March 2, 1999

SENATE BILL No. 595

DIGEST OF SB0595 (Updated February 25, 1999 3:44 pm - DI 44)

Citations Affected: IC 23-1; IC 23-4; IC 23-5; IC 23-15; IC 23-16; IC 23-17; IC 23-18; IC 26-1.

Synopsis: Secretary of state matters. Decreases certain fees charged by the secretary of state. Provides for electronic filing of financing statements.

Effective: July 1, 1999.

Mills, Skillman

January 21, 1999, read first time and referred to Committee on Finance.
March 1, 1999, reported favorably — Do Pass.

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March 2, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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SENATE BILL No. 595

A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 23-1-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The secretary of state shall collect the following fees when the documents described in this subsection are delivered to the secretary of state for filing:

	Document	Fee
(1)	Articles of incorporation	~~$90~~ **$25**
(2)	Application for use of indistinguishable name	~~$20~~ **$15**
(3)	Application for reserved name	~~$20~~ **$15**
(4)	Notice of transfer of reserved name	~~$20~~ **$15**
(5)	Application for registered name	~~$30~~ **$15**
(6)	Application for renewal of registered name	~~$30~~ **$15**
(7)	Corporation's statement of change of registered agent or registered office or both	No Fee

(8)	Agent's statement of change of registered office for each affected corporation	No Fee
(9)	Agent's statement of resignation	No Fee
(10)	Amendment of articles of incorporation	~~$30~~ **$15**
(11)	Restatement of articles of incorporation	~~$30~~ **$15**
	With amendment of articles	~~$30~~ **$15**
(12)	Articles of merger or share exchange	~~$90~~ **$15**
(13)	Articles of dissolution	~~$30~~ **$15**
(14)	Articles of revocation of dissolution	~~$30~~ **$15**
(15)	Certificate of administrative dissolution	No Fee
(16)	Application for reinstatement following administrative dissolution	~~$30~~ **$15**
(17)	Certificate of reinstatement	No Fee
(18)	Certificate of judicial dissolution	No Fee
(19)	Application for certificate of authority	~~$90~~ **$25**
(20)	Application for amended certificate of authority	~~$30~~ **$15**
(21)	Application for certificate of withdrawal	~~$30~~ **$15**
(22)	Certificate of revocation of authority to transact business	No Fee
(23)	Biennial report	~~$30~~ **$15**
(24)	Articles of correction	~~$30~~ **$15**
(25)	Application for certificate of existence or authorization	$15
(26)	Any other document required or permitted to be filed by this article, including an application for any other certificates or certification certificate (except for any such other certificates that the secretary of state may determine to issue without	

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additional fee in connection with particular filings) and a request for other facts of record under section ~~9(b)(6)~~ **9(b)(7)** of this chapter . . . . . ~~$30~~ **$15**

(b) The fee set forth in subsection (a)(23) for filing a biennial report is fifteen dollars ($15) ~~per year~~ to be paid biennially.

(c) The secretary of state shall collect a fee of ten dollars ($10) each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, then that party is entitled to recover this fee as costs from the nonprevailing party.

(d) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

(1) Per page for copying . . . . . ~~$ 1~~ **$0.10**

(2) For a certification stamp $15

SECTION 2. IC 23-4-1-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 45. (a) To qualify as a limited liability partnership, a partnership under this chapter must do the following:

(1) File a registration with the secretary of state in a form determined by the secretary of state that satisfies the following:

(A) Is signed by one (1) or more partners authorized to sign the registration.

(B) States the name of the limited liability partnership, which must:

(i) contain the words "Limited Liability Partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of the name; and

(ii) be distinguishable upon the records of the secretary of state from the name of a limited liability partnership registered to transact business in Indiana.

(C) States the address of the partnership's principal office.

(D) States the name of the partnership's registered agent and the address of the partnership's registered office for service of process as required to be maintained by section 50 of this chapter.

(E) Contains a brief statement of the business in which the partnership engages.

(F) States any other matters that the partnership determines to include.

(G) States that the filing of the registration is evidence of

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the partnership's intention to act as a limited liability partnership.

(2) File a ~~ninety~~ **twenty-five** dollar ~~($90)~~ **($25)** registration fee with the registration.

(b) The secretary of state shall grant limited liability partnership status to any partnership that submits a completed registration with the required fee.

(c) Registration is effective and a partnership becomes a limited liability partnership on the date a registration is filed with the secretary of state or at any later date or time specified in the registration. The registration remains effective until it is voluntarily withdrawn by filing with the secretary of state a written withdrawal notice under section 45.2 of this chapter.

(d) The status of a partnership as a limited liability partnership and the liability of a partner of a limited liability partnership is not adversely affected by errors or subsequent changes in the information stated in a registration under subsection (a).

(e) A registration on file with the secretary of state is notice that the partnership is a limited liability partnership and is notice of all other facts set forth in the registration.

SECTION 3. IC 23-4-1-45.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 45.1. (a) As used in this section, “limited liability partnership" refers to a:

(1) limited liability partnership; or

(2) foreign limited liability partnership;

as defined in section 2 of this chapter.

(b) The registration of a limited liability partnership may be amended by filing in the office of the secretary of state a certificate of amendment executed by at least one (1) partner authorized to execute an amendment to the registration.

(c) A certificate of amendment must contain the following:

(1) The name of the limited liability partnership.

(2) The date the registration was filed.

(3) The amendment to the registration.

(d) A certificate of amendment must be accompanied by a ~~thirty~~ **fifteen** dollar (~~$30)~~ **($15)** filing fee.

(e) Subject to subsection (f), the registration of a limited liability partnership may be amended at any time.

(f) An amended registration must contain only provisions that may be lawfully contained in the registration when the amendment is made.

SECTION 4. IC 23-4-1-45.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 45.2. (a) As used in this

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section, “limited liability partnership" refers to a:

(1) limited liability partnership; or

(2) foreign limited liability partnership;

as defined in section 2 of this chapter.

(b) The registration of a limited liability partnership may be withdrawn by filing in the office of the secretary of state a withdrawal notice executed by at least one (1) partner authorized to execute a withdrawal notice.

(c) A withdrawal notice must contain the following:

(1) The name of the limited liability partnership.

(2) The date the registration was filed.

(3) A brief statement regarding the reason for filing the withdrawal notice.

(4) Any other information considered appropriate by the limited liability partnership.

(d) A withdrawal notice must be accompanied by a ~~thirty~~ **fifteen** dollar (~~$30)~~ **($15)** filing fee.

(e) The withdrawal notice is effective and the partnership ceases to be a limited liability partnership on the date a withdrawal notice is filed with the secretary of state or at any later date or time specified in the notice.

SECTION 5. IC 23-4-1-45.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 45.3. (a) The exclusive right to use a name of a limited liability partnership or foreign limited liability partnership may be reserved by the following:

(1) A person intending to organize a limited liability partnership under this article and to adopt that name.

(2) A limited liability partnership or any foreign limited liability partnership registered in Indiana that, in either case, intends to change its name to that name.

(3) A foreign limited liability partnership intending to register in Indiana and use that name in Indiana.

(4) A person intending to organize a foreign limited liability partnership and intending to have it registered in Indiana and use that name in Indiana.

(b) An applicant may reserve a specified name by filing with the secretary of state an application executed by the applicant specifying the name to be reserved and the name and the address of the applicant, along with a ~~twenty~~ **fifteen** dollar ~~($20)~~ **($15)** fee. If the secretary of state finds that the name is available for use by the applicant, the secretary of state shall reserve the name for the exclusive use of the applicant for a period of one hundred twenty (120) days. After

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reserving a name, the same applicant may reserve the same name for successive periods of one hundred twenty (120) days.

(c) The exclusive right to use a reserved name may be transferred to another person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant who reserved the name to be transferred and the name and address of the transferee.

SECTION 6. IC 23-4-1-49 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 49. (1) Before transacting business in this state, a foreign limited liability partnership shall do the following:

(a) Comply with any statutory or administrative registration or filing requirements governing the specific type of business in which the partnership is engaged.

(b) File a registration with the secretary of state in a form determined by the secretary of state that satisfies the following:

(I) Is signed at least by one (1) partner authorized to sign the registration.

(II) States the name of the limited liability partnership which must contain the words "Limited Liability Partnership" or the abbreviation "L.L.P." or "LLP" or other similar words or abbreviations as may be required or authorized by the laws of the jurisdiction where the partnership is registered as the last words or letters of the name.

(III) States the jurisdiction in which the partnership is registered as a limited liability partnership.

(IV) States the address of the partnership's principal office.

(V) States the name of the partnership's registered agent and the address of the partnership's registered office for service of process as required to be maintained by section 50 of this chapter.

(VI) Contains a brief statement of the business in which the partnership engages.

(VII) States any other matters that the partnership determines to include.

(VIII) States that the filing of the registration is evidence of the partnership's intention to act as a limited liability partnership.

(c) File a ~~ninety~~ **twenty-five** dollar ~~($90)~~ **($25)** registration fee with the registration.

(2) The secretary of state shall permit a foreign limited liability partnership that:

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(a) submits a completed registration;

(b) submits the required ~~ninety~~ **twenty-five** dollars ~~($90);~~ **($25);** and

(c) otherwise complies with this chapter;

to transact business in the state. A registration remains effective until the registration is voluntarily withdrawn under section 45.2 of this chapter.

(3) The internal affairs of foreign limited liability partnerships, including the liability of partners for debts, obligations, and liabilities of or chargeable to the partnership or a partner or partners, are subject to and governed by the laws of the jurisdiction in which the foreign limited liability partnership is registered.

SECTION 7. IC 23-5-1-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10.1. (a) As used in this section, “trust" means a:

(1) domestic business trust; or

(2) foreign business trust;

as defined in section 2 of this chapter.

(b) Each trust authorized to transact business in Indiana shall deliver a biennial report to the secretary of state for filing that sets forth the following:

(1) The name of the trust and the state or country under whose law the trust is created.

(2) The address of the trust’s registered office and the name of its registered agent at that office in Indiana.

(3) The address of the trust’s principal office.

(c) When a biennial report is filed, it must be accompanied by the following:

(1) A verified list of the names and addresses of the trustees of the business trust.

(2) Executed copies of all amendments to:

(A) the original trust instrument; and

(B) amendments to the trust instrument that:

(i) were adopted not later than December 31 of the preceding year; and

(ii) have not been filed under section 7 of this chapter.

(3) A fee of fifteen dollars ($15) ~~per year~~ to be paid biennially.

(d) Information in the biennial report must be current as of the date the biennial report is executed on behalf of the trust.

(e) The first biennial report must be delivered to the secretary of state in the second year following the calendar year in which a domestic business trust was created or a foreign business trust was

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authorized to transact business. The biennial report is due during the same month as the month in which the trust was created or authorized to transact business.

(f) Subsequent biennial reports must be delivered to the secretary of state every second year following the year in which the last biennial report was filed. The secretary of state may accept reports during the two (2) months before the month that they are due.

(g) If a biennial report does not contain the information required by this section, the secretary of state shall promptly notify the reporting trust in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the secretary of state within thirty (30) days after the effective date of notice, it is considered to be timely filed.

SECTION 8. IC 23-15-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Except as otherwise provided in section 2 of this chapter:

(1) a person conducting or transacting business in Indiana under a name, designation, or title other than the real name of the person conducting or transacting such business;

(2) a corporation conducting business in Indiana under a name, designation, or title other than the name of the corporation as shown by its articles of incorporation;

(3) a foreign corporation conducting business in Indiana under a name, designation, or title other than the name of the foreign corporation as shown by its application for certificate of authority to transact business in Indiana;

(4) a limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its certificate of limited partnership;

(5) a foreign limited partnership conducting business in Indiana under a name, designation, or title other than the name of the limited partnership as shown by its application for registration;

(6) a limited liability company conducting business in Indiana under a name, designation, or title other than as shown by its articles of organization;

(7) a foreign limited liability company conducting business in Indiana under a name, designation, or title other than the name of the limited liability company as shown by its application for registration;

(8) a limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for

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registration; and

(9) a foreign limited liability partnership conducting business in Indiana under a name, designation, or title other than the name of the limited liability partnership as shown by its application for registration;

shall file for record, in the office of the recorder of each county in which a place of business or an office of the person, limited partnership, foreign limited partnership, limited liability company, foreign limited liability company, corporation, or foreign corporation is situated, a certificate stating the assumed name to be used, and, in the case of a person, the full name and address of the person engaged in or transacting business, or, in the case of a corporation, foreign corporation, limited liability company, foreign limited liability company, limited partnership, or foreign limited partnership, the full name and the address of the corporation's, limited liability company's, or limited partnership's principal office in Indiana.

(b) The recorder shall keep a record of the certificates filed under this section and shall keep an index of the certificates showing, in alphabetical order, the names of the persons, the names of the partnerships, the names of the limited liability companies, the corporate names of the corporations having such certificates on file in the recorder's office, and the assumed names which they intend to use in carrying on their businesses as shown by the certificates.

(c) Before the dissolution of any business for which a certificate is on file with the recorder, the person, limited liability company, partnership, or corporation to which the certificate appertains shall file a notice of dissolution for record in the recorder's office.

(d) The county recorder shall charge a fee in accordance with IC 36-2-7-10 for each certificate, notice of dissolution, and notice of discontinuance of use filed with the recorder's office and recorded under this chapter. The funds received shall be receipted as county funds the same as other money received by the recorders.

(e) A corporation, limited liability company, or limited partnership subject to this chapter shall, in addition to filing the certificate provided for in subsection (a), file with the secretary of state a copy of each certificate.

(f) A person, partnership, limited liability company, or corporation that has filed a certificate of assumed business name under subsection (a) or (e) may file a notice of discontinuance of use of assumed business name with the secretary of state and with the recorder's office in which the certificate was filed or transferred. The secretary of state and the recorder shall keep a record of notices filed under this

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subsection.

(g) A corporation or limited partnership, domestic or foreign, that is subject to this chapter and that does not have a place of business or an office in Indiana, shall file the certificate required under subsection (a) in the office of the recorder of the county where the corporation's or limited partnership's registered office is located. The certificate must state the assumed name to be used, the name of the registered agent, and the address of the registered office. The corporation or limited partnership must comply with the requirements in subsection (e).

(h) The secretary of state shall collect the following fees when a copy of a certificate is filed with the secretary of state under subsection (e):

(1) A fee of ~~thirty~~ **fifteen** dollars ~~($30)~~ **($15)** from a corporation (other than a nonprofit corporation), limited liability company, or a limited partnership.

(2) A fee of ~~twenty-six~~ **fifteen** dollars ~~($26)~~ **($15)** from a nonprofit corporation.

SECTION 9. IC 23-16-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The secretary of state shall collect the following fees when the documents described in this section are delivered by a domestic or foreign limited partnership or a foreign limited liability company to the secretary of state for filing:

Document	Fee
(1) Application for reservation of name	~~$20~~ **$15**
(2) Application for use of indistinguishable name	~~$20~~ **$15**
(3) Application for renewal of reservation	~~$20~~ **$15**
(4) Notice of transfer or cancellation of reservation	~~$20~~ **$15**
(5) Certificate of change of registered agent's business address	No fee
(6) Certificate of resignation of agent	No fee
(7) Certificate of limited partnership	~~$90~~ **$25**
(8) Certificate of amendment	~~$30~~ **$15**
(9) Certificate of cancellation	~~$90~~ **$15**
(10) Restated certificate of limited partnership or registration	~~$30~~ **$15**
(11) Restated certificate of limited partnership or registration with amendments	~~$30~~ **$15**
(12) Application for registration	~~$90~~ **$25**
(13) Certificate of change of application	~~$30~~ **$15**
(14) Certificate of cancellation of registration	~~$30~~ **$15**
(15) Certificate of change of registered agent	No fee

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(16) Application for certificate of existence or authorization $15

(17) Any other document required or permitted to be filed under this article, including an application for any other certificates or certification certificate (except for any such other certificates that the secretary of state may determine to issue without additional fee in connection with particular filings) . . . . . ~~$30~~ **$15**

(b) The secretary of state shall collect a fee of ten dollars ($10) each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, then that party is entitled to recover this fee as costs from the nonprevailing party.

(c) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign limited partnership:

(1) Per page for copying . . . . . ~~$ 1~~ **$0.10**

(2) For a certification stamp $15

SECTION 10. IC 23-17-29-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The secretary of state shall collect the following fees when the following documents are delivered for filing:

	DOCUMENT	FEE
(1)	Articles of Incorporation	~~$30~~ **$15**
(2)	Application for use of indistinguishable name	~~$20~~ **$15**
(3)	Application for reserved name	~~$20~~ **$15**
(4)	Notice of transfer of reserved name	~~$20~~ **$15**
(5)	Application for registered name	~~$30~~ **$15**
(6)	Application for renewal of registered name	~~$30~~ **$15**
(7)	Corporation's statement of change of registered agent or registered office or both	no fee
(8)	Agent's statement of change of registered office for each affected corporation	no fee
(9)	Agent's statement of resignation	no fee
(10)	Amendment of articles of incorporation	~~$30~~ **$15**
(11)	Restatement of articles of	

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	incorporation with amendments	~~$30~~ **$15**
(12)	Articles of merger	~~$30~~ **$15**
(13)	Articles of dissolution	~~$30~~ **$15**
(14)	Articles of revocation of dissolution	~~$30~~ **$15**
(15)	Certificate of administrative dissolution	no fee
(16)	Application for reinstatement following administrative dissolution	~~$30~~ **$15**
(17)	Certificate of reinstatement	no fee
(18)	Certificate of judicial dissolution	no fee
(19)	Application for certificate of authority	~~$30~~ **$15**
(20)	Application for amended certificate of authority	~~$30~~ **$15**
(21)	Application for certificate of withdrawal	~~$30~~ **$15**
(22)	Certificate of revocation of authority to transact business	no fee
(23)	Annual report	$10
(24)	Articles of correction	~~$30~~ **$15**
(25)	Certificate of existence	$15
(26)	Any other document required or permitted to be filed by this article	~~$30~~ **$15**

(b) The secretary of state shall collect a fee of ten dollars ($10) upon being served with process under this article. The party to a proceeding causing service of process may recover the fee paid the secretary of state as costs if the party prevails in the proceeding.

(c) The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

(1) ~~One dollar ($1)~~ **Ten cents ($0.10)** a page for copying.

(2) Fifteen dollars ($15) for the certification stamp.

SECTION 11. IC 23-18-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) The secretary of state shall collect the following fees when the documents described in this section are delivered for filing:

Document	Fee
(1) Articles of organization	~~$90~~ **$25**
(2) Application for use of	

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indistinguishable name . . . . . ~~$20~~ **$15**
(3) Application for reservation of name . . . . . ~~$20~~ **$15**
(4) Application for renewal of
reservation . . . . . ~~$20~~ **$15**
(5) Notice of transfer or cancellation
of reservation . . . . . ~~$20~~ **$15**
(6) Certificate of change of registered
agent's business address . . . . . No Fee
(7) Certificate of resignation of
agent . . . . . No Fee
(8) Articles of amendment . . . . . ~~$30~~ **$15**
(9) Restatement of articles of
organization . . . . . ~~$30~~ **$15**
(10) Articles of dissolution . . . . . ~~$30~~ **$15**
(11) Application for certificate of
authority . . . . . ~~$90~~ **$25**
(12) Application for amended
certificate of authority . . . . . ~~$30~~ **$15**
(13) Application for certificate of
withdrawal . . . . . ~~$30~~ **$15**
(14) Application for reinstatement
following administrative dissolution . . . . . ~~$30~~ **$15**
(15) Articles of correction . . . . . ~~$30~~ **$15**
(16) Certificate of change of
registered agent . . . . . No Fee
(17) Application for certificate of
existence or authorization $15
(18) Biennial report . . . . . ~~$30~~ **$15**
(19) Any other document required or
permitted to be filed under this article . . . . . ~~$30~~ **$15**

(b) The fee set forth in subsection (a)(18) for filing a biennial report is fifteen dollars ($15) ~~per year~~ to be paid biennially.

(c) The secretary of state shall collect a fee of $10 each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, that party is entitled to recover this fee as costs from the nonprevailing party.

(d) The secretary of state shall collect the following fees for copying and certifying the copy of any filed documents relating to a domestic or foreign limited liability company:

(1) ~~One dollar ($1)~~ **Ten cents ($0.10)** per page for copying.
(2) Fifteen dollars ($15) for certification stamp.

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SECTION 12. IC 26-1-9-401 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 401. (1) The proper place to file in order to perfect a security interest is as follows:

(a) When the collateral is consumer goods, equipment used in farming operations, or farm products, or accounts or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the county recorder in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the county recorder in the county where the goods are kept, and in addition when the collateral is crops, growing or to be grown, in the office of the county recorder in the county where the land is located.

(b) When the collateral is timber to be cut or is minerals or the like (including oil and gas) or accounts subject to IC 26-1-9-103(5), or when the financing statement is filed as a fixture filing (IC 26-1-9-313) and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate would be filed or recorded.

(c) In all other cases, in the office of the secretary of state.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of IC 26-1-9 and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) The rules stated in IC 26-1-9-103 determine whether filing is necessary in this state.

(5) For the purposes of this section, the residence of an organization is its place of business if it has one or its chief executive office if it has more than one (1) place of business.

(6) From amounts collected by the secretary of state from and in connection with filings and requests under IC 26-1 there shall be paid from the general fund, as the primary source of such payment, all valid judgments recovered or to be recovered against county or state filing officers or their employees for failure to properly file or furnish correct information in connection with a request made as to filings and record searches under the filing system of the Uniform Commercial Code. Judgments payable under this section shall be paid if the attorney

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general is served with a copy of the summons in the original action and given an opportunity to defend; or, if he is not served, only upon motion and de novo hearing without jury trial made to the court rendering the judgment after service of notice thereof upon the attorney general, and after the court enters findings and judgment showing the amount properly payable under IC 26-1. Any affected party or the attorney general may appeal from the original or the judgment entered pursuant to the motion. Not more than one hundred thousand dollars ($100,000) shall be paid from amounts collected by the secretary of state in any fiscal year.

(7) A document described in subsection (8), (9), or (12) must be in the standard form prescribed by the secretary of state to be accepted for filing.

(8) The fee for filing each of the following is four dollars ($4):

(a) Financing statements, if filed with the secretary of state.

(b) Continuation statements.

(c) Separate statements of assignment.

(d) Separate amendments of any of the foregoing.

(e) Lists of creditors and schedules of property filed with the secretary of state for entry in the bulk sale file.

(f) Partial releases, if filed with the county recorder.

(g) Lis pendens and other filings under the Uniform Commercial Code filing systems.

(9) If the document is:

(a) filed with the county recorder; and

(b) a financing statement;

the fee for filing the document is eight dollars ($8), which includes a prepaid release fee of four dollars ($4).

(10) An additional fee of one dollar ($1) shall be paid for each of the following:

(a) Filing and indexing a financing statement indicating an assignment.

(b) Filing and indexing a financing statement that is subject to IC 26-1-9-402(4).

(c) Indexing each name after the first, including trade names.

(d) Furnishing filing data regarding any document.

(e) Furnishing a filing officer's document under IC 26-1-9-407(2), plus fifty cents ($0.50) for each financing statement and for each statement of assignment listed on the filing officer's document.

(11) An additional fee of fifty cents ($0.50) shall be paid for the ~~following:~~

~~(a)~~ filing any of the foregoing described in subsection (8) or (9)

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in the fixture file.

~~(b)~~ Each page of a copy of a document **shall be an additional fee of ten cents ($0.10).**

(12) No filing fee shall be charged for the filing of termination statements.

SECTION 13. IC 26-1-9-402 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 402. (1) Except as provided in subsection (2), a financing statement is sufficient if it is on the form prescribed by the secretary of state and contains the following:

(a) The debtor's legal name and address.

(b) The name and address of the secured party from which information concerning the security interest may be obtained.

(c) A statement indicating the types or describing the items of collateral.

(d) The debtor's signature.

A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to IC 26-1-9-103(5), or when the financing statement is filed as a fixture filing (IC 26-1-9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (4).

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor when it is filed to perfect a security interest in any one (1) 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. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances.

(b) Proceeds under IC 26-1-9-306 if the security interest in the original collateral was perfected. Such a financing statement must 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 (subsection (6)).

(e) Collateral under a security agreement signed by the debtor and authorizing the secured party to file a financing statement. Such

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a financing statement must state that it is filed in accordance with a security agreement signed by the debtor and authorizing the filing of the statement.

(3) A financing statement may be amended by filing a form (Uniform Commercial Code 3 or Uniform Commercial Code 4) referencing the original financing statement number and date of filing. An amendment that changes only the secured party information must be signed by the secured party. All other amendments must be signed by the debtor and the secured party. 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. In IC 26-1-9, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(4) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to IC 26-1-9-103(5) or a financing statement filed as a fixture filing (IC 26-1-9-313) must show that it covers this type of collateral, must recite that it is to be filed for record in the real estate records, and must 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 must show the name of a record owner.

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

(a) the goods are described in the mortgage by item or type; and

(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 filed in the real estate records; and

(d) the mortgage is duly recorded.

No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(6) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership, or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes his name or in the case of an organization its name, identity, or corporate structure 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 four (4)

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months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

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

(8) The provisions of IC 36-2-11-15 requiring the identification of draftsmen of instruments transferring interests in real estate do not apply to filings under IC 26-1.

(9) A financing statement may be transmitted and filed electronically. A signature requirement under this section is satisfied by:

(A) an intent by the filing party to sign the filing under IC 26-1-1-20(39); and

(B) the entry of the filing party's name on the electronic form in a signature box or other place indicated by the secretary of state.

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SENATE MOTION

Mr. President: I move that Senator Skillman be added as coauthor of Senate Bill 595.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill No. 595, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 595 as introduced.)

BORST, Chairperson

Committee Vote: Yeas 12, Nays 3.

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