

By: Fraser

S.B. No. 1540

A BILL TO BE ENTITLED

AN ACT

relating to financing statements and other records under the secured transactions law.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 9.503, Business & Commerce Code, is amended to read as follows:

(a) A financing statement sufficiently provides the name of the debtor:

(1) 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 [of] the debtor's jurisdiction of organization to create the registered organization and that show [shows] the debtor to have been organized, including any amendments to those documents for the express purpose of amending the debtor's name;

(2) if the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;

(3) if the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

(A) provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same

1 settlors; and

2 (B) indicates, in the debtor's name or otherwise,
3 that the debtor is a trust or is a trustee acting with respect to
4 property held in trust; ~~and~~

5 (4) if the debtor is an individual, if the financing
6 statement provides the individual's name shown on the individual's
7 driver's license or identification certificate issued by the
8 individual's state of residence; and

9 (5) in other cases:

10 (A) if the debtor has a name, only if the
11 financing statement provides the individual or organizational name
12 of the debtor; and

13 (B) if the debtor does not have a name, only if
14 the financing statement provides the names of the partners,
15 members, associates, or other persons comprising the debtor.

16 SECTION 2. Subsection (b), Section 9.516, Business &
17 Commerce Code, is amended to read as follows:

18 (b) Filing does not occur with respect to a record that a
19 filing office refuses to accept because:

20 (1) the record is not communicated by a method or
21 medium of communication authorized by the filing office;

22 (2) an amount equal to or greater than the applicable
23 filing fee is not tendered;

24 (3) the filing office is unable to index the record
25 because:

26 (A) in the case of an initial financing
27 statement, the record does not provide a name for the debtor;

1 (B) in the case of an amendment or correction
2 statement, the record:

3 (i) does not identify the initial financing
4 statement as required by Section 9.512 or 9.518, as applicable; or

5 (ii) identifies an initial financing
6 statement whose effectiveness has lapsed under Section 9.515;

7 (C) in the case of an initial financing statement
8 that provides the name of a debtor identified as an individual or an
9 amendment that provides a name of a debtor identified as an
10 individual that was not previously provided in the financing
11 statement to which the record relates, the record does not identify
12 the debtor's last name; or

13 (D) in the case of a record filed or recorded in
14 the filing office described in Section 9.501(a)(1), the record does
15 not provide the name of the debtor and a sufficient description of
16 the real property to which it relates;

17 (4) in the case of an initial financing statement or an
18 amendment that adds a secured party of record, the record does not
19 provide a name and mailing address for the secured party of record;

20 (5) in the case of an initial financing statement or an
21 amendment that provides a name of a debtor that was not previously
22 provided in the financing statement to which the amendment relates,
23 the record does not:

24 (A) provide a mailing address for the debtor;

25 (B) indicate whether the debtor is an individual
26 or an organization; or

27 (C) if the financing statement indicates that the

1 debtor is an organization, provide:

2 (i) a type of organization for the debtor;
3 (ii) a jurisdiction of organization for the
4 debtor; or

5 (iii) an organizational identification
6 number for the debtor or indicate that the debtor has none;

7 (6) in the case of an assignment reflected in an
8 initial financing statement under Section 9.514(a) or an amendment
9 filed under Section 9.514(b), the record does not provide a name and
10 mailing address for the assignee;

11 (7) in the case of a continuation statement, the
12 record is not filed within the six-month period prescribed by
13 Section 9.515(d); or

14 (8) the record is not on an industry standard form,
15 including a national standard form or a form approved by the
16 International Association of Commercial Administrators, adopted by
17 rule by the secretary of state.

18 SECTION 3. Section 9.517, Business & Commerce Code, is
19 amended to read as follows:

20 Sec. 9.517. EFFECT OF INDEXING ERRORS. The failure of the
21 filing office to index a record or to correctly index information
22 contained in a record does not affect the effectiveness of the filed
23 record.

24 SECTION 4. Section 9.518, Business & Commerce Code, is
25 amended by amending Subsection (a) and adding Subsection (d) to
26 read as follows:

27 (a) Any person named as a debtor or a secured party [~~A~~

1 ~~person]~~ may file [~~in the filing office]~~ a correction statement with
2 respect to a record [~~indexed there under the person's name]~~ if the
3 person believes that the record is inaccurate or was wrongfully
4 filed.

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

10 SECTION 5. Section 9.705, Business & Commerce Code, is
11 amended by amending Subsection (c) and adding Subsection (g) to
12 read as follows:

13 (c) The revision does not render ineffective an effective
14 financing statement that, before the effective date of the
15 revision, is filed and satisfies the applicable requirements for
16 perfection under the law of the jurisdiction governing perfection
17 as provided in Section 9.103, as it existed immediately before the
18 effective date of the revision. However, except as otherwise
19 provided in Subsections (d), ~~[and]~~ (e), and (g) and Section 9.706,
20 the financing statement ceases to be effective at the earlier of:

21 (1) the time the financing statement would have ceased
22 to be effective under the law of the jurisdiction in which it is
23 filed; or

24 (2) June 30, 2006.

25 (g) Subsection (c)(2) does not apply to a financing
26 statement that was filed before July 1, 2001, in the proper office
27 in this state pursuant to Section 9.401, as that section existed

1 immediately before July 1, 2001, and as to which the proper filing
2 office was not changed pursuant to Section 9.501 of the revision.
3 The lapse date of such a financing statement is the day when the
4 financing statement would have ceased to be effective under Section
5 9.403(b), as that section existed immediately before July 1, 2001.
6 On timely filing of a continuation statement within six months
7 before that lapse date, the effectiveness of the financing
8 statement continues for another period of five years commencing on
9 the lapse date, and succeeding continuation statements may be filed
10 within six months before the expiration of the five-year period and
11 each additional five-year period to continue the effectiveness of
12 the financing statement.

13 SECTION 6. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2007.