MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

1185

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1185

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1185

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/15/03

Tape Number	Side A	Side B	Meter #
3	x		17.0-29.4
Committee Clerk Signature	Judith Hammer		

Minutes: **Chairman Keiser** opened the hearing on HB 1185.

Rep. Lawrence Klemin introduced the bill and elaborated on the intent of this proposed legislation. (See attached) This bill makes the privacy protection apply only to documents filed after 1/1/2002, which is the same effective date in the law passed last session. It removes unnecessary and conflicting language regarding termination statements. This bill is an exception to the general prohibition against disclosure.

Rep. Ekstrom: So fed tax ID and Social Security numbers will no longer be given out? How many records are affected by this?

Rep. Klemin: Yes, but "from this date forward" means January 1, 2002. I don't have the answer to your question about numbers.

Liona Sailing, Secretary of State's office: We support this bill. We have filings that go back to 1965, when we went into effect. And they stay active. As long as they are continued every five years, they remain active. Redacting would be impossible. Future technology will handle redaction.

Rep. Kasper: How difficult would it be to redact upon request, on a case by case basis?

Rep. Klemin: That's the problem, they get thousands of requests.

Sheila Dahlen, Ward County Recorder: County Recorders are in support of this bill.

No one appeared to testify in opposition to HB 1185. **Chairman Keiser** closed the hearing.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1185

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/20/03

Tape Number	Side A	Side B	Meter #
2		x	10.8-17.5
Committee Clerk Signature			

Minutes:**CHAIRMAN KEISER** called for committee work on HB 1185 that relates to financing statements and terminating statements under the Uniform Commercial Code (UCC).

REP. KASPER asked why this bill addresses documents created after 1/1/02, why records prior to that date are not covered under this legislation.

EDWARD ERICKSON (ATTY GENERAL'S OFFICE) explained that the technology isn't yet available to delve into old records and redact SS#s. Updated software eventually will be able to take care of such an onerous task.

REP. RUBY asked if there are any exemptions.

ERICKSON explained that this legislation is intended to close a gap that will prevent ID theft but not deny creditors access to information they require.

REP. EKSTROM moved a Do Pass. **REP. SEVERSON** seconded. The motion carried.

VOTE: 14-0-0.

Date: 1/20/03
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1185

House **Industry, Business & Labor** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ______

Action Taken Do Pass

Motion Made By Ekstrom Seconded By Severson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Rep.Boe	✓	
Rep.Severson, Vice-Chair	✓		Rep.Ekstrom	✓	
Rep.Dosch	✓		Rep.Thorpe	✓	
Rep. Froseth	✓		Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep.Kasper	✓				
Rep. Klein	✓				
Rep. Nottlestad	✓				
Rep. Ruby	✓				
Rep.Tieman	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment EKSTROM

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 21, 2003 1:57 p.m.

Module No: HR-11-0862
Carrier: Ekstrom
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1185: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1185 was placed on the Eleventh order on the calendar.

2003 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1185

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1185

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-12-03

Tape Number	Side A	Side B	Meter #
1		xxxx	2000-3000
Committee Clerk Signature Lisa VanBerkom			

Minutes:Chairman Mutch opened the hearing on HB 1185. All Senators were present.

HB 1185 relates to financing statements and termination statements under the Uniform Commercial Code.

Testimony in support of HB 1185

Representative Lawrence Klemin introduced the bill. See written testimony. He states that in the 2001 Legislative Session, the Legislature adopted extensive revisions to Article 9 of the Uniform Commercial Code (UCC), which governs secured transactions. These revisions were codified in Chapter 41-09 of the North Dakota Century Code. After the end of the 2001 Session, a UCC working group was organized as a committee of the State Bar Association of North Dakota to address additional issues in Article 9.

Senator Heitkamp: Have you or anyone you know experience someone stealing social security numbers and causing problems with that?

Rep. Klemin: I personally don't know of anyone, but we hear of cases all the time.

Senator Nething: The problem is getting your identity back and getting everything straightened out.

Llona Sailing, Secretary of State's office, spoke in support of the bill. The files are the same at the Secretary of State's office is the same as the filings in the country recorder's office. They have the same problems and would have to do the same redacting. We feel that way we can keep the social security numbers for searches.

Senator Every: What is a photographic record?

Llona: It is just a copy.

End testimony.

There was no opposition.

Senator Klein moved a DO PASS. Senator Espegard seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent

Carrier: Senator Every

Date: 3-12-03

Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate 1185 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Klein Seconded By Espegard

Senators	Yes	No	Senators	Yes	No
Sen. Mutch, Chairman	X				
Sen. Klein, Vice Chairman	X				
Sen. Krebsbach	X				
Sen. Nething	X				
Sen. Heitkamp	X				
Sen. Every	X				
Sen. Espegard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Every

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1185: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1185 was placed on the Fourteenth order on the calendar.

2003 TESTIMONY

HB 1185

NORTH DAKOTA
HOUSE OF REPRESENTATIVES

resentative Lawrence R. Klemin
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COMMITTEES:
Judiciary
Government and
Veterans Affairs

TESTIMONY OF REP. LAWRENCE R. KLEMIN
HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE
HOUSE BILL NO. 1185
JANUARY 15, 2003

In the 2001 Legislative Session, the Legislature adopted extensive revisions to Article 9 of the Uniform Commercial Code (UCC), which governs secured transactions. These revisions were codified in Chapter 41-09 of the North Dakota Century Code. After the end of the 2001 Session, a UCC working group was organized as a committee of the State Bar Association of North Dakota to address additional issues in Article 9. I served on that committee, along with representatives from state and local government, including the offices of the Secretary of State and the Attorney General, County Recorders, and representatives of banking and other lending organizations. House Bill 1185 addresses two issues that have arisen since 2001.

Section 1 of the bill addresses social security numbers on financing statements. Existing law requires that the debtor's social security or federal tax identification number be included on financing statements in order to provide accurate search results for persons who already have obtained the number from the debtor. Special protection was added against disclosure of social security and federal tax identification on financing statements that have been filed with the Secretary of State. The intent of the law last Session was to prevent the number from being revealed as a result of a search made by unauthorized persons, who might be looking for social security or federal tax identification numbers in order to commit identity theft.

This bill is intended to correct a problem that became apparent after last Session. The 2001 legislation applied to all financing documents that had previously been filed. It is too burdensome and costly to redact social security or federal tax identification numbers on all of the financing statements that have ever been filed in the past. This bill makes the privacy protection apply only to documents filed after January 1, 2002, which is the same effective date in the law passed in the last Session.

Section 2 of the bill corrects a conflict in the law governing termination statements. Revised Article 9 as enacted in North Dakota last Session no longer requires an assignment to be filed when someone other than the secured party submits a termination statement. However, subsection 1 of Section 41-09-84 still required filing this extra assignment with the Secretary of State. House Bill 1185 removes this unnecessary and conflicting language.

In addition, subsection 2 of Section 41-09-84 states that the original financing statement and any related continuation statement may be removed from the Secretary of State's files at any time after receipt of a termination statement if the Secretary maintains a photographic record of the documents, or after one year from receipt of the termination statement if there is no such record. This conflicts with subsection 7 of Section 41-09-90, which states that the debtor's name cannot be removed from the index until one year after the effectiveness of the financing statement lapses. This bill removes subsection 2 of Section 41-09-84 in order to resolve this conflict.

Section 1 of this bill makes the identification number an "exempt" record, which means that it can be disclosed at the discretion of the public entity. However, there is another bill, House Bill 1092, which has been introduced at the request of the Attorney General, which makes social security numbers "confidential," which means that they cannot be disclosed. That bill does not refer to federal tax identification numbers and contains an exception for the disclosure of social security numbers where other state law authorizes the disclosure. House Bill 1185 would be an exception to the general prohibition against disclosure.

I would be happy to answer any questions that you may have.

NORTH DAKOTA
HOUSE OF REPRESENTATIVES

esentative Lawrence R. Klemin
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Judiciary
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TESTIMONY OF REP. LAWRENCE R. KLEMIN
SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE
HOUSE BILL NO. 1185
MARCH 12, 2003

Mr. Chairman and members of the Senate Industry, Business and Labor Committee, I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am here to testify in support of House Bill 1185.

In the 2001 Legislative Session, the Legislature adopted extensive revisions to Article 9 of the Uniform Commercial Code (UCC), which governs secured transactions. These revisions were codified in Chapter 41-09 of the North Dakota Century Code. After the end of the 2001 Session, a UCC working group was organized as a committee of the State Bar Association of North Dakota to address additional issues in Article 9. I served on that committee, along with representatives from state and local government, including the offices of the Secretary of State and the Attorney General, County Recorders, and representatives of banking and other lending organizations. House Bill 1185 addresses two issues that have arisen since 2001.

Section 1 of the bill addresses social security numbers and federal tax identification numbers on financing statements. A financing statement is a document that a creditor files in the central indexing system in order to give notice of a security interest in a debtor's property. Existing law required that the debtor's social security or federal tax identification number be included on financing statements in order to provide accurate search results for persons, such as other creditors, who already have obtained the number from the debtor. Special protection was added last Session against disclosure of social security and federal tax identification numbers on financing statements that have been filed with the Secretary of State. The intent of the law last Session was to prevent the number from being revealed as a result of a search made by unauthorized persons, who might be looking for social security or federal tax identification numbers in order to commit identity theft. Consequently, the effect of the 2001 legislation was to require the Secretary of State to redact (which means to remove, block out, or cover up) the number so it couldn't be seen on copies of financing statements provided to the public, effective January 1, 2002.

This bill is intended to correct a problem that became apparent after last Session. The 2001 legislation applied to all financing statements that had ever been previously filed. It is too burdensome and costly for the Secretary of

State's office to redact social security or federal tax identification numbers on all of the thousands of financing statements that have ever been filed in the past, which go back to the 1960's. This bill makes the privacy protection apply only to documents filed after January 1, 2002, which is the same effective date in the law passed in the last Session. Section 1 of this bill also changes the terminology and makes the identification number an "exempt" record, rather than "not a public record" to be consistent with the terms used in the open records law.

Section 2 of the bill corrects a conflict in the law governing termination statements. Revised Article 9 as enacted in North Dakota last Session no longer requires an assignment to be filed when someone other than the secured party submits a termination statement. However, subsection 1 of Section 41-09-84 still required filing this extra assignment with the Secretary of State. House Bill 1185 removes this unnecessary and conflicting language.

In addition, subsection 2 of Section 41-09-84 states that the original financing statement and any related continuation statement may be removed from the Secretary of State's files at any time after receipt of a termination statement if the Secretary maintains a photographic record of the documents, or after one year from receipt of the termination statement if there is no such record. This conflicts with subsection 7 of Section 41-09-90, which states that the debtor's name cannot be removed from the index until one year after the effectiveness of the financing statement lapses. This bill removes subsection 2 of Section 41-09-84 in order to resolve this conflict.

Mr. Chairman and members of the committee, I encourage you to recommend a "do pass" on House Bill 1185. I would be happy to answer any questions that you may have.