

SB 4

INTRODUCED BY THAYER  
UNIFORM COMMERCIAL CODE FINANCING STATEMENT FOR  
FARM EQUIPMENT TO CONTAIN MODEL, SERIAL  
NUMBERS

BY REQUEST OF JOINT INTERIM SUBCOMMITTEE ON  
LIEN LAWS

1/05 INTRODUCED

1/05 REFERRED TO AGRICULTURE, LIVESTOCK &  
IRRIGATION

1/09 HEARING

1/26 ADVERSE COMMITTEE REPORT ADOPTED

47 1

1                    SENATE    BILL NO.   4  
 2    INTRODUCED BY THAYER  
 3                    BY REQUEST OF THE JOINT INTERIM  
 4                    SUBCOMMITTEE ON LIEN LAWS

5  
 6    A BILL FOR AN ACT ENTITLED:    "AN ACT TO REQUIRE THAT A  
 7    FINANCING STATEMENT COVERING EQUIPMENT USED IN FARMING  
 8    OPERATIONS IDENTIFY THE COLLATERAL BY MODEL AND SERIAL  
 9    NUMBERS; AMENDING SECTION 30-9-402, MCA; AND PROVIDING AN  
 10    APPLICABILITY DATE."  
 11

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

13            Section 1. Section 30-9-402, MCA, is amended to read:

14            "30-9-402. Formal requisites of financing statement --  
 15    amendments -- mortgage as financing statement. (1) (a) A  
 16    financing statement is sufficient if it gives the names of  
 17    the debtor and the secured party, is signed by the debtor,  
 18    gives an address of the secured party from which information  
 19    concerning the security interest may be obtained, gives a  
 20    mailing address of the debtor, and contains a statement  
 21    indicating the types or describing the items of collateral.

22            (b) A financing statement may be filed before a  
 23    security agreement is made or a security interest otherwise  
 24    attaches.

25            (c) Except for financing statements filed pursuant to

1    30-9-409 when the financing statement covers crops growing  
 2    or to be grown, the statement must also contain a  
 3    description of the real estate concerned.

4            (d) When the financing statement covers timber to be  
 5    cut or covers minerals or the like (including oil and gas)  
 6    or accounts subject to 30-9-103(5), or when the financing  
 7    statement is filed as a fixture filing (30-9-313) and the  
 8    collateral is goods which are or are to become fixtures, the  
 9    statement must also comply with subsection (5).

10            (e) When the financing statement covers equipment used  
 11    in farming operations, the statement must also contain the  
 12    model and serial numbers of the item of collateral if such  
 13    numbers are assigned to the item.

14            (f) A copy of the security agreement is sufficient as  
 15    a financing statement if it contains the above information  
 16    and is signed by the debtor.

17            (2) A financing statement which otherwise complies  
 18    with subsection (1) is sufficient when it is signed by the  
 19    secured party instead of the debtor if it is filed to  
 20    perfect a security interest in:

21            (a) collateral already subject to a security interest  
 22    in another jurisdiction when it is brought into this state,  
 23    or when the debtor's location is changed to this state. Such  
 24    a financing statement must state that the collateral was  
 25    brought into this state or that the debtor's location was

1 changed to this state under such circumstances.

2 (b) proceeds under 30-9-306 if the security interest  
3 in the original collateral was perfected. Such a financing  
4 statement must describe the original collateral.

5 (c) collateral as to which the filing has lapsed; or  
6 (d) collateral acquired after a change of name,  
7 identity, or corporate structure of the debtor (subsection  
8 (7)).

9 (3) A form substantially as follows is sufficient to  
10 comply with subsection (1):

11 Name of debtor (or assignor) ....  
12 Address ....  
13 Name of secured party (or assignee) ....  
14 Address ....

15 1. This Financing statement covers the following types  
16 (or items) of property:

17 (Describe) ....

18 2. (If collateral is crops) The above described crops  
19 are growing or are to be grown on:

20 (Describe Real Estate) ....

21 3. (If applicable) The above goods are to become  
22 fixtures on:

23 (Describe Real Estate) ....

24 and this financing statement is to be filed in the real  
25 estate record. (If the debtor does not have an interest or

1 record) The name of a record owner is ....

2 4. (If products of collateral are claimed) Products of  
3 the collateral are also covered.

4 5. (If collateral is equipment used in farming  
5 operations) The model and serial numbers of the above  
6 described equipment are:

7 (List Numbers) ....

8 (Use whichever Signature of Debtor (or Assignor) ....  
9 is applicable) Signature of Secured Party (or Assignee) ....

10 (4) A financing statement may be amended by filing a  
11 writing signed by both the debtor and the secured party. An  
12 amendment does not extend the period of effectiveness of a  
13 financing statement. If any amendment adds collateral, it is  
14 effective as to the added collateral only from the filing  
15 date of the amendment. In this chapter, unless the context  
16 otherwise requires, the term "financing statement" means the  
17 original financing statement and any amendments.

18 (5) A financing statement covering timber to be cut or  
19 covering minerals or the like (including oil and gas) or  
20 accounts subject to 30-9-103(5), or a financing statement  
21 filed as a fixture filing (30-9-313) when the debtor is not  
22 a transmitting utility, must show that it covers this type  
23 of collateral, must recite that it is to be filed in the  
24 real estate records, and the financing statement must  
25 contain a description of the real estate sufficient if it

1 were contained in a mortgage of the real estate to give  
 2 constructive notice of the mortgage under the law of this  
 3 state. If the debtor does not have an interest of record in  
 4 the real estate, the financing statement must show the name  
 5 of a record owner.

6 (6) (a) A mortgage is effective as a financing  
 7 statement filed as a fixture filing from the date of its  
 8 recording if:

9 (i) the goods are described in the mortgage by item or  
 10 type;

11 (ii) the goods are or are to become fixtures related to  
 12 the real estate described in the mortgage;

13 (iii) the mortgage complies with the requirements for a  
 14 financing statement in this section other than a recital  
 15 that it is to be filed in the real estate records; and

16 (iv) the mortgage is duly recorded.

17 (b) No fee with reference to the financing statement  
 18 is required other than the regular recording and  
 19 satisfaction fees with respect to the mortgage.

20 (7) A financing statement sufficiently shows the name  
 21 of the debtor if it gives the individual, partnership, or  
 22 corporate name of the debtor, whether or not it adds other  
 23 trade names or the names of partners. If the debtor so  
 24 changes his name or in the case of an organization its name,  
 25 identity, or corporate structure that a filed financing

1 statement becomes seriously misleading, the filing is not  
 2 effective to perfect a security interest in collateral  
 3 acquired by the debtor more than 4 months after the change  
 4 unless a new appropriate financing statement is filed before  
 5 the expiration of that time. A filed financing statement  
 6 remains effective with respect to collateral transferred by  
 7 the debtor even though the secured party knows of or  
 8 consents to the transfer.

9 (8) A financing statement substantially complying with  
 10 the requirements of this section is effective even though it  
 11 contains minor errors which are not seriously misleading."

12 NEW SECTION. Section 2. Applicability. This act  
 13 applies to any financing statement filed after September 30,  
 14 1987.

15 NEW SECTION. Section 3. Extension of authority. Any  
 16 existing authority of the secretary of state to make rules  
 17 on the subject of the provisions of this act is extended to  
 18 the provisions of this act.

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