

BILL ANALYSIS

Senate Research Center

S.B. 474
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas secretary of state (SOS) requires that secured creditors file financing statements in order to provide notice that the creditor has a legal interest in the borrower's collateral. Filing the financing statement is essential to perfecting, or establishing, the creditor's right to take possession of and sell the collateral for repayment of the borrower's debt.

The Texas secretary of state is obligated to accept financing statements filed on industry standard forms, which includes forms approved by the International Association of Commercial Administrators (IACA). The IACA financing statement form will be amended in July of 2013 to remove certain organizational information. However, this information is a listed requirement under Section 9.516 (What Constitutes Filing; Effectiveness of Filing) of the Business and Commerce Code. According to Texas law, a financing statement may be rejected or considered not effectively filed due to a failure to comply with any of the listed requirements. When the IACA financing statement form is amended, Texas law will require information no longer necessary on industry standard forms, resulting in confusion for those secured creditors relying on industry forms and SOS's statutory requirements. This disconnect will create the need for an addendum to all IACA financing statements filed with SOS, resulting in additional work and costs for the filer and filing entity.

S.B. 474 amends Section 9.516 of the Business and Commerce Code so that the requirements mirror the forthcoming changes to the IACA industry standard form.

S.B. 474 amends current law relating to financing statements and other records under the secured transactions law.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 9.516(b), Business & Commerce Code, as effective July 1, 2013, as follows:

(b) Provides that filing does not occur with respect to a record that a filing office refuses to accept because of certain conditions, including that the filing office is unable to index the record because, in the case of an initial financing statement or an amendment that provides a name of a debtor that was not previously provided in the financing statement to which the amendment relates, the record does not provide a mailing address for the debtor or indicate whether the name provided as the name of the debtor is the name of an individual or an organization. Deletes existing text providing that filing does not occur with respect to a record that a filing office refuses to accept because of certain conditions, including that the filing office is unable to index the record because, in the case of an initial financing statement or an amendment that provides a name of a debtor that was not previously provided in the financing statement to which the amendment relates, the record does not provide certain information, including if the financing statement indicates that the debtor is an organization.

SECTION 2. Effective date: July 1, 2013, or September 1, 2013.