

ACT 79

H. B. 356.

A Bill for an Act Relating to the Uniform Commercial Code: Amending Certain Provisions in Said Code and Amending Provisions in the Revised Laws to Clarify, Harmonize and Conform the Same to the Uniform Commercial Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Uniform Commercial Code (Act 208, Session Laws of Hawaii 1965, as amended by Act 18, Session Laws of Hawaii 1966) is amended in the following respects:

(a) By amending section 2-323(1) to read:

“(1) Where the contract contemplates overseas shipment and contains a term of C.I.F. or C.& F. or F.O.B. vessel, the seller unless otherwise agreed must obtain a negotiable bill of lading stating that the goods have been loaded on board or, in the case of a term C.I.F. or C.& F., received for shipment.”

(b) By amending section 9-204 by deleting subsection (4)(a) and designating (4) (a) to be “Reserved.”

(c) By amending section 9-401 to read:

“Section 9-401. Place of filing. (1) The proper place to file in order to perfect a security interest is with the registrar of conveyances, bureau of conveyances.

(2) (Reserved).

(3) (Reserved).

(4) If collateral is brought into this State from another jurisdiction, the rules stated in section 9-103 determine whether filing is necessary in this State.”

(d) By amending section 9-404(2) to read:

“(2) The filing officer, on presentation of such a termination statement, must record and index it in the manner provided in chapter 343.”

(e) By amending the last two sentences in section 9-405(1) to read:

“On presentation to the filing officer of such financing statement the filing officer shall process the same as provided in section 9-403(4). The fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be \$2 per page.”

(f) By amending section 9-405(2) to read:

“(2) A secured party may assign of record all or a part of his rights

under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record. Such statement shall set forth the name of the secured party of record and the debtor, the name and address of the assignee, the date of filing of the financing statement and the book and page number and shall contain a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. The filing officer, upon presentation of such a separate statement, shall record and index such separate statement in the manner provided in chapter 343. The fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be \$2 per page."

(g) By amending the third sentence in section 9-406 to read:

"The filing officer, upon presentation of such statement, shall record and index such statement in the manner provided in chapter 343."

(h) By amending section 9-408 by deleting subsection (1), (2) and (3) and amending the caption so that the section will read:

"Section 9-408. Combined real estate and fixture mortgage. Provision for a security interest in goods which are or are to become fixtures may be included in a mortgage or other like instrument transferring an interest in the real estate concerned. If such instrument contains a designation: 'Mortgage (or other appropriate designation) and Financing Statement', complies with the requirements for a financing statement specified in section 9-402, with the exception of the requirement of the secured party's signature, is recorded as an instrument affecting real estate in the manner provided in chapter 343 and has the appropriate recording fee paid for it, such recording and payment of fee shall be effective filing under this part without the necessity of any separate filing or payment of any separate fee under this part."

SECTION 2. All filings of financing statements, security agreements, amendments, continuation statements, termination statements, statements of assignments and statements of release relating to security interests in goods which are or are to become fixtures and which concern registered land, made on or after January 1, 1967 and prior to the effective date of this Act, shall be processed by the filing officer in the manner provided in section 9-403(4) of the Uniform Commercial Code and shall be recorded and indexed and shall be effective for all purposes as though the provisions of sections 9-401, 9-404, 9-405, 9-406 and 9-408 of the Uniform Commercial Code, as amended by this Act, had been in effect upon the date of such filing.

SECTION 3. Section 160-10(e), Revised Laws of Hawaii 1955, as amended, is hereby amended to read:

"(e) Until the treasurer has issued the new certificate of registration and certificate of ownership as in subdivision (d) provided, delivery of such vehicle shall be deemed not to have been made and title thereto shall be deemed not to have passed, and the intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose, notwithstanding

any provision of the Uniform Commercial Code; provided, that the Uniform Commercial Code shall exclusively control the attachment and perfection of a security interest in such vehicle.”

SECTION 4. Section 180-53, Revised Laws of Hawaii 1955, is amended by amending the third paragraph thereof to read:

“First lien mortgages. Every real estate loan shall be secured by a mortgage or other instrument constituting a first lien, or the full equivalent thereof, upon the real estate securing the loan, according to any lawful or well recognized practice, which is best suited to the transaction. Any such instrument, constituting a first lien, is herein termed a ‘mortgage.’ Such mortgage shall provide specifically for full protection to the association with respect to usual insurance risks, taxes, assessments, other governmental levies, maintenance and repairs. It may provide for an assignment of rents, which assignment shall be valid. It may also provide that household fixtures and appliances shall be a portion of the security for such loan. Except as otherwise provided in Article 9, Secured Transactions, of the Uniform Commercial Code, every such mortgage or other instrument shall create, and preserve to the association a first lien, which shall equally secure the original loan and each and every subsequent advance and loan in any amount and for any purpose by the association to such borrower. No subsequent loan to such borrower by any other person shall establish an intervening lien, which shall disturb the first lien of such association as security for every advance and loan made to such borrower. All such mortgages shall be recorded in accordance with the law of this State.”

SECTION 5. Section 201A-32, Revised Laws of Hawaii 1955, is amended to read:

“**Section 201A-32. Security interest in seller governed by Uniform Commercial Code.** Every provision in a retail installment contract reserving a security interest in the seller after possession of the goods is delivered to the buyer shall be governed by the Uniform Commercial Code, except as in this chapter otherwise provided.”

SECTION 6. Material to be deleted is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 7. This Act shall take effect upon its approval.

(Approved May 15, 1967.)

* Edited accordingly.