
HOUSE BILL No. 1054

DIGEST OF INTRODUCED BILL

Citations Affected: IC 26-1-9.1.

Synopsis: Secretary of state filings and recordings. Provides that the secretary of state may refuse to accept certain filings or recordings. Provides that if a secured party or remitter demonstrates that the secretary of state should accept a filing or recording that was rejected, the filing officer will file a notice of correction that states the effective date and time of the filing. Provides that the secretary of state does not have a duty to inspect, evaluate, or investigate a document that is presented for filing or recording. Provides that certain individuals may file a motion for judicial review of a financing statement to determine if the document is fraudulent. Allows a court to order certain actions if a financing statement is fraudulent.

Effective: July 1, 2013.

Steuerwald

January 7, 2013, read first time and referred to Committee on Judiciary.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1054



A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

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

- 1 SECTION 1. IC 26-1-9.1-900 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2013]: **Sec. 900. (a) If a person presents a**
- 4 **document to the secretary of state for filing or recording, the**
- 5 **secretary of state may refuse to accept the document for filing or**
- 6 **recording if:**
- 7 (1) **the document is not required or authorized to be filed or**
- 8 **recorded with the secretary of state; or**
- 9 (2) **the secretary of state has reasonable cause to believe the**
- 10 **document is materially false or fraudulent.**
- 11 **(b) A fraudulent document that the secretary of state may refuse**
- 12 **to accept includes the following:**
- 13 (1) **Any financing statement that has the same name listed as**
- 14 **both the debtor and the secured party.**
- 15 (2) **Any financing statement that identifies an individual**
- 16 **debtor as a transmitting utility.**
- 17 (3) **Any financing statement that is determined to be intended**



1 for an improper purpose, such as hindering, harassing, or
2 wrongfully interfering with another person or entity.

3 **(4) Any financing statement that is filed:**

4 **(A) without the consent of the:**

5 **(i) obligor named in the financing statement;**

6 **(ii) person named in the financing statement as debtor;**
7 **and**

8 **(iii) owner of collateral described or indicated in the**
9 **financing statement; or**

10 **(B) by consent of an agent, a fiduciary, or another**
11 **representative of the secured party of record without the**
12 **consent of the secured party.**

13 **(5) Any document that is forged.**

14 **(c) If a secured party or remitter demonstrates to the**
15 **satisfaction of the secretary of state that a Uniform Commercial**
16 **Code record that was refused for filing should not have been**
17 **refused, the secretary of state shall file the Uniform Commercial**
18 **Code record with a filing date and time assigned when the filing**
19 **occurs. The filing officer shall also file a notice of correction that**
20 **states the effective date and time of filing, which shall be the date**
21 **and time the Uniform Commercial Code record was originally**
22 **tendered for filing.**

23 **(d) The secretary of state does not have a duty to inspect,**
24 **evaluate, or investigate a document that is presented for filing or**
25 **recording.**

26 SECTION 2. IC 26-1-9.1-901 IS ADDED TO THE INDIANA
27 CODE AS A NEW SECTION TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2013]: **Sec. 901. (a) A person who believes**
29 **that a financing statement is fraudulent under section 900 of this**
30 **chapter may file a motion for judicial review of the financing**
31 **statement.**

32 **(b) If a court determines that a financing statement is**
33 **fraudulent, the court may:**

34 **(1) award the prevailing party all costs related to the review,**
35 **including:**

36 **(A) filing fees;**

37 **(B) attorney's fees;**

38 **(C) administrative costs; and**

39 **(D) other reasonable costs;**

40 **(2) declare the financing statement ineffective; and**

41 **(3) order the office or agency that possesses the financing**
42 **statement to terminate or purge the financing statement.**

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1 (c) The secretary of state shall create a form to assist pro se
2 individuals with a filing described in this section, and shall post the
3 form on the secretary of state's Internet web site.

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