The amount due for such feed or feed ingredients covered by the lien;

(4) The place where such livestock are located;

(5) A reasonable description of such livestock including the number and type of such livestock; and

(6) The last date on which such feed or feed ingredients were delivered.

The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the feed or feed ingredients were delivered.

Such lien shall attach and have priority as of the date of the filing if filed in the manner provided in this section and may be foreclosed in the manner and form provided for the foreclosure of secured transactions in Article 9 of the Uniform Commercial Code.

Upon receipt of a lien filed pursuant to this section or an amendment, release, or termination of such lien, the county clerk shall immediately transmit to the Secretary of State the following information:

- (a) Identification of the document;
- (b) Document number;

(e) Name and address of the debtor or debtors;  
 (d) Name and address of the creditor or  
 creditors;

(e) Type or types of goods covered;  
 (f) Date and time of filing; and  
 (g) Social security or federal identification  
 number of the debtor or debtors, if known.

The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Nothing in this section shall be construed to amend or repeal section 54-201 relating to agisters' liens.

Sec. 20. That section 54-209, Revised Statutes Supplement, 1986, be amended to read as follows:

54-209. When a lien provided by Chapter 54, article 27, section 54-201 or 54-208 is satisfied, the holder of the lien lienholder shall file in the office where the lien is filed on written demand by the debtor send the debtor a termination statement to the effect that he or she no longer claims a security an interest under the lien, which shall be identified by file number. A termination statement signed by a person other than the lienholder of record shall be accompanied by a separate written statement of assignment signed by the lienholder of record complying with subsection (2) of section 9-405, Uniform Commercial Code, including payment of the required fee. If the affected lienholder fails to send file such a termination statement within ten thirty days after proper demand such lienholder no longer claims an interest, he or she shall be liable to the debtor person for whom the feeding and keeping were furnished or the feed or feed ingredients were delivered for one hundred dollars and any losses caused to the debtor such person by such failure and for reasonable attorney's fees and court costs.

On presentation to the filing officer of such a termination statement, he or she shall note it in the index. If the filing officer has received the termination statement in duplicate, he or she shall return one copy of the termination statement to the lienholder stamped to show the time of receipt.

Sec. 21. That section 9-403, Uniform Commercial Code, be amended to read as follows: U9-403. What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer; uniform fees; fee distribution.

(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 article.

(2) Except as provided in subsection (6) of this section, 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) of this section. 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 subsections (2) and (3) of section 9-405, 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) of this section 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.

(4) Except as provided in subsection (7) of this section, a filing officer shall mark each statement or other document with a consecutive 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)(a) The uniform 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, an amendment, a separate statement of assignment, a continuation statement, a partial release, or a full release shall be six dollars. There shall be no fee for the filing of a termination statement. The uniform fee for each name more than one required to be indexed shall be four dollars. The secured party may at his or her option show a trade name for any person and an extra uniform indexing fee of four dollars shall be paid with respect thereto.

(b) The uniform fee for filing and indexing and for stamping a copy furnished by a lienholder to show the date and place of filing of a lien or an amendment, a lien-notification statement, a separate statement of assignment, a certificate of discharge or subordination, a notice, a certificate of release or nonattachment, partial release, or full release of a lien filed pursuant to Chapter 52, article 2, 5, 7, 9, 10, ~~or 11, 12, or 14~~, Chapter 54, article 2, ~~or Chapter 77, article 39, or sections 52-1401 to 52-1411~~ shall be six dollars. The uniform fee for each name more than one required to be indexed shall be four dollars.

(6) If the debtor is a transmitting utility (subsection (5) of section 9-401) 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 (6) of section 9-402 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 9-103, or is filed as a fixture filing, it shall be filed for record and the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he or she were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real

estate described.

(8) The provisions of subsections (2) and (3) of this section shall not apply to mortgages or deeds of trust and instruments supplementary or amendatory thereto covering real estate as well as personal property where such property constitutes a portion of the property used in carrying on the business of a public utility or a gas or oil pipeline system and which are executed to secure the payment of money. The lien of such mortgages or deeds of trust and amendments and supplements thereto shall continue in force and effect as to the personal property described therein, together with any interest of the mortgagor in real estate therein described even if the same has been on file five years or more. The instruments filed shall disclose that the mortgagor or grantor therein is then carrying on the business of a public utility or an oil or gas pipeline system or such fact shall be disclosed by an affidavit of the mortgagor or grantor to that effect filed for record with the county clerk.

(9) Any county clerk receiving a fee under subsection (5) of this section for filing any document from which information is required to be transmitted to the Secretary of State shall on a monthly basis forward two dollars of each four-dollar fee and three dollars of each six-dollar fee received pursuant to subsection (5) of this section to the Secretary of State for deposit in the Uniform Commercial Code Cash Fund.

(10) The Secretary of State shall deposit two dollars of each four-dollar fee and three dollars of each six-dollar fee received pursuant to subsection (5) of this section in the Uniform Commercial Code Cash Fund.

Sec. 22. That section 9-404, Uniform Commercial Code, be amended to read as follows:  
U9-404. Termination statement; fee.

(1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party must on written demand by the debtor send the debtor a termination statement to the effect that he or she no longer claims a security interest under the financing statement, which shall be identified by file number. A termination 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 complying with subsection (2) of section 9-405, including payment of the required fee. If the affected secured party fails to send such a

termination statement within ten days after proper demand therefor he or she shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure and for reasonable attorney's fees and court costs.

(2) On presentation to the filing officer of such a termination statement he or she must note it in the index. If he or she has received the termination statement in duplicate, he or she shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof.

(3) The fee for such filings shall be as provided in subsection (5) of section 9-403.

Sec. 23. That section 9-414, Uniform Commercial Code, be amended to read as follows: U9-414. Filing information; county clerk; register of deeds; Secretary of State; duties; fees.

(1) Upon receipt of a financing statement, an amendment to a financing statement, an assignment, a continuation statement, a termination statement, or a release of collateral, relating to (a) equipment used in farming operations, (b) farm products, including crops growing or to be grown, (c) farm products which become inventory of a person engaged in farming, or (d) accounts or general intangibles arising from or relating to the sale of farm products by a farmer, each county clerk shall on the day of receipt transmit to the Secretary of State the following document information:

- (i) Identification of the document and the county where the original document may be found;
- (ii) Document number;
- (iii) Name and address of the debtor or debtors;
- (iv) Name and address of the creditor or creditors;
- (v) Type or types of goods covered;
- (vi) Date and time of filing; and
- (vii) Social security number or federal tax identification number of the debtor or debtors, if available.

(2) Upon receipt of a lien filed pursuant to Chapter 52, article 2, 5, 7, 9, 10, ~~or 11, 12, or 14,~~ or Chapter 54, article 2, or Chapter 77, article 39, or an amendment, release, or termination of such lien, the county clerk or register of deeds shall on the day of receipt transmit to the Secretary of State the following document information:

- (a) Identification of the document and the county where the original document may be found;

(b) Document number;  
 (c) Name and address of the debtor or debtors;  
 (d) Name and address of the ~~creditor~~  
~~lienholder~~ or ~~creditors lienholders~~;  
 (e) Type or types of ~~goods~~ property covered;  
 (f) Date and time of filing; and  
 (g) Social security number or federal tax  
 identification number of the debtor or debtors, if  
 known; and  
 (h) Social security number or federal tax  
 identification number of the ~~lienholder~~ or ~~lienholders~~.

(3) For each filing, amendment, separate statement of assignment, certificate of discharge or subordination, notice, certificate of release or nonattachment, partial release, or full release of a lien filed pursuant to Chapter 52, article 2, 5, 7, 9, 10, ~~or 11, 12, or 14, or~~ Chapter 54, article 2, ~~or Chapter 77, article 39,~~ the county clerk or register of deeds shall charge such fees as are set forth in section 9-403. The retention and distribution of such funds shall be the same as is provided for fees under subsection (9) of section 9-403.

(4) Upon receipt of information transmitted pursuant to this section, the Secretary of State shall record and index the information so that ~~on or before January 1, 1986,~~ such information shall be available for the following types of inquiry: In person, written, and telephone and other electronic medium, including computers, except that information relative to security interests in crops growing or to be grown shall continue to be available for inquiry in the same manner as provided in section 9-411 before July 1, 1983.

Sec. 24. That section 9-415, Uniform Commercial Code, be amended to read as follows:  
 U9-415. Secretary of State; implementation of centralized computer system.

The Secretary of State shall, ~~on or before January 1, 1986,~~ implement a centralized computer system as developed ~~or recommended by the Uniform Commercial Code Filing Council~~ for the accumulation and dissemination of information relative to financing statements and other necessary Uniform Commercial Code documents whenever the collateral is equipment used in farming operations, farm products, farm products which have become inventory of a person engaged in farming, or accounts or general intangibles arising from or relating to the sale of farm products by a farmer. Such a system shall include the entry of information relative to notice of liens into the computer system by county

clerks and the dissemination of such information by a computer system or systems, telephone, mail, and such other means of communication as may be deemed appropriate. Such system shall be designed as an interactive system.

Computer When the centralized computer system is implemented, computer access to information regarding obligations of debtors shall be made available twenty-four hours a day, three hundred sixty-five days per on every day of the year. After November 21, 1986, the The Secretary of State shall provide information from the system by telephone during normal business hours.

As soon as feasible after November 21, 1986, the The centralized computer system implemented pursuant to this section shall include information relative to effective financing statements as provided in sections 52-1301 to 52-1321.

Sec. 25. That section 9-420, Uniform Commercial Code, be amended to read as follows: U9-420. Uniform Commercial Code Cash Fund; created; use; Secretary of State; furnish printers.

(1) There is hereby created the Uniform Commercial Code Cash Fund. All funds received pursuant to section 9-403, Uniform Commercial Code, and sections 52-1312, 52-1313, and 52-1316 shall be placed in the fund and used by the ~~Uniform Commercial Code Filing Council~~ to carry out its duties pursuant to sections 9-417 and 9-418. On and after November 21, 1986, money in the fund shall be used by the Secretary of State to carry out subsection (2) of this section, sections 9-401, 9-403, and 9-411 to 9-415, Uniform Commercial Code, and sections 52-1301 to 52-1321.

(2) The Secretary of State shall furnish each county clerk a printer compatible with the centralized computer system established pursuant to section 9-415 so the county clerk is able to mail written confirmation of inquiries by the end of the next business day as required by section 52-1316.

Sec. 26. The Revisor of Statutes shall transfer sections 54-202 to 54-207 and assign such sections to Chapter 52.

Sec. 27. That original sections 52-202, 52-501, 52-701, 52-902, 52-1102, 54-201, and 54-208, Reissue Revised Statutes of Nebraska, 1943, sections 52-504, 52-702, 52-905, 52-1104, 52-1202, and 54-209, Revised Statutes Supplement, 1986, sections 52-1312, 52-1315, 52-1402, 52-1407, and 52-1409, Revised Statutes Supplement, 1987, and sections 9-403, 9-404, 9-414,



LB 943

LB 943

9-415, and 9-420, Uniform Commercial Code, and also sections 9-416 to 9-419, Uniform Commercial Code, are repealed.