

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Representative Wingfield**

# A Bill

**HOUSE BILL**

## For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 4-9-307 AND 4-9-407  
9 RELATING TO SECURITY INTERESTS IN FARM PRODUCTS, TO  
10 ESTABLISH A CENTRAL FILING SYSTEM IN THE OFFICE OF THE  
11 SECRETARY OF STATE; TO PROVIDE NOTICE OF FINANCING  
12 STATEMENTS ON A STATEWIDE BASIS TO COMPLY WITH FEDERAL  
13 LAW; AND FOR OTHER PURPOSES."

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15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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17 SECTION 1. Arkansas Code 4-9-307 is amended to read as follows:

18 "4-9-307. Protection of buyers of goods - Exemption.

19 (1) A buyer in ordinary course of business (§4-1-201(9)) other than a  
20 person buying farm products from a person engaged in farming operations takes  
21 free of a security interest created by his seller even though the security  
22 interest is perfected and even though the buyer knows of its existence.

23 (2) In the case of consumer goods, a buyer takes free of a security  
24 interest even though perfected if he buys without knowledge of the security  
25 interest, for value and for his own personal, family, or household purposes  
26 unless prior to the purchase the secured party has filed a financing statement  
27 covering such goods.

28 (3) A buyer other than a buyer in the ordinary course of business  
29 (subsection (1) of this section) takes free of a security interest to the  
30 extent that it secures future advances made after the secured party acquires  
31 knowledge of the purchase, or more than forty-five (45) days after the  
32 purchase, whichever first occurs, unless made pursuant to a commitment entered  
33 into without knowledge of the purchase and before the expiration of the forty-  
34 five-day period.

35 (4) A secured party may enforce a security interest in farm products

1 against a buyer who, in the ordinary course of business, purchases farm  
2 products from, or a commission merchant or selling agent who, in the ordinary  
3 course of business, sells farm products for, a person engaged in farming  
4 operations only where the secured party has signed and filed with the  
5 Secretary of State a form containing the following information:

- 6 (a) The name and address of the borrower;
- 7 (b) The borrower's signature;
- 8 (c) The name and address of the secured party;
- 9 (d) The social security number of the borrower, or in the case of  
10 a borrower doing business other than as an individual, the borrower's Internal  
11 Revenue Service taxpayer identification number;
- 12 (e) A description of the farm products and the real estate  
13 (including county) where the farm products are located;
- 14 (f) The crop year for which the security interest in the farm  
15 products is claimed.

16 (5) 'Commission merchant' means any person engaged in the business of  
17 receiving any farm product for sale, commission, or for or on behalf of  
18 another person. 'Selling agent' means any person, other than a commission  
19 merchant, who is engaged in the business of negotiating the sale and purchase  
20 of any farm product on behalf of a person engaged in farming operations.  
21 'Farm products' includes crops and livestock.

22 (6) If a material change occurs, the form described in subsection (4)  
23 of this section must be amended in writing within three (3) months, and the  
24 amendment must be similarly signed and filed. The effectiveness and  
25 continuation of the form is to be treated as if it were a financing  
26 statement."

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28 SECTION 2. Arkansas Code 4-9-407 is amended to read as follows:  
29 "4-9-407. Information from filing officer.

30 (1) If the person filing any financial statement, termination  
31 statement, statement of assignment, or statement of release furnishes the  
32 filing officer a copy thereof, the filing officer shall upon request note upon  
33 the copy the file number and date and hour of the filing of the original and  
34 deliver or send the copy to such person.

35 (2) Upon request of any person, the filing officer shall issue his

1 certificate showing whether there is on file on the date and hour stated  
2 therein any presently effective financing statement naming a particular debtor  
3 and any statement of assignment thereof and if there is, giving the date and  
4 hour of filing of each such statement and the names and addresses of each  
5 secured party named therein. The fee for such a certificate shall not exceed  
6 six dollars (\$6.00). Upon request the filing officer shall furnish a copy of  
7 any filed financing statement, continuation statement, termination statement,  
8 statement of assignment or statement of release for a fee of five dollars  
9 (\$5.00) and, if such statement consists of more than three (3) pages, an  
10 additional fee of one dollar (\$1.00) for the fourth and each succeeding page.

11 (3) The Secretary of State (or other designee) shall develop and  
12 implement a central indexing system containing the information filed with his  
13 office pursuant to §4-9-307(4). Under this system the Secretary shall record  
14 the date and time of filing and compile the information into a master list  
15 organized according to farm products. The master list shall be organized  
16 within each farm product category in alphabetical order according to the last  
17 name of the borrower (or in the case of borrowers doing business other than as  
18 individuals, the first word in the name of such borrower), in numerical order  
19 according to the social security or taxpayer identification number of the  
20 borrower, geographically by county, and by crop year. The master list shall  
21 also contain the name and address of the secured party, the name and address  
22 of the borrower, a description of the farm products (including amount where  
23 applicable) subject to the security interest and a reasonable description of  
24 the real estate, including the county, where the farm products are located.

25 (4) The Secretary of State shall maintain a list of all buyers of farm  
26 products, commission merchants, and selling agents who register with the  
27 Secretary of State indicating an interest in receiving the master lists or  
28 portions thereof as described in subsection (3) of this section.

29 (5) The Secretary of State shall distribute, on a regular basis as  
30 determined by the Secretary, to each buyer, commission merchant, and selling  
31 agent registered under subsection (4) of this section a copy in written or  
32 printed form of those portions of the master list which the buyer, commission  
33 merchant, or selling agent has indicated an interest in receiving.

34 (6) Upon the request of any person the Secretary of State shall provide  
35 to such person, within twenty-four (24) hours, an oral confirmation followed

1 by a written confirmation of the filing of any effective financing statement  
2 filed as prescribed by §4-9-307(4) and relating to the debtor or seller upon  
3 whom such information has been requested.

4 (7) (A) The Secretary of State shall charge the following fees:

- 5 (i) Written Confirmation - ten dollars (\$10.00) per  
6 filing;
- 7 (ii) Effective Financing Statement - ten dollars (\$10.00);  
8 (iii) Amendment to Effective Financing Statement - ten  
9 dollars (\$10.00);
- 10 (iv) Termination of Effective Financing Statement - ten  
11 dollars (\$10.00);
- 12 (v) Annual Registration as a Buyer of Master Farm Product  
13 List - five hundred dollars (\$500);
- 14 (vi) Master Farm Product List - fifty dollars (\$50.00) per  
15 distributed list containing all products in all counties;
- 16 (vii) Master Farm Product List Designating Specific  
17 Products or Specific Counties, or Both - additional fifty dollars (\$50.00) per  
18 distributed list, per designated product or county, or both (not to exceed  
19 additional two hundred fifty dollars (\$250) per list).

20 (B) The Secretary of State may reduce or increase the amount of  
21 fees provided for in this subdivision (7) by regulation pursuant to the  
22 Administrative Procedure Act §25-15-201 et seq. Such increase or decrease  
23 will be implemented as deemed necessary to maintain sufficient revenue to  
24 defray the cost of administering the central indexing system.

25 (C) All fees collected pursuant to this subdivision (7) shall be  
26 deposited as special revenues in a special fund created on the books of the  
27 State Treasurer, State Auditor, and Chief Fiscal Officer of the State to be  
28 known as the 'Central Filing System Fund'. The fund shall be used solely for  
29 the purpose of defraying the cost of the central indexing system."  
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31 SECTION 3. If at any time livestock are removed from coverage under the  
32 Central Filing System provided for under Arkansas Code 4-9-307(4) through (6)  
33 and 4-9-407(3) through (7) as added by this act, then the Central Filing  
34 system, as provided for in Arkansas Code 4-9-307 and 4-9-407, shall be  
35 repealed.

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SECTION 4. The provisions of this act shall become effective on July 1, 1992.

SECTION 5. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 7. All laws or parts of laws in conflict with this act are hereby repealed.