

BILL ANALYSIS

C.S.H.B. 3414
By: Marchant
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Uniform Commercial Code (UCC), codified in Section 9 of the Business and Commerce Code, allows the secretary of state to reject a filing by a secured party if some of the requisite information is missing or cannot be deciphered. The International Association of Commercial Administrators (IACA) has approved forms for filing under Section 9 of the UCC that are designed to reduce errors by filing parties; however, some filing parties prefer to submit non-standard forms. Such documents are more difficult to process, more likely to be rejected for the omission of requisite information, and may result in indexing errors on the part of the filing officer unable to decipher the filer's intent.

The purpose of C.S.H.B. 3414 is to allow the secretary of state to refuse to accept a record that is not on a national standard form or form approved by the IACA used for filing a record, and deletes the graphic representation of the form in the code.

RULEMAKING AUTHORITY

It is the opinion of the committee that rulemaking authority is expressly delegated to the secretary of state in SECTION 1 (Sec. 9.516(b)(8), Business and Commerce Code) and also referenced in SECTION 2 (Sec. 9.5211, Business and Commerce Code) of this bill.

ANALYSIS

C.S.H.B. 3414 amends Section 9.516 of the Business & Commerce Code to provide that filing does not occur with respect to a record that a filing officer refuses to accept because the record is not on an industry standard form, including a national standard form or a form approved by the International Association of Commercial Administrators, adopted by rule by the secretary of state.

The bill also provides that the secretary of state may not refuse to accept a written initial financing statement or record on the national standard form or a form approved by IACA and adopted by rule by the secretary of state, except for a reason provided in Section 9.516(b), Business and Commerce Code.

The bill repeals Section 9.521 (Uniform Form of Written Financing Statement and Amendment) of the Business and Commerce Code.

EFFECTIVE DATE

January 1, 2004. The Act applies only to a financing statement or written record due to be filed on or after that date. A financing statement or written record due to be filed before the effective date of the Act is governed by the law in effect at the time the filing was made, and the former law is continued in effect for that purpose.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 3414 differs from the original in that the original was not a Legislative Council draft and the substitute is put into proper format. The substitute adds language to provide an application date.

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