

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Reps. Lipton, Huuki and Cotter

ENROLLED HOUSE BILL No. 5083

AN ACT to amend 1962 PA 174, entitled “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, leases, 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,” by amending sections 9105, 9307, 9311, 9316, 9326, 9406, 9408, 9502, 9503, 9507, 9515, 9516, 9518, 9521, and 9607 (MCL 440.9105, 440.9307, 440.9311, 440.9316, 440.9326, 440.9406, 440.9408, 440.9502, 440.9503, 440.9507, 440.9515, 440.9516, 440.9518, 440.9521, and 440.9607), sections 9105, 9307, 9316, 9406, 9408, 9502, 9503, and 9507 as amended and sections 9326, 9518, and 9607 as added by 2000 PA 348, section 9311 as amended by 2005 PA 25, and sections 9515, 9516, and 9521 as amended by 2008 PA 383, and by adding part 8 to article 9; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 9105. (1) A secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.

(2) A system satisfies subsection (1) if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that all of the following apply:

(a) A single authoritative copy of the record or records exists which is unique, identifiable, and, except as otherwise provided in subdivisions (d), (e), and (f), unalterable.

(b) The authoritative copy identifies the secured party as the assignee of the record or records.

(c) The authoritative copy is communicated to and maintained by the secured party or its designated custodian.

(d) Copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the secured party.

(e) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy.

(f) Any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

Sec. 9307. (1) As used in this section, “place of business” means a place where a debtor conducts its affairs.

(2) Except as otherwise provided in this section, the following rules determine a debtor’s location:

(a) A debtor who is an individual is located at the individual’s principal residence.

(b) A debtor that is an organization and has only 1 place of business is located at its place of business.

(c) A debtor that is an organization and has more than 1 place of business is located at its chief executive office.

(3) Subsection (2) applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (2) does not apply, the debtor is located in the District of Columbia.

(4) A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (2) and (3).

(5) A registered organization that is organized under the law of a state is located in that state.

(6) Except as otherwise provided in subsection (9), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located in 1 of the following:

(a) In the state that the law of the United States designates, if the law designates a state of location.

(b) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location, including by designating its main office, home office, or other comparable office.

(c) In the District of Columbia, if neither subdivision (a) nor (b) applies.

(7) A registered organization continues to be located in the jurisdiction specified by subsection (5) or (6) notwithstanding the occurrence of 1 of the following:

(a) The suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization.

(b) The dissolution, winding up, or cancellation of the existence of the registered organization.

(8) The United States is located in the District of Columbia.

(9) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only 1 state.

(10) A foreign air carrier is located at the designated office of the agent upon which service of process may be made on behalf of the carrier under section 46103 of title 49 of the United States Code, 49 USC 46103.

(11) This section applies only for purposes of this part.

Sec. 9311. (1) Except as otherwise provided in subsection (4), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to 1 or more of the following:

(a) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt section 9310(1).

(b) The following statutes of this state:

(i) Chapter II of the Michigan vehicle code, 1949 PA 300, MCL 257.201 to 257.259.

(ii) Part 803 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80301 to 324.80322.

(iii) Part 811 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 to 324.81150.

(iv) Sections 30 through 30i of the mobile home commission act, 1987 PA 96, MCL 125.2330 to 125.2330i.

(c) A statute of another jurisdiction that provides for a security interest to be indicated on a certificate of title as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(2) Compliance with the requirements of a statute, regulation, or treaty described in subsection (1) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (4) and sections 9313 and 9316(4) and (5) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (1) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(3) Except as otherwise provided in subsection (4) and section 9316(4) and (5), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (1) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

(4) During any period in which collateral subject to a statute specified in subsection (1)(b) is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

Sec. 9316. (1) A security interest perfected pursuant to the law of the jurisdiction designated in section 9301(a) or 9305(3) remains perfected until the earliest of the following:

- (a) The time perfection would have ceased under the law of that jurisdiction.
- (b) The expiration of 4 months after a change of the debtor's location to another jurisdiction.
- (c) The expiration of 1 year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(2) If a security interest described in subsection (1) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(3) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if all of the following are met:

- (a) The collateral is located in 1 jurisdiction and subject to a security interest perfected under the law of that jurisdiction.
- (b) Thereafter, the collateral is brought into another jurisdiction.
- (c) Upon entry of the collateral into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(4) Except as otherwise provided in subsection (5), a security interest in goods covered by a certificate of title that is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(5) A security interest described in subsection (4) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under section 9311(2) or 9313 are not satisfied before the earlier of the following:

- (a) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state.
- (b) The expiration of 4 months after the goods had become so covered.

(6) A security interest in deposit accounts, letter-of-credit rights, or investment property that is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of the following:

- (a) The time the security interest would have become unperfected under the law of that jurisdiction.
- (b) The expiration of 4 months after a change of the applicable jurisdiction to another jurisdiction.

(7) If a security interest described in subsection (6) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(8) The following rules apply to collateral to which a security interest attaches within 4 months after the debtor changes its location to another jurisdiction:

(a) A financing statement filed before the change pursuant to the law of the jurisdiction designated in section 9301(a) or 9305(3) is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral had the debtor not changed its location.

(b) If a security interest perfected by a financing statement that is effective under subdivision (a) becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in section 9301(a) or 9305(3) or the expiration of the 4-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(9) If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in section 9301(a) or 9305(3) and the new debtor is located in another jurisdiction, the following rules apply:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within 4 months after, the new debtor becomes bound under section 9203(4), if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor.

(b) A security interest perfected by the financing statement and which becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in section 9301(a) or 9305(3) or the expiration of the 4-month period remains perfected thereafter. A security interest that is perfected by the financing statement but which does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Sec. 9326. (1) Subject to subsection (2), a security interest that is created by a new debtor in collateral in which the new debtor has or acquires rights and is perfected solely by a filed financing statement that would be ineffective to perfect the security interest but for the application of section 9316(9)(a) or 9508 is subordinate to a security interest in the same collateral that is perfected other than by such a filed financing statement.

(2) The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements described in subsection (1). However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

Sec. 9406. (1) Subject to subsections (2) through (9), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(2) Subject to subsection (8), notification is ineffective under subsection (1) if 1 or more of the following apply:

(a) If notification does not reasonably identify the rights assigned.

(b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article.

(c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if 1 or more of the following occur:

(i) Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee.

(ii) A portion has been assigned to another assignee.

(iii) The account debtor knows that the assignment to that assignee is limited.

(3) Subject to subsection (8), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (1).

(4) Except as otherwise provided in subsection (5) and sections 2A303 and 9407, and subject to subsection (8), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it does 1 or more of the following:

(a) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note.

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(5) Subsection (4) does not apply to the following:

(a) A claim or right to receive an amount that would be excluded from gross income under section 104(a)(1) or (2) of the internal revenue code, 26 USC 104.

(b) A claim or right to receive benefits from a special needs trust. For purposes of this subdivision, a "special needs trust" is a trust described in section 1917(d)(4)(A), (B), or (C) of title XIX of the social security act, 42 USC 1396p.

(c) The sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under section 9610 or an acceptance of collateral under section 9620.

(6) Except as otherwise provided in sections 2A303 and 9407 and subject to subsections (8) and (9), a rule of law, statute, or regulation, that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation does 1 or more of the following:

(a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account or chattel paper.

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(7) Subject to subsection (8), an account debtor may not waive or vary its option under subsection (2)(c).

(8) This section is subject to law other than this article that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(9) This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 9408. (1) Except as otherwise provided in subsection (2) or (4), a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term does 1 or more of the following:

(a) Would impair the creation, attachment, or perfection of a security interest.

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(2) Subsection (1) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under section 9610 or an acceptance of collateral under section 9620.

(3) Except as otherwise provided in subsection (4), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation does 1 or more of the following:

(a) Would impair the creation, attachment, or perfection of a security interest.

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(4) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (3) would be effective under law other than this article but is ineffective under subsection (1) or (3), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible is not or does not do all of the following:

(a) Is not enforceable against the person obligated on the promissory note or the account debtor.

(b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor.

(c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party.

(d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible.

(e) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor.

(f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(5) Subsections (1) and (3) do not apply to either of the following:

(a) A claim or right to receive an amount that would be excluded from gross income under section 104(a)(1) or (2) of the internal revenue code, 26 USC 104.

(b) A claim or right to receive benefits from a special needs trust. For purposes of this subdivision, a "special needs trust" is a trust described in section 1917(d)(4)(A), (B), or (C) of title XIX of the social security act, 42 USC 1396p.

Sec. 9502. (1) Subject to subsection (2), a financing statement is sufficient only if it does all of the following:

(a) Provides the name of the debtor.

(b) Provides the name of the secured party or a representative of the secured party.

(c) Indicates the collateral covered by the financing statement.

(2) Except as otherwise provided in section 9501(2), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or that is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (1) and also do all of the following:

(a) Indicate that it covers this type of collateral.

(b) Indicate that it is to be recorded in the real property records.

(c) Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property.

(d) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(3) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if all of the following apply:

(a) The record indicates the goods or accounts that it covers.

(b) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut.

(c) The record satisfies the requirements for a financing statement in this section, subject to the following:

(i) The record need not indicate that it is to be filed in the real property records.

(ii) The record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom section 9503(1)(d) applies.

(d) The record is duly recorded.

(4) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

Sec. 9503. (1) A financing statement sufficiently provides the name of the debtor if it meets all of the following that apply to the debtor:

(a) Except as otherwise provided in subdivision (c), if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name that is stated to be the registered organization's name on the public organic record most recently filed with or issued or enacted by the registered organization's jurisdiction of organization which purports to state, amend, or restate the registered organization's name.

(b) Subject to subsection (6), if the collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the collateral is being administered by a personal representative.

(c) If the collateral is held in a trust that is not a registered organization, only if the financing statement does both of the following:

(i) Provides 1 of the following as the name of the debtor:

(A) If the organic record of the trust specifies a name for the trust, the name specified.

(B) If the organic record of the trust does not specify a name for the trust, the name of the settlor or testator.

(ii) Meets 1 of the following in a separate part of the financing statement:

(A) If the name is provided in accordance with subparagraph (i)(A), indicates that the collateral is held in a trust.

(B) If the name is provided in accordance with subparagraph (i)(B), provides additional information sufficient to distinguish the trust from other trusts having 1 or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates.

(d) Subject to subsection (7), if the debtor is an individual to whom this state has issued a driver license or state personal identification card that has not expired, only if the financing statement provides the name of the individual which is indicated on the driver license or state personal identification card.

(e) If the debtor is an individual to whom subdivision (d) does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor.

(f) In other cases, satisfies 1 of the following:

(i) If the debtor has a name, only if the financing statement provides the organizational name of the debtor.

(ii) If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

(2) A financing statement that provides the name of the debtor in accordance with subsection (1) is not rendered ineffective by the absence of 1 or more of the following:

(a) A trade name or other name of the debtor.

(b) Unless required under subsection (1)(f)(ii), names of partners, members, associates, or other persons comprising the debtor.

(3) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(4) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(5) A financing statement may provide the name of more than 1 debtor and the name of more than 1 secured party.

(6) The name of the decedent indicated on the order appointing the personal representative of a decedent issued by the court that has jurisdiction over the collateral is sufficient as the "name of the decedent" under subsection (1)(b).

(7) If this state has issued to an individual more than 1 driver license or state personal identification card of a kind described in subsection (1)(d), the one that was issued most recently is the one to which subsection (1)(d) refers.

(8) As used in this section, the "name of the settlor or testator" means any of the following:

(a) If the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name.

(b) In other cases, the name of the settlor or testator indicated in the trust's organic record.

Sec. 9507. (1) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(2) Except as otherwise provided in subsection (3) and section 9508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under section 9506.

(3) If the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under section 9503(1) so that the financing statement becomes seriously misleading under section 9506, both of the following apply:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within 4 months after, the filed financing statement becomes seriously misleading.

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than 4 months after the filed financing statement becomes seriously misleading, unless an amendment to the financing statement that renders the financing statement not seriously misleading is filed within 4 months after the financing statement became seriously misleading.

Sec. 9515. (1) Except as otherwise provided in subsections (2), (5), (6), and (7), a filed financing statement is effective for a period of 5 years after the date of filing.

(2) Except as otherwise provided in subsections (5), (6), and (7), an initial financing statement filed in connection with a manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a manufactured-home transaction.

(3) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (4). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(4) A continuation statement may be filed only within 6 months before the expiration of the 5-year period specified in subsection (1) or the 30-year period specified in subsection (2), whichever is applicable.

(5) Except as otherwise provided in section 9510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of 5 years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the 5-year period, the financing statement lapses in the same manner as provided in subsection (3), unless, before the lapse, another continuation statement is filed pursuant to subsection (4). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(6) If a debtor is an organization identified as a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed. A financing statement that is filed before March 29, 2009 is effective for a period of 5 years after the date of filing and shall not be continued under this section if the financing statement indicates either of the following:

(a) That the debtor is an individual purporting to be a transmitting utility.

(b) That the debtor is an individual showing his or her name as an organization and purporting to be a transmitting utility.

(7) A record of a mortgage that is effective as a financing statement filed as a fixture filing under section 9502(3) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

Sec. 9516. (1) Except as otherwise provided in subsection (2), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(2) Filing does not occur with respect to a record that a filing office refuses to accept because of 1 or more of the following:

(a) The record is not communicated by a method or medium of communication authorized by the filing office.

(b) An amount equal to or greater than the applicable filing fee is not tendered.

(c) The filing office is unable to index the record because of 1 or more of the following:

(i) In the case of an initial financing statement, the record does not provide a name for the debtor.

(ii) In the case of an amendment or information statement, the record does not identify the initial financing statement as required by section 9512 or 9518, as applicable, or identifies an initial financing statement whose effectiveness has lapsed under section 9515.

(iii) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual that was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's surname.

(iv) In the case of a record filed or recorded in the filing office described in section 9501(1)(a), the record does not provide a sufficient description of the real property to which it relates.

(d) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record.

(e) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not provide or indicate 1 or more of the following:

(i) Provide a mailing address for the debtor.

(ii) Indicate whether the name provided as the name of the debtor is the name of an individual or an organization.

(f) In the case of an assignment reflected in an initial financing statement under section 9514(1) or an amendment filed under section 9514(2), the record does not provide a name and mailing address for the assignee.

(g) In the case of a continuation statement, the record is not filed within the 6-month period prescribed by section 9515(4).

(3) For purposes of subsection (2), both of the following apply:

(a) A record does not provide information if the filing office is unable to read or decipher the information.

(b) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 9512, 9514, or 9518, is an initial financing statement.

(4) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (2) or section 9520(5), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

Sec. 9518. (1) A person may file in the filing office an information statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(2) An information statement under subsection (1) must do all of the following:

(a) Identify the record to which it relates by both of the following:

(i) The file number assigned to the initial financing statement to which the record relates.

(ii) If the information statement relates to a record filed or recorded in a filing office described in section 9501(1)(a), the date that the initial financing statement was filed or recorded and the information specified in section 9502(2).

(b) Indicate that it is an information statement.

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

(3) A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under section 9509(4).

(4) An information statement under subsection (3) must do all of the following:

(a) Identify the record to which it relates by both of the following:

(i) The file number assigned to the initial financing statement to which the record relates.

(ii) If the information statement relates to a record filed or recorded in a filing office described in section 9501(1)(a), the date and time that the initial financing statement was filed or recorded and the information specified in section 9502(2).

(b) Indicate that it is an information statement.

(c) Provide the basis for the person's belief that the person that filed the record was not entitled to do so under section 9509(4).

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

Sec. 9521. (1) Except for a reason set forth in section 9516(2) or 9520(5), a filing office that accepts written records for filing shall not refuse to accept a written initial financing statement that conforms to the form and format of the UCC financing statement (Form UCC1)(rev. 04/20/11) or the UCC financing statement addendum (Form UCC1Ad) (rev. 04/20/11), promulgated by the American law institute and the uniform law commission, or to the form and format of any other revision to or version of either of those forms that are promulgated by the American law institute and the uniform law commission and adopted by the secretary of state.

(2) Except for a reason set forth in section 9516(2) or 9520(5), a filing office that accepts written records for filing shall not refuse to accept a written financing statement amendment that conforms to the form and format of the UCC financing statement amendment (Form UCC3)(rev. 04/20/11) or the UCC financing statement amendment addendum (Form UCC3Ad)(rev. 04/20/11), promulgated by the American law institute and the uniform law commission, or to the form and format of any other revision to or version of either of those forms that are promulgated by the American law institute and the uniform law commission and adopted by the secretary of state.

Sec. 9607. (1) If so agreed, and in any event after default, a secured party may do 1 or more of the following:

(a) Notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party.

(b) Take any proceeds to which the secured party is entitled under section 9315.

(c) Enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral.

(d) If it holds a security interest in a deposit account perfected by control under section 9104(1)(a), apply the balance of the deposit account to the obligation secured by the deposit account.

(e) If it holds a security interest in a deposit account perfected by control under section 9104(1)(b) or (c), instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(2) If necessary to enable a secured party to exercise under subsection (1)(c) the right of a debtor to enforce a mortgage nonjudicially, the secured party may record both of the following in the office in which a record of the mortgage is recorded:

(a) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage.

(b) The secured party's sworn affidavit in recordable form stating both of the following:

(i) That a default has occurred with respect to the obligation secured by the mortgage.

(ii) That the secured party is entitled to enforce the mortgage nonjudicially.

(3) A secured party shall proceed in a commercially reasonable manner if the secured party meets both of the following:

(a) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral.

(b) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(4) A secured party may deduct from the collections made pursuant to subsection (3) reasonable expenses of collection and enforcement, including reasonable attorney fees and legal expenses incurred by the secured party.

(5) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

PART 8

TRANSITION PROVISIONS FOR 2010 AMENDMENTS

Sec. 9801. As used in this part:

(a) “Pre-effective-date financing statement” means a financing statement filed before the effective date of this amendatory act.

(b) “This amendatory act” means the amendatory act that added this part.

(c) “This amended article” means this article as amended by this amendatory act.

Sec. 9802. (1) Except as otherwise provided in this part, this amendatory act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before the effective date of this amendatory act.

(2) This amendatory act does not affect an action, case, or proceeding commenced before the effective date of this amendatory act.

Sec. 9803. (1) A security interest that is a perfected security interest immediately before the effective date of this amendatory act is a perfected security interest under this amended article if, on the effective date of this amendatory act, the applicable requirements for attachment and perfection under this amended article are satisfied without further action.

(2) Except as otherwise provided in section 9805, if, immediately before the effective date of this amendatory act, a security interest is a perfected security interest, but the applicable requirements for perfection under this amended article are not satisfied on the effective date of this amendatory act, the security interest remains perfected thereafter only if the applicable requirements for perfection under this amended article are satisfied within 1 year after the effective date of this amendatory act.

Sec. 9804. A security interest that is an unperfected security interest immediately before the effective date of this amendatory act becomes a perfected security interest when either of the following occurs:

(a) Without further action, on the effective date of this amendatory act if the applicable requirements for perfection under this amended article are satisfied before or at that time.

(b) When the applicable requirements for perfection are satisfied if the requirements are satisfied after the effective date of this amendatory act.

Sec. 9805. (1) The filing of a financing statement before the effective date of this amendatory act is effective to perfect a security interest to the extent that the filing would satisfy the applicable requirements for perfection under this amended article.

(2) This amendatory act does not render ineffective an effective financing statement that is filed before the effective date of this amendatory act and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this article as it existed before the effective date of this amendatory act. However, except as otherwise provided in subsections (3) and (4) and section 9806, the financing statement ceases to be effective at 1 of the following times, as applicable:

(a) If the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had this amendatory act not taken effect.

(b) If the financing statement is filed in another jurisdiction, at the earlier of the following:

(i) The time the financing statement would have ceased to be effective under the law of that jurisdiction.

(ii) June 30, 2018.

(3) The filing of a continuation statement after the effective date of this amendatory act does not continue the effectiveness of a financing statement filed before the effective date of this amendatory act. However, upon the timely filing of a continuation statement after the effective date of this amendatory act and in accordance with the law of the jurisdiction governing perfection as provided in this amended article, the effectiveness of a financing statement filed in the same office in that jurisdiction before the effective date of this amendatory act continues for the period provided by the law of that jurisdiction.

(4) Subsection (2)(b)(ii) applies to a financing statement that is filed before the effective date of this amendatory act against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this article before the effective date of this amendatory act, only to the extent that this amended article provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(5) A financing statement that includes a financing statement filed before the effective date of this amendatory act and a continuation statement filed after the effective date of this amendatory act is effective only to the extent that it satisfies the requirements of part 5 as amended by this amendatory act for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of section 9503(1)(b) as amended by this amendatory act. A financing statement that indicates that the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the collateral is held in a trust within the meaning of section 9503(1)(c) as amended by this amendatory act.

Sec. 9806. (1) The filing of an initial financing statement in the office specified in section 9501 continues the effectiveness of a pre-effective-date financing statement if all of the following are met:

(a) The filing of an initial financing statement in that office would be effective to perfect a security interest under this amended article.

(b) The pre-effective-date financing statement was filed in an office in another state.

(c) The initial financing statement satisfies subsection (3).

(2) The filing of an initial financing statement under subsection (1) continues the effectiveness of the pre-effective-date financing statement for 1 of the following periods:

(a) If the initial financing statement is filed before the effective date of this amendatory act, for the period provided in section 9515 as it existed before the effective date of this amendatory act with respect to an initial financing statement.

(b) If the initial financing statement is filed after the effective date of this amendatory act, for the period provided in section 9515 as amended by this amendatory act with respect to an initial financing statement.

(3) To be effective for purposes of subsection (1), an initial financing statement must do all of the following:

(a) Satisfy the requirements of part 5 as amended by this amendatory act for an initial financing statement.

(b) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement.

(c) Indicate that the pre-effective-date financing statement remains effective.

Sec. 9807. (1) After the effective date of this amendatory act, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in this amended article. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(2) Except as otherwise provided in subsection (3), if the law of this state governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after the effective date of this amendatory act only if 1 of the following is met:

(a) The pre-effective-date financing statement and an amendment are filed in the office specified in section 9501.

(b) An amendment is filed in the office specified in section 9501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies section 9806(3).

(c) An initial financing statement that provides the information as amended and satisfies section 9806(3) is filed in the office specified in section 9501.

(3) If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under section 9805(3) and (5) or 9806.

(4) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this state may be terminated after the effective date of this amendatory act by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies section 9806(3) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in this amended article as the office in which to file a financing statement.

Sec. 9808. A person may file an initial financing statement or a continuation statement under this part if all of the following are met:

(a) The secured party of record authorizes the filing.

(b) The filing is necessary under this part to do any of the following:

(i) To continue the effectiveness of a financing statement filed before the effective date of this amendatory act.

(ii) To perfect or continue the perfection of a security interest.

Sec. 9809. This amendatory act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before the effective date of this amendatory act, this article as it existed before the effective date of this amendatory act determines priority.

Enacting section 1. Article 11 of the uniform commercial code, 1962 PA 174, MCL 440.11101 to 440.11102, is repealed.

Enacting section 2. This amendatory act takes effect July 1, 2013.

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 96th Legislature are enacted into law:

- (a) House Bill No. 5081.
- (b) House Bill No. 5082.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor