

SENATE BILL 62

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SB 980/08 – FIN

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Assessments and Taxation)**

Requested: September 30, 2008

Introduced and read first time: January 14, 2009

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

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Returned to second reading: February 3, 2009

Senate action: Adopted with floor amendments

Read second time: February 3, 2009

CHAPTER _____

1 AN ACT concerning

2 **Uniform Commercial Code – Financing Statements – Termination by**
 3 **Government Employees**

4 FOR the purpose of authorizing certain government employees to file certain
 5 termination statements with respect to certain financing statements; providing
 6 for the contents of the termination statement; ~~requiring a certain government~~
 7 ~~employee to send a copy of the termination statement to a certain secured party~~
 8 ~~within a certain time after filing the termination statement~~ requiring a certain
 9 filing office to send a copy of the termination statement to a certain secured
 10 party along with a certain notice; providing that on the filing of the termination
 11 statement, a certain financing statement ceases to be effective as to the
 12 government employee; authorizing the secured party to file an action to
 13 reinstate a financing statement under certain circumstances; requiring the
 14 secured party to provide a certain certified copy of certain judgment to a certain
 15 filing office under certain circumstances; requiring the filing office to file the
 16 judgment in a certain manner; providing that on the filing of a certain
 17 judgment, a certain financing statement shall be effective and shall be
 18 considered never to have been ineffective as against a certain person;
 19 authorizing the secured party to file a continuation statement under certain
 20 circumstances; providing that a fee may not be charged for the filing of the
 21 termination statement; providing that the secured party shall pay the costs,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 reasonable attorney's fees, and expenses incurred by a government employee in
2 a certain action under certain circumstances; making certain conforming and
3 stylistic changes; defining a certain term; and generally relating to the
4 termination of financing statements by government employees.

5 BY repealing and reenacting, with amendments,
6 Article – Commercial Law
7 Section 9–513 and 9–515(d)
8 Annotated Code of Maryland
9 (2002 Replacement Volume and 2008 Supplement)

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

12 **Article – Commercial Law**

13 9–513.

14 (a) A secured party shall cause the secured party of record for a financing
15 statement to file a termination statement for the financing statement if the financing
16 statement covers consumer goods and:

17 (1) There is no obligation secured by the collateral covered by the
18 financing statement and no commitment to make an advance, incur an obligation, or
19 otherwise give value; or

20 (2) The debtor did not authorize the filing of the initial financing
21 statement.

22 (b) To comply with subsection (a), a secured party shall cause the secured
23 party of record to file the termination statement:

24 (1) Within 1 month after there is no obligation secured by the
25 collateral covered by the financing statement and no commitment to make an advance,
26 incur an obligation, or otherwise give value; or

27 (2) If earlier, within 20 days after the secured party receives an
28 authenticated demand from a debtor.

29 (c) In cases not governed by subsection (a), within 20 days after a secured
30 party receives an authenticated demand from a debtor, the secured party shall cause
31 the secured party of record for a financing statement to send to the debtor a
32 termination statement for the financing statement or file the termination statement in
33 the filing office if:

34 (1) Except in the case of a financing statement covering accounts or
35 chattel paper that has been sold or goods that are the subject of a consignment, there

1 is no obligation secured by the collateral covered by the financing statement and no
2 commitment to make an advance, incur an obligation, or otherwise give value;

3 (2) The financing statement covers accounts or chattel paper that has
4 been sold but as to which the account debtor or other person obligated has discharged
5 its obligation;

6 (3) The financing statement covers goods that were the subject of a
7 consignment to the debtor but are not in the debtor's possession; or

8 (4) The debtor did not authorize the filing of the initial financing
9 statement.

10 (D) (1) IN THIS SUBSECTION, "GOVERNMENT EMPLOYEE" MEANS:

11 (A) AN ELECTED OR APPOINTED OFFICIAL OF THE STATE
12 OR A POLITICAL SUBDIVISION OF THE STATE;

13 (B) AN EMPLOYEE OF:

14 (I) THE STATE;

15 (II) A COUNTY, MUNICIPAL CORPORATION, OR OTHER
16 POLITICAL SUBDIVISION OF THE STATE; OR

17 (III) A UNIT OF THE STATE GOVERNMENT OR OF A
18 POLITICAL SUBDIVISION OF THE STATE; OR

19 (C) A MEMBER OF AN AUTHORITY, BOARD, OR COMMISSION
20 ESTABLISHED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

21 (2) A GOVERNMENT EMPLOYEE WHO IS LISTED AS A DEBTOR ON A
22 FINANCING STATEMENT BECAUSE OF THE OFFICE OR POSITION HELD BY THE
23 GOVERNMENT EMPLOYEE, AND WHO DID NOT AUTHORIZE THE FILING OF THE
24 FINANCING STATEMENT, MAY FILE A TERMINATION STATEMENT FOR THE
25 FINANCING STATEMENT.

26 (3) A TERMINATION STATEMENT FILED UNDER THIS SUBSECTION
27 SHALL STATE THAT:

28 (A) THE DEBTOR IS A GOVERNMENT EMPLOYEE; AND

29 ~~(A)~~ (B) THE GOVERNMENT EMPLOYEE DID NOT
30 AUTHORIZE THE FILING OF THE FINANCING STATEMENT; AND

~~(B) A COPY OF THE TERMINATION STATEMENT SHALL BE SENT BY FIRST-CLASS MAIL TO THE SECURED PARTY OF RECORD FOR THE FINANCING STATEMENT.~~

~~(4) WITHIN 3 DAYS AFTER FILING A TERMINATION STATEMENT UNDER THIS SUBSECTION, THE GOVERNMENT EMPLOYEE SHALL SEND A COPY OF THE TERMINATION STATEMENT BY FIRST-CLASS MAIL TO THE SECURED PARTY OF RECORD FOR THE FINANCING STATEMENT.~~

(4) ON THE FILING OF A TERMINATION STATEMENT UNDER THIS SUBSECTION, THE FILING OFFICE SHALL SEND A COPY OF THE TERMINATION STATEMENT BY FIRST-CLASS MAIL TO THE SECURED PARTY OF RECORD FOR THE FINANCING STATEMENT ALONG WITH A NOTICE STATING THAT THE FINANCING STATEMENT HAS BEEN TERMINATED.

(5) ON THE FILING OF A TERMINATION STATEMENT UNDER THIS SUBSECTION, THE FINANCING STATEMENT TO WHICH THE TERMINATION STATEMENT RELATES CEASES TO BE EFFECTIVE AS TO THE GOVERNMENT EMPLOYEE.

~~(6) A FEE MAY NOT BE CHARGED FOR A FILING UNDER THIS SUBSECTION.~~

(6) (A) ~~THE~~ IF THE SECURED PARTY BELIEVES IN GOOD FAITH THAT THE FINANCING STATEMENT WAS AUTHORIZED AND PROPERLY FILED, THE SECURED PARTY, WITHIN 60 DAYS AFTER THE DATE THE NOTICE OF TERMINATION IS SENT, MAY FILE AN ACTION TO REINSTATE THE FINANCING STATEMENT IN THE CIRCUIT COURT WHERE THE FILING OFFICE IS LOCATED OR WHERE THE GOVERNMENT EMPLOYEE RESIDES.

(B) IF THE COURT DETERMINES THAT THE FINANCING STATEMENT SHOULD BE REINSTATED, THE SECURED PARTY SHALL PROVIDE A CERTIFIED COPY OF THE FINAL JUDGMENT TO THE FILING OFFICE.

(C) ON RECEIPT, THE FILING OFFICE SHALL FILE THE JUDGMENT IN A MANNER THAT IDENTIFIES THE FINANCING STATEMENT TO WHICH THE FINAL JUDGMENT RELATES AND INDICATES THAT THE FINANCING STATEMENT HAS BEEN REINSTATED.

(7) (A) ON THE FILING OF A FINAL JUDGMENT REINSTATING A FINANCING STATEMENT UNDER PARAGRAPH (6) OF THIS SUBSECTION, THE FINANCING STATEMENT SHALL BE EFFECTIVE AND SHALL BE CONSIDERED NEVER TO HAVE BEEN INEFFECTIVE AS AGAINST A PERSON THAT IS NOT A PURCHASER OF THE COLLATERAL FOR VALUE.

1 **(B) IF A FINANCING STATEMENT THAT IS REINSTATED**
2 **WOULD HAVE LAPSED DURING THE PERIOD OF TERMINATION, THE SECURED**
3 **PARTY MAY FILE A CONTINUATION STATEMENT WITHIN 30 DAYS AFTER THE**
4 **FINAL JUDGMENT OF THE COURT REINSTATING THE FINANCING STATEMENT IS**
5 **FILED.**

6 **(8) A FEE MAY NOT BE CHARGED FOR A FILING OF A**
7 **TERMINATION STATEMENT UNDER THIS SUBSECTION.**

8 **(9) IF THE COURT IN AN ACTION TO REINSTATE A FINANCING**
9 **STATEMENT DETERMINES THAT THE FINANCING STATEMENT IS FRAUDULENT,**
10 **THE SECURED PARTY OF RECORD THAT FILED THE FINANCING STATEMENT**
11 **SHALL PAY THE COSTS, REASONABLE ATTORNEY'S FEES, AND EXPENSES**
12 **INCURRED BY THE GOVERNMENT EMPLOYEE IN THE ACTION.**

13 [(d)] (E) Except as otherwise provided in § 9-510, AND SUBJECT TO
14 SUBSECTION (D)(5) OF THIS SECTION, ~~upon~~ ON the filing of a termination
15 statement with the filing office, the financing statement to which the termination
16 statement relates ceases to be effective. Except as otherwise provided in § 9-510, for
17 purposes of §§ 9-519(f), 9-522(a), and 9-523(b), the filing with the filing office of a
18 termination statement relating to a financing statement that indicates that the debtor
19 is a transmitting utility also causes the effectiveness of the financing statement to
20 lapse.

21 9-515.

22 (d) **[A] EXCEPT AS PROVIDED IN § 9-513(D), A continuation statement**
23 **may be filed only within six months before the expiration of the five-year period**
24 **specified in subsection (a), the 30-year period specified in subsection (b), or the date**
25 **the financing statement ceases to be effective under § 9-705(c) of this title, whichever**
26 **is applicable.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2009.