

Part 7 Transition

70A-9a-701 Effective date -- Terminology.

- (1) This act takes effect on July 1, 2001.
- (2) References in this part to "former Chapter 9" are to Chapter 9, Secured Transactions - Sales of Accounts, Contract Rights and Chattel Paper, as in effect on June 30, 2001.

Enacted by Chapter 252, 2000 General Session

70A-9a-702 Savings clause.

- (1) Except as otherwise provided in this part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this act takes effect.
- (2) Except as otherwise provided in Subsection (3) and Sections 70A-9a-703 through 70A-9a-709:
 - (a) transactions and liens that were not governed by former Chapter 9, Secured Transactions - Sales of Accounts, Contract Rights and Chattel Paper, were validly entered into or created before this act takes effect, and would be subject to this act if they had been entered into or created after this act takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after this act takes effect; and
 - (b) the transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by this act or by the law that otherwise would apply if this act had not taken effect.
- (3) This act does not affect an action, case, or proceeding commenced before this act takes effect.

Enacted by Chapter 252, 2000 General Session

70A-9a-703 Security interest perfected before effective date.

- (1) A security interest that is enforceable immediately before this act takes effect and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under this act if, when this act takes effect, the applicable requirements for enforceability and perfection under this act are satisfied without further action.
- (2) Except as otherwise provided in Section 70A-9a-705, if, immediately before this act takes effect, a security interest is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this act are not satisfied when this act takes effect, the security interest:
 - (a) is a perfected security interest for one year after this act takes effect;
 - (b) remains enforceable thereafter only if the security interest becomes enforceable under Section 70A-9a-203 before the year expires; and
 - (c) remains perfected thereafter only if the applicable requirements for perfection under this act are satisfied before the year expires.

Enacted by Chapter 252, 2000 General Session

70A-9a-704 Security interest unperfected before effective date.

A security interest that is enforceable immediately before this act takes effect but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

- (1) remains an enforceable security interest for one year after this act takes effect;

- (2) remains enforceable thereafter if the security interest becomes enforceable under Section 70A-9a-203 when this act takes effect or within one year thereafter; and
- (3) becomes perfected:
 - (a) without further action, when this act takes effect if the applicable requirements for perfection under this act are satisfied before or at that time; or
 - (b) when the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

Enacted by Chapter 252, 2000 General Session

70A-9a-705 Effectiveness of action taken before effective date.

- (1) If action, other than the filing of a financing statement, is taken before this act takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before this act takes effect, the action is effective to perfect a security interest that attaches under this act within one year after this act takes effect. An attached security interest becomes unperfected one year after this act takes effect unless the security interest becomes a perfected security interest under this act before the expiration of that period.
- (2) The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this act.
- (3) This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in former Section 70A-9-103. However, except as otherwise provided in Subsections (4) and (5) and Section 70A-9a-706, the financing statement ceases to be effective at the earlier of:
 - (a) the time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or
 - (b) June 30, 2006.
- (4) The filing of a continuation statement after this act takes effect does not continue the effectiveness of the financing statement filed before this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in Part 3, Perfection and Priority, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.
- (5) Subsection (3)(b) applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in former Section 70A-9-103 only to the extent that Part 3, Perfection and Priority, provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.
- (6) A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of Part 5, Filing, for an initial financing statement.

Enacted by Chapter 252, 2000 General Session

70A-9a-706 When initial financing statement suffices to continue effectiveness of financing statement.

- (1) The filing of an initial financing statement in the office specified in Section 70A-9a-501 continues the effectiveness of a financing statement filed before this act takes effect if:
 - (a) the filing of an initial financing statement in that office would be effective to perfect a security interest under this act;
 - (b) the pre-effective-date financing statement was filed in an office in another state or another office in this state; and
 - (c) the initial financing statement satisfies Subsection (3).
- (2) The filing of an initial financing statement under Subsection (1) continues the effectiveness of the pre-effective-date financing statement:
 - (a) if the initial financing statement is filed before this act takes effect, for the period provided in former Section 70A-9-403 with respect to a financing statement; and
 - (b) if the initial financing statement is filed after this act takes effect, for the period provided in Section 70A-9a-515 with respect to an initial financing statement.
- (3) To be effective for purposes of Subsection (1), an initial financing statement must:
 - (a) satisfy the requirements of Part 5, Filing, for an initial financing statement;
 - (b) identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and
 - (c) indicate that the pre-effective-date financing statement remains effective.

Enacted by Chapter 252, 2000 General Session

70A-9a-707 Amendment of pre-effective-date financing statement.

- (1) In this section, "pre-effective-date financing statement" means a financing statement filed before this act takes effect.
- (2) After this act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Part 3, Perfection and Priority. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.
- (3) Except as otherwise provided in Subsection (4), if the law of this state governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after this act takes effect only if:
 - (a) the pre-effective-date financing statement and an amendment are filed in the office specified in Section 70A-9a-501;
 - (b) an amendment is filed in the office specified in Section 70A-9a-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies Subsection 70A-9a-706(3); or
 - (c) an initial financing statement that provides the information as amended and satisfies Subsection 70A-9a-706(3) is filed in the office specified in Section 70A-9a-501.
- (4) If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under Subsections 70A-9a-705(4) and (6) or Section 70A-9a-706.

- (5) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this state may be terminated after this act takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies Subsection 70A-9a-706(3) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in Part 3, Perfection and Priority, as the office in which to file a financing statement.

Enacted by Chapter 252, 2000 General Session

70A-9a-708 Persons entitled to file initial financing statement or continuation statement.

A person may file an initial financing statement or a continuation statement under this part if:

- (1) the secured party of record authorizes the filing; and
- (2) the filing is necessary under this part:
 - (a) to continue the effectiveness of a financing statement filed before this act takes effect; or
 - (b) to perfect or continue the perfection of a security interest.

Enacted by Chapter 252, 2000 General Session

70A-9a-709 Priority.

- (1) This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this act takes effect, former Chapter 9, Secured Transactions - Sales of Accounts, Contract Rights and Chattel Paper, determines priority.
- (2) For purposes of Subsection 70A-9a-322(1), the priority of a security interest that becomes enforceable under Section 70A-9a-203 of this act dates from the time this act takes effect if the security interest is perfected under this act by the filing of a financing statement before this act takes effect which would not have been effective to perfect the security interest under former Chapter 9, Secured Transactions - Sales of Accounts, Contract Rights and Chattel Paper. This Subsection (2) does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

Enacted by Chapter 252, 2000 General Session