

SENATE BILL NO. 404

INTRODUCED BY KOLSTAD

IN THE SENATE

February 7, 1979	Introduced and referred to Committee on Judiciary.
February 17, 1979	Committee recommend bill do pass as amended. Report adopted.
February 19, 1979	Printed and placed on members' desks.
February 20, 1979	Second reading, do pass.
February 21, 1979	Considered correctly engrossed.
February 22, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 23, 1979	Introduced and referred to Committee on Judiciary.
March 19, 1979	Committee recommend bill be concurred in. Report adopted.
March 20, 1979	Motion pass consideration.
March 21, 1979	Second reading, concurred in.
March 23, 1979	Third reading, concurred in.

IN THE SENATE

March 24, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 INTRODUCED BY Sen. Robert BILL NO. 404

2 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE FILING
3 TIME FOR A FINANCING STATEMENT WITH RESPECT TO A PURCHASE
4 MONEY SECURITY INTEREST FROM 10 DAYS TO 15 DAYS AND TO
5 CHANGE THE RULES ON PRIORITY OVER A CONFLICTING SECURITY
6 INTEREST IN COLLATERAL TO GIVE A PURCHASE MONEY SECURITY
7 INTEREST IN COLLATERAL PRIORITY IF IT IS PERFECTED WITHIN 15
8 DAYS RATHER THAN 10 DAYS AFTER THE DEBTOR RECEIVES
9 POSSESSION OF THE COLLATERAL; AMENDING SECTIONS 30-9-301 AND
10 30-9-312, MCA."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 30-9-301, MCA, is amended to read:
13 "30-9-301. Persons who take priority over unperfected
14 security interests -- "lien creditor". (1) Except as
15 otherwise provided in subsection (2), an unperfected
16 security interest is subordinate to the rights of:

- 17 (a) persons entitled to priority under 30-9-312;
- 18 (b) a person who becomes a lien creditor without
19 knowledge of the security interest and before it is
20 perfected;
- 21 (c) in the case of goods, instruments, documents, and
22 chattel paper, a person who is not a secured party and who

1 is a transferee in bulk or other buyer not in ordinary
2 course of business to the extent that he gives value and
3 receives delivery of the collateral without knowledge of the
4 security interest and before it is perfected;

5 (d) in the case of accounts, contract rights, and
6 general intangibles, a person who is not a secured party and
7 who is a transferee to the extent that he gives value
8 without knowledge of the security interest and before it is
9 perfected.

10 (2) If the secured party files with respect to a
11 purchase money security interest before or within ~~10~~ 15 days
12 after the collateral comes into possession of the debtor, he
13 takes priority over the rights of a transferee in bulk or of
14 a lien creditor which arise between the time the security
15 interest attaches and the time of filing.

16 (3) A "lien creditor" means a creditor who has
17 acquired a lien on the property involved by attachment, levy
18 or the like and includes an assignee for benefit of
19 creditors from the time of assignment, and a trustee in
20 bankruptcy from the date of the filing of the petition or a
21 receiver in equity from the time of appointment. Unless all
22 the creditors represented had knowledge of the security
23 interest such a representative of creditors is a lien
24 creditor without knowledge even though he personally has
25 knowledge of the security interest."

-2- SB 404
INTRODUCED BILL

1 Section 2. Section 30-9-312, MCA, is amended to read:

2 "30-9-312. Priorities among conflicting security
3 interests in the same collateral. (1) The rules of priority
4 stated in the following sections shall govern where
5 applicable: 30-4-208 with respect to the security interest
6 of collecting banks in items being collected, accompanying
7 documents and proceeds; 30-9-301 on certain priorities;
8 30-9-304 on goods covered by documents; 30-9-306 on proceeds
9 and repossessions; 30-9-307 on buyers of goods; 30-9-308 on
10 possessory against nonpossessory interests in chattel paper
11 or nonnegotiable instruments; 30-9-309 on security interests
12 in negotiable instruments, documents or securities; 30-9-310
13 on priorities between perfected security interests and liens
14 by operation of law; 30-9-313 on security interests in
15 fixtures as against interests in real estate; 30-9-314 on
16 security interests in accessions as against interest in
17 goods; 30-9-315 on conflicting security interests where
18 goods lose their identity or become part of a product; and
19 30-9-316 on contractual subordination.

20 (2) A perfected security interest in crops for new
21 value given to enable the debtor to produce the crops during
22 the production season and given not more than 3 months
23 before the crops become growing crops by planting or
24 otherwise takes priority over an earlier perfected security
25 interest to the extent that such earlier interest secures

1 obligations due more than 6 months before the crops become
2 growing crops by planting or otherwise, even though the
3 person giving new value had knowledge of the earlier
4 security interest.

5 (3) A purchase money security interest in inventory
6 collateral has priority over a conflicting security interest
7 in the same collateral if:

8 (a) the purchase money security interest is perfected
9 at the time the debtor receives possession of the
10 collateral; and

11 (b) any secured party whose security interest is known
12 to the holder of the purchase money security interest or
13 who, prior to the date of the filing made by the holder of
14 the purchase money security interest, had filed a financing
15 statement covering the same items or type of inventory, has
16 received notification of the purchase money security
17 interest before the debtor receives possession of the
18 collateral covered by the purchase money security interest;
19 and

20 (c) such notification states that the person giving
21 the notice has or expects to acquire a purchase money
22 security interest in inventory of the debtor, describing
23 such inventory by item or type.

24 (4) A purchase money security interest in collateral
25 other than inventory has priority over a conflicting

1 security interest in the same collateral if the purchase
2 money security interest is perfected at the time the debtor
3 receives possession of the collateral or within ~~30~~ 15 days
4 thereafter.

5 (5) In all cases not governed by other rules stated in
6 this section (including cases of purchase money security
7 interests which do not qualify for the special priorities
8 set forth in subsections (3) and (4) of this section),
9 priority between conflicting security interests in the same
10 collateral shall be determined as follows:

11 (a) in the order of filing if both are perfected by
12 filing, regardless of which security interest attached first
13 under 30-9-204(1) and whether it attached before or after
14 filing;

15 (b) in the order of perfection unless both are
16 perfected by filing, regardless of which security interest
17 attached first under 30-9-204(1) and, in the case of a filed
18 security interest, whether it attached before or after
19 filing; and

20 (c) in the order of attachment under 30-9-204(1) so
21 long as neither is perfected.

22 (6) For the purpose of the priority rules of the
23 immediately preceding subsection, a continuously perfected
24 security interest shall be treated at all times as if
25 perfected by filing if it was originally so perfected and it

1 shall be treated at all times as if perfected otherwise than
2 by filing if it was originally perfected otherwise than by
3 filing."

-End-

SB 404

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10 20 DAYS RATHER THAN 10 DAYS AFTER THE DEBTOR RECEIVES
11 POSSESSION OF THE COLLATERAL; AMENDING SECTIONS 30-9-301 AND
12 30-9-312, MCA."

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 30-9-301, MCA, is amended to read:

16 "30-9-301. Persons who take priority over unperfected
17 security interests -- "lien creditor". (1) Except as
18 otherwise provided in subsection (2), an unperfected
19 security interest is subordinate to the rights of:

20 (a) persons entitled to priority under 30-9-312;

21 (b) a person who becomes a lien creditor without
22 knowledge of the security interest and before it is
23 perfected;

24 (c) in the case of goods, instruments, documents, and
25 chattel paper, a person who is not a secured party and who

1 is a transferee in bulk or other buyer not in ordinary
2 course of business to the extent that he gives value and
3 receives delivery of the collateral without knowledge of the
4 security interest and before it is perfected;

5 (d) in the case of accounts, contract rights, and
6 general intangibles, a person who is not a secured party and
7 who is a transferee to the extent that he gives value
8 without knowledge of the security interest and before it is
9 perfected.

10 (2) If the secured party files with respect to a
11 purchase money security interest before or within ~~10~~ ~~15~~ 20
12 days after the collateral comes into possession of the
13 debtor, he takes priority over the rights of a transferee in
14 bulk or of a lien creditor which arise between the time the
15 security interest attaches and the time of filing.

16 (3) A "lien creditor" means a creditor who has
17 acquired a lien on the property involved by attachment, levy
18 or the like and includes an assignee for benefit of
19 creditors from the time of assignment, and a trustee in
20 bankruptcy from the date of the filing of the petition or a
21 receiver in equity from the time of appointment. Unless all
22 the creditors represented had knowledge of the security
23 interest such a representative of creditors is a lien
24 creditor without knowledge even though he personally has
25 knowledge of the security interest."

1 Section 2. Section 30-9-312, MCA, is amended to read:
 2 *30-9-312. Priorities among conflicting security
 3 interests in the same collateral. (1) The rules of priority
 4 stated in the following sections shall govern where
 5 applicable: 30-4-208 with respect to the security interest
 6 of collecting banks in items being collected, accompanying
 7 documents and proceeds; 30-9-301 on certain priorities;
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 18 goods lose their identity or become part of a product; and
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 20 (2) A perfected security interest in crops for new
 21 value given to enable the debtor to produce the crops during
 22 the production season and given not more than 3 months
 23 before the crops become growing crops by planting or
 24 otherwise takes priority over an earlier perfected security
 25 interest to the extent that such earlier interest secures

1 obligations due more than 6 months before the crops become
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 3 person giving new value had knowledge of the earlier
 4 security interest.
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 7 in the same collateral if:
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 9 at the time the debtor receives possession of the
 10 collateral; and
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 12 to the holder of the purchase money security interest or
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 14 the purchase money security interest, had filed a financing
 15 statement covering the same items or type of inventory, has
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 17 interest before the debtor receives possession of the
 18 collateral covered by the purchase money security interest;
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 20 (c) such notification states that the person giving
 21 the notice has or expects to acquire a purchase money
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 23 such inventory by item or type.
 24 (4) A purchase money security interest in collateral
 25 other than inventory has priority over a conflicting

1 security interest in the same collateral if the purchase
 2 money security interest is perfected at the time the debtor
 3 receives possession of the collateral or within ~~10~~ 15 20
 4 days thereafter.

5 (5) In all cases not governed by other rules stated in
 6 this section (including cases of purchase money security
 7 interests which do not qualify for the special priorities
 8 set forth in subsections (3) and (4) of this section),
 9 priority between conflicting security interests in the same
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 12 filing, regardless of which security interest attached first
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 16 perfected by filing, regardless of which security interest
 17 attached first under 30-9-204(1) and, in the case of a filed
 18 security interest, whether it attached before or after
 19 filing; and

20 (c) in the order of attachment under 30-9-204(1) so
 21 long as neither is perfected.

22 (6) For the purpose of the priority rules of the
 23 immediately preceding subsection, a continuously perfected
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23 such inventory by item or type.

24 (4) A purchase money security interest in collateral
25 other than inventory has priority over a conflicting

1 security interest in the same collateral if the purchase
 2 money security interest is perfected at the time the debtor
 3 receives possession of the collateral or within 10 to 20
 4 days thereafter.

5 (5) In all cases not governed by other rules stated in
 6 this section (including cases of purchase money security
 7 interests which do not qualify for the special priorities
 8 set forth in subsections (3) and (4) of this section),
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-End-