

LEGISLATIVE BILL 224

Approved by the Governor March 14, 1973

Introduced by S. Marsh, 29

AN ACT to amend sections 2-104, 15-316, 16-317, 17-605, 23-1301, 23-1517.01, 23-1527, 60-505, 77-2712, 77-27,105, 84-308, 84-505, and 84-1213, Reissue Revised Statutes of Nebraska, 1943, and sections 2-105 and 52-1003, Revised Statutes Supplement, 1972, and section 9-403, Uniform Commercial Code, relating to records management; to change the manner the annual report of the State Board of Agriculture is distributed; to provide that essential state and local records be preserved; to provide that documents may be filed by the roll form of microfilm; to clarify filing procedures; to provide that the State Records Board shall specify how long records shall be retained; to provide for retention of records in photographic form; to provide penalties; and to repeal the original sections, and also section 77-1773, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 2-104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-104. The report of the board or so much thereof as will not exceed four hundred pages of printed matter, to be designated by the president and secretary, shall be printed annually by the state, and ~~as many copies thereof as may be determined by the board shall be bound in cloth covers and delivered to the Secretary of State,~~ the accounts thereof to be audited as other accounts for state printing are audited.

Sec. 2. That section 2-105, Revised Statutes Supplement, 1972, be amended to read as follows:

2-105. The Secretary of State manager of the State Board of Agriculture shall distribute the report as follows: Eight copies to the Nebraska Publications Clearinghouse; ~~five copies thereof to each member of the legislature and to each state officer; one copy by mail to each county clerk; to be by him preserved as one of the public records of the county; one copy by mail to~~

~~each state and territorial library, the library of the House of Representatives, and the library of the Department of Agriculture of the United States; one copy to each public library in the state; one hundred copies to the state library copies to any federal, state, or county governmental subdivision by request; and the balance to the secretary manager of the State Board of Agriculture, to be by him distributed as the board may direct.~~

Sec. 3. That section 15-316, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-316. The city clerk shall have the custody of all laws and ordinances and shall keep a correct journal of the proceedings of the council; Provided, that after the period of time specified by the State Records Board pursuant to sections 84-1201 to 84-1220, the clerk may transfer such journal of the proceedings of the council to the state archives of the Nebraska State Historical Society, for permanent preservation. He shall keep a correct record of all outstanding bonds against the city showing the number and amount of each, for what and to whom issued, when purchased, paid or canceled, and shall make an annual report showing particularly the bonds issued and sold during the year, and the terms of sale, with each item of expense thereof. He shall perform such other or further duties as may be required of him by ordinances of the city. He shall also make a monthly report to the council showing the amount appropriated to each fund, and the whole amount of funds drawn thereon, which report shall be spread at large upon the minutes. He may, if the council deem assistance necessary, appoint a deputy who shall give a bond in favor of the city the same as is required of the clerk himself.

Sec. 4. That section 16-317, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-317. The city clerk shall have the custody of all laws and ordinances, and shall keep a correct journal of the proceedings of the council; Provided, that after the period of time specified by the State Records Board pursuant to sections 84-1201 to 84-1220, the city clerk may transfer such journal of the proceedings of the council to the state archives of the Nebraska State Historical Society, for permanent preservation. He shall also keep a record of all outstanding bonds against the city, showing the number and amount of each, for and to whom said bonds were issued; and when any bonds are purchased, or paid, or canceled, said record shall show

the fact. In his annual report he shall describe particularly the bonds issued and sold during the year, and the terms of sale, with every item of expense thereof. He shall also perform such other duties as may be required by the ordinances of the city. He shall also make at the end of each month a report showing the amount appropriated to each fund, and the whole amount of warrants drawn thereon.

Sec. 5. That section 17-605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-605. The city or village clerk shall have the custody of all laws and ordinances, and shall keep a correct journal of the proceedings of the council or board of trustees; Provided, that after the period of time specified by the State Records Board pursuant to sections 84-1201 to 84-1220, the city or village clerk may transfer such journal of the proceedings of the council or board of trustees to the state archives of the Nebraska State Historical Society, for permanent preservation. He shall also keep a record of all outstanding bonds against the city or village, showing the number and amount of each, for and to whom the said bonds were issued, and when any bonds are purchased or paid or canceled said record shall show the fact; and in his annual report he shall describe particularly the bonds issued and sold during the year, and the terms of sale, with every item of expense thereof. He shall also perform such other duties as may be required by the ordinances of the city.

Sec. 6. That section 23-1301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1301. The county clerk shall keep his office at the county seat; shall attend the sessions of the county board; shall keep the seal, records and papers of said board; and shall sign the record of the proceedings of the board, and attest the same with the county seal; Provided, that after the period of time specified by the State Records Board pursuant to sections 84-1201 to 84-1220, the county clerk may transfer such record of the proceedings of the board to the state archives of the Nebraska State Historical Society, for permanent preservation.

Sec. 7. That section 23-1517.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1517.01. The recording of all instruments by the roll form of microfilm may be substituted for the method of recording instruments in books, and the filing of all documents by the roll form of microfilm may be substituted for the method of filing original documents. If this method of recording instruments on microfilm or filing documents on microfilm is used, the original instruments so recorded and the original documents so filed need not be retained after the microfilm has been verified for accuracy and quality, and a security copy on silver negative microfilm in roll form must be maintained and filed off premises under safe conditions to insure the protection of the records and shall meet the microfilm standards as prescribed by the State Records Administrator as provided in sections 84-1201 to 84-1220. The fee books shall provide the proper index information as to the microfilm roll and numerical sequence of all such recorded instruments and of all such filed documents. The internal reference copies or work copies of the instruments recorded on microfilm and of documents filed on microfilm may be in any photographic form to provide the necessary information as may be determined by the official in charge, ~~and shall meet the microfilm standards as prescribed by the State Records Administrator as provided in sections 84-1201 to 84-1220.~~

Sec. 8. That section 23-1527, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-1527. A certified copy of a petition, with schedules omitted, commencing a proceeding under the laws of the United States relating to bankruptcy, or a certified copy of the decree of adjudication or a certified copy of an order approving the bond of the trustee appointed in such proceedings, shall be filed, indexed and recorded in the office of the register of deeds of the county in which is located real property in which the bankrupt has an interest, in the same manner as federal tax liens are filed, indexed and recorded pursuant to sections 52-1001 to 52-1005. The filing fee for such recording shall be the same as the fee for filing and recording federal tax liens. The register of deeds shall file the notices in a file kept for such purpose and designated Notice of Bankruptcy Proceedings; Provided, that in offices filing by the roll form of microfilm pursuant to section 23-1517.01, the original notices need not be retained.

Sec. 9. That section 52-1003, Revised Statutes Supplement, 1972, be amended to read as follows:

52-1003. (a) If a notice of federal tax lien, a refiling of a notice of tax lien, or a notice of revocation of any certificate described in subsection (b) is presented to the register of deeds, he shall endorse thereon his identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the serial number of the District Director and the total unpaid balance of the assessment appearing on the notice of lien.

(b) If a refiled notice of federal tax lien referred to in subsection (a) is presented for filing with the register of deeds as specified in section 52-1001, he shall ~~permanently--attach~~ file the refiled notice or the certificate to with the original notice of lien and shall enter the refiled notice or the certificate with the date of filing in any alphabetical federal tax lien index on the line where the original notice of lien is entered.

(c) Upon request of any person, the register of deeds shall issue his certificate showing whether there is on file, on the date and hour stated therein, any notice of federal tax lien or certificate or notice affecting the lien, filed on or after January 1, 1970, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is one dollar. Upon request the register of deeds shall furnish a copy of any notice of federal tax lien or notice or certificate affecting a federal tax lien for a fee of one dollar per page.

Sec. 10. That section 60-505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-505. {4} The operator of every motor vehicle which is in any manner involved in an accident within this state, in which any person is killed or injured or in which damage to an apparent extent in excess of one hundred dollars is sustained to the property of any one person, including such operator, shall within ten days report the matter in writing to the Department of Motor Vehicles. If such operator be physically incapable of making such report, the owner of the motor vehicle involved in such accident shall, within ten days from the time he learns of the accident, report the matter in writing to the department. The operator or the owner shall make such other and additional reports relating to such accident as the Department of Roads or Department of

Motor Vehicles shall require. Such records shall be retained for the period of time specified by the State Records Board pursuant to sections 84-1201 to 84-1220.

~~(2) The Department of Motor Vehicles and the Department of Roads may destroy all records referred to in subsection (1) of this section relating to that portion of the report of accident retained by each such department (a) when one year shall have elapsed following the date of such accident and satisfactory evidence has been filed with the department that no action for damages arising out of such accident has been instituted during such period, or (b) after three years from the date such proof was required when, during a period of at least three years next preceding the time the department desires to destroy such a record, the department has not received a record of a conviction or a forfeiture of bail.~~

Sec. 11. That section 77-2712, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2712. (1) (a) If any person is delinquent in the payment of any sales or use tax required under the provisions of sections 77-2701 to 77-27,135 to be paid by him or in the event a determination has been made against him which remains unpaid, the Tax Commissioner may, not later than three years after the payment became delinquent or within three years after the last recording of a certificate under subsection (2) of this section, give notice thereof personally or by registered or certified mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or such person.

(b) After receiving the notice provided for in subdivision (1) (a) of this section, the person so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they received the notice until the Tax Commissioner consents to a transfer or disposition, or until sixty days elapse after the receipt of the notice, whichever period expires earlier.

(c) All persons so notified shall, within twenty days after receipt of the notice, report in writing to

the Tax Commissioner all such credits, other personal property, or debts in their possession, under their control, or owing by them.

(d) If such notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice, in order to be effective, shall be delivered or mailed to the office of such bank at which such deposit is carried or at which such credits or personal property is held.

(e) If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld under the provisions of this subsection, he shall be liable to the state to the extent of the value of the property or the amount of the debts thus transferred or paid for any indebtedness due under the provisions of sections 77-2701 to 77-27,135 from the person with respect to whose obligation the notice was given.

(2) (a) If any sales or use tax amount required to be paid to the state under sections 77-2701 to 77-27,135 is not paid when due, the Tax Commissioner may, within three years after the amount is due, file for record in the office of any county register of deeds a certificate specifying the amount, interest, and penalty due, the name and address as it appears on the records of the Tax Commissioner of the person liable for the same, and the fact that the Tax Commissioner has complied with all provisions of sections 77-2701 to 77-27,135 in the determination of the amount required to be paid.

(b) (i) When the certificate provided for in subdivision (2) (a) of this section is filed with any register of deeds it shall constitute a lien from the time of filing upon all real property of the named individual located in such county. Upon the filing of such certificate, the register of deeds shall enter the same in an alphabetical state tax lien index, showing on one line the name and residence of the taxpayer named in such notice, the Tax Commissioner's serial number of such notice, the date and hour of filing, and the amount due. The fee for filing and indexing each notice of lien shall be one dollar. All original such notices shall be retained in numerical order in a file designated state tax lien notices; Provided, that in offices filing by the roll form of microfilm pursuant to section 23-1517.01, the original notices need not be retained; and

(ii) When a certificate of discharge of any tax lien issued by the Tax Commissioner is filed in the office where the original notice of lien is filed, the appropriate county official shall enter the same with the date of filing in the state tax lien index on the line where notice of the lien so discharged is entered, and shall permanently attach file the original certificate of discharge to with the original notice of lien. The fee for filing and indexing each certificate of discharge shall be fifty cents.

(c) From the time of the filing for record, the amount required to be paid together with interest and penalty shall constitute a lien upon all real property in the county owned by the person or afterwards and before the lien expires acquired by him. The lien shall have the force, effect, and priority of a judgment lien and shall continue for five years from the time of the filing of the certificate unless sooner released or otherwise discharged.

(d) The lien may, within five years from the date of the filing of the certificate or within five years from the date of the last extension of the lien in the manner provided in this subsection, be extended by filing for record a new certificate in the office of the county register of deeds of any county, and from the time of such filing, the lien shall be extended to the real property in such county for five years, unless sooner released or otherwise discharged. The fee for filing and indexing each new certificate shall be one dollar.

(e) The Tax Commissioner may at the request of the person involved at any time release all or any portion of the property subject to any lien provided for in sections 77-2701 to 77-27,135 from the lien or subordinate the lien to other liens and encumbrances if he determines that the amount, interest, and penalties have been paid or are secured sufficiently by a lien on other property or that the release or subordination of the lien will not jeopardize the collection of the amount, interest, and penalties. The fee for filing and indexing each certificate of release shall be one dollar.

(f) The register of deeds of each county shall bill the Tax Commissioner on a quarterly basis for fees for documents filed by him for the Tax Commissioner.

(g) A certificate by the Tax Commissioner to the effect that any property has been released from the lien, or that the lien has been subordinated to other liens and encumbrances, shall be conclusive evidence that the property has been released, or that the lien has been



subordinated as provided in the certificate.

(3) (a) At any time within three years after any amount of sales or use tax to be collected under the provisions of sections 77-2701 to 77-27,135 becomes due and payable or within three years after the last recording of a certificate under subsection (2) of this section, the Tax Commissioner may bring an action in the courts of this state, or any other state, or of the United States, in the name of the people of the State of Nebraska, to collect the amount delinquent together with penalties and interest.

(b) The Attorney General shall prosecute the action, and the rules of civil procedure relating to service of summons, pleadings, proofs, trials, and appeals shall be applicable to the proceedings.

(c) In the action a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment shall be required.

(d) In the action a certificate by the Tax Commissioner showing the delinquency shall be prima facie evidence of the determination of such tax or the amount of such tax, the delinquency of the amounts set forth, and of the compliance by the Tax Commissioner with all the provisions of sections 77-2701 to 77-27,135 in relation to the computation and determination of the amounts.

(e) In any action relating to the use tax brought under the provisions of sections 77-2701 to 77-27,135, process may be served according to the rules of civil procedure or may be served upon any agent or clerk in this state employed by any retailer in a place of business maintained by the retailer in this state. In the latter case, a copy of the process shall forthwith be sent by registered or certified mail to the retailer at his principal or home office.

(f) (i) The sales and use tax amounts required to be paid by any person under the provisions of sections 77-2701 to 77-27,135 together with interest and penalties shall be satisfied first in any of the following cases: Whenever the person is insolvent; whenever the person makes a voluntary assignment of his assets; whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased; or whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under sections 77-2701 to 77-27,135 are levied upon by process of law; and

(ii) The state sales tax and the use tax shall be collected by the retailer, as agent for the State of Nebraska, on any transaction as set forth in section 77-2703, which taxes shall constitute a trust fund in the hands of the retailer and shall be owned by the state as of the time they are owing to the retailer.

(g) When a judgment has been obtained for the recovery of any sales or use tax, interest, and penalties as provided in sections 77-2701 to 77-27,135, the Tax Commissioner shall cause such judgment to be enforced and collected in the same manner as provided by the laws of this state for the enforcement and collection of other judgments for the recovery of money.

(4) (a) At any time within three years after any person is delinquent in the payment of any sales or use tax under the provisions of sections 77-2701 to 77-27,135, the Tax Commissioner may forthwith collect the amount in the following manner: The Tax Commissioner shall seize any personal property, other than property exempt from execution under the laws of this state, of the person and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any interest or penalties imposed for the delinquency and any costs incurred on account of a seizure and sale. Any seizure made to collect a sales tax due shall be only of property of the vendor not exempt from execution under the laws of this state.

(b) Notice of the sale and the time and place thereof shall be given to the delinquent person in writing at least twenty days before the date set for the sale in the following manner: The notice shall be enclosed in an envelope addressed to the person, in case of a sale for retail sales taxes due, at his last-known address or place of business, and, in case of a sale for use taxes due, at his last-known residence or place of business in this state. It shall be deposited in the United States mail, postage prepaid. The notice shall also be published for at least ten days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county twenty days prior to the date set for the sale. The notice shall contain a description of the property to be sold, a statement of the amount due, including interest, penalties, and costs, the name of the delinquent, and the further statement that unless the amount due, interest, penalties, and costs, are paid on or before the time fixed in the notice for the sale, the property, or so much of it as may be

necessary, will be sold in accordance with law and the notice.

(c) At the sale the Tax Commissioner shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the personal property. The bill of sale shall vest the interest or title of the person liable for the amount in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the person liable for the amount.

(d) Whenever any property which is seized and sold under the provisions of this subsection is not sufficient to satisfy the claim of the state for which distraint or seizure is made, the sheriff, constable, or deputy commissioner may thereafter, and as often as the same may be necessary, proceed to seize and sell in like manner any other property liable to seizure of the taxpayer against whom such claim exists, until the amount due from such taxpayer, together with all expenses, is fully paid.

(e) If upon the sale the money received exceeds the total of all amounts, including interest, penalties, and costs due the state, the Tax Commissioner shall return the excess to the person liable for the amounts and obtain his receipts. If any person having an interest in or lien upon the property files with the Tax Commissioner prior to the sale notice of his interest or lien, the Tax Commissioner shall withhold any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the person liable for the amount is not available, the Tax Commissioner shall deposit the excess money with the State Treasurer, as trustee for the owner, subject to the order of the person liable for the amount, his heirs, successors, or assigns. No interest earned, if any, will become the property of the person liable for the amount.

(5) No injunction or writ of mandamus or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state to enjoin the collection under the provisions of sections 77-2701 to 77-27,135 of any tax or any amount of tax required to be collected.

Sec. 12. That section 77-27,105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,105. (1) If any income tax, including any interest, penalty, or addition to such tax, and any tax or any interest, penalty, or addition to such tax which has been erroneously refunded, imposed by sections 77-2701 to 77-27,135 is not paid when due, the commissioner may within three years after the tax is due, file for record in the office of the register of deeds of any county in which property belonging to the taxpayer is situated a notice of lien specifying the year and the amount of the tax, interest, penalty, additional amount, or addition to such tax due. Such notice shall contain the name and last-known address of the taxpayer, an identification number, and a statement to the effect that the Tax Commissioner complied with all the provisions of sections 77-2701 to 77-27,135 in the determination of the amount required to be paid. From the time of filing for record, the amount set forth in such notice shall constitute a lien upon all real property and rights to real property in the county then owned by the taxpayer, and upon all real property and rights to real property acquired by him thereafter and before the lien expires. The fee for filing and indexing each notice of lien shall be one dollar.

(2) The lien may, within five years from the date of filing for record of the notice of lien, be extended by filing for record a new notice. From the time of such filing the lien shall be extended for five years, unless fully released or otherwise discharged. The fee for filing and indexing each new notice shall be one dollar.

(3) When a notice of such lien is filed, the appropriate county official shall enter the same in an alphabetical state tax lien index, showing on one line the name and residence of the taxpayer named in such notice, the Tax Commissioner's serial number of such notice, the date and hour of filing, and the amount due. The fee for filing and indexing each notice of lien shall be one dollar. All original notices shall be retained filed in numerical order in a file designated state tax lien notices.

(4) When a certificate of discharge of any income tax lien issued by the Tax Commissioner is filed in the office where the original notice of lien is filed, the appropriate county official shall enter the same with the date of filing in the state tax lien index on the line where notice of the lien so discharged is entered, and shall permanently-attach file the original certificate of discharge to with the original notice of lien. The fee for filing and indexing each certificate of discharge shall be fifty cents.

(5) The Tax Commissioner may at any time release from a lien all or any portion of the property subject thereto, or he may subordinate the lien if he determines (a) that the taxes, penalties, additions, or interest are sufficiently secured by a lien on other property of the taxpayer, (b) that the release or subordination of the lien will not endanger or jeopardize the collection of such taxes, penalties, additions, or interest, (c) that a surety bond or securities satisfactory to secure deposits of public funds has been posted, deposited, or pledged with the Tax Commissioner in an amount sufficient to secure the payment of such taxes, penalties, additions, or interest, or (d) all or a part of such taxes, penalties, additions, or interest have been paid. The fee for filing and indexing each certificate of release shall be one dollar. A certificate by the Tax Commissioner to the effect that any property has been released from a lien, or that such lien has been subordinated, shall be conclusive evidence that such action has been taken.

(6) The register of deeds of each county shall bill the Tax Commissioner on a quarterly basis for fees for documents filed by him for the Tax Commissioner.

(7) In any case where there has been a refusal or neglect to pay any income tax, including interest, penalty, or addition to such tax, together with any costs that may accrue in addition thereto, the Tax Commissioner may file an action in the district court of the county in which such lien is filed to enforce the lien upon any real property and rights to real property or to subject any such property and rights to property owned by the delinquent, or in which he has any right, title, or interest, to the payment of such tax. Such action shall be commenced and pursued in like manner as is provided for the foreclosure of mortgages. Such action may be commenced at any time within five years following the date such lien arose or was last extended.

Sec. 13. That section 84-308, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-308. All accounts, vouchers, and documents, settled or to be settled by the Director of Administrative Services, shall be preserved of record in his office, and copies thereof, authenticated by his official seal, shall be furnished to any person interested therein, who shall require the same, upon the payment to the director of ten cents for every one hundred words in such copies; Provided, that all such records may be maintained in any acceptable photographic

form in lieu of the original record pursuant to section 25-1281, when authorization is given by the State Records Board, vouchers, receipts, and canceled warrants, more than five years old, may be destroyed:

Sec. 14. That section 84-505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-505. All public acts, laws and resolutions passed by the Legislature of the state shall be carefully deposited in the office of the Secretary of State, and the secretary is charged with the safekeeping of said office and all laws, acts, resolutions, bonds, papers and records which are or shall be deposited therein. He ~~shall not permit any original rolls, papers or public documents filed in his office to be taken out of it, unless called for by a resolution of the legislature, or for examination by the executive.~~ Such records may be transferred to the state archives of the Nebraska State Historical Society or other suitable records storage facility, when authorization is given by the State Records Board pursuant to sections 84-1201 to 84-1220.

Sec. 15. That section 84-1213, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-1213. All records made or received by or under the authority of, or coming into the custody, control or possession of public officials and agencies in any of the three branches of the state government, or of any local political subdivision, in the course of their public duties, are the property of the government concerned, and shall not be mutilated, destroyed, transferred, removed, damaged, or otherwise disposed of, in whole or in part, except as provided by law.

Any person who shall willfully mutilate, destroy, transfer, remove, damage, or otherwise dispose of such records or any part of such records, except as provided by law, and any person who shall retain and continue to hold the possession of any such records, or parts thereof, belonging to the state government or to any local political subdivision, and shall refuse to deliver up such records, or parts thereof, to the proper official under whose authority such records belong, upon demand being made by such officer or, in cases of a defunct office, to the succeeding agency or to the state archives of the Nebraska State Historical Society, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not to

exceed three months, or by both such fine and imprisonment for each violation.

Sec. 16. The State Records Board, or any official under whose authority such records belong, shall report to the proper county attorney any supposed violation of section 84-1213 that in its judgment warrants prosecution. It shall be the duty of the several county attorneys to investigate supposed violations of such section and to prosecute violations of such section.

Sec. 17. That section 9-403, Uniform Commercial Code, be amended to read as follows:

9-403. What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer; indexing fee.

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this article.

(2) A filed financing statement which states a maturity date of the obligation secured of five years or less is effective until such maturity date and thereafter for a period of sixty days. Any other filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such sixty day period after a stated maturity date or on the expiration of such five year period, as the case may be, unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected.

(3) A continuation statement may be filed by the secured party (i) within six months before and sixty days after a stated maturity date of five years or less, and (ii) otherwise within six months prior to the expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement.

Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.

(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection; Provided, that in offices filing by roll form of microfilm pursuant to section 23-1517.01, the original statement need not be retained. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The uniform fee for filing and furnishing filing data for an original or a continuation statement shall be one dollar and fifty cents in the office of the county clerk, and in the office of the register of deeds, the same as for a real estate mortgage, plus twenty-five cents for each entry on the numerical index.

(6) The provisions of subsections (2) and (3) of this section shall not apply to mortgages or deeds of trust and instruments supplementary or amendatory thereto covering real estate as well as personal property where such property constitutes a portion of the property used in carrying on the business of a public utility or a gas or oil pipe line system and which are executed to secure the payment of money. The lien of such mortgages or deeds of trust and amendments and supplements thereto shall continue in force and effect as to the personal property described therein, together with any interest of the mortgagor in real estate therein described even if the same has been on file five years or more. The instruments filed shall disclose that the mortgagor or grantor therein is then carrying on the business of a public utility or an oil or gas pipe line system or such fact shall be disclosed by an affidavit of the mortgagor or grantor to that effect filed for record with the county clerk.

Sec. 18. That original sections 2-104, 15-316, 16-317, 17-605, 23-1301, 23-1517.01, 23-1527, 60-505, 77-2712, 77-27,105, 84-308, 84-505, and 84-1213, Reissue Revised Statutes of Nebraska, 1943, and sections 2-105 and 52-1003, Revised Statutes Supplement, 1972, and section 9-403, Uniform Commercial Code, and also section 77-1773, Reissue Revised Statutes of Nebraska, 1943, are repealed.