

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0636/2dn  
RJM:cjs:pg

January 16, 2003

Representative Jeskewitz:

Please review the changes made to this draft to ensure that they are consistent with your intent. Although the language of the draft does not match exactly the language submitted with the drafting instructions, I tried to be sensitive to the fact that the intent of the submitted language was likely agreed to by various interested parties. The changes to the submitted language are to the following proposed statutes in the draft: 186.07 (3m), 186.11 (4) (a) (intro.) and (b) to (bt), 186.113 (11) (a) and (b) and (25), 186.22 (12m), and 222.0401 (1) and (2). Also, please note the following issues:

1. With regard to the treatment of credit union service organizations under proposed s. 186.11 (4) (b) to (bt), I tried to eliminate any duplication in the listing of services and to better describe listed services, where possible. Please review the list to ensure that I did not inadvertently alter the substance of your intent. Typically, it is not advisable to use the phrase "including, but not limited to" in the statutes because the phrase has not been uniformly enforced by the courts, but in this case the phrase is appropriate, given the authority of the office of credit unions to expand the list of approved services. Note that I drafted the language concerning the expansion of the list of approved services under proposed s. 186.11 (4) (bd) to be somewhat parallel with the language concerning the expansion of universal bank services under proposed s. 222.0413 (2) (b). Please let me know if you have any questions or desire any changes.

2. Please note that the change to the Uniform Commercial Code in proposed s. 409.617 (1) (c) may impact the fiscal note associated with this draft, in that one likely effect of the change is to ensure that certain secured creditors will obtain payment before the state or any local governmental unit upon disposition of collateral in which the state or the local governmental unit has a subordinate lien. As a general matter, the further down the line of priority a lien is, the less likely it is that there will be sufficient funds to pay off the lien upon disposition of the collateral.

If this change does impact the fiscal note and if you wish to lessen that impact, you may want to consider following the approach taken by the District of Columbia, which selected certain governmental liens (sales tax liens and income and franchise tax liens) to preserve under the exception in this portion of the Uniform Commercial Code. A cursory review of other states' Uniform Commercial Code provisions indicates that the states of New York, South Dakota, and Ohio also preserved liens of some type under this provision.

Each of these three approaches (current law, the District of Columbia approach, or the approach taken in this bill) is consistent with the intent of the National Conference of Commissioners on Uniform State Laws, which authorized states to specify any or no liens under this provision. Please note, though, that the vast majority of states chose the approach taken in this bill.

3. I adjusted the effective date provision to account for the deletion of the rule-making requirement under proposed s. 222.0413 (2) (b). As currently drafted, the universal banking provisions in the bill have a 3-month delayed effective date.

Please feel free to call if you have any questions or desire any further changes.

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