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North Carolina Security Interests

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BOOK REVIEW


The Uniform Commercial Code in general and Article 9 in particular can be and usually are intimidating to students and attorneys. The meaning and purpose of Article 9's language is sometimes difficult to fathom and there is always the concern that the wrong provision is being applied or that some relevant portion of the statute is being overlooked. In short, those new to Article 9 need guidance in its use.

Professors Lord and Lewis have written a book which is helpful to law students and to North Carolina practitioners in several important ways. First, they provide a concise and clear analysis of the language of the statute. Their method is to describe the commercial context for which the statute is designed and then to explain its operation within that context. Analyzing the statutory language in light of the task it was written to accomplish is by far the best way to form an understanding of Article 9 and this book is successful in its use of this method. They are comprehensive in their discussion of Article 9; each of its provisions is presented and its application explained. The second major contribution of this work is that it analyzes and discusses the leading North Carolina cases interpreting Article 9. Again, Lord and Lewis are comprehensive and all of the significant authority is included. The cases are thoroughly discussed and the authors do not hesitate to state their disagreement with the analysis or result of a case.

A third, and perhaps the greatest, contribution of this work is its extensive discussion of the impact of the Bankruptcy Code on secured transactions. Over one-fourth of the text is devoted to a consideration of the Bankruptcy Code and its effect on the creditor with personal property security. Here, also, the language of the

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1. Richard A. Lord is Associate Dean and a Professor and Charles C. Lewis is an Associate Professor at Campbell University School of Law.
2. 11 U.S.C. § 1 et. seq.
statute, this time the Bankruptcy Code, is explained in context and the leading cases, here the decisions of the bankruptcy courts sitting in North Carolina, are presented and analyzed. For those who without prior knowledge or experience must deal with the complexities of Article 9 and the Bankruptcy Code this material is both helpful and reassuring.

At various places throughout the book the authors state their preference for a particular interpretation of statutory language or their criticism of the result in a given case. It is here that the book is at its weakest for the authors state their opinion as to the preferred reading or result without any extended consideration of competing policies or rationale and without detailed explanation or justification of their own preference. This is not to suggest that the opinions expressed are often, if ever, wrong but the force of their recommendations is blunted by the absence of any detailed explanation or supporting arguments.

In sum, this is a valuable work. It is of particular importance to those new to Article 9 and to bankruptcy law whose time is limited and who need a clear explanation of the statute. It is also helpful to those who are researching North Carolina law. To those who have experience in these areas it is of less importance but even the most experienced practitioner will find its discussion of the statutes and the North Carolina cases useful.

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3. For example, on pages 19-21 the authors discuss Evans v. Everette, 279 N.C. 352, 183 S.E.2d 109 (1971) and conclude by recommending that it be overruled or limited “at the earliest opportunity.” There is no discussion of the reasoning underlying the recommendation and without some persuasive argument that the result debases the language or confounds the purposes of the statute it is difficult to afford it any weight.

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