

(S. B. 876)

(No. 96)

(Approved September 10, 2009)

AN ACT

To amend Sections 9-304(1) and 9-308(a) of Chapter 9 of Act No. 208 of August 17, 1995, as amended, known as the “Negotiable Instruments and Banking Transactions Act,” in order to make technical amendments on the perfection of security interest in instruments without surrendering the same.

STATEMENT OF MOTIVES

Act No. 208 of August 17, 1995, as amended, known as the “Negotiable Instruments and Banking Transactions Act,” was created to modernize the law governing commercial transactions. Through said Act, various sections of the Uniform Commercial Code (UCC) were adopted, in accordance with the model adopted in our jurisdiction. In a joint effort, the American Law Institute and the National Conference of Commissioners on Uniform State Laws have created a new Section 9, fully revised, which has been adopted by the 50 states of the United States; however, Puerto Rico has not adopted it yet.

This Legislature is evaluating the new Chapter 9 of the UCC. However, the project consideration and analysis process requires additional time. In view of the urgency to incorporate one of the changes considered by the project regarding the perfection of security interest in instruments, chattel paper or negotiable documents and to keep Puerto Rico on the leading edge of perfection of security interest in promissory notes and instruments, we hereby propose to amend Chapter 9 of the Negotiable Instruments and Banking Transactions Act, so that these amendments remain in effect during the evaluation period of the revised Section and as of the effective date thereof.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- The Spanish version of Section 9-304(1) of Act No. 208 of August 17, 1995, as amended, is hereby amended to read as follows:

“§ 9-304. Perfección de gravámenes mobiliarios sobre instrumentos, documentos y bienes cubiertos por documentos; perfección mediante registro permisible; perfección temporal sin registro o traspaso de posesión

(1) Un gravamen mobiliario sobre papel financiero, instrumentos o documentos negociables podrá ser perfeccionado mediante registro. Podrá perfeccionarse un gravamen mobiliario sobre los derechos al producto de una carta de crédito que esté por escrito únicamente mediante la toma de posesión por el acreedor garantizado. Podrá perfeccionarse un gravamen mobiliario sobre dinero únicamente mediante la toma de posesión por el acreedor garantizado, excepto según se dispone en los incisos (4) y (5) de esta Sección y los incisos (2) y (3) de la Sección 9-306 sobre producto.

Un gravamen mobiliario sobre instrumentos incluyendo pagarés garantizados por una hipoteca podrá ser perfeccionado mediante (x) el registro de una declaración de financiamiento, o (y) la toma de posesión por el acreedor garantizado o su depositario.

Section 2.—The Spanish version of Section 9-308(a) of Act No. 208 of August 17, 1995, as amended, is hereby amended to read as follows:

“§9-308. Compra de papel financiero e instrumentos

Un comprador de papel financiero o de un instrumento que da nuevo valor y lo adquiere en el curso ordinario de sus negocios tiene prioridad sobre un gravamen mobiliario, sobre el papel financiero o el instrumento:

(a) Que es perfeccionado bajo la Sección 9-304 (registro permisivo y perfección temporal) o bajo la Sección 9-306 (perfección en cuanto al producto) o bajo la Sección 9-302 (registro), si actúa sin conocimiento de que el papel o instrumento específico está sujeto a un gravamen mobiliario; o

(b) ...”

Section 2.—The English version of Section 9-304(1) of Act No. 208 of August 17, 1995, as amended, is hereby amended to read as follows:

“§9-304.--Perfection of security interest in instruments, documents and goods covered by documents; perfection by permissive filing; temporary perfection without filing or transfer of possession.--

(1) A security interest in chattel paper, instruments or negotiable documents, may be perfected by filing of a financing statement. A security interest in the rights to proceeds of a written letter of credit can be perfected only by the secured party's taking possession of the letter of credit. A security interest in money can be perfected only by the secured party's taking possession, except as provided in subsections (4) and (5) of this Section and subsections (2) and (3) of Section 9-306 of this title on proceeds.

A security interest in instruments, including promissory notes secured by a mortgage, may be perfected by either (x) filing of a financing statement or (y) the secured party's or its bailee taking possession.

...”

Section 4.- The English version of Section 9-308(a) of Act No. 208 of August 17, 1995, as amended, is hereby amended to read as follows:

“§9-308. --Purchase of chattel paper and instruments.--

A purchaser of chattel paper or an instrument who gives new value and takes possession of it in the ordinary course of his business, has priority over a security interest in the chattel paper or instrument:

(a) Which is perfected under Section 9-304 of this title (permissive filing and temporary perfection) or under 9-306 of this title (perfection as to proceeds) or under Section 9-302 (filing) if he acts without knowledge that the specific paper or instrument is subject to a security interest; or

(b) ...”

Section 5.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 96 (S. B. 876)** of the **2nd Session of the 16th Legislature** of Puerto Rico:

AN ACT to amend Sections 9-304(1) and 9-308(a) of Chapter 9 of Act No. 208 of August 17, 1995, as amended, known as the “Negotiable Instruments and Banking Transactions Act,” in order to make technical amendments on the perfection of security interest in instruments without surrendering the same.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on the 16th day of July of 2010.

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Director