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Security Financing Legislation

Brian T. Callahan

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Turning to the area of federal legislation, an amendment to Section 11 of the Clayton Act⁶ was enacted by Congress. Prior to this amendment, the Federal Trade Commission could not enforce a cease and desist order unless it was finalized by a judgment issuing from a circuit court, either upon a respondent's appeal from the Commission's order or upon proof by the Commission of a violation or impending violation of its order. The amendment finalizes such a Commission order after sixty days from its issuance, unless appeal has been taken within that time by the respondent. It also provides penalties up to \$5,000 per day for continuing violations after finalization of the order, each day representing a separate offense.

RULES AND REGULATIONS

There has been considerable activity on the part of the Federal Trade Commission in amending and issuing rules during this period, the most important additions in rule making being in the form of amendments to the General Procedures and Rules of Practice for Adjudicative Proceedings.⁷ In general, the amendments cover the area involving service of complaints, orders, and other Commission processes by registered mail or by manual delivery to business or residential address. Service at a residence is now generally authorized, whereas previously, it could be effected by delivery only if the proceeding was under the Federal Trade Commission Act.

Of relatively minor importance is the amendment of the trade practice rules for the jewelry industry.⁸ Under these amendments certain minor and functional parts of jewelry items are specified as exempt from certain requirements as to quality markings and representations in the description of jewelry products.

New rules have also been issued for the manifold business forms industry⁹ and the tire and tube repair material industry.¹⁰

EDWARD V. LEJA

SECURITY FINANCING LEGISLATION

During the year 1959 several states enacted retail installment sales laws,¹ and legislative revisions and additions occurred in four states where such acts already existed.² Factors acts³ and trusts receipts acts⁴ were enacted

⁶ 73 Stat. 243, 15 U.S.C. 21 (as amended Aug. 28, 1958, 72 Stat. 943; July 23, 1959, 73 Stat. 243).

⁷ 16 C.F.R. 1.2-3.27, 24 Fed. Reg. 7606.

⁸ 16 C.F.R. 23, 22 Fed. Reg. 4567.

⁹ 16 C.F.R. 47.0-47.18, 24 Fed. Reg. 5293.

¹⁰ 16 C.F.R. 48.0-48.18, 24 Fed. Reg. 10195.

¹ Cal. Civ. Code § 1801; Fla. Stat. §§ 520.41-520.42; Mont. Rev. Code §§ 74-601—74-612; N.M. Laws 1959, H.B. 87; Tenn. Code Ann. §§ 47-1901—47-1910.

² Conn. Rev. Stat. §§ 42-83b, 42-83h; N.Y. Pers. Prop. §§ 401, 405; N.D. Rev. Code § 51-1301; Ohio Rev. Code § 1317.11.

³ N.D. Laws 1959, H.B. 572.

⁴ Ark. Laws 1959, S.B. 105; Kan. Laws 1959, ch. 241; Tex. Laws 1959, S.B. 237.

CURRENT LEGISLATION

in several states. The legislatures of four jurisdictions clarified segments of their existing factors laws⁵ and one state amended a section of its existing Trust Receipts Act.⁶ New Hampshire,⁷ during 1959, enacted the Uniform Commercial Code and Massachusetts, Pennsylvania, and Connecticut made amendments to their version of the Code.⁸

The finance field was the source of legislation dealing with usurious rates on household goods,⁹ interest rates on installment loans,¹⁰ and interest rates chargeable by banks for secured and unsecured loans.¹¹ South Carolina abrogated the usury defense for corporations organized for profit and having issued capital of \$40,000 or more.¹² Massachusetts revised its laws to require a seller to make a rebate of unearned interest in any sale, secured or unsecured, of consumer goods on credit in which there was a finance charge.¹³

Approximately one-third of the states have been busy in the field of mechanics' lien and motor vehicle legislation. The paramount considerations in the mechanics' lien statutory changes appear to be to bring about an extension and expansion of lien coverage¹⁴ and to simplify existing processes and procedures.¹⁵ The new legislation in the field of motor vehicle law is divisible into three categories: the broadening and in some instances narrowing of the definition of the term motor vehicle to include or exclude trailers and other types of mobile equipment,¹⁶ the modification of existing law with respect to certificates of title,¹⁷ and the revision of statutory language deal-

⁵ S.D. Laws 1959, H.B. 999; Wis. Stat. § 241.145; Fla. Stat. § 59-350; Me. Rev. Stat. ch. 181 § 10.

⁶ Ind. Laws 1959, ch. 170 § 1.

⁷ N.H. Laws 1959, ch. 247.

⁸ Conn. Rev. Stat. § 42a-1-101—42a-10-101; Mass. Gen. Laws ch. 106, §§ 9-207, 9-301, 9-312, 9-403, 9-405, 9-501; Mass. Gen. Laws ch. 255 §§ 12, 12a, 75; Pa. Stat. Tit. 12A. Laws 1959, H.B. 2422, S.B. 689.

⁹ N.C. Gen. Stat. § 14-391.

¹⁰ Ill. Rev. Stat. ch. 74 § 4a; Iowa Code § 535.6.

¹¹ N.M. Laws 1959, ch. 327 §§ 1-10.

¹² S.C. Code § 8-8.

¹³ Mass. Gen. Laws ch. 255 § 12b.

¹⁴ Alaska Comp. Laws Ann. § 26-1-1; Ariz. Rev. Stat. § 33-991; Ill. Rev. Stat. ch. 82 § 47a; Md. Ann. Code Art. 63 §§ 1, 10; Mo. Rev. Stat. §§ 429.010, 429.170; Wash. Rev. Code §§ 60.04.010, 60.04.020, 60.04.040, 60.04.050, 60.04.060, 60.04.130; Wyo. Stat. § 29-31.

¹⁵ Cal. Code Civ. Proc. §§ 1193, 1193.1; Fla. Stat. §§ 59-479, 84.16; Me. Rev. Stat. ch. 178 §§ 38, 40, 45; Md. Ann. Code Art. 63 §§ 11, 12; Mass. Gen. Laws ch. 254 §§ 3, 4; Mo. Rev. Stat. § 107.170; N.J. Rev. Stat. § 2A:44-101; N.Y. Consol. Laws ch. 33 §§ 4a, 13(1-a), 39-c, 70, 71, 1302-c; Tex. Rev. Civ. Stat. Arts. 5160, 5472a; Wash. Rev. Code § 60.04.020; Wis. Stat. § 289.16(1); Md. Ann. Code Art. 90 § 11.

¹⁶ Alaska Laws 1959, S.B. 53; Cal. Laws 1959, chs. 173, 1996; Colo. Laws 1959, H.B. 310; Minn. Stat. § 168.66; N.C. Laws 1959, H.B. 447; N.D. Laws 1959, S.B. 42; Pa. Laws 1959, S.B. 95, 747; Wash. Rev. Code § 46.04.320.

¹⁷ Alaska Laws 1959, ch. 38; Ark. Acts 1959, Act 307; Fla. Laws 1959, H.B. 798; Kan. Laws 1959, H.B. 239; Mich. Acts 1959, P.A. 155; Nev. Laws 1959, chs. 505, 507; N.C. Laws 1959, H.B. 447; N.D. Laws 1959, S.B. 42; Ore. Rev. Stat. § 481.110; Tex. Laws 1959, S.B. 22; Wash. Rev. Code §§ 46.12.050, 46.12.120; W. Va. Laws 1959, H.B. 229, 256.

ing with the protection of security interests.¹⁸ Pennsylvania enacted a vehicle code;¹⁹ California recodified its motor vehicle law;²⁰ and New Mexico passed a motor vehicle sales finance act.²¹

Two states, Alabama and Iowa, enacted legislation permitting corporations to sell, lease, exchange, mortgage, or otherwise dispose of all or substantially all, of the corporate assets and property, without stockholder approval, when in the ordinary course of business, otherwise only with stockholder consent.²²

BRIAN T. CALLAHAN

UNIFORM COMMERCIAL CODE

LEGISLATIVE DEVELOPMENTS

Three states have recently enacted the Uniform Commercial Code. On August 27, 1959 the Governor of New Hampshire signed a bill making the UCC the law of that state effective July 1, 1961, the same date on which the Connecticut Act goes into effect. In Kentucky the effective date of the Code is July 1, 1960.

The Ohio House of Representatives passed the UCC and the judicial committee of the Senate reported it out favorably. However, the rules committee of the Senate failed to allow the Code to be voted upon because of the pressure of pre-adjournment business. Further action must now await the 1961 session.

Study Commissions for the Code have been created by legislation in Georgia, Indiana, New Jersey, New Mexico, Rhode Island, and Wyoming, with California considering the creation of such a Commission.

Steps are being taken in Illinois, Kansas, Maine, Maryland, Michigan, North Dakota, and Utah to have the Code prepared for legislative consideration either this year or in 1961.

The Legislature of Washington has referred the Code to a Statutory Law Commission for study and report in 1961.

MASSACHUSETTS AMENDMENTS

In Massachusetts a number of amendments were enacted to the UCC dealing with investment securities and secured transactions, as covered by Articles 8 and 9 respectively.

By amendment to § 8-304, a purchaser of an investment security is not charged with notice of an adverse claim merely because he knows it is held for a third person, unless he has actual knowledge (rather than reason to

¹⁸ Ark. Acts 1959, Act 183, 307; Cal. Civ. Code §§ 2981, 2982; Fla. Laws 1959, H.B. 798, 799; Iowa Laws 1959, H.B. 309.

¹⁹ Pa. Laws 1959, H.B. 500.

²⁰ Cal. Laws 1959, ch. 3.

²¹ N.M. Laws 1959, S.B. 165.

²² Ala. Laws 1959, S.B. 261; Iowa Laws 1959, H.B. 368.