

# HOUSE BILL No. 5934

April 8, 2008, Introduced by Reps. Coulouris, Bieda, Griffin and Horn and referred to the Committee on Banking and Financial Services.

A bill to amend 1962 PA 174, entitled  
"Uniform commercial code,"  
(MCL 440.1101 to 440.11102) by adding section 9501a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 9501A. (1) ON RECEIPT OF A NOTICE FROM A FILING OFFICE  
2        THAT A FINANCING STATEMENT HAS BEEN FILED THAT IDENTIFIES A PUBLIC  
3        OFFICER OR A PUBLIC OFFICER'S SPOUSE AS A DEBTOR, THE PUBLIC  
4        OFFICER OR SPOUSE MAY FILE AN AFFIDAVIT IN THE FORM PRESCRIBED BY  
5        THE SECRETARY OF STATE UNDER SUBSECTION (2) STATING THAT THE  
6        FINANCING STATEMENT IS FRAUDULENT.

7        (2) THE SECRETARY OF STATE SHALL ADOPT AND MAKE AVAILABLE A  
8        FORM AFFIDAVIT TO BE USED BY A PUBLIC OFFICER OR PUBLIC OFFICER'S  
9        SPOUSE TO GIVE NOTICE OF A FRAUDULENT FILING STATEMENT.

1           (3) ON RECEIPT OF AN AFFIDAVIT UNDER SUBSECTION (1), A FILING  
2 OFFICE SHALL TERMINATE THE FINANCING STATEMENT EFFECTIVE ON THE  
3 DATE THE AFFIDAVIT IS FILED WITH THE FILING OFFICE.

4           (4) A FILING OFFICE SHALL NOT CHARGE A FEE TO FILE AN  
5 AFFIDAVIT UNDER THIS SECTION. THE FILING OFFICE SHALL NOT RETURN  
6 ANY FILING FEE PAID FOR FILING THE FINANCING STATEMENT, REGARDLESS  
7 OF WHETHER THE FINANCING STATEMENT IS TERMINATED UNDER THIS  
8 SECTION.

9           (5) A FILING OFFICE SHALL SEND NOTICE OF THE TERMINATION OF A  
10 FINANCING STATEMENT UNDER SUBSECTION (3) TO THE FILER OF THE  
11 FINANCING STATEMENT ADVISING THE FILER THAT THE FINANCING STATEMENT  
12 HAS BEEN TERMINATED. IF THE FILER OF THE FINANCING STATEMENT  
13 BELIEVES IN GOOD FAITH THAT THE STATEMENT WAS LEGALLY FILED AND IS  
14 NOT FRAUDULENT, THE FILER MAY FILE AN ACTION TO REINSTATE THE  
15 FINANCING STATEMENT.

16           (6) AN ACTION UNDER SUBSECTION (5) SHALL BE FILED IN THE  
17 FOLLOWING COURT:

18           (A) IF THE FINANCING STATEMENT NAMED AN EMPLOYEE OR THE SPOUSE  
19 OF AN EMPLOYEE OF THIS STATE AS A DEBTOR, IN THE INGHAM COUNTY  
20 CIRCUIT COURT.

21           (B) IF SUBDIVISION (A) DOES NOT APPLY, IN THE CIRCUIT COURT  
22 FOR THE COUNTY IN WHICH THE PUBLIC OFFICER OR SPOUSE RESIDES.

23           (7) IF THE COURT IN AN ACTION UNDER SUBSECTION (5) DETERMINES  
24 THAT THE FINANCING STATEMENT SHOULD BE REINSTATED, THE COURT SHALL  
25 FILE ITS ORDER REINSTATING THE FINANCING STATEMENT WITH THE  
26 FILING OFFICE. THE REINSTATEMENT SHALL BE EFFECTIVE AS NOTICE TO  
27 BONA FIDE PURCHASERS OR CREDITORS ONLY AFTER THE ORDER IS FILED.

1           (8) IF THE COURT IN AN ACTION UNDER SUBSECTION (5) DETERMINES  
2       THAT THE FINANCING STATEMENT IS INVALID, THE FILER OF THE FINANCING  
3       STATEMENT SHALL PAY THE COSTS AND EXPENSES INCURRED BY THE PUBLIC  
4       OFFICIAL OR SPOUSE OF THE PUBLIC OFFICIAL IN DEFENDING THE ACTION.

5           (9) AN INDIVIDUAL WHO FILES A FALSE OR FRAUDULENT AFFIDAVIT  
6       UNDER THIS SECTION IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT  
7       FOR NOT MORE THAN 5 YEARS OR A \$2,500.00 FINE, OR BOTH.

8           (10) AS USED IN THIS SECTION, "PUBLIC OFFICER" MEANS AN  
9       INDIVIDUAL WHO IS OR WAS EMPLOYED BY THIS STATE, BY A LOCAL UNIT OF  
10      GOVERNMENT, INCLUDING A COUNTY, TOWNSHIP, CITY, VILLAGE, COURT,  
11      OR OTHER AUTHORITY, OR BY THE GOVERNMENT OF THE UNITED STATES.