

1-1 By: Fraser S.B. No. 1540
1-2 (In the Senate - Filed March 8, 2007; March 20, 2007, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 4, 2007, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 4, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to financing statements and other records under the
1-9 secured transactions law.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsection (a), Section 9.503, Business &
1-12 Commerce Code, is amended to read as follows:

1-13 (a) A financing statement sufficiently provides the name of
1-14 the debtor:

1-15 (1) if the debtor is a registered organization, only
1-16 if the financing statement provides the name of the debtor
1-17 indicated on the debtor's formation documents that are filed of
1-18 public record in [of] the debtor's jurisdiction of organization to
1-19 create the registered organization and that show [shows] the debtor
1-20 to have been organized, including any amendments to those documents
1-21 for the express purpose of amending the debtor's name;

1-22 (2) if the debtor is a decedent's estate, only if the
1-23 financing statement provides the name of the decedent and indicates
1-24 that the debtor is an estate;

1-25 (3) if the debtor is a trust or a trustee acting with
1-26 respect to property held in trust, only if the financing statement:

1-27 (A) provides the name specified for the trust in
1-28 its organic documents or, if no name is specified, provides the name
1-29 of the settlor and additional information sufficient to distinguish
1-30 the debtor from other trusts having one or more of the same
1-31 settlors; and

1-32 (B) indicates, in the debtor's name or otherwise,
1-33 that the debtor is a trust or is a trustee acting with respect to
1-34 property held in trust; ~~and~~

1-35 (4) if the debtor is an individual, if the financing
1-36 statement provides the individual's name shown on the individual's
1-37 driver's license or identification certificate issued by the
1-38 individual's state of residence; and

1-39 (5) in other cases:

1-40 (A) if the debtor has a name, only if the
1-41 financing statement provides the individual or organizational name
1-42 of the debtor; and

1-43 (B) if the debtor does not have a name, only if
1-44 the financing statement provides the names of the partners,
1-45 members, associates, or other persons comprising the debtor.

1-46 SECTION 2. Subsection (b), Section 9.516, Business &
1-47 Commerce Code, is amended to read as follows:

1-48 (b) Filing does not occur with respect to a record that a
1-49 filing office refuses to accept because:

1-50 (1) the record is not communicated by a method or
1-51 medium of communication authorized by the filing office;

1-52 (2) an amount equal to or greater than the applicable
1-53 filing fee is not tendered;

1-54 (3) the filing office is unable to index the record
1-55 because:

1-56 (A) in the case of an initial financing
1-57 statement, the record does not provide a name for the debtor;

1-58 (B) in the case of an amendment or correction
1-59 statement, the record:

1-60 (i) does not identify the initial financing
1-61 statement as required by Section 9.512 or 9.518, as applicable; or

1-62 (ii) identifies an initial financing
1-63 statement whose effectiveness has lapsed under Section 9.515;

1-64 (C) in the case of an initial financing statement

2-1 that provides the name of a debtor identified as an individual or an
 2-2 amendment that provides a name of a debtor identified as an
 2-3 individual that was not previously provided in the financing
 2-4 statement to which the record relates, the record does not identify
 2-5 the debtor's last name; or

2-6 (D) in the case of a record filed or recorded in
 2-7 the filing office described in Section 9.501(a)(1), the record does
 2-8 not provide the name of the debtor and a sufficient description of
 2-9 the real property to which it relates;

2-10 (4) in the case of an initial financing statement or an
 2-11 amendment that adds a secured party of record, the record does not
 2-12 provide a name and mailing address for the secured party of record;

2-13 (5) in the case of an initial financing statement or an
 2-14 amendment that provides a name of a debtor that was not previously
 2-15 provided in the financing statement to which the amendment relates,
 2-16 the record does not:

2-17 (A) provide a mailing address for the debtor;
 2-18 (B) indicate whether the debtor is an individual
 2-19 or an organization; or

2-20 (C) if the financing statement indicates that the
 2-21 debtor is an organization, provide:

2-22 (i) a type of organization for the debtor;
 2-23 (ii) a jurisdiction of organization for the
 2-24 debtor; or

2-25 (iii) an organizational identification
 2-26 number for the debtor or indicate that the debtor has none;

2-27 (6) in the case of an assignment reflected in an
 2-28 initial financing statement under Section 9.514(a) or an amendment
 2-29 filed under Section 9.514(b), the record does not provide a name and
 2-30 mailing address for the assignee;

2-31 (7) in the case of a continuation statement, the
 2-32 record is not filed within the six-month period prescribed by
 2-33 Section 9.515(d); or

2-34 (8) the record is not on an industry standard form,
 2-35 including a national standard form or a form approved by the
 2-36 International Association of Commercial Administrators, adopted by
 2-37 rule by the secretary of state.

2-38 SECTION 3. Section 9.517, Business & Commerce Code, is
 2-39 amended to read as follows:

2-40 Sec. 9.517. EFFECT OF INDEXING ERRORS. The failure of the
 2-41 filing office to index a record or to correctly index information
 2-42 contained in a record does not affect the effectiveness of the filed
 2-43 record.

2-44 SECTION 4. Section 9.518, Business & Commerce Code, is
 2-45 amended by amending Subsection (a) and adding Subsection (d) to
 2-46 read as follows:

2-47 (a) Any person named as a debtor or a secured party [A
 2-48 person] may file [in the filing office] a correction statement with
 2-49 respect to a record [indexed there under the person's name] if the
 2-50 person believes that the record is inaccurate or was wrongfully
 2-51 filed.

2-52 (d) Filing of a correction statement is not effective as an
 2-53 amendment to a filed financing statement and is not sufficient to
 2-54 effect a change in the manner in which the filing office has indexed
 2-55 a financing statement or information contained in a financing
 2-56 statement.

2-57 SECTION 5. Section 9.705, Business & Commerce Code, is
 2-58 amended by amending Subsection (c) and adding Subsection (g) to
 2-59 read as follows:

2-60 (c) The revision does not render ineffective an effective
 2-61 financing statement that, before the effective date of the
 2-62 revision, is filed and satisfies the applicable requirements for
 2-63 perfection under the law of the jurisdiction governing perfection
 2-64 as provided in Section 9.103, as it existed immediately before the
 2-65 effective date of the revision. However, except as otherwise
 2-66 provided in Subsections (d), ~~and~~ (e), and (g) and Section 9.706,
 2-67 the financing statement ceases to be effective at the earlier of:

2-68 (1) the time the financing statement would have ceased
 2-69 to be effective under the law of the jurisdiction in which it is

3-1 filed; or

3-2 (2) June 30, 2006.

3-3 (g) Subsection (c)(2) does not apply to a financing
3-4 statement that was filed before July 1, 2001, in the proper office
3-5 in this state pursuant to Section 9.401, as that section existed
3-6 immediately before July 1, 2001, and as to which the proper filing
3-7 office was not changed pursuant to Section 9.501 of the revision.
3-8 The lapse date of such a financing statement is the day when the
3-9 financing statement would have ceased to be effective under Section
3-10 9.403(b), as that section existed immediately before July 1, 2001.
3-11 On timely filing of a continuation statement within six months
3-12 before that lapse date, the effectiveness of the financing
3-13 statement continues for another period of five years commencing on
3-14 the lapse date, and succeeding continuation statements may be filed
3-15 within six months before the expiration of the five-year period and
3-16 each additional five-year period to continue the effectiveness of
3-17 the financing statement.

3-18 SECTION 6. This Act takes effect immediately if it receives
3-19 a vote of two-thirds of all the members elected to each house, as
3-20 provided by Section 39, Article III, Texas Constitution. If this
3-21 Act does not receive the vote necessary for immediate effect, this
3-22 Act takes effect September 1, 2007.

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