

# HOUSE BILL 312

I4

5lr0514  
CF SB 77

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By: **Chair, Economic Matters Committee (By Request – Maryland Judicial Conference)**

Introduced and read first time: February 5, 2015

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Secured Transactions – False Records**

3 FOR the purpose of prohibiting a person from causing a record to be filed or recorded with  
4 a filing office under certain circumstances; authorizing a filing office to refuse to  
5 accept a record for filing or recording under certain circumstances; authorizing a  
6 certain person to file a request to terminate a filed record under certain  
7 circumstances; requiring the request to be accompanied by a certain affidavit;  
8 requiring the State Department of Assessments and Taxation to adopt by regulation  
9 and make available a certain request form and affidavit; requiring a filing office, on  
10 the filing office's refusal to accept a record or on receipt of a request to terminate a  
11 filed record, to send to certain persons a request to provide certain information;  
12 authorizing a filing office to terminate a record under certain circumstances;  
13 prohibiting a filing office from charging or refunding certain fees; requiring a filing  
14 office to notify certain persons of a certain decision; establishing that the sole remedy  
15 of a party aggrieved by a filing office's decision is to file a certain petition in the  
16 circuit court for the county where certain property is located; providing for the  
17 parties to the proceeding; requiring the prevailing party to provide a copy of the court  
18 order to the filing office under certain circumstances; requiring the filing office to  
19 take certain actions on receipt of the court order; defining certain terms; providing  
20 for the application of this Act; and generally relating to secured transactions.

21 BY adding to  
22 Article – Commercial Law  
23 Section 9–501.1  
24 Annotated Code of Maryland  
25 (2013 Replacement Volume and 2014 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## Article – Commercial Law

## 9–501.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “RECORD” INCLUDES A FINANCING STATEMENT.

(3) (I) “REGULATED FINANCIAL INSTITUTION” MEANS A FINANCIAL INSTITUTION SUBJECT TO REGULATORY OVERSIGHT OR EXAMINATION BY A STATE OR FEDERAL AGENCY.

(II) “REGULATED FINANCIAL INSTITUTION” INCLUDES A BANK, A SAVINGS BANK, A SAVINGS ASSOCIATION, A BUILDING AND LOAN ASSOCIATION, A CREDIT UNION, A CONSUMER FINANCE COMPANY, AN INDUSTRIAL BANK, AN INDUSTRIAL LOAN COMPANY, AN INSURANCE COMPANY, AN INVESTMENT COMPANY, AN INVESTMENT FUND, AN INSTALLMENT SELLER, A MORTGAGE SERVICER, A SALES FINANCIAL COMPANY, AND A LEASING COMPANY.

(B) EXCEPT AS PROVIDED IN SUBSECTION (F)(2) OF THIS SECTION, THIS SECTION DOES NOT APPLY TO A RECORD FILED OR RECORDED BY A REGULATED FINANCIAL INSTITUTION OR A REPRESENTATIVE OF A REGULATED FINANCIAL INSTITUTION.

(C) A PERSON MAY NOT CAUSE TO BE FILED OR RECORDED UNDER THIS TITLE A RECORD THAT THE PERSON KNOWS OR REASONABLY SHOULD KNOW:

(1) IS FALSE;

(2) CONTAINS OR IS BASED ON A MATERIALLY FALSE, FICTITIOUS, OR FRAUDULENT STATEMENT OR REPRESENTATION;

(3) IS NOT AUTHORIZED TO BE FILED OR RECORDED UNDER THIS TITLE; OR

(4) IS NOT RELATED TO A VALID EXISTING OR POTENTIAL COMMERCIAL OR FINANCIAL TRANSACTION, AGRICULTURAL OR OTHER LIEN, SECURITY INTEREST, OR OTHER DEBT OR OBLIGATION.

(D) A FILING OFFICE MAY REFUSE TO ACCEPT A RECORD FOR FILING OR RECORDING IF THE FILING OFFICE HAS REASON TO BELIEVE THE RECORD IS IN VIOLATION OF SUBSECTION (C) OF THIS SECTION.

1           **(E) (1) A PERSON IDENTIFIED AS A DEBTOR IN A FILED RECORD THAT**  
2 **THE PERSON BELIEVES WAS CAUSED TO BE COMMUNICATED TO THE FILING OFFICE**  
3 **IN VIOLATION OF SUBSECTION (C) OF THIS SECTION MAY FILE WITH THE FILING**  
4 **OFFICE A REQUEST TO TERMINATE THE RECORD.**

5           **(2) THE REQUEST SHALL BE ACCOMPANIED BY AN AFFIDAVIT**  
6 **STATING THE BASIS FOR THE PERSON'S BELIEF THAT THE RECORD WAS**  
7 **COMMUNICATED TO THE FILING OFFICE IN VIOLATION OF SUBSECTION (C) OF THIS**  
8 **SECTION.**

9           **(3) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION**  
10 **SHALL ADOPT BY REGULATION AND MAKE AVAILABLE A REQUEST FORM AND**  
11 **AFFIDAVIT FOR USE UNDER THIS SECTION.**

12           **(F) ON A FILING OFFICE'S REFUSAL TO ACCEPT A RECORD UNDER**  
13 **SUBSECTION (D) OF THIS SECTION OR ON RECEIPT OF A REQUEST FILED UNDER**  
14 **SUBSECTION (E) OF THIS SECTION, THE FILING OFFICE SHALL SEND TO THE**  
15 **SECURED PARTY OF RECORD AND TO THE PERSON THAT FILED OR RECORDED THE**  
16 **RECORD, IF THE PERSON'S IDENTITY AND ADDRESS ARE KNOWN TO THE FILING**  
17 **OFFICE, A REQUEST TO PROVIDE, WITHIN 30 DAYS, ADDITIONAL INFORMATION**  
18 **SUPPORTING:**

19           **(1) THE VALIDITY OF THE RECORD; OR**

20           **(2) THAT THE RECORD WAS FILED OR RECORDED BY A REGULATED**  
21 **FINANCIAL INSTITUTION OR A REPRESENTATIVE OF A REGULATED FINANCIAL**  
22 **INSTITUTION.**

23           **(G) AFTER EXPIRATION OF THE 30-DAY PERIOD UNDER SUBSECTION (F) OF**  
24 **THIS SECTION, THE FILING OFFICE MAY TERMINATE THE RECORD IF, BASED ON THE**  
25 **DOCUMENTATION PROVIDED, THERE IS A REASONABLE BASIS FOR CONCLUDING**  
26 **THAT THE RECORD IS IN VIOLATION OF SUBSECTION (C) OF THIS SECTION.**

27           **(H) A FILING OFFICE MAY NOT:**

28           **(1) CHARGE A FEE TO FILE A REQUEST UNDER THIS SECTION; OR**

29           **(2) REFUND ANY FEE PAID FOR FILING A RECORD TERMINATED**  
30 **UNDER THIS SECTION.**

31           **(I) A FILING OFFICE SHALL PROMPTLY NOTIFY THE PARTIES NAMED IN A**  
32 **FILED RECORD AND THE PERSON THAT COMMUNICATED THE RECORD TO THE**

1 FILING OFFICE, AT THE ADDRESSES KNOWN TO THE FILING OFFICE, OF ITS DECISION  
2 TO TERMINATE THE RECORD OR TO DENY THE REQUEST TO TERMINATE THE  
3 RECORD.

4 (J) (1) THE SOLE REMEDY OF A PARTY AGGRIEVED BY A DECISION OF A  
5 FILING OFFICE SHALL BE TO FILE A PETITION IN THE CIRCUIT COURT FOR THE  
6 COUNTY WHERE ANY AFFECTED PROPERTY IS LOCATED SEEKING A DETERMINATION  
7 OF THE VALIDITY OF THE FILED RECORD.

8 (2) (I) THE PARTIES TO A PROCEEDING UNDER THIS SUBSECTION  
9 SHALL INCLUDE THE PARTIES NAMED IN THE FILED RECORD.

10 (II) THE FILING OFFICE MAY NOT BE JOINED AS A PARTY TO A  
11 PROCEEDING UNDER THIS SUBSECTION.

12 (3) IF THE COURT DETERMINES THAT A FILED RECORD TERMINATED  
13 UNDER THIS SECTION SHOULD BE REINSTATED OR ACCEPTED OR THAT A RECORD  
14 ACCEPTED FOR FILING SHOULD BE TERMINATED, THE PREVAILING PARTY SHALL  
15 PROVIDE A COPY OF THE COURT ORDER TO THE FILING OFFICE.

16 (K) (1) ON RECEIPT OF A COURT ORDER REINSTATING A TERMINATED  
17 RECORD, THE FILING OFFICE SHALL REFILE THE RECORD ALONG WITH A NOTICE  
18 INDICATING THAT THE RECORD WAS REFILED IN ACCORDANCE WITH A COURT  
19 ORDER AND THE ORIGINAL FILING DATE OF THE RECORD.

20 (2) ON RECEIPT OF A COURT ORDER REQUIRING A FILED RECORD TO  
21 BE TERMINATED, THE FILING OFFICE SHALL TERMINATE THE RECORD AND FILE A  
22 NOTICE INDICATING THAT THE FILED RECORD WAS TERMINATED IN ACCORDANCE  
23 WITH A COURT ORDER.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2015.