

# HOUSE BILL NO. 5624

March 12, 2020, Introduced by Reps. O'Malley and Sneller and referred to the Committee on Commerce and Tourism.

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  
3 filing office is the secretary of state, subsection (5) and may



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

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

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

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

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

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

28 (b) The record is being filed or recorded for a purpose  
29 outside the scope of this article.



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

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

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

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

26 (7) If the secretary of state refuses to accept a record for  
27 filing or recording pursuant to subsection (5), the person who  
28 presented the record to the secretary of state may commence an  
29 action under section 9501a to require the secretary of state to



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

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

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

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



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

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

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

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

27 (a) If the person requests expediting of the regular search  
 28 process, an additional fee of \$25.00.

29 (b) If the person requests copies of the presently effective



1 records disclosed by the search, an additional fee of \$2.00 per  
2 page.

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

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

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

