2009 SENATE BILL 581

March 2, 2010 – Introduced by Senators SULLIVAN, A. LASEE, TAYLOR and PLALE, cosponsored by Representatives FIELDS, ZIGMUNT, VOS, BERCEAU, POPE-ROBERTS, TOWNSEND and LOTHIAN. Referred to Committee on Veterans and Military Affairs, Biotechnology, and Financial Institutions.

1 AN ACT *to amend* 409.520 (title), 409.520 (1), 409.521 (1), 409.521 (2) (form) 1d.,

2 2d. and 11d. and 409.521 (3) (form) 7d.; and *to create* 224.30 (4), 409.516 (2)

3 (h) and 409.520 (1m) of the statutes; **relating to:** prohibiting social security

4 numbers on instruments under the corporate registration system and on

5 records under Article 9 of the Uniform Commercial Code.

Analysis by the Legislative Reference Bureau

This bill prohibits the Department of Financial Institutions (DFI) from recording in its corporate registration system any instrument containing an individual's social security number (SSN). If DFI is presented with an instrument containing an SSN, the bill allows DFI, prior to recording the instrument in the system, to remove or obscure characters from the SSN so that it is not discernable on the instrument. The bill also provides that, if DFI does not discover an SSN on an instrument until after DFI has recorded the instrument in the system, DFI is not liable for the instrument drafter's placement of the SSN on the instrument, and DFI is allowed to remove or obscure characters from the SSN so that it is not discernable on the instrument. In addition, if DFI records an instrument in the system containing a complete SSN, the bill provides that the drafter of the instrument is liable for actual damages resulting from the instrument being recorded.

The bill creates comparable provisions for records under the state's version of Article 9 of the Uniform Commercial Code, which deals with secured transactions. The bill prohibits an office in which financing statements are to be filed under Article

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9, which is referred to as a "filing office" and which is, with certain exceptions, DFI, from filing or indexing a record containing an individual's SSN. If a filing office is presented with a record containing an SSN, the filing office may, prior to filing and indexing, remove or obscure characters as described above. If a filing office discovers an SSN on a record after filing and indexing, the filing office may also remove or obscure characters, and the filing office is not liable for the record drafter's placement of the SSN on the record. In addition, if a filing office files or indexes a record containing a complete SSN, the drafter of the record is liable for actual damages resulting from the record being filed and indexed. The bill also eliminates references to SSNs on forms used for filing and amending financing statements.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 224.30 (4) of the statutes is created to read:

2 224.30 **(4)** RESTRICTIONS ON RECORDING INSTRUMENTS WITH SOCIAL SECURITY

3 NUMBERS. (a) In this subsection, "system" means the department's corporate

4 registration information system.

5 (b) The department may not record in the system any instrument offered for

6 recording that contains the social security number of an individual. If the

7 department is presented with an instrument for recording in the system that

8 contains an individual's social security number, the department may, prior to

9 recording the instrument, remove or obscure characters from the social security

10 number such that the social security number is not discernable on the instrument.

11 (c) If the department is presented with an instrument for recording in the

12 system that contains an individual's social security number, and if the department

13 records the instrument but does not discover that the instrument contains the

14 individual's social security number until after the instrument is recorded, the

15 department is not liable for the instrument drafter's placement of the individual's

16 social security number on the instrument and the department may remove or

1 obscure characters from the social security number such that the social security

2 number is not discernable on the instrument.

3 (d) If the department records an instrument in the system that contains the

4 complete social security number of an individual, the instrument drafter is liable to

5 the individual whose social security number appears in the recorded instrument for

6 any actual damages resulting from the instrument being recorded.

7 SECTION 2. 409.516 (2) (h) of the statutes is created to read:

8 409.516 **(2)** (h) The record contains the social security number of an individual.

9 SECTION 3. 409.520 (title) of the statutes is amended to read:

10 **409.520** (title) **Acceptance and refusal to accept record; social security**

11 **numbers.**

12 SECTION 4. 409.520 (1) of the statutes is amended to read:

13 409.520 **(1)** MANDATORY REFUSAL TO ACCEPT RECORD. A filing office shall refuse

14 to accept a record for filing for a reason set forth in s. 409.516 (2) and may refuse to

15 accept a record for filing only for a reason set forth in s. 409.516 (2). ~~The presence~~

16 ~~or absence of a social security number on a form of record providing for the insertion~~

17 ~~of a social security number as such shall not affect the decision of the filing office to~~

18 ~~accept or refuse the record for filing.~~

19 SECTION 5. 409.520 (1m) of the statutes is created to read:

20 409.520 **(1m)** SOCIAL SECURITY NUMBERS. (a) A filing office may not file and

21 index a record under this subchapter if the record contains the social security

22 number of an individual. If a filing office is presented with a record that contains an

23 individual's social security number, the filing office may, prior to filing and indexing

24 the record, remove or obscure characters from the social security number such that

25 the social security number is not discernable on the record.

1   (b) If a filing office is presented with a record for filing and indexing that

2   contains an individual's social security number, and if the filing office does not

3   discover that the record contains the individual's social security number until after

4   the record is filed and indexed, the filing office is not liable for the record drafter's

5   placement of the individual's social security number on the record and the filing

6   office may remove or obscure characters from the social security number such that

7   the social security number is not discernable on the record.

8   (c) If a filing office files and indexes a record that contains the complete social

9   security number of an individual, the record drafter is liable to the individual whose

10   social security number appears in the filed and indexed record for any actual

11   damages resulting from the record being filed and indexed.

12   SECTION 6. 409.521 (1) of the statutes is amended to read:

13   409.521 **(1)** TAX IDENTIFICATION NUMBER. In publishing instructions for the

14   forms specified in subs. (2) and (3), the department of financial institutions shall

15   include a statement, where applicable, that inclusion of ~~a social security number or~~

16   an employer identification number is not required under Wisconsin law.

17   SECTION 7. 409.521 (2) (form) 1d., 2d. and 11d. of the statutes are amended to

18   read:

19   409.521 **(2)** (form)

1   1d.   TAX ID#: ~~SSN OR~~ EIN

           NOT REQUIRED IN

           WISCONSIN

2   2d.   TAX ID#: ~~SSN OR~~ EIN

           NOT REQUIRED IN

           WISCONSIN

3   11d.   TAX ID#: ~~SSN OR~~ EIN

           NOT REQUIRED IN

           WISCONSIN

4   **SECTION 8.** 409.521 (3) (form) 7d. of the statutes is amended to read:

5   409.521 **(3)** (form)

6   7d.   TAX ID#: ~~SSN OR~~ EIN

           NOT REQUIRED IN

           WISCONSIN

7   **SECTION 9. Initial applicability.**

8   (1) The treatment of section 224.30 (4) (b), (c), and (d) of the statutes first

9 applies to instruments recorded on the effective date of this subsection.

10   (2) The treatment of sections 409.520 (1m) (a), (b), and (c) of the statutes first

11 applies to records filed and indexed on the effective date of this subsection.

12   **(END)**