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House Bill 4774 (Substitute S-1 as reported)
Sponsor: Representative Andrew Richner
House Committee: Commerce
Senate Committee: Financial Services

CONTENT

The bill would amend Article 9 of the Uniform Commercial Code (which governs secured transactions) to revise provisions under which filing a financing statement does not perfect a security interest in property that is subject to a particular statute, regulation, or treaty. The bill essentially would delete language referring to "the requirements of" a specified statute, regulation, or treaty "for obtaining priority over the rights of a lien creditor".

Under the Code, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to one or more of the following:

- A statute, regulation, or treaty of the United States whose requirements for a security interest's taking priority over the rights of a lien creditor in that property preempt another section of Article 9.
- Sections or parts of the Michigan Vehicle Code, the Natural Resources and Environmental Protection Act, and the Mobile Home Commission Act that govern titled property (such as an automobile or boat).
- A certificate-of-title statute of another jurisdiction that provides for a security interest to be indicated on the certificate as a condition or result of the security interest's taking priority over the rights of a lien creditor with respect to the property.

Under the bill, compliance with such a statute, regulation, or treaty still would be equivalent to filing a financing statement, and a security interest in property subject to the statute, regulation or treaty still could be perfected only by compliance with the statute, regulation, or treaty.

(Article 9 governs transactions in which a creditor grants credit to a debtor and acquires a "security interest" in personal property belonging to the debtor (such as inventory). The creditor's security interest must be "perfected" in order for the creditor to have "priority" in relation to other creditors of the debtor who have an interest in the same property. Typically, perfection occurs when a "financing statement" is filed with the State, although a security interest may be perfected by other means.)

The bill would take effect January 1, 2002.

MCL 440.9311 & 440.9616

Legislative Analyst: S. Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 10-8-01

Fiscal Analyst: J. Runnels

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Analysis available @ <http://www.michiganlegislature.org>

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.