

Act No. 216  
Public Act of 1989  
November 27, 1989  
Filed by the Secretary of State  
November 27, 1989

**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1989**

Introduced by Reps. Bankes and Bennett

# **ENROLLED HOUSE BILL No. 4828**

AN ACT to amend sections 9402 and 9406 of Act No. 174 of the Public Acts of 1962, entitled as amended "An act to enact the uniform commercial code, relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them, including sales, commercial paper, bank deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, and secured transactions, including certain sales of accounts, chattel paper and contract rights; to provide for public notice to third parties in certain circumstances; to regulate procedure, evidence and damages in certain court actions involving such transactions, contracts or documents; to make uniform the law with respect thereto; to make an appropriation; to provide penalties; and to repeal certain acts and parts of acts," as amended by Act No. 130 of the Public Acts of 1988, being sections 440.9402 and 440.9406 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 9402 and 9406 of Act No. 174 of the Public Acts of 1962, as amended by Act No. 130 of the Public Acts of 1988, being sections 440.9402 and 440.9406 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 9402. (1) A financing statement is sufficient if it gives the names of the debtor and the secured party, in printed or typewritten form, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor, and contains a statement indicating the types or describing the items of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. If the financing statement covers crops growing or to be grown, the statement shall also contain a description of the real estate concerned, and the description shall reasonably identify the real estate, as provided in section 9110. If the financing statement covers timber to be cut, covers minerals or the like, including oil and gas, or accounts subject to section 9103(5), or if the financing statement is filed as a fixture filing under section 9313 and the collateral is goods which are or are to become fixtures, the statement shall also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A legible carbon, photographic, or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in any of the following:

(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. The financing statement shall state that the collateral was brought into this state or that the debtor's location was changed to this state under those circumstances.

(b) Proceeds under section 9306 if the security interest in the original collateral was perfected. The financing statement shall describe the original collateral.

(c) Collateral as to which the filing has lapsed.

(d) Collateral acquired after a change of name, identity, or corporate structure of the debtor as provided in subsection (7).

(3) A form substantially as follows is sufficient to comply with subsection (1):

(PRINT OR TYPE)

Name of debtor (or assignor) .....

Address .....

Name of secured party (or assignee) .....

Social security number or federal employer tax identification number of debtor (when required).....

Address .....

1. This financing statement covers the following types or items of property:

(Describe).....

2. (If applicable check box below)

a. The goods are to become fixtures on ☐

b. The above described timber is standing on ☐

c. The above described minerals or the like (including oil and gas) are to be extracted from the wellhead or minehead of the well or mine located on ☐

d. The above described accounts include accounts resulting from the sale of minerals or the like (including oil and gas) to be extracted from the wellhead or minehead of the well or mine located on ☐

(Describe real estate).....

If 1 of the above boxes is checked, this financing statement is to be recorded in the real estate records. If the debtor does not have an interest of record, the name of the record owner is.....

3. (If products of collateral are claimed) Products of the collateral are also covered.

(Use whichever is applicable)

Signature of debtor (or assignor).....

Signature of secured party (or assignee) .....

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party which identifies the original filing by file number and, if applicable, by liber and page. An amendment also may, but is not required to, include the debtor's tax identification number. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. As used in this article, unless the context otherwise requires, "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut, covering minerals or the like, including oil and gas, or accounts subject to section 9103(5), or a financing statement filed as a fixture filing under section 9313 if the debtor is not a transmitting utility, shall show that it covers this type of collateral, recite that it is to be recorded in the real estate records, and contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement shall show the name of a record owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if all of the following apply:

(a) The goods are described in the mortgage by item or type.

(b) The goods are or are to become fixtures related to the real estate described in the mortgage.

(c) The mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be recorded in the real estate records.

(d) The mortgage is duly recorded. Other than the regular recording and satisfaction fees for the mortgage, a fee for the financing statement is not required.

(7) A financing statement sufficiently shows the name of the debtor if it includes the individual, partnership, or corporate name of the debtor, whether or not it adds other trade names or the names of partners. If the debtor changes his or her name, or in the case of an organization, its name, identity, or corporate structure, so that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than 4 months after the debtor notifies the secured party in writing of the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective for collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

(9) Any financing statement, indicating that it is to be recorded in the real estate records, as provided in subsections (3) and (5), and any continuation statement, termination statement, amendment, or assignment relating to the statement and meeting the formal requisites of this section, section 9404, and section 9405, shall be recorded by the register of deeds of the county in which the real property described in the financing statement is located, notwithstanding the provisions for witnessing and acknowledging instruments to be recorded in the real property records contained in section 47 of chapter 65 of the Revised Statutes of 1846, being section 565.47 of the Michigan Compiled Laws.

(10) Each register of deeds shall certify on every financing statement indicating that it is to be recorded in the real estate records, as provided in subsections (3) and (5), and any continuation statement, termination statement, amendment, or assignment relating to the statement and meeting the formal requisites of this section, section 9404, and section 9405, the date and time when it was received for record, and a reference to the liber and page where it is recorded.

(11) Each register of deeds shall enter any financing statement indicating that it is to be recorded in the real estate records, as provided in subsections (3) and (5), and any continuation statement, termination statement, amendment, or assignment relating to the statement and meeting the formal requisites of this section, section 9404, and section 9405, in an entry book where a real estate mortgage would be entered, noting in the entry book the day, hour, and minute of reception, and other particulars in the order in which the financing statements, continuation statements, termination statements, amendments, and assignments are respectively received, and each instrument shall be considered recorded at the time so noted.

(12) Each register of deeds shall index each financing statement, continuation statement, termination statement, amendment, or assignment, recorded under subsection (11), in a book or card index under the name of the debtor, and, if applicable, under the name of the record owner of the real estate, in the same manner as recordings of real estate mortgages are indexed.

(13) Beginning April 1, 1990 all original filings of a security agreement or a financing statement tendered to the secretary of state shall contain the tax identification number of each debtor except for the following:

(a) A reproduction of a security agreement or of a financing statement filed under the last sentence of subsection (1) if the security agreement was entered into or the financing statement was filed before April 1, 1990.

(b) A financing statement filed under subsection (2).

(c) A financing statement which is accompanied by a certificate prescribed by the secretary of state and is signed by the debtor stating that the debtor does not have a tax identification number.

(14) If an original filing of a security agreement or a financing statement fails to contain the tax identification number of each debtor and is not exempted under subsection (13), the secretary of state shall not accept it for filing and shall return it to the secured party or other person who submitted it. If the records of the secretary of state indicate that a debtor's tax identification number contained on a financing statement received for filing is or may be incorrect, the secretary of state shall nevertheless accept and file the financing statement. The secretary of state may request the secured party or other person who submitted the financing statement to file an amendment to the statement giving the debtor's correct tax identification number. The signature of the debtor shall not be required on an amendment which changes only the debtor's tax identification number.

(15) Notwithstanding subsections (13) and (14), if the secretary of state files a financing statement that does not contain, or that incorrectly states, the debtor's tax identification number and if the financing statement otherwise complies with applicable requirements, the financing statement shall be considered sufficient, valid, and effective.

(16) The secretary of state shall adopt and utilize computer assisted search procedures to enable the secretary of state to provide information to a person making a request under section 9407(2). The secretary of state shall provide the information requested by a person under section 9407(2) as accurate and complete as the information the person would have received if the same request had been processed under the search procedures followed by the secretary of state immediately before the implementation of computer assisted searches.

Sec. 9406. A secured party of record may by his or her signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release may, but is not required to, include the debtor's tax identification number. A statement of release signed by a person other than the secured party of record shall be accompanied by a separate written statement of assignment signed by the secured party of record and complying with section 9405(2), including payment of the required fee. Upon presentation of the statement of release to the filing officer, he or she shall mark the statement with the hour and date of filing and shall also note this information on the margin of the index of the filing of the financing statement. The uniform

fee for filing and noting a statement of release is \$3.00 if the statement is in the standard form prescribed by the secretary of state. For financing statements not complying with the requirements of this section as to form, the fee is \$6.00, plus an additional fee of \$3.00 for each name more than 1 against which the statement of release is required to be indexed.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.