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DESCRIPTION

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Donna Hill
Operator's Signature

10/3/03
Date

2003 HOUSE JUDICIARY

HB 1360

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10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1360

House Judiciary Committee

☐ Conference Committee

Hearing Date 2-5-03

Tape Number	Side A	Side B	Meter #
2	xx		40-end
Committee Clerk Signature <i>Al Penrose</i>			

Minutes: 12 members present, 1 member absent (Rep. Maragos).

Chairman DeKrey: We will open the hearing on HB 1360.

Rep. Klemin: Introduced the bill, support. Also Christine Hogan, Exec. Dir. of the State Bar Association also wanted the committee to know that her organization supports this bill.

Chairman DeKrey: Thank you.

Rep. Delmore: They are still being filed.

Rep. Klemin: It can be done either way. Whether someone chooses to do or not, all this does is make sure that the times are consistent with different county recorders.

Charles McCay, Farm Credit Services: Support, this helps clarify the language. Marilyn Foss was here earlier, but had to leave, her organization, ND Bankers Association, supports this bill also.

Chairman DeKrey: Thank you.

Llola Salling, Secretary of State: Support.

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Page 2
House Judiciary Committee
Bill/Resolution Number HB 1360
Hearing Date 2-5-04

Chairman DeKrey: Thank you. Any further testimony. We will close the hearing. What are the committee's wishes in regard to HB 1360.

Rep. Delmore: Move Do Pass on HB 1360.

Rep. Kretschmar: Seconded.

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

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10/3/03
Date

Date: 2/5/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1360

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Delmore Seconded By Rep. Kretschmar

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	AB		Rep. Eckre	✓	
Rep. Bernstein	✓		Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin	✓				
Rep. Grande	✓				
Rep. Kingsbury	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Klemin

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

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10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
February 5, 2003 11:24 a.m.

Module No: HR-22-1702
Carrier: Klemm
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1360: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS**
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1360 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-22-1702

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Dennis Halliwell
Operator's Signature

10/3/03
Date

2003 SENATE JUDICIARY

HB 1360

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10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1360

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 03/24/03

Tape Number	Side A	Side B	Meter #
1	X		0.0 - 9.9
Committee Clerk Signature <i>Maria L. Selberg</i>			

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with testimony on the bill:

Testimony in Support of HB 1360

Rep Lawrence R. Klemin - Dist #47 (meter 0.5) Read Testimony - Attachment #1

Sen. Traynor asked if carpeting was considered a fixture? Yes, unless if it is readily removable-discussion of what is and is not included. i.e. Drapes, Furnaces ext.

Discussion of process and terms and how the security agreement in a mortgage and what its effect would have on this legislation..

Expiration date: 1. Lapse of time 2. Loan Paid off.

Discussion of Paragraph 7.

Marilyn Foss - Bankers Association (meter 6.2) Discussed her support and how there has been a gap in the law and this bill fills it in.

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Dennis Hall
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10/3/03
Date

Page 2

Senate Judiciary Committee

Bill/Resolution Number HB 1360

Hearing Date 03/25/03

²⁴
Layla Saylin - Secretary of States Office, We are in support

Testimony in Opposition of HB 1360

None

Motion Made to DO PASS HB 1360 Sen. Trenbeath and seconded by Sen. Lyson

Roll Call Vote: 5 Yes. 0 No. 1 Absent

Motion Passed

Floor Assignment: Senator John T. Traynor, Chairman

Senator John T. Traynor, Chairman closed the hearing

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10/3/03
Date

Date: March 25, 2003
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1360

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Sen. Trenbeath Seconded By Sen. Lyson

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	A	A
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) FIVE (5) No ZERO (0)

Absent ONE (1)

Floor Assignment Sen. Traynor

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

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Dennis Bercier
Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
March 24, 2003 12:17 p.m.

Module No: SR-52-5518
Carrier: Traynor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1360: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1360 was placed on the
Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-52-5518

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10/3/03
Date

2003 TESTIMONY

HB 1360

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10/3/03
Date

**HOUSE BILL 1360
TESTIMONY OF REP. LAWRENCE R. KLEMIN
HOUSE JUDICIARY COMMITTEE
FEBRUARY 5, 2003**

Mr. Chairman and members of the House Judiciary Committee. I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am here today to testify in support of House Bill 1360.

House Bill 1360 is intended to clarify a confusion that has resulted in the law on secured transactions concerning the length of time that a Uniform Commercial Code financing statement on fixtures remains effective when it is filed in the real property records. Currently the law allows such a financing statement to be filed both in the central indexing system maintained by the Secretary of State or in the real property records maintained by the County Recorders. It can also be filed in both places, which is a dual filing.

Fixtures are personal property which become attached to real property and are not readily removable. As such, they are considered part of the real property. A creditor files a financing statement in order to "perfect" a security interest in collateral securing a loan for purposes of priority over other creditors in the event of a default by a debtor and a resulting dispute between creditors over who is entitled to the collateral.

A creditor with a security interest in fixtures owned by a debtor must file a financing statement in order to give notice to the public and other creditors and to gain priority. A financing statement filed with the central indexing system is effective for 5 years and must be continued before the 5 year period expires in order to maintain priority. The question is whether the same rule applies if the financing statement is filed with the County Recorder in the real property records.

House Bill 1360 makes it clear that a financing statement is effective for 5 years regardless of where it is filed. It must then be continued by filing a continuation statement in order to maintain priority over other creditors.

Mr. Chairman and members of the Committee, I urge you to give a "do pass" recommendation to House Bill 1360. I would be happy to answer any questions that you may have. Thank you very much.

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10/3/03
Date

Testimony on HB 1360

Christine Hogan
Executive Director
State Bar Association of North Dakota

House Bill 1360 is intended to resolve an area of some confusion in the law of secured transactions that has developed since the Legislature adopted extensive revisions to Article 9 of the Uniform Commercial Code last session. This bill was developed with input from a Task Force of the State Bar Association of North Dakota that included attorneys and private parties who regularly work with secured transactions and representatives from the Secretary of State's office and the Attorney General's office. The Task Force's sole purpose was meeting during the interim to identify any provisions in the newly-rewritten Article 9 that required clarification or revision.

This bill clarifies that a financing statement is effective for five years, and it must be continued before the five-year period expires to maintain its priority as a security interest. The Task Force's goal was to resolve any doubt among practitioners as to whether financing statements filed in the real property records must be continued. HB 1360 should resolve that doubt. The State bar Association requests a "do pass" on this bill.

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10/3/03
Date



Representative Lawrence R. Klemin
District 47
1709 Montego Drive
Bismarck, ND 58501

NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



COMMITTEES:
Judiciary
Government and
Veterans Affairs

HOUSE BILL NO. 1360 TESTIMONY OF REP. LAWRENCE R. KLEMIN SENATE JUDICIARY COMMITTEE MARCH 24, 2003

Mr. Chairman and members of the Senate Judiciary Committee. I am Lawrence R. Klemin, Representative from District 47 in Bismarck. I am here today to testify in support of House Bill 1360.

House Bill 1360 is intended to clarify a confusion that has resulted in the law on secured transactions concerning the length of time that a Uniform Commercial Code financing statement on fixtures remains effective when it is filed in the real property records. Currently the law allows such a financing statement to be filed in both the central indexing system maintained by the Secretary of State or in the real property records maintained by the County Recorders. It can also be filed in both places, which is a dual filing.

Fixtures are personal property which become attached to real property and are not readily removable. As such, they are considered part of the real property. A creditor files a financing statement in order to "perfect" a security interest in collateral securing a loan for purposes of priority over other creditors in the event of a default by a debtor and a resulting dispute between creditors over who is entitled to the collateral.

A creditor with a security interest in fixtures owned by a debtor must file a financing statement in order to give notice to the public and other creditors and to gain priority. A financing statement filed with the central indexing system is effective for 5 years and must be continued before the 5 year period expires in order to maintain priority. The question is whether the same rule applies if the financing statement is filed with the County Recorder in the real property records. Is a financing statement filed as a fixture filing in the real property records effective indefinitely until it is released, or, is it only effective for 5 years like a filing made in the personal property records?

House Bill 1360 resolves this question and makes it clear that a financing statement is effective for 5 years regardless of where it is filed. It must then be continued by filing a continuation statement in order to maintain priority over other creditors.

Mr. Chairman and members of the Committee, I urge you to give a "do pass" recommendation to House Bill 1360. I would be happy to answer any questions that you may have. Thank you very much.

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