

UNIFORM COMMERCIAL CODE (EXCERPT)
Act 174 of 1962

PART 5
FILING

SUBPART 1.

FILING OFFICE; CONTENTS AND EFFECTIVENESS OF FINANCING STATEMENT

440.9501 Filing office.

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

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

(b) The office of secretary of state in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

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

(3) Any financing statement filed under subsection (1)(a) with a register of deeds and any continuation statement, termination statement, amendment, or assignment relating to the financing statement and meeting the formal requisites of this part shall be recorded by the register of deeds, notwithstanding the provisions for witnessing and acknowledging instruments to be recorded in the real property records contained in section 47 of 1846 RS 65, MCL 565.47.

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

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

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

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

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

(6) A person shall not knowingly or intentionally file a false or fraudulent financing statement with the office of the secretary of state under subsection (1)(b) or (2). In addition to any other penalty provided by law, a violation of this subsection is a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$2,500.00, or both. If the person is convicted of the violation, the court may find that the financing statement is ineffective and may order the office of the secretary of state to terminate the financing statement and may order restitution.

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

History: 1962, Act 174, Eff. Jan. 1, 1964;—Am. 1978, Act 369, Eff. Jan. 1, 1979;—Am. 2000, Act 348, Eff. July 1, 2001;—Am. 2004, Act 212, Eff. Jan. 1, 2005.

440.9501a Fraudulent financing statement; affidavit; form; notice; termination of financing statement; filing fee; notice of termination; action to reinstate financing statement; court order; payment of costs and expenses; violation as felony; penalty; "regulated financial institution" defined.

Sec. 9501a. (1) A person identified as a debtor in a financing statement filed with the secretary of state may file an affidavit with the secretary of state in the form prescribed under subsection (2) stating that the financing statement is fraudulent. A person shall not file an affidavit under this subsection with respect to a

financing statement filed by a regulated financial institution or a representative of a regulated financial institution.

(2) The secretary of state shall adopt and make available a form affidavit to be used to give notice of a fraudulent financing statement under subsection (1).

(3) On receipt of an affidavit under subsection (1), the secretary of state shall terminate the financing statement effective on the date the affidavit is filed.

(4) The secretary of state shall not charge a fee to file an affidavit under this section. The secretary of state shall not return any filing fee paid for filing the financing statement, regardless of whether the financing statement is terminated under this section.

(5) The secretary of state shall send notice of the termination of a financing statement under subsection (3) to the filer of the financing statement advising the filer that the financing statement has been terminated. If the filer of the financing statement believes in good faith that the statement was legally filed and is not fraudulent, the filer may file an action to reinstate the financing statement.

(6) If the court in an action under this section or section 9520(7) determines that the financing statement should be reinstated or accepted, the court shall provide a copy of its order to the secretary of state. On receipt of an order reinstating a financing statement, the secretary of state shall file a record that identifies by its file number the initial financing statement to which the record relates and indicates that the financing statement has been reinstated.

(7) On the filing of a record reinstating a financing statement under subsection (6), the financing statement is effective as a filed record from the initial filing date. If a financing statement that is reinstated would have lapsed during the period of termination, the secured party may file a continuation statement within 30 days after the record reinstating the financing statement is filed. The continuation statement is effective as a filed record from the date the financing statement would have lapsed. However, a financing or continuation statement is not retroactive as provided in this subsection as against a purchaser of the collateral that gives value in reasonable reliance on the absence of the record from the files.

(8) If the court in an action under this section determines that the financing statement is fraudulent, the filer of the financing statement shall pay the costs and expenses incurred by the person identified as a debtor in the financing statement in the action.

(9) An individual who files a materially false or fraudulent affidavit under subsection (1) is guilty of a felony punishable by imprisonment for not more than 5 years or a \$2,500.00 fine, or both.

(10) As used in this section, "regulated financial institution" means a financial institution subject to regulatory oversight or examination by a state or federal agency. Regulated financial institution includes a bank, savings bank, savings association, building and loan association, credit union, consumer finance company, industrial bank, industrial loan company, insurance company, investment company, installment seller, mortgage servicer, sales finance company, or leasing company.

History: Add. 2008, Act 381, Eff. Mar. 29, 2009.

440.9502 Contents of financing statement; record of mortgage as financing statement; time of filing financing statement.

Sec. 9502. (1) Subject to subsection (2), a financing statement is sufficient only if it does all of the following:

- (a) Provides the name of the debtor.
- (b) Provides the name of the secured party or a representative of the secured party.
- (c) Indicates the collateral covered by the financing statement.

(2) Except as otherwise provided in section 9501(2), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or that is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (1) and also do all of the following:

- (a) Indicate that it covers this type of collateral.
- (b) Indicate that it is to be recorded in the real property records.
- (c) Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property.
- (d) If the debtor does not have an interest in record in the real property, provide the name of a record owner.

(3) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if all of the following apply:

- (a) The record indicates the goods or accounts that it covers.

(b) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut.

(c) The record satisfies the requirements for a financing statement in this section, subject to the following:

(i) The record need not indicate that it is to be filed in the real property records.

(ii) The record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom section 9503(1)(d) applies.

(d) The record is duly recorded.

(4) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

History: 1962, Act 174, Eff. Jan. 1, 1964;—Am. 1978, Act 369, Eff. Jan. 1, 1979;—Am. 2000, Act 348, Eff. July 1, 2001;—Am. 2012, Act 88, Eff. July 1, 2013.

440.9503 Name of debtor and secured party; "name of the settlor or testator" defined.

Sec. 9503. (1) A financing statement sufficiently provides the name of the debtor if it meets all of the following that apply to the debtor:

(a) Except as otherwise provided in subdivision (c), if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name that is stated to be the registered organization's name on the public organic record most recently filed with or issued or enacted by the registered organization's jurisdiction of organization which purports to state, amend, or restate the registered organization's name.

(b) Subject to subsection (6), if the collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the collateral is being administered by a personal representative.

(c) If the collateral is held in a trust that is not a registered organization, only if the financing statement does both of the following:

(i) Provides 1 of the following as the name of the debtor:

(A) If the organic record of the trust specifies a name for the trust, the name specified.

(B) If the organic record of the trust does not specify a name for the trust, the name of the settlor or testator.

(ii) Meets 1 of the following in a separate part of the financing statement:

(A) If the name is provided in accordance with subparagraph (i)(A), indicates that the collateral is held in a trust.

(B) If the name is provided in accordance with subparagraph (i)(B), provides additional information sufficient to distinguish the trust from other trusts having 1 or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates.

(d) Subject to subsection (7), if the debtor is an individual to whom this state has issued a driver license or state personal identification card that has not expired, only if the financing statement provides the name of the individual which is indicated on the driver license or state personal identification card.

(e) If the debtor is an individual to whom subdivision (d) does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor.

(f) In other cases, satisfies 1 of the following:

(i) If the debtor has a name, only if the financing statement provides the organizational name of the debtor.

(ii) If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

(2) A financing statement that provides the name of the debtor in accordance with subsection (1) is not rendered ineffective by the absence of 1 or more of the following:

(a) A trade name or other name of the debtor.

(b) Unless required under subsection (1)(f)(ii), names of partners, members, associates, or other persons comprising the debtor.

(3) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(4) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(5) A financing statement may provide the name of more than 1 debtor and the name of more than 1

secured party.

(6) The name of the decedent indicated on the order appointing the personal representative of a decedent issued by the court that has jurisdiction over the collateral is sufficient as the "name of the decedent" under subsection (1)(b).

(7) If this state has issued to an individual more than 1 driver license or state personal identification card of a kind described in subsection (1)(d), the one that was issued most recently is the one to which subsection (1)(d) refers.

(8) As used in this section, the "name of the settlor or testator" means any of the following:

(a) If the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name.

(b) In other cases, the name of the settlor or testator indicated in the trust's organic record.

History: 1962, Act 174, Eff. Jan. 1, 1964;—Am. 2000, Act 348, Eff. July 1, 2001;—Am. 2012, Act 88, Eff. July 1, 2013.

440.9504 Indication of collateral.

Sec. 9504. A financing statement sufficiently indicates the collateral that it covers if the financing statement provides 1 of the following:

(a) A description of the collateral pursuant to section 9108.

(b) An indication that the financing statement covers all assets or all personal property.

History: 1962, Act 174, Eff. Jan. 1, 1964;—Am. 1978, Act 369, Eff. Jan. 1, 1979;—Am. 2000, Act 348, Eff. July 1, 2001.

440.9505 Filing and compliance with other statutes and treaties for consignments, leases, other bailments, and other transactions.

Sec. 9505. (1) A consignor, lessor, or other bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in section 9311(1), using the terms "consignor", "consignee", "lessor", "lessee", "bailor", "bailee", "licensor", "licensee", "owner", "registered owner", "buyer", "seller", or words of similar import, instead of the terms "secured party" and "debtor".

(2) This part applies to the filing of a financing statement under subsection (1) and, as appropriate, to compliance that is equivalent to filing a financing statement under section 9311(2), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

History: 1962, Act 174, Eff. Jan. 1, 1964;—Am. 1978, Act 369, Eff. Jan. 1, 1979;—Am. 2000, Act 348, Eff. July 1, 2001.

440.9506 Effect of errors or omissions.

Sec. 9506. (1) A financing statement substantially satisfying the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(2) Except as otherwise provided in subsection (3), a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 9503(1) is seriously misleading.

(3) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 9503(1), the name provided does not make the financing statement seriously misleading.

(4) For purposes of section 9508(2), the "debtor's correct name" in subsection (3) means the correct name of the new debtor.

History: 1962, Act 174, Eff. Jan. 1, 1964;—Am. 2000, Act 348, Eff. July 1, 2001.

440.9507 Effect of certain events on effectiveness of financing statement.

Sec. 9507. (1) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(2) Except as otherwise provided in subsection (3) and section 9508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under section 9506.

(3) If the name that a filed financing statement provides for a debtor becomes insufficient as the name of

the debtor under section 9503(1) so that the financing statement becomes seriously misleading under section 9506, both of the following apply:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within 4 months after, the filed financing statement becomes seriously misleading.

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than 4 months after the filed financing statement becomes seriously misleading, unless an amendment to the financing statement that renders the financing statement not seriously misleading is filed within 4 months after the financing statement became seriously misleading.

History: 1962, Act 174, Eff. Jan. 1, 1964;—Am. 2000, Act 348, Eff. July 1, 2001;—Am. 2012, Act 88, Eff. July 1, 2013.

440.9508 Effectiveness of financing statement if new debtor becomes bound by security agreement.

Sec. 9508. (1) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(2) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (1) to be seriously misleading under section 9506, both of the following apply:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within 4 months after, the new debtor becomes bound under section 9203(4).

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than 4 months after the new debtor becomes bound under section 9203(4) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(3) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under section 9507(1).

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9509 Persons entitled to file a record.

Sec. 9509. (1) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if 1 of the following occurs:

(a) The debtor authorizes the filing in an authenticated record or pursuant to subsection (2) or (3).

(b) The person holds an agricultural lien that has become effective at time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(2) By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering both of the following:

(a) The collateral described in the security agreement.

(b) Property that becomes collateral under section 9315(1)(b), whether or not the security agreement expressly covers proceeds.

(3) By acquiring collateral in which a security interest or agricultural lien continues under section 9315(1)(a), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under section 9315(1)(b).

(4) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if 1 of the following applies:

(a) The secured party of record authorizes the filing.

(b) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by section 9513(1) or (3), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(5) If there is more than 1 secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (4).

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9510 Effectiveness of filing record.

Sec. 9510. (1) A filed record is effective only to the extent that it was filed by a person that may file it under section 9509.

(2) A record authorized by 1 secured party of record does not affect the financing statement with respect to another secured party of record.

(3) A continuation statement that is not filed within the 6-month period prescribed by section 9515(4) is ineffective.

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9511 Secured party of record.

Sec. 9511. (1) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under section 9514(1), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(2) If an amendment of a financing statement that provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under section 9514(2), the assignee named in the amendment is a secured party of record.

(3) A person remains a secured party of record until the filing of an amendment of the financing statement that deletes the person.

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9512 Amendment of financing statement.

Sec. 9512. (1) Subject to section 9509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (5), otherwise amend the information provided in, a financing statement by filing an amendment that does both of the following:

(a) Identifies, by its file number, and, if applicable, by liber and page, the initial financing statement to which the amendment relates.

(b) If the amendment relates to an initial financing statement filed or recorded in a filing office described in section 9501(1)(a), provides the date that the initial financing statement was filed or recorded and the information specified in section 9502(2).

(2) Except as otherwise provided in section 9515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(3) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(4) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(5) An amendment is ineffective to the extent 1 or more of the following apply to it:

(a) It purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement.

(b) It purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9513 Termination statement.

Sec. 9513. (1) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and 1 or more of the following apply:

(a) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value.

(b) The debtor did not authorize the filing of the initial financing statement.

(2) To comply with subsection (1), a secured party shall cause the secured party of record to file the termination statement within 1 of the following periods:

(a) Within 1 month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value.

(b) If earlier, within 20 days after the secured party receives an authenticated demand from a debtor.

(3) In cases not governed by subsection (1), within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if 1 or more of the following apply:

(a) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value.

(b) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation.

(c) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession.

(d) The debtor did not authorize the filing of the initial financing statement.

(4) Except as otherwise provided in section 9510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in section 9510, for purposes of sections 9519(7), 9522(1), and 9523(3), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9514 Assignment of powers of secured party of record.

Sec. 9514. (1) Except as otherwise provided in subsection (3), an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement providing the name and mailing address of the assignee as the name and address of the secured party.

(2) Except as otherwise provided in subsection (3), a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement that does all of the following:

(a) Identifies, by its file number, the initial financing statement to which it relates.

(b) Provides the name of the assignor.

(c) Provides the name and mailing address of the assignee.

(3) An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under section 9502(3) may be made only by an assignment of record of the mortgage in the manner provided by law of this state other than this act.

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9515 Duration and effectiveness of financing statement; effect of lapsed financing statement; continuation statement; termination.

Sec. 9515. (1) Except as otherwise provided in subsections (2), (5), (6), and (7), a filed financing statement is effective for a period of 5 years after the date of filing.

(2) Except as otherwise provided in subsections (5), (6), and (7), an initial financing statement filed in connection with a manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a manufactured-home transaction.

(3) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (4). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(4) A continuation statement may be filed only within 6 months before the expiration of the 5-year period specified in subsection (1) or the 30-year period specified in subsection (2), whichever is applicable.

(5) Except as otherwise provided in section 9510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of 5 years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the 5-year period, the financing statement lapses in the same manner as provided in subsection (3), unless, before the lapse, another continuation statement is filed pursuant to subsection (4). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(6) If a debtor is an organization identified as a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed. A financing statement that is filed before March 29, 2009 is effective for a period of 5 years after the date of filing and shall not be continued under this section if the financing statement indicates either of the following:

(a) That the debtor is an individual purporting to be a transmitting utility.

(b) That the debtor is an individual showing his or her name as an organization and purporting to be a transmitting utility.

(7) A record of a mortgage that is effective as a financing statement filed as a fixture filing under section 9502(3) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

History: Add. 2000, Act 348, Eff. July 1, 2001;—Am. 2008, Act 383, Eff. Mar. 29, 2009;—Am. 2012, Act 88, Eff. July 1, 2013.

440.9516 Filing; requirements; communication of record with tender of filing fee; effectiveness.

Sec. 9516. (1) Except as otherwise provided in subsection (2), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(2) Filing does not occur with respect to a record that a filing office refuses to accept because of 1 or more of the following:

(a) The record is not communicated by a method or medium of communication authorized by the filing office.

(b) An amount equal to or greater than the applicable filing fee is not tendered.

(c) The filing office is unable to index the record because of 1 or more of the following:

(i) In the case of an initial financing statement, the record does not provide a name for the debtor.

(ii) In the case of an amendment or information statement, the record does not identify the initial financing statement as required by section 9512 or 9518, as applicable, or identifies an initial financing statement whose effectiveness has lapsed under section 9515.

(iii) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual that was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's surname.

(iv) In the case of a record filed or recorded in the filing office described in section 9501(1)(a), the record does not provide a sufficient description of the real property to which it relates.

(d) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record.

(e) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not provide or indicate 1 or more of the following:

(i) Provide a mailing address for the debtor.

(ii) Indicate whether the name provided as the name of the debtor is the name of an individual or an organization.

(f) In the case of an assignment reflected in an initial financing statement under section 9514(1) or an amendment filed under section 9514(2), the record does not provide a name and mailing address for the assignee.

(g) In the case of a continuation statement, the record is not filed within the 6-month period prescribed by section 9515(4).

(3) For purposes of subsection (2), both of the following apply:

(a) A record does not provide information if the filing office is unable to read or decipher the information.

(b) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 9512, 9514, or 9518, is an initial financing statement.

(4) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (2) or section 9520(5), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

History: Add. 2000, Act 348, Eff. July 1, 2001;—Am. 2008, Act 383, Eff. Mar. 29, 2009;—Am. 2012, Act 88, Eff. July 1, 2013.

440.9517 Effect of indexing errors.

Sec. 9517. The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9518 Information statement concerning inaccurate or wrongfully filed record.

Sec. 9518. (1) A person may file in the filing office an information statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(2) An information statement under subsection (1) must do all of the following:

(a) Identify the record to which it relates by both of the following:

(i) The file number assigned to the initial financing statement to which the record relates.

(ii) If the information statement relates to a record filed or recorded in a filing office described in section

9501(1)(a), the date that the initial financing statement was filed or recorded and the information specified in section 9502(2).

(b) Indicate that it is an information statement.

(c) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(3) A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under section 9509(4).

(4) An information statement under subsection (3) must do all of the following:

(a) Identify the record to which it relates by both of the following:

(i) The file number assigned to the initial financing statement to which the record relates.

(ii) If the information statement relates to a record filed or recorded in a filing office described in section 9501(1)(a), the date and time that the initial financing statement was filed or recorded and the information specified in section 9502(2).

(b) Indicate that it is an information statement.

(c) Provide the basis for the person's belief that the person that filed the record was not entitled to do so under section 9509(4).

(5) The filing of an information statement does not affect the effectiveness of an initial financing statement or other filed record.

History: Add. 2000, Act 348, Eff. July 1, 2001;—Am. 2012, Act 88, Eff. July 1, 2013.

SUBPART 2.

DUTIES AND OPERATION OF FILING OFFICE

440.9519 Numbering, maintaining, and indexing records; communicating information provided in records.

Sec. 9519. (1) For each record filed in a filing office, the filing office shall do all of the following:

(a) Assign a unique number to the filed record.

(b) Create a record that bears the number assigned to the filed record and the date and time of filing.

(c) Maintain the filed record for public inspection.

(d) Index the filed record in accordance with subsections (3), (4), and (5).

(2) A file number assigned after January 1, 2002 must include a digit that is mathematically derived from or related to the other digits of the file number, and aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

(3) Except as otherwise provided in subsections (4) and (5), the filing office shall do both of the following:

(a) Index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement.

(b) Index a record that provides a name of a debtor that was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(4) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, it must be filed for record and the filing office shall index it under both of the following:

(a) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described.

(b) To the extent that the law of this state provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(5) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under section 9514(1) or an amendment filed under section 9514(2) under both of the following:

(a) Under the name of the assignor as grantor.

(b) To the extent that the law of this state provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(6) The filing office shall maintain a capability to do both of the following:

(a) To retrieve a record by the name of the debtor and by 1 of the following:

(i) If the filing office is described in section 9501(1)(a), by the file number assigned to the initial financing

statement to which the record relates and the date that the record was filed or recorded.

(ii) If the filing office is described in section 9501(1)(b), by the file number assigned to the initial financing statement to which the record relates.

(b) To associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

(7) The filing office shall not remove a debtor's name from the index until 1 year after the effectiveness of a financing statement naming the debtor lapses under section 9515 with respect to all secured parties of record.

(8) The filing office shall perform the acts required by subsections (1) through (5) at the time and in the manner prescribed by filing-office rule, but not later than 2 business days after the filing office receives the record in question.

(9) Subsections (2) and (8) do not apply to a filing office described in section 9501(1)(a).

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9520 Acceptance and refusal to accept record; wrongful filing; action to require secretary of state to accept record; personal liability; filing by regulated financial institution.

Sec. 9520. (1) A filing office shall refuse to accept a record for filing for a reason set forth in section 9516(2) or, if the filing office is the secretary of state, subsection (5) and may refuse to accept a record for filing only for a reason set forth in section 9516(2) or, if the filing office is the secretary of state, subsection (5).

(2) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule but, in the case of a filing office described in section 9501(1)(b), in no event more than 2 business days after the filing office receives the record.

(3) A filed financing statement satisfying section 9502(1) and (2) is effective, even if the filing office is required to refuse to accept it for filing under subsection (1). However, section 9338 applies to a filed financing statement providing information described in section 9516(2)(e) that is incorrect at the time the financing statement is filed.

(4) If a record communicated to a filing office provides information that relates to more than 1 debtor, this part applies as to each debtor separately.

(5) Notwithstanding any other provision of this act, if a person presents a record to the secretary of state for filing or recording, the secretary of state may refuse to accept the record for filing or recording if 1 or more of the following circumstances exist:

(a) The record is not required or authorized to be filed or recorded with the secretary of state.

(b) The record is being filed or recorded for a purpose outside the scope of this article.

(c) The secretary of state has reasonable cause to believe the record is materially false or fraudulent.

(d) The record asserts a claim against a current or former employee or officer of a federal, state, county, or other local governmental unit that relates to the performance of the officer's or employee's public duties, and for which the filer does not hold a properly executed security agreement or judgment from a court of competent jurisdiction.

(e) The record indicates that the debtor and the secured party are substantially the same or that an individual debtor is a transmitting utility.

(6) If an information statement filed with the secretary of state under section 9518 alleges that a previously filed record was wrongfully filed, the secretary of state shall, without undue delay, determine whether the contested record was wrongfully filed. To determine whether the record was wrongfully filed, the secretary of state may require the person who filed the information statement or the secured party to provide any additional relevant information requested by the secretary of state, including an original or copy of a security agreement that is related to the record. If the secretary of state finds that the record was wrongfully filed, the secretary of state shall terminate the record and the record is void and ineffective. The secretary of state shall notify the secured party named in the contested record of the termination.

(7) If the secretary of state refuses to accept a record for filing or recording under subsection (5), the person who presented the record to the secretary of state may commence an action under section 9501a to require the secretary of state to accept the record for filing or recording. A record ordered by the court to be accepted is effective as a filed record from the initial filing date except as against a purchaser of the collateral that gives value in reasonable reliance on the absence of the record from the files.

(8) A filing officer who, acting in a manner that does not subject the filing officer to personal liability

under the statutes of this state, improperly refuses to accept a record for filing or recording under subsection (5) is not personally liable for the improper refusal or determination.

(9) Subsection (5) does not apply to a financing statement filed by a regulated financial institution or a representative of a regulated financial institution. If a regulated financial institution that is attempting to file a financing statement is organized under the law of a governmental unit other than this state, the secretary of state may request the regulated financial institution or its representative to provide verification of regulation or licensure in the jurisdiction under whose law the institution is organized. As used in this subsection, "regulated financial institution" means that term as defined in section 9501a.

History: Add. 2000, Act 348, Eff. July 1, 2001;—Am. 2008, Act 383, Eff. Mar. 29, 2009;—Am. 2021, Act 115, Imd. Eff. Nov. 22, 2021.

440.9521 Form and format of written initial financing statement and amendment.

Sec. 9521. (1) Except for a reason set forth in section 9516(2) or 9520(5), a filing office that accepts written records for filing shall not refuse to accept a written initial financing statement that conforms to the form and format of UCC financing statement (Form UCC1) or UCC financing statement addendum (Form UCC1Ad) as promulgated by the American Law Institute and the Uniform Law Commission and adopted by the secretary of state, or as approved by the International Association of Commercial Administrators and adopted by the secretary of state, or any other form adopted by the secretary of state.

(2) Except for a reason set forth in section 9516(2) or 9520(5), a filing office that accepts written records for filing shall not refuse to accept a written financing statement amendment that conforms to the form and format of the UCC financing statement amendment (Form UCC3) or the UCC financing statement amendment addendum (Form UCC3Ad) 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 secretary of state.

History: Add. 2000, Act 348, Eff. July 1, 2001;—Am. 2008, Act 383, Eff. Mar. 29, 2009;—Am. 2012, Act 88, Eff. July 1, 2013;—Am. 2021, Act 115, Imd. Eff. Nov. 22, 2021.

440.9522 Maintenance and destruction of records.

Sec. 9522. (1) The filing office shall maintain a record of the information provided in a filed financing statement for at least 1 year after the effectiveness of the financing statement has lapsed under section 9515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and 1 of the following:

(a) If the record was filed or recorded in the filing office described in section 9501(1)(a), by using the file number assigned to the initial financing statement to which the record relates and the date that the record was filed or recorded.

(b) If record was filed in the filing office described in section 9501(1)(b), by using the file number assigned to the initial financing statement to which the record relates.

(2) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement that complies with subsection (1).

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9523 Request for acknowledgment of filing; duties of filing office; communication; medium; subscription; fee.

Sec. 9523. (1) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to section 9519(1)(a) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead do both of the following:

(a) Note upon the copy the number assigned to the record pursuant to section 9519(1)(a) and the date and time of the filing of the record.

(b) Send the copy to the person.

(2) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides all of the following:

(a) The information in the record.

(b) The number assigned to the record pursuant to section 9519(1)(a).

(c) The date and time of the filing of the record.

(3) The filing office shall communicate or otherwise make available in a record 1 or more of the following information to any person that requests it:

(a) Whether there is on file on a date and time specified by the filing office, but not a date earlier than 3 business days before the filing office receives the request, any financing statement that meets all of the following:

(i) Designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request.

(ii) Has not lapsed under section 9515 with respect to all secured parties of record.

(iii) If the request so states, has lapsed under section 9515 and a record of which is maintained by the filing office under section 9522(1).

(b) The date and time of filing of each financing statement.

(c) The information provided in each financing statement.

(4) In complying with its duty under subsection (3), the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate or another record that can be admitted into evidence in the courts of this state without extrinsic evidence of its authenticity.

(5) The filing office shall perform the acts required by subsections (1) through (4) at the time and in the manner prescribed by filing-office rule, but, in the case of a filing office described in section 9501(1)(b), not later than 2 business days after the filing office receives the request.

(6) Not later than January 1, 2018, the secretary of state shall sell or license to the public on a nonexclusive basis, in bulk, by subscription, images of all records filed in it under this part each month, or bulk data from the filed records, in a format established by the secretary of state and in 1 or more mediums available to the secretary of state. The secretary of state shall charge a subscription fee of \$500.00 per month to a person that subscribes to receive images or data under this subsection.

History: Add. 2000, Act 348, Eff. July 1, 2001;—Am. 2017, Act 175, Imd. Eff. Nov. 21, 2017.

440.9524 Delay by filing office.

Sec. 9524. Delay by the filing office beyond a time limit prescribed by this part is excused if both of the following apply:

(a) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office.

(b) The filing office exercises reasonable diligence under the circumstances.

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9525 Fee for filing and indexing record; other fees.

Sec. 9525. (1) Except as otherwise provided in subsection (3) or (4), the fee for filing and indexing a record under this part is \$15.00.

(2) A filing office shall charge a person a fee for responding to a request for a search of the records filed with a filing office concerning a debtor, including issuance of a certificate describing each presently effective record filed concerning the debtor if requested. The fee is \$6.00, plus 1 or more of the following, if applicable:

(a) If the person requests expediting of the regular search process, an additional fee of \$25.00.

(b) If the person requests copies of the presently effective records disclosed by the search, an additional fee of \$2.00 per page.

(c) If the filing office is the secretary of state and the person requests that the secretary of state include an impression of the official seal of the secretary of state on the certificate, an additional fee of \$6.00.

(3) This section does not require a fee with respect to a record of a mortgage that is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under section 9502(3). However, the recording fees that otherwise would be applicable to the record of the mortgage under section 2567 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567, apply.

(4) There is no fee for filing and indexing an information statement filed with the office of the secretary of state under section 9518, filed by an individual named as a debtor on a record indexed by the secretary of state.

History: Add. 2000, Act 348, Eff. July 1, 2001;—Am. 2004, Act 212, Eff. Jan. 1, 2005;—Am. 2016, Act 229, Eff. Oct. 1, 2016;—Am. 2021, Act 115, Imd. Eff. Nov. 22, 2021.

440.9526 Filing-office rules.

Sec. 9526. (1) The secretary of state shall adopt and publish rules to implement this article. The

filing-office rules must be consistent with this article and adopted and published in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) To keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part, the secretary of state, so far as is consistent with the purposes, policies, and provisions of this article, in adopting, amending, and repealing filing-office rules, shall do all of the following:

(a) Consult with filing offices in other jurisdictions that enact substantially this part.

(b) Consult the most recent version of the model rules promulgated by the international association of corporate administrators or any successor organization.

(c) Take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part.

History: Add. 2000, Act 348, Eff. July 1, 2001.

Administrative rules: R 440.101 et seq. of the Michigan Administrative Code.

440.9527 Repealed. 2008, Act 383, Eff. Mar. 29, 2009.

Compiler's note: The repealed section pertained to submission of report by secretary of state on the operation of the filing office.