

AN ACT concerning business.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Uniform Commercial Code is amended by changing Sections 9-510 and 9-516 and by adding Section 9-501.1 as follows:

(810 ILCS 5/9-501.1 new)

Sec. 9-501.1. Fraudulent records.

(a) No person shall cause to be communicated to the filing office for filing a false record the person knows or reasonably should know:

(1) is not authorized or permitted under Section 9-509, 9-708, or 9-808 of this Article;

(2) is not related to a valid existing or potential commercial or financial transaction, an existing agricultural or other lien, or a judgment of a court of competent jurisdiction; and

(3) is filed with the intent to harass or defraud the person identified as debtor in the record or any other person.

(b) A person who violates subsection (a) is guilty of a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense.

(c) A person who violates subsection (a) shall be liable in a civil action to each injured person for:

(1) the greater of the actual damages caused by the violation or up to \$10,000 in lieu of actual damages;

(2) reasonable attorney's fees;

(3) court costs and other related expenses of bringing an action, including reasonable investigative expenses;  
and

(4) in the discretion of the court, exemplary damages in an amount determined by the court or jury.

(d) A person identified as debtor in a filed record the person believes was caused to be communicated to the filing office in violation of subsection (a) may, under penalty of perjury, file with the Secretary of State an affidavit to that effect. The Secretary of State shall adopt and make available a form affidavit for use under this Section.

(e) Upon receipt of an affidavit filed under this Section, or upon administrative action by the Secretary of State, the Secretary of State shall communicate to the secured party of record on the record to which the affidavit or administrative action relates and to the person that communicated the record to the filing office, if different and known to the office, a request for additional documentation supporting the effectiveness of the record. The Department of Business Services of the Office of the Secretary of State and the Office of the General Counsel shall review all such documentation

received within 30 days after the first request for additional documentation is sent. The Secretary of State may terminate the record effective 30 days after the first request for additional documentation is sent if it has a reasonable basis for concluding that the record was communicated to the filing office in violation of subsection (a).

The Secretary of State may initiate an administrative action under the first paragraph of this subsection (e) with regard to a filed record if it has reason to believe, from information contained in the record or obtained from the person that communicated the record to the filing office, that the record was communicated to the filing office in violation of subsection (a). The Secretary of State may give heightened scrutiny to a record that indicates that the debtor is a transmitting utility or that indicates that the transaction to which the record relates is a manufactured-home transaction or a public-finance transaction.

(f) The Secretary of State shall not charge a fee to file an affidavit under this Section and shall not return any fee paid for filing a record terminated under this Section.

(g) The Secretary of State shall promptly communicate to the secured party of record a notice of the termination of a record under subsection (e). A secured party of record that believes in good faith that the record was not communicated to the filing office in violation of subsection (a) may file an action to require that the record be reinstated by the filing

office. A person that communicated a record to the filing office that the filing office rejected in reliance on Section 9-516(b) (3.5), who believes in good faith that the record was not communicated to the filing office in violation of Section 9-516(b) (3.5), may file an action to require that the record be accepted by the filing office.

(h) If a court or tribunal in an action under this Section determines that a record terminated under this Section or rejected in reliance on Section 9-516(b) (3.5) should be reinstated or accepted, the court or tribunal shall provide a copy of its order to that effect to the Secretary of State. On receipt of an order reinstating a terminated record, the Secretary of State shall refile the record along with a notice indicating that the record was refiled pursuant to this Section and its initial filing date. On receipt of an order requiring that a rejected record be accepted, the Secretary of State shall promptly file the record along with a notice indicating that the record was filed pursuant to this Section and the date on which it was communicated for filing. A rejected record that is filed pursuant to an order of a court or tribunal shall have the effect described in Section 9-516(d) for a record the filing office refuses to accept for a reason other than one set forth in Section 9-516(b).

(i) A terminated record that is refiled under subsection (h) is effective as a filed record from the initial filing date. If the period of effectiveness of a refiled record would

have lapsed during the period of termination, the secured party may file a continuation statement within 30 days after the record is refiled and the continuation statement shall have the same effect as if it had been filed during the 6-month period described in Section 9-515(d). A refiled record shall be considered never to have been ineffective against all persons and for all purposes except that it shall not be effective as against a purchaser of the collateral that gave value in reasonable reliance on the absence of the record from the files.

(j) Neither the filing office nor any of its employees shall incur liability for the termination or failure to terminate a record under this Section or for the refusal to accept a record for filing in the lawful performance of the duties of the office or employee.

(k) This Section does not apply to a record communicated to the filing office by a regulated financial institution or by a representative of a regulated financial institution except that the Secretary of State may request from the secured party of record on the record or from the person that communicated the record to the filing office, if different and known to the office, additional documentation supporting that the record was communicated to the filing office by a regulated financial institution or by a representative of a regulated financial institution. The term "regulated financial institution" means a financial institution subject to regulatory oversight or

examination by a State or federal agency and includes banks, savings banks, savings associations, building and loan associations, credit unions, consumer finance companies, industrial banks, industrial loan companies, insurance companies, investment companies, investment funds, installment sellers, mortgage servicers, sales finance companies, and leasing companies.

(1) If a record was communicated to the filing office for filing before the effective date of this Section and its communication would have constituted a violation of subsection (a) if it had occurred on or after the effective date of the Section: (i) subsections (b) and (c) are not applicable; and (ii) the other subsections of this Section are applicable.

(810 ILCS 5/9-510)

Sec. 9-510. Effectiveness of filed record.

(a) Filed record effective if authorized. A filed record is effective only to the extent that it was filed by a person that may file it under Section 9-509.

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

(c) Continuation statement not timely filed. A continuation statement that is not filed within the six-month period prescribed by Section 9-515(d) is ineffective.

(d) A filed record ceases to be effective if the filing office terminates the record pursuant to Section 9-501.1.

(Source: P.A. 91-893, eff. 7-1-01.)

(810 ILCS 5/9-516)

Sec. 9-516. What constitutes filing; effectiveness of filing.

(a) What constitutes filing. Except as otherwise provided in subsection (b), 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.

(b) Refusal to accept record; filing does not occur. Filing does not occur with respect to a record that a filing office refuses to accept because:

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

(2) an amount equal to or greater than the applicable filing fee is not tendered;

(3) the filing office is unable to index the record because:

(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or correction statement, the record:

(i) does not identify the initial financing statement as required by Section 9-512 or 9-518, as

applicable; ~~or~~

(ii) identifies an initial financing statement whose effectiveness has lapsed under Section 9-515; or

(iii) identifies an initial financing statement which was terminated pursuant to Section 9-501.1;

(C) 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 which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name;

(D) in the case of a record filed or recorded in the filing office described in Section 9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates; or

(E) in the case of a record submitted to the filing office described in Section 9-501(a)(1), the filing office has reason to believe, from information contained in the record or from the person that communicated the record to the office, that: (i) if the record indicates that the debtor is a transmitting utility, the debtor does not meet the definition of a transmitting utility as described in Section



9-102(a)(81); (ii) if the record indicates that the transaction relating to the record is a manufactured-home transaction, the transaction does not meet the definition of a manufactured-home transaction as described in Section 9-102(a)(54); or (iii) if the record indicates that the transaction relating to the record is a public-finance transaction, the transaction does not meet the definition of a public-finance transaction as described in Section 9-102(a)(67); ~~9-501(b), the debtor does not meet the definition of a transmitting utility as described in Section 9-102(a)(80);~~

(3.5) in the case of an initial financing statement or an amendment, if the filing office believes in good faith that the record was communicated to the filing office in violation of Section 9-501.1(a); ~~a document submitted for filing is being filed for the purpose of defrauding any person or harassing any person in the performance of duties as a public servant;~~

(4) 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;

(5) 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:

(A) provide a mailing address for the debtor;

(B) indicate whether the debtor is an individual or an organization; or

(C) if the financing statement indicates that the debtor is an organization, provide:

(i) a type of organization for the debtor;

(ii) a jurisdiction of organization for the debtor; or

(iii) an organizational identification number for the debtor or indicate that the debtor has none;

(6) in the case of an assignment reflected in an initial financing statement under Section 9-514(a) or an amendment filed under Section 9-514(b), the record does not provide a name and mailing address for the assignee; or

(7) in the case of a continuation statement, the record is not filed within the six-month period prescribed by Section 9-515(d).

(c) Rules applicable to subsection (b). For purposes of subsection (b):

(1) a record does not provide information if the filing office is unable to read or decipher the information; and

(2) 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 9-512, 9-514, or

9-518, is an initial financing statement.

(d) Refusal to accept record; record effective as filed record. 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 (b), 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.

(e) The Secretary of State may refuse to accept a record for filing under subdivision (b) (3) (E) or (b) (3.5) only if the refusal is approved by the Department of Business Services of the Secretary of State and the General Counsel to the Secretary of State.

(Source: P.A. 95-446, eff. 1-1-08.)

Section 99. Effective date. This Act takes effect upon becoming law.