

UNIFORM COMMERCIAL CODE (EXCERPT)
Act 174 of 1962

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.