

SENATE BILL No. 518

September 6, 2017, Introduced by Senator SCHMIDT and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1962 PA 174, entitled "Uniform commercial code," by amending section 9601 (MCL 440.9601), as amended by 2012 PA 87.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9601. (1) After default, a secured party has the rights
2 provided in this part and, except as otherwise provided in section
3 9602, those provided by agreement of the parties. ~~A-SUBJECT TO~~
4 **SUBSECTION (8), A** secured party may do 1 or more of the following:

5 (a) ~~May reduce~~**REDUCE** a claim to judgment, foreclose, or
6 otherwise enforce the claim, security interest, or agricultural
7 lien by any available judicial procedure.

8 (b) If the collateral is documents, ~~may~~ proceed either as to

1 the documents or as to the goods they cover.

2 (2) A secured party in possession of collateral or control of
3 collateral under section 7106, 9104, 9105, 9106, or 9107 has the
4 rights and duties provided in section 9207.

5 (3) The rights under subsections (1) and (2) are cumulative
6 and may be exercised simultaneously.

7 (4) Except as otherwise provided in subsection (7) and section
8 9605, after default, a debtor and an obligor have the rights
9 provided in this part and by agreement of the parties.

10 (5) If a secured party has reduced its claim to judgment, the
11 lien of any levy that may be made upon the collateral by virtue of
12 an execution based upon the judgment relates back to the earliest
13 of the following:

14 (a) The date of perfection of the security interest or
15 agricultural lien in the collateral.

16 (b) The date of filing a financing statement covering the
17 collateral.

18 (c) Any date specified in a statute under which the
19 agricultural lien was created.

20 (6) A sale pursuant to an execution is a foreclosure of the
21 security interest or agricultural lien by judicial procedure within
22 the meaning of this section. A secured party may purchase at the
23 sale and thereafter hold the collateral free of any other
24 requirements of this article.

25 (7) Except as otherwise provided in section 9607(3), this part
26 imposes no duties upon a secured party that is a consignor or is a
27 buyer of accounts, chattel paper, payment intangibles, or

1 promissory notes.

2 (8) A PERSON SHALL NOT BEGIN TO ENFORCE A SECURITY INTEREST IN
3 COLLATERAL IF THE FARM LOAN MEDIATION ACT APPLIES TO THE DEBT ON
4 WHICH THE SECURITY INTEREST IS BASED UNLESS BOTH OF THE FOLLOWING
5 HAVE OCCURRED:

6 (A) THE PERSON HAS SERVED A MEDIATION NOTICE UNDER SUBSECTION
7 (9) ON THE DEBTOR AND A COPY ON THE DIRECTOR OF THE DEPARTMENT OF
8 AGRICULTURE AND RURAL DEVELOPMENT.

9 (B) ENFORCEMENT OF THE SECURITY INTEREST IS ALLOWED UNDER THE
10 FARM LOAN MEDIATION ACT.

11 (9) A MEDIATION NOTICE UNDER SUBSECTION (8) MUST CONTAIN THE
12 FOLLOWING NOTICE WITH THE BLANKS PROPERLY FILLED IN:

13 TO: (NAME OF DEBTOR)

14 YOU HAVE DEFAULTED ON THE (DEBT IN DEFAULT) SECURED BY
15 AGRICULTURAL PROPERTY DESCRIBED AS (REASONABLE DESCRIPTION OF
16 AGRICULTURAL PROPERTY COLLATERAL). THE AMOUNT OF THE OUTSTANDING
17 DEBT IS (AMOUNT OF DEBT)

18 AS A SECURED PARTY, (NAME OF SECURED PARTY) INTENDS TO
19 ENFORCE THE SECURITY AGREEMENT AGAINST THE AGRICULTURAL PROPERTY
20 DESCRIBED ABOVE BY REPOSSESSING, FORECLOSING ON, OR OBTAINING A
21 COURT JUDGMENT AGAINST THE PROPERTY.

22 YOU HAVE THE RIGHT TO HAVE THE DEBT REVIEWED FOR MEDIATION UNDER
23 THE FARM LOAN MEDIATION ACT. IF YOU REQUEST MEDIATION, A DEBT THAT
24 IS IN DEFAULT WILL BE MEDIATED ONLY ONCE. IF YOU DO NOT REQUEST
25 MEDIATION, THIS DEBT WILL NOT BE SUBJECT TO FUTURE MEDIATION IF THE
26 SECURED PARTY ENFORCES THE DEBT.

27 IF YOU PARTICIPATE IN MEDIATION, THE DIRECTOR OF THE DEPARTMENT OF

1 AGRICULTURE AND RURAL DEVELOPMENT WILL PROVIDE AN ORIENTATION
2 MEETING AND A FINANCIAL ANALYST TO HELP YOU PREPARE FINANCIAL
3 INFORMATION. IF YOU DECIDE TO PARTICIPATE IN MEDIATION, IT WILL BE
4 TO YOUR ADVANTAGE TO ASSEMBLE YOUR FARM FINANCE AND OPERATION
5 RECORDS AND TO CONTACT THE DIRECTOR OF THE DEPARTMENT OF
6 AGRICULTURE AND RURAL DEVELOPMENT OR AN MSU EXTENSION COUNTY OFFICE
7 AS SOON AS POSSIBLE. MEDIATION WILL BE AN ATTEMPT TO ARRIVE AT AN
8 AGREEMENT FOR HANDLING FUTURE FINANCIAL RELATIONS.
9 TO HAVE THE DEBT REVIEWED FOR MEDIATION, YOU MUST FILE A MEDIATION
10 REQUEST WITH THE DIRECTOR WITHIN 14 DAYS AFTER YOU RECEIVE THIS
11 NOTICE. THE MEDIATION REQUEST FORM MAY BE OBTAINED FROM THE
12 DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT'S WEBSITE OR ANY
13 MSU EXTENSION COUNTY OFFICE.

14 FROM:(NAME AND ADDRESS OF SECURED PARTY)....

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.

17 Enacting section 2. This amendatory act does not take effect
18 unless Senate Bill No. 517

19 of the 99th Legislature is enacted into law.