

# HOUSE BILL No. 4828

May 16, 1989, Introduced by Reps. Bankes and Bennett and referred to the Committee on Corporations and Finance.

A bill to amend sections 9402 and 9406 of Act No. 174 of the Public Acts of 1962, entitled as amended

"Uniform commercial code,"

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:

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

5 Sec. 9402. (1) A financing statement is sufficient if it  
6 gives the names of the debtor and the secured party, in printed  
7 or typewritten form, is signed by the debtor, gives an address of  
8 the secured party from which information concerning the security  
9 interest may be obtained, gives a mailing address of the debtor,

1 contains a statement indicating the types or describing the items  
2 of collateral. ~~A financing statement also may, but is not~~  
3 ~~required to, give the debtor's tax identification number.~~ A  
4 financing statement may be filed before a security agreement is  
5 made or a security interest otherwise attaches. If the financing  
6 statement covers crops growing or to be grown, the statement  
7 shall also contain a description of the real estate concerned,  
8 and the description shall reasonably identify the real estate, as  
9 provided in section 9110. If the financing statement covers  
10 timber to be cut, covers minerals or the like, including oil and  
11 gas, or accounts subject to section 9103(5), or if the financing  
12 statement is filed as a fixture filing under section 9313 and the  
13 collateral is goods which are or are to become fixtures, the  
14 statement shall also comply with subsection (5). ~~A~~ EXCEPT AS  
15 PROVIDED IN SUBSECTIONS (13) AND (14), A copy of the security  
16 agreement is sufficient as a financing statement if it contains  
17 the above information and is signed by the debtor. A legible  
18 carbon, photographic, or other reproduction of a security agree-  
19 ment or a financing statement is sufficient as a financing state-  
20 ment if the security agreement so provides or if the original has  
21 been filed in this state.

22 (2) A financing statement which otherwise complies with sub-  
23 section (1) is sufficient when it is signed by the secured party  
24 instead of the debtor if it is filed to perfect a security inter-  
25 est in any of the following:

26 (a) Collateral already subject to a security interest in  
27 another jurisdiction when it is brought into this state, or when

1 the debtor's location is changed to this state. The financing  
2 statement shall state that the collateral was brought into this  
3 state or that the debtor's location was changed to this state  
4 under those circumstances.

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

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

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

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

13 (PRINT OR TYPE)

14 Name of debtor (or assignor).....  
15 Address.....  
16 Name of secured party (or assignee).....  
17 Social security number or federal employer tax identification number  
18 of debtor (~~optional~~ WHEN REQUIRED).....  
19 Address.....

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

22 (Describe).....

23 2. (If applicable check box below)

24 a. The goods are to become fixtures on

1 b. The above described timber is standing on

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

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

11 (Describe real estate).....

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

15 3. (If products of collateral are claimed) Products of the col-  
16 lateral are also covered.

17 (Use whichever is applicable)

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

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

20 (4) Except as provided in subsection (14), a financing  
21 statement may be amended by filing a writing signed by both the  
22 debtor and the secured party which identifies the original filing  
23 by file number and, if applicable, by liber and page. An amend-  
24 ment also may, but is not required to, include the debtor's tax  
25 identification number. An amendment does not extend the period  
26 of effectiveness of a financing statement. If any amendment adds  
27 collateral, it is effective as to the added collateral only from

1 the filing date of the amendment. As used in this article,  
2 unless the context otherwise requires, "financing statement"  
3 means the original financing statement and any amendments.

4 (5) A financing statement covering timber to be cut, cover-  
5 ing minerals or the like, including oil and gas, or accounts  
6 subject to section 9103(5), or a financing statement filed as a  
7 fixture filing under section 9313 if the debtor is not a trans-  
8 mitting utility, shall show that it covers this type of collater-  
9 al, recite that it is to be recorded in the real estate records,  
10 and contain a description of the real estate sufficient if it  
11 were contained in a mortgage of the real estate to give construc-  
12 tive notice of the mortgage under the law of this state. If the  
13 debtor does not have an interest of record in the real estate,  
14 the financing statement shall show the name of a record owner.

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

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

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

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

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

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

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

17       (9) Any financing statement, indicating that it is to be  
18 recorded in the real estate records, as provided in subsections  
19 (3) and (5), and any continuation statement, termination state-  
20 ment, amendment, or assignment relating to the statement and  
21 meeting the formal requisites of this section, section 9404, and  
22 section 9405, shall be recorded by the register of deeds of the  
23 county in which the real property described in the financing  
24 statement is located, notwithstanding the provisions for witness-  
25 ing and acknowledging instruments to be recorded in the real  
26 property records contained in section 47 of chapter 65 of the

1 Revised Statutes of 1846, being section 565.47 of the Michigan  
2 Compiled Laws.

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

11 (11) Each register of deeds shall enter any financing state-  
12 ment indicating that it is to be recorded in the real estate  
13 records, as provided in subsections (3) and (5), and any continu-  
14 ation statement, termination statement, amendment, or assignment  
15 relating to the statement and meeting the formal requisites of  
16 this section, section 9404, and section 9405, in an entry book  
17 where a real estate mortgage would be entered, noting in the  
18 entry book the day, hour, and minute of reception, and other par-  
19 ticulars in the order in which the financing statements, continu-  
20 ation statements, termination statements, amendments, and assign-  
21 ments are respectively received, and each instrument shall be  
22 considered recorded at the time so noted.

23 (12) Each register of deeds shall index each financing  
24 statement, continuation statement, termination statement, amend-  
25 ment, or assignment, recorded under subsection (11), in a book or  
26 card index under the name of the debtor and, if applicable, under

1 the name of the record owner of the real estate, in the same  
2 manner as recordings of real estate mortgages are indexed.

3 (13) ~~Unless otherwise determined by the secretary of state,~~  
4 ~~beginning September 1, 1988~~ BEGINNING APRIL 1, 1990 all original  
5 filings of a security agreement or a financing statement TENDERED  
6 TO THE SECRETARY OF STATE shall contain the ~~debtor's~~ tax iden-  
7 tification number OF EACH DEBTOR except for the following:

8 (a) A reproduction of a security agreement or of a financing  
9 statement filed under the last sentence of subsection (1) if the  
10 security agreement was entered into or the financing statement  
11 was filed before ~~September 1, 1988~~ APRIL 1, 1990.

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

13 (c) A financing statement which is accompanied by a certifi-  
14 cate prescribed by the secretary of state and is signed by the  
15 debtor stating that the debtor does not have a tax identification  
16 number.

17 (14) IF AN ORIGINAL FILING OF A SECURITY AGREEMENT OR A  
18 FINANCING STATEMENT FAILS TO CONTAIN THE TAX IDENTIFICATION  
19 NUMBER OF EACH DEBTOR AND IS NOT EXEMPTED UNDER SUBSECTION (13),  
20 THE SECRETARY OF STATE SHALL NOT ACCEPT IT FOR FILING. If the  
21 records of the secretary of state indicate that ~~the~~ A debtor's  
22 tax identification number contained on a financing statement  
23 received for filing is or may be incorrect, the secretary of  
24 state shall nevertheless accept and file the financing  
25 statement. The secretary of state may request the secured party  
26 or other person who submitted the financing statement to file an  
27 amendment to the statement giving the debtor's correct tax



1 identification number. The signature of the debtor shall not be  
2 required on an amendment which changes only the debtor's tax  
3 identification number.

4 (15) ~~The~~ EXCEPT AS PROVIDED IN SUBSECTIONS (13) AND (14),  
5 THE validity or effectiveness of a filed financing statement  
6 shall not be impaired by the failure of the statement to contain  
7 the debtor's tax identification number or by the inclusion on the  
8 statement of an incorrect tax identification number. ~~, regard-~~  
9 ~~less of whether the secretary of state could have refused to~~  
10 ~~accept the statement for filing under subsection (13).~~

11 (16) The secretary of state shall adopt and utilize computer  
12 assisted search procedures to enable the secretary of state to  
13 provide information to a person making a request under  
14 section 9407(2). The secretary of state shall provide the infor-  
15 mation requested by a person under section 9407(2) as accurate  
16 and complete as the information the person would have received if  
17 the same request had been processed under the search procedures  
18 followed by the secretary of state immediately before the imple-  
19 mentation of computer assisted searches.

20 Sec. 9406. A secured party of record may by his or her  
21 signed statement release all or a part of any collateral  
22 described in a filed financing statement. The statement of  
23 release is sufficient if it contains a description of the collat-  
24 eral being released, the name and address of the debtor, the name  
25 and address of the secured party, and the file number of the  
26 financing statement. A statement of release may, but is not  
27 required to, include the debtor's tax identification number. A

1 statement of release signed by a person other than the secured  
2 party of record shall be accompanied by a separate written state-  
3 ment of assignment signed by the secured party of record and com-  
4 plying with section 9405(2), including payment of the required  
5 fee. Upon presentation of the statement of release to the filing  
6 officer, he or she shall mark the statement with the hour and  
7 date of filing and shall also note this information on the margin  
8 of the index of the filing of the financing statement. The uni-  
9 form fee for filing and noting a statement of release is \$3.00 if  
10 the statement is in the standard form prescribed by the secretary  
11 of state. ~~and, for financing statements filed beginning~~  
12 ~~September 1, 1988, includes the social security number of the~~  
13 ~~debtor or the debtor's federal employer tax identification~~  
14 ~~number.~~ For financing statements not complying with ~~these~~ THE  
15 requirements OF THIS SECTION AS TO FORM, the fee is \$6.00, plus  
16 an additional fee of \$3.00 for each name more than 1 against  
17 which the statement of release is required to be indexed.