

HOUSE BILL 1370

I4

4lr2871

By: **Delegate Arora**

Introduced and read first time: February 10, 2014

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Financing Statements – Refusal of Filing Office to Accept**

3 FOR the purpose of authorizing a filing office to refuse to accept a financing statement
4 for filing under certain circumstances; requiring a certain filing office to send a
5 certain notice to certain individuals under certain circumstances; authorizing a
6 certain filing office to request certain documentation under certain
7 circumstances; authorizing a certain secured party to request a certain review
8 of and determination regarding a filing office's refusal to accept a filing
9 statement or to file a certain action in a circuit court under certain
10 circumstances; specifying the circuit court in which a certain secured party may
11 file a certain action; requiring the State Department of Assessments and
12 Taxation or a certain court to schedule a certain hearing within a certain time
13 period; requiring a certain secured party to provide a certified copy of a certain
14 written determination or a certain judgment to a certain filing office under
15 certain circumstances; requiring a certain filing office to file a certain written
16 determination or a certain judgment in a certain manner; establishing that, on
17 the filing of a certain written determination or a certain judgment, a certain
18 financing statement shall be effective and shall be considered never to have
19 been ineffective as against a certain person; providing for the application of this
20 Act; making certain conforming changes; and generally relating to the refusal
21 by filing offices to accept financing statements.

22 BY repealing and reenacting, without amendments,
23 Article – Commercial Law
24 Section 9–520
25 Annotated Code of Maryland
26 (2013 Replacement Volume)

27 BY adding to
28 Article – Commercial Law
29 Section 9–520.1

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2013 Replacement Volume)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – Commercial Law**

6 9–520.

7 (a) A filing office shall refuse to accept a record for filing for a reason set
8 forth in § 9–516(b) and may refuse to accept a record for filing only for a reason set
9 forth in § 9–516(b).

10 (b) If a filing office refuses to accept a record for filing, it shall communicate
11 to the person that presented the record the fact of and reason for the refusal and the
12 date and time the record would have been filed had the filing office accepted it. The
13 communication must be made at the time and in the manner prescribed by
14 filing-office rule.

15 (c) A filed financing statement satisfying § 9–502(a) and (b) is effective, even
16 if the filing office is required to refuse to accept it for filing under subsection (a).
17 However, § 9–338 applies to a filed financing statement providing information
18 described in § 9–516(b)(5) which is incorrect at the time the financing statement is
19 filed.

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

22 **9–520.1.**

23 **(A) NOTWITHSTANDING § 9–520 OF THIS SUBTITLE, A FILING OFFICE**
24 **MAY REFUSE TO ACCEPT A FINANCING STATEMENT FOR FILING IF:**

25 **(1) EACH DEBTOR AND SECURED PARTY IDENTIFIED ON THE**
26 **FINANCING STATEMENT IS AN INDIVIDUAL; AND**

27 **(2) IT IS EVIDENT FROM THE FINANCING STATEMENT, INCLUDING**
28 **THE DESCRIPTION OF THE COLLATERAL, THAT THE INDIVIDUAL FILING THE**
29 **FINANCING STATEMENT IS NOT AUTHORIZED TO FILE THE FINANCING**
30 **STATEMENT.**

31 **(B) IF A FILING OFFICE REFUSES TO ACCEPT A FINANCING STATEMENT**
32 **FOR FILING UNDER THIS SECTION, THE OFFICE:**

1 **(1) SHALL SEND TO EACH INDIVIDUAL IDENTIFIED ON THE**
2 **FINANCING STATEMENT A NOTICE STATING:**

3 **(I) THAT THE FILING OFFICE REFUSED TO ACCEPT THE**
4 **FINANCING STATEMENT;**

5 **(II) THE REASON FOR THE REFUSAL TO ACCEPT THE**
6 **FINANCING STATEMENT; AND**

7 **(III) THE DATE AND TIME THE FINANCING STATEMENT**
8 **WOULD HAVE BEEN FILED HAD THE FILING OFFICE ACCEPTED IT; AND**

9 **(2) MAY REQUEST ADDITIONAL DOCUMENTATION REGARDING**
10 **THE FILING FROM THE INDIVIDUAL WHO FILED THE FINANCING STATEMENT.**

11 **(c) (1) ON RECEIPT OF A NOTICE UNDER SUBSECTION (B) OF THIS**
12 **SECTION, A SECURED PARTY OF RECORD MAY:**

13 **(I) REQUEST FROM THE STATE DEPARTMENT OF**
14 **ASSESSMENTS AND TAXATION A REVIEW OF AND DETERMINATION REGARDING**
15 **THE FILING OFFICE'S REFUSAL TO ACCEPT THE FINANCING STATEMENT; OR**

16 **(II) FILE AN ACTION IN A CIRCUIT COURT ALLEGING THAT**
17 **THE FILING OFFICE SHOULD HAVE ACCEPTED THE FINANCING STATEMENT FOR**
18 **FILING.**

19 **(2) A SECURED PARTY WHO FILES AN ACTION UNDER PARAGRAPH**
20 **(1)(II) OF THIS SUBSECTION SHALL FILE THE ACTION IN THE CIRCUIT COURT OF**
21 **THE COUNTY IN WHICH THE SECURED PARTY RESIDES OR, IF THE SECURED**
22 **PARTY DOES NOT RESIDE IN THE STATE, IN THE CIRCUIT COURT OF THE**
23 **COUNTY IN WHICH THE FILING OFFICE THAT RECEIVED THE FINANCING**
24 **STATEMENT IS LOCATED.**

25 **(3) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION**
26 **OR THE CIRCUIT COURT SHALL SCHEDULE A HEARING ON THE EARLIEST**
27 **PRACTICABLE DATE REGARDING WHETHER OR NOT:**

28 **(I) THE DEBTOR AUTHORIZED THE FINANCING**
29 **STATEMENT; AND**

30 **(II) THE FILING OFFICE SHOULD HAVE ACCEPTED THE**
31 **FILING.**

1 **(D) (1) IF THE STATE DEPARTMENT OF ASSESSMENTS AND**
2 **TAXATION OR THE COURT DETERMINES THAT THE DEBTOR AUTHORIZED THE**
3 **FINANCING STATEMENT AND THAT THE FINANCING STATEMENT SHOULD HAVE**
4 **BEEN ACCEPTED FOR FILING, THE SECURED PARTY SHALL PROVIDE A**
5 **CERTIFIED COPY OF THE WRITTEN DETERMINATION OR FINAL JUDGMENT TO**
6 **THE FILING OFFICE.**

7 **(2) ON RECEIPT, THE FILING OFFICE SHALL FILE THE WRITTEN**
8 **DETERMINATION OR FINAL JUDGMENT IN A MANNER THAT IDENTIFIES THE**
9 **FINANCING STATEMENT TO WHICH THE DETERMINATION OR JUDGMENT**
10 **RELATES AND INDICATE THAT THE FINANCING STATEMENT IS EFFECTIVE.**

11 **(E) ON THE FILING OF A WRITTEN DETERMINATION OR FINAL**
12 **JUDGMENT UNDER SUBSECTION (D) OF THIS SECTION, THE FINANCING**
13 **STATEMENT SHALL BE EFFECTIVE AND SHALL BE CONSIDERED NEVER TO HAVE**
14 **BEEN INEFFECTIVE AS AGAINST A PERSON THAT IS NOT A PURCHASER OF THE**
15 **COLLATERAL FOR VALUE.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2014.