2011 SENATE JUDICIARY

SB 2249

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2249
2/14/11
Job #14501

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to the contents of a child support lien filed with the Secretary of State

Minutes: There is attached written testimony

Senator Nething – Chairman

Senator Olafson – Introduces the bill.

Clara Jenkins – Secretary of State Office – See written testimony from Al Jaeger, Sec. of State.

Opposition

Budett Howe – ND Farm Credit Services – He thinks we are losing ground with this bill. He said in 2001 they wanted to preserve social security numbers as a means of identifying which customers they were doing lien searches on. He further explains the issues that came up with them doing this and how it would be a nightmare without these numbers.

Senator Olafson – Questions the IACA change is a proposed change.

Senator Sorvaag – States that if 48 states are going with the change they would be no reason they would leave the box on the form for ND and SD.

Howe – Replies they faced the same issue in 2001 and the national people allowed ND and SD to leave that box on the form.

Senator Nething – Asks him if he is familiar with a national company that can conduct searches without the use of social security numbers.

Howe – Said he is aware of companies but at Farm Credit they do their own searches.

Close the hearing on 2249

Discussion

Senator Olafson mentions that there was only the one in opposition to the bill, no other segments of the industry testifying against the bill.

Senator Olafson moves a do pass
Senator Sitte seconds

Roll call vote – 6 yes, 0 no

Senator Olafson will carry

Date: 2/14
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2249

Senate Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Olafson Seconded By Senator Sitte

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson	X	
Curtis Olafson – V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte	X				
Ronald Sorvaag	X				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Senator Olafson

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

REPORT OF STANDING COMMITTEE

SB 2249: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2249 was placed on the Eleventh order on the calendar.

2011 HOUSE JUDICIARY

SB 2249

2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

SB 2249
March 14, 2011
15346

☐ Conference Committee

Committee Clerk Signature D Penrose

Minutes:

Chairman DeKrey: We will open the hearing on SB 2249.

Al Jaeger, Secretary of State: Support (see attached 1).

Rep. Delmore: Has there ever been a time when the social security numbers were shared with someone and there was a problem; that they were given to someone when they should not have been.

Al Jaeger: We're not aware of any situation like that. Under ND, anything that we give out from our office all of that information is redacted. So from that standpoint, I'm not aware of anything. This is something that I've been reluctant to remove that because of the search capabilities, but in this particular case because that national form is changing, I think that doesn't make us look very good. Prior to the federal agriculture bill, that CD that we were selling every month that was open game. That number was exposed and I was able to work, at that point, with Sen. Conrad, and with the Secretary of Agriculture at that time, Ed Schaeffer to get that part of the law changed so that we could hide the SS# and still allow the search to take place.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

Rep. Koppelman: I move a Do Pass.

Rep. Beadle: Second the motion.

13 YES 0 NO 1 ABSENT DO PASS CARRIER: Rep. Klemin

Date: 3/14/11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2249

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☑ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Koppelman Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Guggisberg	✓	
Rep. Beadle	✓		Rep. Hogan	✓	
Rep. Boehning			Rep. Onstad	✓	
Rep. Brabandt	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Klemin

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

REPORT OF STANDING COMMITTEE

SB 2249: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2249 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

SB 2249

ALVIN A. JAEGER
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SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

February 14, 2011

TO: Senator Nething, Chairman, and Members of the Senate Judiciary Committee

FR: Al Jaeger, Secretary of State

RE: SB 2249 – Social Security Numbers and Federal ID Numbers

I appreciate and thank Senator Olafson for introducing this bill on behalf of the Secretary of State.

This bill removes the requirement from state law that Social Security Numbers (SSN) and Federal Employer Identification Numbers (FEIN) must be provided in order to file a Uniform Commercial Code (UCC) financing statement, tax liens, child support liens, vessel liens, and insurance liens. These filings are entered into the Central Indexing System (CIS) with any of the state's fifty-three County Recorders or with the Secretary of State. As required by federal Food Security Act of 1985, the SSN/FEIN will still be required on all agriculture Central Notice and Statutory Lien/Notice filings.

The adoption of this legislation will make North Dakota consistent with the filing practices in all but one other state. Currently, only North Dakota and South Dakota still require SSN/FEIN to file the liens, as noted earlier. These numbers have been used for many years and have provided an efficient filing and search process. Now, the changes are being advanced for the following reasons:

1. To minimize the possibility of identity theft (while these numbers are redacted according to state law for any searches requesting copies of filed documents, they still are on record in the CIS database).
2. To limit the state's liability in the event the numbers are inadvertently disclosed due to a missed redaction.
3. The International Association of Commercial Administrators (IACA) recently made a decision to remove the debtor SSN/FEIN field from the National UCC Financing Statement. When that field is removed from the national form, the North Dakota Secretary of State's office and the state's county recorder offices will not be able to accept the national form for filing because it would not contain the SSN/FEIN that our state law currently requires. Because of the missing information on the national UCC financing form, North Dakota filing officers would be required to reject all UCC filings submitted using that form. For those filers who file these UCC financing statements in many states, in addition to North Dakota, the rejection would cause significant issues and extra work, both for the filers and the filing officers in our state.

While the search process will be changed, the removal of these numbers will not dramatically impair the ability to conduct a search in the CIS for a debtor name. Currently, searches can be made online now, without the SSN/FEIN. CIS subscribers can search by last name, view variations of a debtor name, and they can be limited by city. In addition, the other forty-eight states have not used SSN/FEIN for many years and have done so successfully. Finally, a national service company confirms that they can successfully file and conduct searches throughout the country without the need for a SSN/FEIN and in the case of duplicate names; they contact the secured party for particulars about the debtor that will assist them in their due diligence to identify the correct debtor.

On January 21, the House passed HB 1137 on a vote of 90 to 0. It is an updated Article 9 Uniform Law that governs the CIS filings and requires that a debtor name be listed as it appears on the debtor's driver's license or, in the case of a business, its registered name. The bill was heard by the Senate Judiciary committee on February 8.

The bill provides an effective date of January 1, 2012, to enable the Secretary of State to make the needed system adjustments and to amend the applicable administrative rules.

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STATE OF NORTH DAKOTA
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TO: Rep DeKrey, Chairman, and Members of the House Judiciary Committee

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The adoption of this legislation will make North Dakota consistent with the filing practices in all but one other state. Currently, only North Dakota and South Dakota still require SSN/FEIN to file the liens, as noted in the above paragraph. These numbers have been used for many years and have provided an efficient filing and search process. Now, the changes are being advanced for the following reasons:

1. To minimize the possibility of identity theft (while these numbers are redacted according to state law for any searches requesting copies of filed documents, they still are on record in the CIS database).
2. To limit the state's liability in the event the numbers are inadvertently disclosed due to a missed redaction.
3. Because only two states have still been requiring the SSN/FIN, the International Association of Commercial Administrators (IACA) has been discussing for several years the removal of the debtor SSN/FIN field from the National UCC Financing Statement. While other aspects of the form are also being discussed, a final decision related to the SSN/FIN field is expected in June 2011. It is anticipated that it is very likely that field is removed from the national form. Therefore, the North Dakota Secretary of State's office and the state's county recorder offices will not be able to accept the national form for filing because it would not contain the SSN/FEIN that our state law currently requires. Because of the missing information on the national UCC financing form, North Dakota filing officers would be required to reject all UCC filings submitted using that form. For those filers who file these UCC financing statements in many states, in addition to North Dakota, the rejection would cause significant issues and extra work, both for the filers and the filing officers in our state.

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This bill provides an effective date of January 1, 2012, to enable the Secretary of State to make the needed system adjustments and to amend the applicable administrative rules.

On a related matter, the House passed HB 1137 on January 21 by a vote of 90 to 0. It is an updated Article 9 Uniform Law that governs the CIS filings and requires that a debtor name be listed as it appears on the debtor's driver's license or, in the case of a business, its registered name. The bill was heard by the Senate Judiciary committee on February 8. It was given a 6 to 0 Do Pass by the Senate Judiciary Committee and is on the 14th Order on the Senate calendar for today.