

HOUSE BILL 1435

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By: **Delegate Arora**

Introduced and read first time: February 14, 2014

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Financing Statements – Correction of Records**

3 FOR the purpose of authorizing a certain individual who believes that a record
4 indexed in a filing office relating to a financing statement is false or inaccurate
5 to file a certain information statement; authorizing a certain individual to
6 petition a certain circuit court to show cause why a certain record should not be
7 declared invalid; requiring a certain petition to contain certain information;
8 authorizing a certain show cause order to be granted ex parte; establishing
9 certain requirements for a certain order to show cause; requiring a certain
10 circuit court to make certain findings of fact, issue certain orders, and enter a
11 certain monetary judgment under certain circumstances; and generally relating
12 to the correction of records of financing statements by debtors who are
13 individuals.

14 BY repealing and reenacting, with amendments,
15 Article – Commercial Law
16 Section 9–518
17 Annotated Code of Maryland
18 (2013 Replacement Volume)

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

21 **Article – Commercial Law**

22 9–518.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) An information statement under subsection (a) must:

2 (1) Identify the record to which it relates by:

3 (A) The file number assigned to the initial financing statement
4 to which the record relates; and

5 (B) If the information statement relates to a record recorded in a
6 filing office described in § 9–501(a)(1), the date and time that the initial financing
7 statement was recorded and the information specified in § 9–502(b);

8 (2) Indicate that it is an information statement; and

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

13 (c) A person may file in the filing office an information statement with
14 respect to a record filed there if the person is a secured party of record with respect to
15 the financing statement to which the record relates and believes that the person that
16 filed the record was not entitled to do so under § 9–509(d).

17 (d) An information statement under subsection (c) shall:

18 (1) Identify the record to which it relates by:

19 (A) The file number assigned to the initial financing statement
20 to which the record relates; and

21 (B) If the information statement relates to a record recorded in a
22 filing office described in § 9–501(a)(1), the date and time that the initial financing
23 statement was recorded and the information specified in § 9–502(b);

24 (2) Indicate that it is an information statement; and

25 (3) Provide the basis for the person’s belief that the person that filed
26 the record was not entitled to do so under § 9–509(d).

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

29 **(F) (1) IF THE SECURED PARTY AND THE DEBTOR IDENTIFIED ON A**
30 **FINANCING STATEMENT ARE INDIVIDUALS, AND THE DEBTOR BELIEVES THAT A**
31 **RECORD INDEXED UNDER THE DEBTOR’S NAME IS FALSE OR INACCURATE, THE**
32 **DEBTOR:**

1 **(A) MAY FILE AN INFORMATION STATEMENT AS PROVIDED**
2 **UNDER SUBSECTION (A); OR**

3 **(B) WHETHER OR NOT AN INFORMATION STATEMENT IS**
4 **FILED, MAY PETITION THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE**
5 **DEBTOR RESIDES FOR AN ORDER TO SHOW CAUSE WHY THE RECORD SHOULD**
6 **NOT BE DECLARED INVALID.**

7 **(2) THE PETITION SHALL:**

8 **(A) SET FORTH A CONCISE STATEMENT OF THE FACTS ON**
9 **WHICH THE PETITION IS BASED; AND**

10 **(B) BE SUPPORTED BY AN AFFIDAVIT OF THE PETITIONER**
11 **OR THE PETITIONER'S ATTORNEY.**

12 **(3) AN ORDER TO SHOW CAUSE MAY BE GRANTED EX PARTE.**

13 **(4) AN ORDER TO SHOW CAUSE SHALL:**

14 **(A) DIRECT ANY PERSON WHO FILED THE RECORD TO**
15 **APPEAR AS A RESPONDENT BEFORE THE COURT AT A TIME AND PLACE CERTAIN**
16 **NOT MORE THAN 30 DAYS AFTER THE DATE OF SERVICE OF THE ORDER, TO**
17 **SHOW CAUSE WHY:**

18 **(i) THE RECORD SHOULD NOT BE DECLARED**
19 **INVALID AND STRICKEN; AND**

20 **(ii) ANY OTHER RELIEF PROVIDED UNDER THIS**
21 **SUBSECTION SHOULD NOT BE GRANTED;**

22 **(B) STATE THAT, IF THE RESPONDENT FAILS TO APPEAR AT**
23 **THE TIME AND PLACE SPECIFIED, THE RECORD WILL BE DECLARED INVALID**
24 **AND ANY LIEN CREATED THEREBY RELEASED; AND**

25 **(C) STATE THAT THE COURT WILL AWARD COSTS,**
26 **INCLUDING REASONABLE ATTORNEY'S FEES, TO THE PREVAILING PARTY.**

27 **(5) (A) IF, FOLLOWING A HEARING ON AN ORDER TO SHOW**
28 **CAUSE GRANTED UNDER PARAGRAPH (4), THE COURT DETERMINES THAT THE**
29 **RECORD IS FALSE OR INACCURATE, THE COURT SHALL MAKE FINDINGS OF FACT**
30 **AND ISSUE AN ORDER AGAINST THE RESPONDENT AND IN FAVOR OF THE**
31 **PETITIONER THAT:**

1 **(I) DECLARES THE RECORD AND LIEN INVALID;**

2 **(II) RELEASES THE LIEN; AND**

3 **(III) ENTERS A MONETARY JUDGMENT IN THE AMOUNT**
4 **OF ANY COSTS OF THE PETITIONER, INCLUDING REASONABLE ATTORNEY'S**
5 **FEES.**

6 **(B) A CERTIFIED COPY OF THE ORDER MAY BE FILED IN**
7 **THE OFFICE WHERE THE LIEN OR NOTICE OF LIEN WAS FILED.**

8 **(6) IF, FOLLOWING A HEARING ON AN ORDER TO SHOW CAUSE**
9 **GRANTED UNDER PARAGRAPH (4), THE COURT DETERMINES THAT THE RECORD**
10 **IS NOT FALSE OR INACCURATE, THE COURT SHALL:**

11 **(A) ISSUE AN ORDER FINDING THE RECORD IS NOT FALSE**
12 **OR INACCURATE; AND**

13 **(B) ENTER A MONETARY JUDGMENT IN THE AMOUNT OF**
14 **ANY COSTS OF THE RESPONDENT, INCLUDING REASONABLE ATTORNEY'S FEES.**

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