

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 286

(Senator Kelley)

Finance

Economic Matters

Commercial Law - Uniform Commercial Code - Title 9 - Miscellaneous

The bill alters the definition of “agricultural lien” under Title 9 of the Maryland Uniform Commercial Code (Md. UCC) to include a security interest in farm products. The bill changes reference in the rule for determining a bank’s jurisdiction for the purpose of perfecting a security interest from the debtor to the bank’s customer. The bill provides that a security interest in a sale by an individual of an account that is a right to payment of winnings in a lottery or other game of chance perfects when it attaches under Md. UCC Title 9. The bill provides that the savings provision for financing statements under Title 9 applies to all financing statements filed in the State before the effective date of the revision to Md. UCC Title 9 (July 1, 2001), including those filed with respect to security interests in collateral governed as to perfection by local law under prior law. The bill repeals the extension applicable to the 12-year effectiveness period for an initial financing statement filed under the prior version of Md. UCC Title 9.

The bill is effective June 1, 2003.

Fiscal Summary

State Effect: The bill would not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Under Md. UCC Title 9, an agricultural lien means an interest, other than a security interest, in farm products: (1) that secures payment or performance of an obligation for goods or services furnished in connection with a debtor's farming operation or rent on real property leased by a debtor in connection with its farming operation; (2) that is created by a statute in favor of a person that furnished goods or services to a debtor in connection with a debtor's farming operation or leased real property to a debtor in connection with the debtor's farming operation; and (3) whose effectiveness does not depend on the person's possession of the property.

Generally, if an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for transactions governed by Md. UCC, that is the bank's jurisdiction for perfecting a security interest. If no such agreement exists, jurisdiction is determined in the following order: (1) an express provision in an agreement between a bank and its customer governing the deposit account governing jurisdiction; (2) the jurisdiction in which a deposit account is expressly maintained; (3) the jurisdiction in which the office identified in the account statement as the office servicing the customer's account; and (4) the jurisdiction in which the chief executive office of the bank is located.

The following security interests are perfected when they attach: (1) a purchase-money security interest in consumer goods; (2) an assignment of accounts or payment intangibles under specified conditions; (3) a sale of a payment intangible; (4) a sale of a promissory note; (5) a security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services; (6) certain security interests in goods; (7) certain security interests of a collecting bank; (8) a security interest of an issuer or nominated person under a letter of credit; (9) a security interest in the delivery of a financial asset; (10) a security interest in investment property created by a broker or securities intermediary; (11) a security interest in a commodity contract or commodity account created by a commodity intermediary; (12) an assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee; and (13) a security interest created by an assignment of a beneficial interest in a decedent's estate.

Generally, the revision to Md. UCC Title 9 does not render ineffective an effective financing statement that was filed before July 1, 2001 and satisfied the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided under prior code. However, the financing statement ceases to be effective at the earlier of: (1) the time the financing state would have ceased to be effective under the law of the jurisdiction in which it is filed; or (2) June 20, 2006.

The filing of an initial financing statement continues the effectiveness of a financing statement filed before July 1, 2001 if: (1) the filing of an initial financing statement would be effective to perfect a security interest under Md. UCC Article 9; (2) the pre-effective-date financing statement was filed in an office in another state or a different office in Maryland; and (3) the initial financing statement: (a) satisfies the initial financing statement requirements under the revision to Md. UCC Title 9; (b) properly identifies the pre-effective-date financing statement; and (c) indicates that the pre-effective-date financing statement remains effective. Filing an initial financing in order to continue a pre-effective-date financing statement generally continues the statement's effectiveness for: (1) 12 years if the initial financing statement was properly filed before July 1, 2001; or (2) 5 years if the initial financing statement was properly filed after July 1, 2001.

Background: The revision to Md. UCC Title 9 became effective July 1, 2001. The revision was enacted by Chapter 286 of 1999 and modified by Chapter 610 of 2001 in response to amendments adopted by the National Conference of Commissioners on Uniform State Laws to their draft of Article 9 of the Uniform Commercial Code.

Additional Information

Prior Introductions: None.

Cross File: HB 374 (Delegate McHale) – Economic Matters.

Information Source(s): Office of the Attorney General, Department of Legislative Services

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