

HOUSE BILL NO. 4694

April 22, 2021, Introduced by Rep. O'Malley and referred to the Committee on Financial Services.

A bill to amend 1962 PA 174, entitled "Uniform commercial code," by amending sections 9520, 9521, and 9525 (MCL 440.9520, 440.9521, and 440.9525), section 9520 as amended by 2008 PA 383, section 9521 as amended by 2012 PA 88, and section 9525 as amended by 2016 PA 229.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9520. (1) A filing office shall refuse to accept a record
2 for filing for a reason set forth in section 9516(2) or, if the

1 filing office is the secretary of state, subsection (5) and may
2 refuse to accept a record for filing only for a reason set forth in
3 section 9516(2) or, if the filing office is the secretary of state,
4 subsection (5).

5 (2) If a filing office refuses to accept a record for filing,
6 it shall communicate to the person that presented the record the
7 fact of and reason for the refusal and the date and time the record
8 would have been filed had the filing office accepted it. The
9 communication must be made at the time and in the manner prescribed
10 by filing-office rule but, in the case of a filing office described
11 in section 9501(1)(b), in no event more than 2 business days after
12 the filing office receives the record.

13 (3) A filed financing statement satisfying section 9502(1) and
14 (2) is effective, even if the filing office is required to refuse
15 to accept it for filing under subsection (1). However, section 9338
16 applies to a filed financing statement providing information
17 described in section 9516(2)(e) that is incorrect at the time the
18 financing statement is filed.

19 (4) If a record communicated to a filing office provides
20 information that relates to more than 1 debtor, this part applies
21 as to each debtor separately.

22 (5) Notwithstanding any other provision of this act, if a
23 person presents a record to the secretary of state for filing or
24 recording, the secretary of state may refuse to accept the record
25 for filing or recording if 1 or more of the following circumstances
26 exist:

27 (a) The record is not required or authorized to be filed or
28 recorded with the secretary of state.

29 (b) The record is being filed or recorded for a purpose

1 outside the scope of this article.

2 (c) The secretary of state has reasonable cause to believe the
3 record is materially false or fraudulent.

4 (d) The record asserts a claim against a current or former
5 employee or officer of a federal, state, county, or other local
6 governmental unit that relates to the performance of the officer's
7 or employee's public duties, and for which the filer does not hold
8 a properly executed security agreement or judgment from a court of
9 competent jurisdiction.

10 (e) The record indicates that the debtor and the secured party
11 are substantially the same or that an individual debtor is a
12 transmitting utility.

13 (6) If ~~a correction statement~~ **an information statement** filed
14 with the secretary of state under section 9518 alleges that a
15 previously filed record was wrongfully filed, the secretary of
16 state shall, without undue delay, determine whether the contested
17 record was wrongfully filed. To determine whether the record was
18 wrongfully filed, the secretary of state may require the person who
19 filed the ~~correction statement~~ **information statement** or the secured
20 party to provide any additional relevant information requested by
21 the secretary of state, including an original or copy of a security
22 agreement that is related to the record. If the secretary of state
23 finds that the record was wrongfully filed, the secretary of state
24 shall terminate the record and the record is void and ineffective.
25 The secretary of state shall notify the secured party named in the
26 contested record of the termination.

27 (7) If the secretary of state refuses to accept a record for
28 filing or recording ~~pursuant to~~ **under** subsection (5), the person
29 who presented the record to the secretary of state may commence an

1 action under section 9501a to require the secretary of state to
2 accept the record for filing or recording. A record ordered by the
3 court to be accepted is effective as a filed record from the
4 initial filing date except as against a purchaser of the collateral
5 ~~which~~**that** gives value in reasonable reliance on the absence of the
6 record from the files.

7 (8) A filing officer who, acting in a manner that does not
8 subject the filing officer to personal liability under the statutes
9 of this state, improperly refuses to accept a record for filing or
10 recording under subsection (5) is not personally liable for the
11 improper refusal or determination.

12 (9) Subsection (5) does not apply to a financing statement
13 filed by a regulated financial institution or a representative of a
14 regulated financial institution. If a regulated financial
15 institution that is attempting to file a financing statement is
16 organized under the law of a governmental unit other than this
17 state, the secretary of state may request the regulated financial
18 institution or its representative to provide verification of
19 regulation or licensure in the jurisdiction under whose law the
20 institution is organized. As used in this subsection, "regulated
21 financial institution" means that term as defined in section 9501a.

22 Sec. 9521. (1) Except for a reason set forth in section
23 9516(2) or 9520(5), a filing office that accepts written records
24 for filing shall not refuse to accept a written initial financing
25 statement that conforms to the form and format of ~~the~~ UCC financing
26 statement (Form UCC1) ~~(rev. 04/20/11)~~ or ~~the~~ UCC financing
27 statement addendum (Form UCC1Ad) ~~(rev. 04/20/11)~~, **as** promulgated by
28 ~~the American law institute and the uniform law commission,~~ **Law**
29 **Institute and the Uniform Law Commission and adopted by the**

1 **secretary of state**, or ~~to the form and format of any other revision~~
 2 ~~to or version of either of those forms that are promulgated by the~~
 3 ~~American law institute and the uniform law commission and as~~
 4 **approved by the International Association of Commercial**
 5 **Administrators and adopted by the secretary of state, or any other**
 6 **form** adopted by the secretary of state.

7 (2) Except for a reason set forth in section 9516(2) or
 8 9520(5), a filing office that accepts written records for filing
 9 shall not refuse to accept a written financing statement amendment
 10 that conforms to the form and format of the UCC financing statement
 11 amendment (Form UCC3) ~~(rev. 04/20/11)~~ or the UCC financing
 12 statement amendment addendum (Form UCC3Ad) ~~(rev. 04/20/11)~~, ~~as~~
 13 ~~promulgated by the American law institute and the uniform law~~
 14 ~~commission,~~ **Law Institute and the Uniform Law Commission**, or to the
 15 form and format of any other revision to or version of either of
 16 those forms that are promulgated by the American ~~law institute and~~
 17 ~~the uniform law commission~~ **Law Institute and the Uniform Law**
 18 **Commission, or as approved by the International Association of**
 19 **Commercial Administrators**, and adopted by the secretary of state.

20 Sec. 9525. (1) Except as otherwise provided in subsection (3)
 21 or (4), the fee for filing and indexing a record under this part is
 22 \$15.00.

23 (2) A filing office shall charge a person a fee for responding
 24 to a request for a search of the records filed with a filing office
 25 concerning a debtor, including issuance of a certificate describing
 26 each presently effective record filed concerning the debtor if
 27 requested. The fee is \$6.00, plus 1 or more of the following, if
 28 applicable:

29 (a) If the person requests expediting of the regular search

1 process, an additional fee of \$25.00.

2 (b) If the person requests copies of the presently effective
3 records disclosed by the search, an additional fee of \$2.00 per
4 page.

5 (c) If the filing office is the secretary of state and the
6 person requests that the secretary of state include an impression
7 of the official seal of the secretary of state on the certificate,
8 an additional fee of \$6.00.

9 (3) This section does not require a fee with respect to a
10 record of a mortgage that is effective as a financing statement
11 filed as a fixture filing or as a financing statement covering as-
12 extracted collateral or timber to be cut under section 9502(3).
13 However, the recording fees that otherwise would be applicable to
14 the record of the mortgage under section 2567 of the revised
15 judicature act of 1961, 1961 PA 236, MCL 600.2567, apply.

16 (4) There is no fee for filing and indexing a ~~correction~~
17 ~~statement~~ **an information statement** filed with the office of the
18 secretary of state under section 9518, filed by an individual named
19 as a debtor on a record indexed by the secretary of state.