

ACT 9

S. B. 273.

A Bill for an Act Amending Chapter 160, Revised Laws of Hawaii 1955, as Amended, Relating to Security Interests in Motor Vehicles.

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

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of facts constituting such urgency:

Section 160-10 (e), Revised Laws of Hawaii 1955, as amended, by Act 79, Session Laws of Hawaii 1967, provides that "the Uniform Commercial Code shall exclusively control the attachment and perfection of a security interest" in a motor vehicle.

Under the Uniform Commercial Code, the usual method of perfection of security interests is by recordation in the Bureau of Conveyances. Consequently the above quoted section 160-10 (e) provision can be misconstrued as prescribing such recordation for perfection of security interests in motor vehicles. In actuality, the Uniform Commercial Code provision intended to be referred to are those that (1) make an exception to the usual perfection method of recordation and prescribe registration with the county treasurer as heretofore pursuant to chapter 160, Revised Laws of Hawaii 1955, in order to perfect a security interest in a motor vehicle which is not inventory, and (2) prescribe recordation with the bureau of conveyances in order to perfect a security interest in a motor vehicle that is inventory. (Uniform Commercial Code, sections 9-302 (3) (b) and 9-302 (4).)

In view of the ready susceptibility of section 160-10 (e) to an opposite unintended construction and the large volume of commerce in motor vehicles, in which certainty of security interests is very important, it is urgent and in the public interest that section 160-10 (e) be clarified.

SECTION 2. Section 160-10 (e), Revised Laws of Hawaii 1955, as amended, is further 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 a security interest in a motor vehicle shall be perfected as provided in the Uniform Commercial Code, sections 9-302(3) (b) and 9-302(4), and that the validity, attachment, priority and enforcement of such security interest shall be governed by Article 9 of said Code."

SECTION 3. Material to be repealed 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 4. This Act shall take effect upon its approval.

(Approved April 23, 1968.)

* Edited accordingly.