

UNIFORM COMMERCIAL CODE (EXCERPT)
Act 174 of 1962

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.