

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4774**

A bill to amend 1962 PA 174, entitled
"Uniform commercial code,"
by amending sections 9311 and 9616 (MCL 440.9311 and 440.9616),
section 9311 as amended and section 9616 as added by 2000
PA 348.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9311. (1) Except as otherwise provided in subsection
2 (4), the filing of a financing statement is not necessary or
3 effective to perfect a security interest in property subject to 1
4 or more of the following:

5 (a) A statute, regulation, or treaty of the United States
6 whose requirements for a security interest's obtaining priority
7 over the rights of a lien creditor with respect to the property
8 preempt section 9310(1).

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1 (b) The following statutes of this state:

2 (i) Chapter II of the Michigan vehicle code, 1949 PA 300,
3 MCL 257.201 to 257.259.

4 (ii) Part 803 of the natural resources and environmental
5 protection act, 1994 PA 451, MCL 324.80301 to 324.80322.

6 (iii) Part 811 of the natural resources and environmental
7 protection act, 1994 PA 451, MCL 324.81101 to 324.81150.

8 (iv) Sections 30 through 30h of the mobile home commission
9 act, 1987 PA 96, MCL 125.2330 to 125.2330h.

10 (c) A certificate-of-title statute of another jurisdiction
11 which provides for a security interest to be indicated on the
12 certificate as a condition or result of the security interest's
13 obtaining priority over the rights of a lien creditor with
14 respect to the property.

15 (2) Compliance with ~~the requirements of~~ a statute, regula-
16 tion, or treaty described in subsection (1) ~~for obtaining prior-~~
17 ~~ity over the rights of a lien creditor~~ is equivalent to the
18 filing of a financing statement under this article. Except as
19 otherwise provided in subsection (4) and sections 9313 and
20 9316(4) and (5) for goods covered by a certificate of title, a
21 security interest in property subject to a statute, regulation,
22 or treaty described in subsection (1) may be perfected only by
23 compliance with ~~those requirements~~ THE STATUTE, REGULATION, OR
24 TREATY, and a security interest so perfected remains perfected
25 notwithstanding a change in the use or transfer of possession of
26 the collateral.

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1 (3) Except as otherwise provided in subsection (4) and
2 section 9316(4) and (5), duration and renewal of perfection of a
3 security interest perfected by compliance with ~~the requirements~~
4 ~~prescribed by~~ a statute, regulation, or treaty described in sub-
5 section (1) are governed by the statute, regulation, or treaty.
6 In other respects, the security interest is subject to this
7 article.

8 (4) During any period in which collateral subject to a stat-
9 ute specified in subsection (1)(b) is inventory held for sale or
10 lease by a person or leased by that person as lessor and that
11 person is in the business of selling goods of that kind, this
12 section does not apply to a security interest in that collateral
13 created by that person.

14 Sec. 9616. (1) As used in this section:

15 (a) "Explanation" means a writing that does all of the
16 following:

17 (i) States the amount of the surplus or deficiency.

18 (ii) Provides an explanation in accordance with subsection
19 (3) of how the secured party calculated the surplus or
20 deficiency.

21 (iii) States, if applicable, that future debits, credits,
22 charges, including additional credit service charges or interest,
23 rebates, and expenses may affect the amount of the surplus or
24 deficiency.

25 (iv) Provides a telephone number or mailing address from
26 which additional information concerning the transaction is
27 available.

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1 (b) "Request" means a record that meets all of the
2 following:

3 (i) Authenticated by a debtor or consumer obligor.

4 (ii) Requesting that the recipient provide an explanation.

5 (iii) Sent after disposition of the collateral under section
6 9610.

7 (2) In a consumer-goods transaction in which the debtor is
8 entitled to a surplus or a consumer obligor is liable for a defi-
9 ciency under section 9615, the secured party shall do 1 OR both
10 of the following:

11 (a) Send an explanation to the debtor or consumer obligor,
12 as applicable, after the disposition and in accordance with both
13 of the following:

14 (i) Sent before or when the secured party accounts to the
15 debtor and pays any surplus or first makes written demand on the
16 consumer obligor after the disposition for payment of the
17 deficiency.

18 (ii) Sent within 14 days after receipt of a request.

19 (b) In the case of a consumer obligor who is liable for a
20 deficiency, within 14 days after receipt of a request, send to
21 the consumer obligor a record waiving the secured party's right
22 to a deficiency.

23 (3) To comply with subsection (1)(a)(ii), a writing must
24 provide the following information in the following order:

25 (a) The aggregate amount of obligations secured by the
26 security interest under which the disposition was made, and, if
27 the amount reflects a rebate of unearned interest or credit

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1 service charge, an indication of that fact, calculated as of a
2 specified date, that is 1 of the following:

3 (i) If the secured party takes or receives possession of the
4 collateral after default, not more than 35 days before the
5 secured party takes or receives possession.

6 (ii) If the secured party takes or receives possession of
7 the collateral before default or does not take possession of the
8 collateral, not more than 35 days before the disposition.

9 (b) The amount of proceeds of the disposition.

10 (c) The aggregate amount of the obligations after deducting
11 the amount of proceeds.

12 (d) The amount, in the aggregate or by type, and types of
13 expenses, including expenses of retaking, holding, preparing for
14 disposition, processing, and disposing of the collateral, and
15 attorney fees secured by the collateral that are known to the
16 secured party and relate to the current disposition.

17 (e) The amount, in the aggregate or by type, and types of
18 credits, including rebates of interest or credit service charges,
19 to which the obligor is known to be entitled and that are not
20 reflected in the amount in subdivision (a).

21 (f) The amount of the surplus or deficiency.

22 (4) A particular phrasing of the explanation is not
23 required. An explanation complying substantially with the
24 requirements of subsection (1) is sufficient, even if it includes
25 minor errors that are not seriously misleading.

26 (5) A debtor or consumer obligor is entitled without charge
27 to 1 response to a request under this section during any 6-month

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1 period in which the secured party did not send to the debtor or
2 consumer obligor an explanation pursuant to subsection (2)(a).
3 The secured party may require payment of a charge not exceeding
4 \$25.00 for each additional response.

5 Enacting section 1. This amendatory act takes effect
6 January 1, 2002.