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House Bill 5762 as introduced
First Analysis (5-29-90)

Sponsor: Rep. John Bennett
Committee: Corporations & Finance

THE APPARENT PROBLEM:

The Uniform Commercial Code specifies, among other things, that when a person perfects a security interest he or she must file the document with the secretary of state, in most cases. The act contains a misplaced comma which could result in an interpretation requiring a person, when perfecting a security interest in certain farming accounts, to file a financing statement in the county of the debtor's residence rather than with the secretary of state. Apparently, a question of the intent of this sentence has been debated in court, although the presiding judge ruled the comma was inadvertently included and did not intend to require local filing of such a financing statement. Even so, some feel the comma should be removed to clarify the act's intent.

THE CONTENT OF THE BILL:

The bill would amend the Uniform Commercial Code to delete a comma before the words "or general intangibles" in the following phrase: "When the collateral is equipment used in farming operations, or farm products, or accounts, or general intangibles arising from or relating to the sale of farm products by a farmer."

MCL 440.9401

FISCAL IMPLICATIONS:

According to the Financial Institutions Bureau, the bill would not have state or local fiscal implications. (5-24-90)

ARGUMENTS:

For:

The bill would merely remove a comma within the act to clarify the act's intent with regard to the filing of a financing statement to perfect a security interest in certain accounts receivable. Questions have arisen regarding the act's intent and, apparently, litigation involving the question resulted in a ruling that the comma was inadvertently added to the act. The bill would strike the comma and, thus, would remove any doubt on the issue.

POSITIONS:

The Michigan Bankers Association supports the bill. (5-24-90)

The Financial Institutions Bureau (within the Department of Commerce) has no position on the bill. (5-24-90)