

HOUSE BILL No. 6231

June 10, 2008, Introduced by Reps. Lahti, McDowell, Polidori, Lindberg, Brown, Spade, Simpson, Bennett, Corriveau, Valentine and Stahl and referred to the Committee on Intergovernmental, Urban and Regional Affairs.

A bill to amend 1962 PA 174, entitled
"Uniform commercial code,"
by amending section 9501 (MCL 440.9501), as amended by 2004 PA 212.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9501. (1) Except as otherwise provided in subsection (2),
2 the office in which to file a financing statement to perfect the
3 security interest or agricultural lien is 1 of the following:

4 (a) The office designated for the filing or recording of a
5 record of a mortgage on the related real property, if the
6 collateral is as-extracted collateral or timber to be cut, or the
7 financing statement is filed as a fixture filing and the collateral
8 is goods that are or are to become fixtures.

9 (b) The office of secretary of state in all other cases,

1 including a case in which the collateral is goods that are or are
2 to become fixtures and the financing statement is not filed as a
3 fixture filing.

4 (2) The office in which to file a financing statement to
5 perfect a security interest in collateral, including fixtures, of a
6 transmitting utility is the office of the secretary of state. The
7 financing statement also constitutes a fixture filing as to the
8 collateral indicated in the financing statement which is or is to
9 become fixtures.

10 (3) Any financing statement filed under subsection (1)(a) with
11 a register of deeds and any continuation statement, termination
12 statement, amendment, or assignment relating to the financing
13 statement and meeting the formal requisites of this part shall be
14 recorded by the register of deeds, notwithstanding the provisions
15 for witnessing and acknowledging instruments to be recorded in the
16 real property records contained in section 47 of 1846 RS 65, MCL
17 565.47. **THE OFFICE OF THE REGISTER OF DEEDS SHALL SEND NOTICE BY**
18 **FIRST-CLASS MAIL TO THE LAST KNOWN PROPERTY OWNER OF RECORD OF A**
19 **FINANCING STATEMENT FILED UNDER SUBSECTION (1) (A). THE REGISTER OF**
20 **DEEDS SHALL DETERMINE THE FORM OF THE WRITTEN NOTICE. THE NOTICE**
21 **SHALL CONTAIN AT LEAST ALL OF THE FOLLOWING INFORMATION:**

22 (A) THE DEBTOR'S NAME AND ADDRESS AS SHOWN ON THE FINANCING
23 STATEMENT.

24 (B) THE SECURED PARTY'S NAME AND ADDRESS AS SHOWN ON THE
25 FINANCING STATEMENT.

26 (C) A STATEMENT THAT "IT IS AGAINST THE LAW IN THE STATE OF
27 MICHIGAN TO FILE A FALSE OR FRAUDULENT UCC STATEMENT THAT AFFECTS

1 REAL PROPERTY. IF YOU BELIEVE THIS FILING WAS MADE FALSELY OR
2 FRAUDULENTLY, YOU MAY HAVE RECOURSE PURSUANT TO LAW AND SHOULD
3 CONSULT AN ATTORNEY."

4 (4) If the office of secretary of state receives a financing
5 statement under subsection (1)(b) or (2) for filing, and any debtor
6 identified on the financing statement is an individual, the
7 secretary of state shall provide written notice of the filing of
8 the financing statement to that debtor. The secretary of state
9 shall determine the form of the written notice and the written
10 notice shall contain at least all of the following information:

11 (a) The debtor's name and address as shown on the financing
12 statement.

13 (b) The secured party's name and address as shown on the
14 financing statement.

15 (c) The remedies available to the debtor under this act if he
16 or she believes that the financing statement is erroneously or
17 fraudulently filed.

18 (5) In addition to the written notice described in subsection
19 (4), the secretary of state shall provide at no charge to a debtor
20 described in that subsection a copy or image of the filed financing
21 statement and any attachments. If the debtor requests additional
22 copies or searches, the fees provided in section 9525 apply to that
23 request.

24 (6) A person shall not knowingly or intentionally file a false
25 or fraudulent financing statement with the office of the secretary
26 of state under subsection (1)(b) or (2). In addition to any other
27 penalty provided by law, a violation of this subsection is a felony

1 punishable by imprisonment for not more than 5 years or a fine of
2 not more than \$2,500.00, or both. If the person is convicted of the
3 violation, the court may find that the financing statement is
4 ineffective and may order the office of the secretary of state to
5 terminate the financing statement and may order restitution.

6 (7) If a person files a false or fraudulent financing
7 statement with the office of the secretary of state under
8 subsection (1)(b) or (2), a debtor named in that financing
9 statement may file an action against the person that filed the
10 financing statement seeking appropriate equitable relief or
11 damages, including, but not limited to, an order declaring the
12 financing statement ineffective and ordering the office of the
13 secretary of state to terminate the financing statement, and
14 reasonable attorney fees.