

Legislative Analysis



PERFECTION OF SECURITY INTERESTS FOR TITLED VEHICLES, BOATS, ORVS, ETC.

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House Bill 4450 (H-1)
Sponsor: Rep. David Robertson

House Bill 4452 (H-1)
Sponsor: Rep. Tupac Hunter

House Bill 4451 as introduced
Sponsor: Rep. Kevin Green

House Bill 4453 as introduced
Sponsor: Rep. Andy Dillon

House Bill 4454 as introduced
Sponsor: Rep. Joe Hune
Committee: Banking and Financial Services

Complete to 3-24-05

A SUMMARY OF HOUSE BILLS 4450 (H-1), 4451, 4452 (H-1), 4453 AND 4454 AS REPORTED FROM COMMITTEE ON 3-23-05

House Bills 4450-4453 would each, generally speaking, specify that receipt by the secretary of state of a properly tendered application for a certificate of title on which a security interest is to be indicated is a perfection of a security interest in the vehicle and is equivalent to filing a financing statement under the Uniform Commercial Code with respect to the vehicle. The bills specify that when a security interest in a vehicle is perfected, it has priority over the rights of a lien creditor.

House Bill 4450 would amend the Michigan Vehicle Code (MCL 257.217) to apply to motor vehicles. House Bill 4451 would amend the Natural Resources and Environmental Protection Act (MCL 324.80320) to apply to watercraft. House Bill 4452 would amend the Mobile Home Commission Act to apply to mobile homes. House Bill 4453 would amend the Natural Resources and Environmental Protection Act (MCL 324.81108) to apply to off-road vehicles or ORVs.

House Bill 4454 would amend Article 9 of the Uniform Commercial Code to rewrite the provisions in Section 9311 regarding the perfecting of security interests in property that is subject to federal and state statutes, regulations, and treaties, including Chapter II of the Michigan Vehicle Code, Part 803 of the Natural Resources and Environmental Protection Act (NREPA), Part 811 of NREPA, and Sections 30 through 34 of the Mobile Home Commission Act. The bill appears to return the language in the section to its condition prior to the passage of Public Act 145 of 2001. The language in the bill appears to be the same as the language found in the original major revision of the UCC made by Public Act 348 of 2000. The bill would make the sections say: "Compliance with the requirements of a statute, regulation, or treaty [as described above] for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article." The underlined words are those that would be added by the bill.

BACKGROUND INFORMATION:

Article 9 of the Uniform Commercial Code was rewritten by Public Act 348 of 2000 to conform to a model designed by the American Law Institute and the National Conference of Commissioners on Uniform State Laws. Article 9, among other things, governs the granting of credit coupled with a creditor's interest in a debtor's personal property. If the debtor defaults, the creditor can take possession of and sell the property (generally called collateral) to satisfy the debt. The creditor's interest is called a "security interest." Article 9 specifies how enforceable security interests are to be created, perfected, and enforced, and who has the first rights in the collateral when competing creditors have legally enforceable interests. Perfection of a security interest occurs when a creditor establishes his or her priority over other creditors for the same collateral. Perfection usually results from the filing of a financing statement in the appropriate public record. There are exceptions, however. For example, the filing of a financing statement is not the way to perfect a security interest in personal property that is subject to state laws that require a certificate of title, such as laws governing the titling of motor vehicles, watercraft, off-road vehicles, and mobile homes. In the case of automobiles, for example, Chapter II of the Michigan Vehicle Code governs security interests rather than the UCC.

FISCAL IMPACT:

There does not appear to be any fiscal impact on the State of Michigan government.

POSITIONS:

The Department of State supports the bills. (3-23-05)

Michigan Bankers Association supports the bills. (3-23-05)

Michigan Credit Union League supports the bills. (3-23-05)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.