



1997 SENATE BILL 201

May 7, 1997 - Introduced by Senators CHVALA, WINEKE, C. POTTER and MOEN, cosponsored by Representatives ROBSON, GROTHMAN, FREESE, HASENOHRL, LORGE, PLOUFF and BLACK. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

- 1 **AN ACT to create** 402.326 (3) (d) and 402.326 (5) of the statutes; **relating to:** “sale
2 or return” or consignment sales under the uniform commercial code.

Analysis by the Legislative Reference Bureau

Under current law, the uniform commercial code (UCC) contains a provision governing contingent sales, or sales under which the the delivered goods may be returned by the buyer even though they conform to the sales contract. If the goods are delivered to the buyer primarily for resale by the buyer, the transaction is referred to as a “sale or return” transaction. Goods delivered on “sale or return” are generally subject to claims of the deliverer’s creditors while in the deliverer’s possession. If certain requirements are met, these goods are subject to the claims of the deliverer’s creditors even though the sales contract purports to reserve title to the deliveror until the goods are resold or paid for by the deliverer, or even though the sales contract provides that the sale is “on consignment”. There are a couple of exceptions to this rule. The delivered goods may be protected from the claims of the deliverer’s creditors if the deliveror: 1) files a security interest in the delivered goods under the UCC; or 2) establishes that the deliverer’s creditors generally know that the deliverer is substantially engaged in selling the goods of others.

This bill creates an additional exception for goods that the deliveror had used or bought for personal, family or household purposes. These goods do not become the property of the deliverer unless the deliverer purchases and fully pays for the goods. Any payment received by the deliverer from a buyer of the delivered goods, less any amount that the deliveror expressly agreed could be deducted from the payment for commissions, fees or expenses, is the property of the deliveror and is not

