

SENATE BILL No. 1101

April 26, 2012, Introduced by Senator SCHUITMAKER and referred to the Committee on Judiciary.

A bill to amend 1962 PA 174, entitled
"Uniform commercial code,"
by amending section 9501a (MCL 440.9501a), as added by 2008 PA 381.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9501a. (1) A person identified as a debtor in a financing
2 statement ~~filed with the secretary of state~~ may file an affidavit
3 with the ~~secretary of state~~ **FILING OFFICE** in the form prescribed
4 under subsection (2) stating that the financing statement is
5 fraudulent. A person shall not file an affidavit under this
6 subsection with respect to a financing statement filed by a
7 regulated financial institution or a representative of a regulated
8 financial institution.

1 (2) The secretary of state shall adopt and make available a
2 form affidavit to be used to give notice of a fraudulent financing
3 statement under subsection (1).

4 (3) On receipt of an affidavit under subsection (1), the
5 ~~secretary of state~~ **FILING OFFICE** shall terminate the financing
6 statement effective on the date the affidavit is filed.

7 (4) ~~The secretary of state~~ **A FILING OFFICE** shall not charge a
8 fee to file an affidavit under this section. ~~The secretary of state~~
9 **A FILING OFFICE** shall not return any filing fee paid for filing the
10 financing statement, regardless of whether the financing statement
11 is terminated under this section.

12 (5) ~~The secretary of state~~ **A FILING OFFICE** shall send notice
13 of the termination of a financing statement under subsection (3) to
14 the filer of the financing statement advising the filer that the
15 financing statement has been terminated. If the filer of the
16 financing statement believes in good faith that the statement was
17 legally filed and is not fraudulent, the filer may file an action
18 to reinstate the financing statement.

19 (6) If the court in an action under this section or section
20 9520(7) determines that the financing statement should be
21 reinstated or accepted, the court shall provide a copy of its order
22 to the ~~secretary of state~~ **APPROPRIATE FILING OFFICE**. On receipt of
23 an order reinstating a financing statement, the ~~secretary of state~~
24 **FILING OFFICE** shall file a record that identifies by its file
25 number the initial financing statement to which the record relates
26 and indicates that the financing statement has been reinstated.

27 (7) On the filing of a record reinstating a financing

1 statement under subsection (6), the financing statement is
2 effective as a filed record from the initial filing date. If a
3 financing statement that is reinstated would have lapsed during the
4 period of termination, the secured party may file a continuation
5 statement within 30 days after the record reinstating the financing
6 statement is filed. The continuation statement is effective as a
7 filed record from the date the financing statement would have
8 lapsed. However, a financing or continuation statement is not
9 retroactive as provided in this subsection as against a purchaser
10 of the collateral that gives value in reasonable reliance on the
11 absence of the record from the files.

12 (8) If the court in an action under this section determines
13 that the financing statement is fraudulent, the filer of the
14 financing statement shall pay the costs and expenses incurred by
15 the person identified as a debtor in the financing statement in the
16 action.

17 (9) An individual who files a materially false or fraudulent
18 affidavit under subsection (1) is guilty of a felony punishable by
19 imprisonment for not more than 5 years or a \$2,500.00 fine, or
20 both.

21 (10) As used in this section, "regulated financial
22 institution" means a financial institution subject to regulatory
23 oversight or examination by a state or federal agency. Regulated
24 financial institution includes a bank, savings bank, savings
25 association, building and loan association, credit union, consumer
26 finance company, industrial bank, industrial loan company,
27 insurance company, investment company, installment seller, mortgage

1 servicer, sales finance company, or leasing company.