

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

January 30, 1985

The twelfth meeting of the Business & Industry Committee met in Room 410 of the Capitol Building. The meeting was called to order at 10:05 a.m. by Chairman Mike Halligan.

ROLL CALL: All committee members were present.

CONSIDERATION OF SENATE BILL 206: Senator Jack Haffey, Senate District 33 from Anaconda, introduced this bill by request from the motor vehicle division of the Department of Justice. This bill would revise the method of filing security interests in motor vehicles and exempt vehicles constituting dealer inventory from perfection of security interests by notation on the title.

PROPOSERS: Mr. Larry Majerus, Administrator of the Motor Vehicle Division of the Department of Justice gave the committee some amendments they would like to see proposed and added into the bill. The first amendment adds snow-mobiles (EXHIBIT 1) and the second amendment cleans up some drafting errors that were made. (EXHIBIT 2) He explained the first part of the bill brings the motor vehicle code in line with the U.C.C. Code or Title 30. In 1983, Title 30 was amended and that exemption was never noted in Title 61. This would provide this exclusion. The second part of the bill would simplify the method of filing a security interest for motor vehicles. Presently the lien document must be filed and sent to Deer Lodge with the title. He explained some of the problems of trying to deal with every piece of information by many different people, making sure each description matches exactly, etc. With this bill you would just file a notice that would have the information on it and sign it which would then authorize the motor vehicle division to place this lien on a particular vehicle. It would simplify greatly what has to be filed with their office. Les Alke, from the Montana Bankers Association feels it would simplify filings and reduce the flow of documents and therefore they support this bill. (EXHIBIT 3) Tom Curruthers, from First Bank of Helena, Montana, stated they also support this bill. He explained the primary purpose is to put other creditors on notice that they have a security interest on a vehicle. (EXHIBIT 4)

OPPOSERS: There were no opponents to Senate Bill 206.

Questions from the committee were then called for. Senator Christiaens wondered about the assessment for not filing promptly and was told it was hard to enforce. Senator Halligan asked about the time period for destruction of documents and was informed it was 8 years.

The hearing was closed on Senate Bill 206.

CONSIDERATION OF HOUSE BILL 43: Rep. Hal Harper, District 44, Helena, introduced this bill at the request of local people involved in computer software technology. This bill would adopt the Uniform Trade Secrets Act which 6 states have already adopted. It would deal specifically with patterns, formulas and such things as computer software. This bill contains definitions and remedies for misappropriations of this type of information, provides for injunctive relief, exemplary or punitive damages and damages for the actual loss suffered from such misappropriation. It also makes a provision that a court can order reasonable means to protect the trade secret for a reasonable length of time. He noted two amendments were made by the House committee before transferring it to the Senate. One dealt with language and the other struck the amount of exemplary damages that can be collected.

PROPOSERS: Mr. Bill Leaphart, Attorney from Helena, explained the bill would cover those areas not covered by the U.S. patent office without the cumbersome process of going through all the red tape involved. He also noted this act has been adopted by 7 states now and if all states adopt this it will be applied uniformly throughout every state. (EXHIBIT 5) Randy Link, from Link Systems, Helena, a software development company, explained how easily a system can be tampered with along the way and how much they need the protection that would be provided by this bill. (EXHIBIT 6) Greg McCurdy, of Data West, Inc. also expressed the same sentiments and urged the committee's consideration. (EXHIBIT 7) Carl Englund, Attorney from Missoula, representing the Montana Trial Lawyers, added the only law we currently have concerning computer software technology is a court ruling handed down by Judge Battin. He feels this bill might eliminate the confusion there might be now should litigation result.

OPPOSERS: There were no opponents to House Bill 43.

Questions were then called for from the committee. Senator Christiaens wanted to know if this would eliminate some of the requirements of going through the U.S. patent office and was told it would not. Senator Neuman wanted to know if this was a general practice to set the cost of attorney fees and injunctive relief. Carl Englund replied it was not common for attorney fees but for injunctive relief it was generally in the power of the court to keep this knowledge secret. He felt the courts should be aware that a public hearing had been held or it could defeat the very purpose of the legislation. Senator Thayer was concerned about the open endedness of the wording of punitive damages. Rep. Harper explained the House felt that it was good to limit it to twice the amount of damages

for actual loss. Senator Halligan wanted to know what types of protective measures the computer software industry has now and was told they have what is known as shrink wrap copy right. Rep. Harper closed the hearing on House Bill 43. Senator Dave Fuller will carry this bill on the Senate floor.

CONSIDERATION OF SENATE BILL 192: Senator Chris Christiaens, District 17, Great Falls, is sponsoring this bill. He explained this bill was similar to one passed last session and would correct an error which reduced the time limit from 20 days to 10 for filing purchase money security interests under the U.C.C. He feels this was an oversight and that the extra time is very necessary.

PROPOSERS: Mr. Blake Wordal, representing the Montana Hardware and Implement Dealers Association, requested this bill and they support its passage. (EXHIBIT 8)

OPPOSERS: There were no opponents to Senate Bill 192.

The hearing was closed on Senate Bill 192.

DISPOSITION OF SENATE BILL 192: Senator Boylan made a motion that Senate Bill 192 DO PASS. Motion carried.

CONSIDERATION OF SENATE BILL 206: Mary McCue agreed that some language changes are necessary in order to clarify the first amendment proposed. She noted there should be a change in the bill from chapter 4 to chapter 9. Senator Goodover MOVED to ADOPT THE AMENDMENTS on the language changes. This motion carried. Discussion then followed on the amendment to insert snowmobiles into the bill. It was decided to check into all recreation vehicles first before acting on this amendment.

CONSIDERATION OF SENATE BILL 146: This bill was passed January 23 by the committee with some amendments. The bill is ready for second reading and Senator Fuller wanted to discuss bringing the bill back to committee for further discussion before taking it to the floor. Chairman Halligan made a MOTION to bring Senate Bill 146 back to Business & Industry committee. The motion carried.

The meeting was adjourned at 11:15 a.m.



Chairman

ROLL CALL

BUSINESS & INDUSTRY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1-30

SENATE
SEAT
#

NAME	PRESENT	ABSENT	EXCUSED
Chairman Halligan	X		
V-chrm. Christiaens	X		
Senator Boylan	X		
Senator Fuller	X		
Senator Gage	X		
Senator Goodover	X		
Senator Kolstad	X		
Senator Neuman	X		
Senator Thayer	X		
Senator Williams	X		

Each day attach to minutes.

EXHIBIT 1
BUSINESS & INDUSTRY
JANUARY 30, 1985

Amend Title:

Insert "and snowmobiles" in
Line 7, after "motor vehicles"

Insert "23-2-612," in
Line 10, before "61-3-103 and 61-3-202, MCA."

Page 7, line 5,

Insert section:

23-2-612. Transfer of interest. (1) Except as provided in subsection (3), upon a transfer of any certificate of ownership to a snowmobile registered as required under the provisions of this part, the person whose title or interest is to be transferred shall write his signature with pen and ink upon the certificate of ownership issued for the snowmobile in the appropriate space provided upon the reverse side of the certificate, and such signature shall be acknowledged before a notary public.

(2) Within 20 calendar days thereafter, the transferee shall make application for transfer of the certificate of ownership so endorsed with the county treasurer of the county in which the transferee resides and also make application for registration of the snowmobile. The county treasurer shall forward the application to the division of motor vehicles, which shall file the same upon receipt thereof. No certificate of ownership may be issued by the division until the outstanding certificates are surrendered to that office or their loss established to its reasonable satisfaction. The county treasurer shall collect a fee of \$3 for each application for transfer of ownership, of which \$2 shall be forwarded to the division of motor vehicles for deposit in the motor vehicle recording account of the state special revenue fund.

(3) A purchaser of a new or used snowmobile from a licensed snowmobile dealer has a grace period of 20 calendar days from the date of purchase to register the snowmobile, make application for a certificate of ownership, and obtain a decal indicating that the fee in lieu of property tax has been paid on the snowmobile for the current year. It is not a violation of this part or any other law for the purchaser to operate a newly acquired snowmobile without a certificate of ownership, certificate of registration, and a decal during the 20-day period. During this period the sticker, provided for in subsection (4), shall remain affixed to the snowmobile.

(4) Prior to the delivery of the snowmobile to the purchaser, the dealer shall issue and affix to the snowmobile a sticker (in a form to be prescribed by the division of motor vehicles). The sticker shall contain the name and address of the purchaser, the date of sale, the name and address of the dealer, and a description of the snowmobile, including its serial number. The dealer shall keep a copy of the sticker for his records and shall send a copy of the sticker to the division.

(5) The provisions of subsection (2) of this section do not apply in the event of the transfer of a snowmobile to a duly licensed snowmobile dealer intending to resell the snowmobile and who operates it only for demonstration purposes, but every such dealer, upon transferring such interest, shall deliver the certificate of ownership with an application for a new certificate executed by the new owner in accordance with the provisions of this part. The division, upon receipt of the certificate of ownership and application for a new certificate, ~~together with the conditional sales contract or other lien,~~ containing notice of a security interest,

if any, shall issue a new certificate of ownership together with a statement of any conditional sales contract, mortgage, or other lien.

SENATE BILL 206

AMENDMENT TO SENATE BILL 206

1. Page 1, lines 17 & 18.

Following "unless"

Strike: "the security agreement or other lien instrument that creates the"

Insert: "a lien filing form, approved by the division, creating a"

Page 1, lines 18 and 19.

Following "security interest"

Strike: "or a true copy thereof certified by a notary public"

2. Page 2, line 18.

Following: "chapter"

Insert: "9, part"

SENATE BILL 206

"AN ACT REVISING THE METHOD OF FILING SECURITY INTERESTS IN MOTOR VEHICLES; EXEMPTING VEHICLES CONSTITUTING DEALER INVENTORY FROM PERFECTION OF SECURITY INTERESTS BY NOTATION ON TITLE; AMENDING SECTIONS 61-3-103 AND 61-3-202, MCA."

Senate Bill 206 does two things:

First, it exempts vehicles in dealer inventory from perfection of security interest by notation on a motor vehicle title, which is required under section 61-3-202, MCA.

In the 1983 session, Senate Bill 138 amended 30-9-302(3) to exempt dealer inventory for filing of a financial statement and instead is filed under 30-9-401 in the office of the Secretary of State.

Second, this bill changes the method of filing security interest for motor vehicles.

Montana law, Section 61-3-103, MCA, requires that the lien document accompany the application for title when submitted to the Motor Vehicle Division.

Senate Bill 206 would not require the lien document to be sent to the division, but only a statement (which can be the statement on the title) stating that the "vehicle is subject to the security interest" as shown.

Title clerks must review the lien document to determine:

- (1) if the **vehicle description** matches the vehicle shown on the title,
- (2) if other vehicles are listed on the lien document that all **the titles** have been submitted,
- (3) that the **names on the lien document** are exactly the same as the names on the titles, verify the amounts,
- (4) in the case of a retail installment contract being used, that the dealer assignment is completed.

These clerks must be trained to recognize many different types of lien documents....security agreements, simple interest notes, retail installment contracts, chattel mortgages, installment notes, UCC forms, etc.

There are approximately 130,000 liens filed each year.

Many lien documents have to be returned with the titles to lienholders and county treasurers because of missing information or errors.

The division rarely has to refer to a lien document once it is filed.

(This sheet to be used by those testifying on a bill.)

NAME: Les Aike DATE: 1/29/85

ADDRESS: #1 Last Chance Gulch

PHONE: 443-4122

REPRESENTING WHOM? Mont. Bankers Ass'n

APPEARING ON WHICH PROPOSAL: SB 206

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENT:

EXHIBIT 3
BUSINESS & INDUSTRY
JANUARY 30, 1985

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: Tom Committee DATE: 1-30-84

ADDRESS: First Bank Helena, Helena, MT.

PHONE: 442-2540

REPRESENTING WHOM? First Bank Helena

APPEARING ON WHICH PROPOSAL: SB 206

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENT: UCC-1 - purpose is
to put other creditors on notice
that we have a security interest
in the auto.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 4
BUSINESS & INDUSTRY
JANUARY 30, 1985

(This sheet to be used by those testifying on a bill.)

NAME: W. W. Leaphart DATE: 1/30/85

ADDRESS: 1 N. East Chance Helena

PHONE: 442-4930

REPRESENTING WHOM? Randy Link

APPEARING ON WHICH PROPOSAL: HB 43

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

EXHIBIT 5
BUSINESS & INDUSTRY
JANUARY 30, 1985

(This sheet to be used by those testifying on a bill.)

NAME: RANDY LINK DATE: 1/30/85

ADDRESS: 1800 WILDER

PHONE: 443-3454

REPRESENTING WHOM? LINK SYSTEMS

APPEARING ON WHICH PROPOSAL: HB 43 TRAFFIC SIGNAL

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 6
BUSINESS & INDUSTRY
JANUARY 30, 1985

(This sheet to be used by those testifying on a bill.)

NAME: GREGG L. McCURDY DATE: 1-30-85

ADDRESS: 920 STRAWBERRY

PHONE: 442-3070

REPRESENTING WHOM? DATA WEST, INC.

APPEARING ON WHICH PROPOSAL: HB 43

DO YOU: SUPPORT? YES AMEND? _____ OPPOSE? _____

COMMENT: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

EXHIBIT 7
BUSINESS & INDUSTRY
JANUARY 30, 1985



**MONTANA
HARDWARE &
IMPLEMENT
ASSOCIATION**

3087 N. Montana Avenue
P.O. Box 4459
Telephone 406/442-1590
Helena, Montana 59604

the advocate for Montana and Northern Wyoming retail hardware and farm implement dealers

TESTIMONY ON SENATE BILL 192

Chairman Halligan and members of the Senate Business and Industry Committee, I am Blake Wordal representing the Montana Hardware and Implement Association. Our Association requested this legislation and fully supports its passage.

Two years ago, the time limit for filing security interests was 20 days. The Legislature inadvertently changed the filing requirements to 10 days with the passage of Senate Bill 138 which was a 160 page bill that adopted the 1972 and 1977 proposed amendments by the American Law Institute to make Montana's Uniform Commercial Code uniform. I say inadvertently changed because 29 states have increased the time limit and because changing the time limit was not the intention of the bill's sponsor, who is a cosponsor of SB 192.

The problem with the ten day time limit is merely with the postal service. Agricultural creditors are particularly impacted by postal delays in mailing to rural areas. I am sure you can understand their concerns when such a delay involving an \$80,000 piece of farm machinery invalidates their filing.

I have attached supporting materials from farm equipment manufacturers to my testimony for your review.

**EXHIBIT 8
BUSINESS & INDUSTRY
JANUARY 30, 1985**



P.O. BOX 512 • MILWAUKEE, WISCONSIN 53201/414-475-2000

December 19, 1984

Mr. Blake Mordahl
Montana Hardware and
Implement Dealers Assoc.
P.O. Box 4459
Havannah MT 59604

Dear Mr. Mordahl:

RE: UNIFORM COMMERCIAL CODE FINANCING
STATEMENT FILING - 10/20 DAYS

This is in response to our telephone conversation of December 18, 1984. You told me that you have every hope of amending Montana statutes, and in particular the Montana version of the Uniform Commercial Code, Article 9 with respect to the time within which a Financing Statement can be filed and a purchase money security interest in collateral obtained. On March 31, 1979 Montana enacted a 20 day filing statute. Inadvertently, this was permitted to revert to a 10 day filing statute effective October 1, 1983.

You told me during our conversation that you now hope to have legislation introduced to reenact the 20 day filing statute in Montana and have asked me for background information. Enclosed, as you requested, is information which perhaps will be of help.

1. Map of the United States showing those states which have amended their statutes to permit a financing statement filing time of greater than 10 days. Date of the passage of such legislation is also shown.
2. Form letter which has been used by the Credit Committee of the Farm and Industrial Equipment Institute (FIEI) when attempting to persuade state legislators to increase the filing time.
3. Letters and other material giving background information with respect to the need for this increased filing time which are dated to 2/11/77, 2/10/78, and 1/16/81.

Mr. Blake Mordahl

Page 2

December 19, 1984

During our conversation, you told me that amending legislation has already been prefiled in Montana. You also indicated that you hoped such amending legislation would be introduced in the next session of the legislature sometime during the week of January 7, 1985.

Please let me know if you will need additional information or background material with respect to this project. Good luck with your efforts, and please let me know if we can be of further help in this matter.

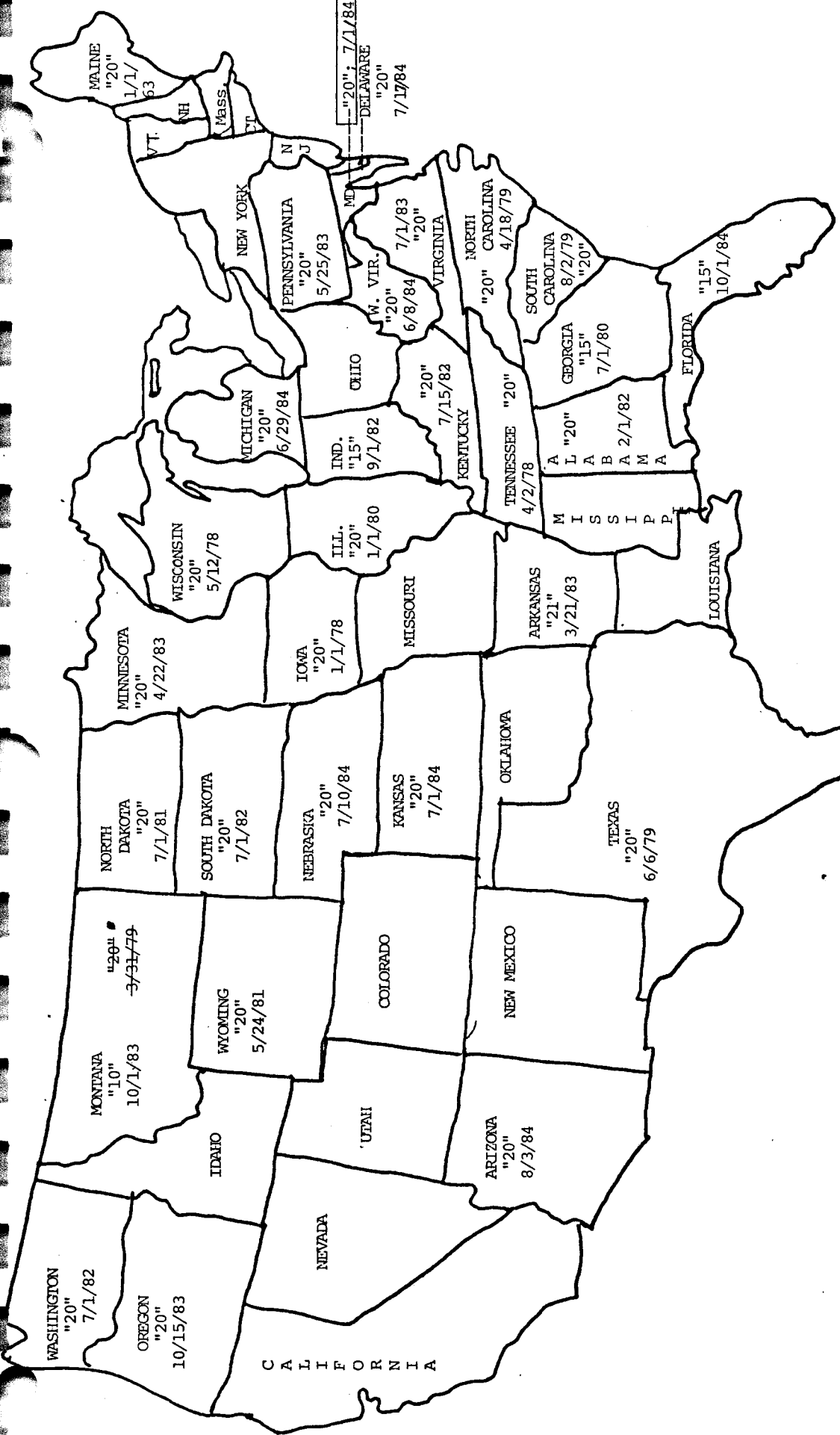
Very truly yours,

A handwritten signature in black ink, appearing to read "J. Stewart Smith". The signature is stylized with a large, sweeping initial "J" and a long, horizontal stroke extending to the right.

J. Stewart Smith
Assistant General Counsel

Enclosures

cc: Members Credit Committee (FIEI)
R. F. Ellis
L. C. Bornemeier
E. E. Egenberger



Subject: Extension of Uniform Commercial
Code Financing Statement Filing
Period

Dear

I am a member of the Credit Committee of the Farm Industrial Equipment Institute (F.I.E.I.) and am writing to you in that capacity. The F.I.E.I. is a National Trade Association of more than 400 companies that manufacture and sell equipment either directly or through dealer organizations throughout the United States. Many of the F.I.E.I. companies such as Allis Chalmers, Avco New Idea, J. I. Case, Clark Equipment, John Deere, Ford Motor, International Harvester, Massey Ferguson, Sperry New Holland, Steiger Tractor and Versatile offer retail financing to the purchasers of our equipment.

The purpose of this letter is to explain our concern with the 10 day limitation for filing a financing statement under the Uniform Commercial Code. This 10 day period begins with the delivery date of the equipment to be financed. In many cases this causes no problems, however if we are involved in mailing time, weekends or holidays or a rush or load of paperwork many times the 10 day period is impossible to meet. In the past few years, a number of states have addressed this problem and extended the filing time limit from 10 to 20 days. A map showing the states that have made this change is attached for your review.

Section 440.9301(2) and section 440.9312(4) of the Uniform Commercial Code are normally the areas that relate to this time limitation. We are not attempting to get an unfair advantage over the buyer or any other lender, but only wish to have a reasonable time within which to complete the required filing of the Uniform Commercial Code financing statement (UCC-1).

We would appreciate any help and consideration you could give to sponsoring and or supporting a bill to change the time limit to 20 days within your state. If there are any further questions, comments or information that you would like, please do not hesitate to contact me.

Sincerely,


John P. Hanrahan

President

JPH:lr

Representative Peggy Bunting
944 Lewis Street
Boise, ID 83702

Senator Neil H. Arasmith
State House
Topeka, KS 66612

Representative Harold Duyck
State House
Topeka, KS 66612

Senator Edward Ellington
P.O. BOX 405
105 N. State Street
Jackson, MS 39205



Massey-Ferguson Inc.

1901 Bell Avenue, Des Moines, Iowa 50315
Tel. 515/247-2100

Law
Department

January 16, 1981

L. Ron Modlin, Esq.
Chairman, FIEI
Credit Committee
Deere & Company
John Deere Road
Moline, Illinois 61265

Dear Mr. Modlin:

This letter will summarize activity over the past three years concerning the legislation changing the time allotted for filing a "purchase money security interest" from 10 days, as originally provided in section 9-301(2) and 9-312(4) of the Uniform Commercial Code, to 20 days. To date the change has been accomplished in nine states: Alabama, Illinois, Iowa, Montana, North Carolina, South Carolina, Tennessee, Texas and Wisconsin. Georgia adopted a 15-day time period last year. Maine had changed to 20 days in 1969.

In 1977 and 1978, the FIEI Credit Committee became interested in advancing the 20-day change as a committee project. However, past experience has shown that the most effective strategy in securing passage has been a low-key approach wherein one or several companies with a good local legislative contact, such as a law firm in a state capitol which locally handles credit litigation for a member company, make contact with a state legislator who is attuned to commercial law matters and have the bill introduced as a non-controversial, "housekeeping" measure. The bill is positioned as a change required due to the uncertain postal system which must be utilized to send filings to geographically dispersed recording offices. Agricultural creditors are particularly impacted by postal delays in mailing to rural areas and consequently excellent

L. Modlin, Esq.
Page Two
January 16, 1981

proponents with first-hand experience of filing delays. It is not hard to understand how a late filing covering an \$80,000 item of equipment occasioned by poor mail service can have disastrous results. Despite expeditious processing of contracts, the ten-day period is often insufficient when the mails must be routinely utilized.

So far bills have been passed based on the individual efforts of member companies without FIEI identification. However, the committee has served as an excellent means of communication for coordination of activity and resourcing ideas and assistance in particular situations. Attempts to present this legislation to other interest groups for broader based implementation has not proven effective. Therefore the existing "one state at a time/individual attention" strategy would appear to remain the most effective.

I am presently working in a low-key manner through a state association in Oregon in an attempt to have a bill introduced in Oregon this session. Otherwise I am not aware of any present activity.

At the last meeting of the FIEI Credit Committee, members were asked to suggest states in which they had logical contacts for possible introduction of a 20-day bill. I am not aware of any responses as yet, but this is no doubt partially due to the holidays and the press of more urgent matters for most of us.

Enclosed are copies of the simple bill form used in Iowa and other states to accomplish the 20-day amendment, a letter to the Uniform Commissioners positioning the need for legislation and an excellent written statement submitted to a Michigan legislative committee in 1978 by Mr. Stewart Smith of Allis Chalmers (the only occasion in which FIEI support was formally identified).

I feel that this project is particularly worthwhile for two reasons: it produces tangible results of practical day-to-day benefit to our companies and it seems to be a genuine improvement in the commercial law which is fair to all.

L. Modlin, Esq.
Page Three
January 16, 1981

If the reluctance to tamper with "uniformity" can be overcome there has generally been little opposition encountered.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'D. D. Wilson', with a long, sweeping horizontal line extending to the right.

D. D. Wilson
Attorney

DDW:ms

Enclosures



**ALLIS-CHALMERS
CREDIT CORPORATION**

P.O. BOX 512 • MILWAUKEE, WISCONSIN 53201/414-479-2000

February 10, 1978

Chairman Michigan Senate Committee
on Corporations & Economic Development

Mr. Chairman and Member of the Committee:

My name is Stewart Smith. I am a member of the legal department of Allis-Chalmers Credit Corporation.

I am appearing before you today on behalf of the FIEI Credit Legislation Committee to ask you to support an amendment to Senate Bill 1168 which would change Sections 440.9301(2) and 440.9312(4) of the Michigan Uniform Commercial Code. These sections are part of the chapter on secured transactions and relate to the time within which liens can be filed.

The Farm and Industrial Equipment Institute (FIEI) is a trade association with 225 members, the vast majority of whom do business in Michigan. Approximately 90 percent of the farm equipment manufactured in the U.S. is produced by FIEI member companies. Under the present Michigan law, a person who advances credit in connection with the sale of equipment can get what amounts to a first mortgage on that equipment, provided that person files a Uniform Commercial Code Financing Statement (commonly known as a UCC-1) within 10 days after the purchaser takes possession of the equipment. FIEI's amendment would extend the 10 day filing period to 20 days

Due to the high costs of the equipment involved and the demand for credit from dealers and farmers, FIEI members are particularly anxious to extend the 10 day filing limitation for purchase money security interests. Unfortunately, it is an all too common occurrence to receive filing office notification that a Financing Statement has not been filed within 10 days after the debtor received possession of the collateral. In most instances, this problem occurs due to circumstances not wholly within the secured party's control, such as the completely unpredictable delays in today's mail deliveries.

Obviously, the 10 day period is sufficient for processing a filing among local parties where it is not necessary to make use of the mails. However, in the case of those businesses conducting nationwide equipment financing operations, the 10 day filing requirement is a serious and unfair handicap.

Based on its day to day experience, Allis-Chalmers Credit Corporation, a Wisconsin corporation, headquartered in Milwaukee, would also urge passage of this measure. Allis-Chalmers is engaged in financing the retail sale of farm, industrial and construction equipment by over 2,000 dealers located in rural areas and urban communities throughout the United States. Over 75 of these Allis-Chalmers dealers are located in Michigan.

The procedure followed by Allis-Chalmers is very typical of procedures followed by others financing the retail

sale of equipment. For example, a dealer in Michigan, when selling a piece of equipment to a Michigan farmer, will offer to have such purchase financed by Allis-Chalmers Credit Corporation. The dealer would then complete the necessary documentation, including the financing statement. He then has the documents signed by the Michigan farmer and mails them to the regional office of Allis-Chalmers. On the same day, the dealer delivers the equipment to the farmer, which act starts the present 10 day filing period running. In Allis-Chalmers case, the regional office is in Chicago and generally 2 to 3 days elapse before the mailed documents are delivered to that office from the Michigan dealer. The Chicago office processes about 5,000 credit applications each year. Therefore, another 2 to 3 days are required for that office to evaluate and accept the contract documents and prepare and mail the UCC-1 financing statement to the proper filing office which, in Michigan, is the Register of Deeds in the county where the farmer lives. Another 2 to 3 days are consumed in delivery to the filing office, meaning that the 10 day filing limit has nearly been exhausted, assuming optimum handling and processing. Taking into consideration the frequent delays encountered with today's mails, it is evident that 10 days is likely to be insufficient time in a great many cases.

Allis-Chalmers prepares monthly reports listing those customers where the financing statement was not filed

within 10 days. The December 31, 1976 report showed 316 such accounts, while the December 31, 1977 report listed 378.

Allis-Chalmers loss exposure because of such late filings was \$5,059,577 at December 31, 1976 and \$6,226,889 at December 31, 1977. Late filings in Michigan alone numbered 12 at December 31, 1976 with a loss exposure of \$104,303 and 11 at December 31, 1977 with a loss exposure of \$111,398.

FIEI and Allis-Chalmers strongly recommend that SB1168 be amended to extend the 10 day filing requirement to 20 days. We believe the amendment is noncontroversial and is detrimental to none. The members of FIEI view the extension as a "housekeeping" matter which would align the original Uniform Commercial Code of 1952 with postal realities of 1978.

We commend this Committee for reviewing SB1168. We urge the Committee to favorably report SB1168 with the recommended amendments.

Thank you.

Very truly yours,

J. Stewart Smith
Counsel



Massey-Ferguson Credit Corporation

1901 Bell Avenue

Des Moines, Iowa 50315

February 11, 1977

American Law Institute
National Conference of Commissioners
on Uniform State Laws
1155 East 60th Street
Chicago, Illinois 60637

Gentlemen:

Massey-Ferguson Credit Corporation is engaged in financing the retail purchase of farm, industrial and construction equipment as well as consumer products as the assignee of retail installment contracts received from over 2,000 Massey-Ferguson dealers located in rural areas and urban communities throughout the United States.

The purpose of this letter is to explain our concern over the 10 day limitation in perfecting the purchase money security interest as set forth in the following sections of the Uniform Commercial Code:

Section 9301(2)

"If the secured party files with respect to a purchase money security interest before or within ten days after collateral comes into possession of the debtor, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time security interest attaches and the time of filing."

Section 9312(4)

"A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within ten days thereafter."

Unfortunately it is an all too common occurrence to receive filing office confirmation that a UCC-1 financing statement has not been filed within ten days of the date on which the debtor received possession of the collateral. In most instances, this problem occurs due to circumstances not wholly within the secured party's control.

American Law Institute

February 11, 1977

Page Two

Assuming that the seller completes the necessary documentation, including the UCC-1, on the day possession of the equipment is passed to the debtor, two to three days are consumed in mail delivery to the creditor's office, another two to three days are required to evaluate and accept the security agreement, prepare and mail the transmittal of the financing statement and then another two to three days are consumed in delivery to the filing office, the ten day limit has nearly been exhausted, assuming optimum processing. Taking into consideration the completely unpredictable delays encountered with today's mails, it is evident that ten days is likely to be insufficient in a great number of circumstances, depending upon distances, mail facilities, etc.

Obviously the ten day period is sufficient for processing a filing among local parties where it is not necessary to make use of the mails. However, in the case of those businesses conducting nationwide equipment financing operations, the ten day filing requirement is a serious and unfair handicap.

We strongly recommend that the ten day requirement be extended to 20 days and that your organization support and advocate this change in the Code in the interest of updating the current text in keeping with the requirements of modern commercial realities. We are aware that a number of states have yet to consider the standard Article 9 amendments developed in 1972 and we urge that this expansion of the permissible filing period be incorporated in the drafts sponsored by your organization. We know that many other businesses share our thoughts on this matter and feel that this recommendation can only serve to advance the fair administration of commercial law.

Very truly yours,

I. M. Teterud
Vice President
Distribution Finance

IMT:pc

(This sheet to be used by those testifying on a bill.)

NAME: BLAKE L JORDAN DATE: 1/30/85

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REPRESENTING WHOM? MT HARDWARE & IMPLEMENT ASSOC.

APPEARING ON WHICH PROPOSAL: SP 192

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

JANUARY 30

19 05

MR. PRESIDENT

We, your committee on **BUSINESS & INDUSTRY**

having had under consideration **SENATE BILL** No. **192**

first reading copy (white)
color

PURCHASE MONEY SECURITY INTEREST FILING TIME INCREASED TO 20 DAYS

Respectfully report as follows: That **SENATE BILL** No. **192**

DO PASS

~~DO NOT PASS~~

Mike Halligan

Chairman.