

BILL ANALYSIS

S.B. 1540
By: Fraser
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Chapter 9 of the Business and Commerce Code (Article 9 of the Uniform Commercial Code) governs secured transactions. The National Conference of Commissioners on Uniform State Laws promulgated Revised Article 9, enacted in Texas in 2000, which had a uniform effective date of July 1, 2001.

S.B. 1540 enacts non-uniform changes for the purpose of clarifying various interpretive and other issues that have arisen in the five years since the effective date.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 9.503(a), Business & Commerce Code, as follows:

(a) Provides that a financing statement sufficiently provides the name of the debtor, if the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the debtor's formation documents that are filed of public record in the debtor's jurisdiction of organization, rather than of the debtor's jurisdiction, to create the registered organization and that show the debtor to have been organized, including any amendments to those documents for the express purpose of amending the debtor's name, and if the debtor is an individual, if the financing statement provides the individual's name shown on the individual's driver's license or identification certificate issued by the individual's state of residence.

SECTION 2. Amends Section 9.516(b), Business & Commerce Code, as follows:

(b) Provides that a filing does not occur with respect to a record that a filing office refuses to accept because the filing office is unable to index the record because in the case of a record filed or recorded in the filing office described in Section 9.501(a)(1), the record does not provide the name of the debtor.

SECTION 3. Amends Section 9.517, Business & Commerce Code, as follows:

Sec. 9.517. EFFECT OF INDEXING ERRORS. Provides that the failure of the filing office to index a record or to correctly index information contained in a record does not affect the effectiveness of the filed record.

SECTION 4. Amends Section 9.518, Business & Commerce Code, by amending subsection (a) and adding Subsection (d), as follows:

(a) Authorizes any person named as a debtor or a secured party to file a correction statement with respect to a record if the person believes that the record is inaccurate or was wrongfully filed. Deletes existing text authorizing a person to file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(d) Provides that filing of a correction statement is not effective as an amendment to a filed financing statement and is not sufficient to effect a change in the manner in which the filing office has indexed a financing statement or information contained in a financing statement.

SECTION 5. Amends Section 9.705, Business & Commerce Code, by amending Subsection (c) and adding Subsection (g), as follows:

(c) Makes a conforming change.

(g) Sets forth certain dates relating to a financing statement. Sets forth the timeframe of the effectiveness of a financing statement.

SECTION 6. Effective date: upon passage or September 1, 2007.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.