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House Bill 4694 (as passed by the House)
Sponsor: Representative Jack O'Malley
House Committee: Financial Services
Senate Committee: Insurance and Banking

Date Completed: 10-19-21

CONTENT

The bill would amend Article 9 (Secured Transactions) of the Uniform Commercial Code (UCC) to change references to a "correction statement" to an "information statement", and to require a filing office to accept certain financing statement forms approved by the International Association of Commercial Administrators and adopted by the Secretary of State (SOS) and any other form adopted by the SOS.

Generally, Article 9 of the UCC governs secured transactions, which are transactions in which credit is granted and the creditor receives an interest in personal property of the debtor (the collateral). When a creditor's security interest is created, it must "attach" in order to be effective between the creditor and the debtor, and it must be "perfected" in order for the creditor to have priority in relation to other creditors of the debtor who have an interest in the collateral. Perfection usually occurs when a financing statement is filed with the State.

Article 9 allows a person to file an information statement with the SOS if the person believes that a filed record is inaccurate or was wrongfully filed.

Under Section 9520, if a "correction statement" filed with the SOS alleges that a previously filed record was wrongfully filed, the SOS must, without undue delay, determine whether the contested record was wrongfully filed. To determine whether the record was wrongfully filed, the SOS may require the person who filed the "correction statement" or the secured party to provide any additional relevant information requested by the SOS.

Section 9525(4) specifies that there is no fee for filing and indexing a "correction statement" filed with the SOS, filed by an individual named as a debtor on a record indexed by the SOS.

The bill would refer, instead, to an "information statement".

Under Section 9521, a filing office that accepts written records may not refuse to accept a written initial financing statement that conforms to the form and format of certain prescribed UCC forms as promulgated by the American Law Institute and the Uniform Law Commission, or to the form and format of any other revision to or version of either of those forms that are promulgated by the American Law Institute and the Uniform Law Commission and adopted by the SOS. The bill would refer, instead, to the prescribed forms as promulgated by the American Law Institute and the Uniform Law Commission, or as approved by the International Association of Commercial Administrators and adopted by the SOS, or any other form adopted by the SOS.

Section 9521 also prohibits a filing office that accepts written records from refusing to accept a written financing statement amendment that conforms to the form and format of certain prescribed UCC forms as promulgated by the American Law Institute and the Uniform Law Commission, or to the form and format of any other revision to or version of either of those forms that are promulgated by the American Law Institute and the Uniform Law Commission and adopted by the SOS. The bill would refer, instead, to the prescribed forms as promulgated by the American Law Institute and the Uniform Law Commission, or to the form and format of any other revision to or version of either of those forms that are promulgated by the American Law Institute and the Uniform Law Commission, or as approved by the International Association of Commercial Administrators, and adopted by the SOS.

MCL 440.9520 et al.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.