

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



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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~~

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

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

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

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

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

(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.

