

2 **SB 5053** - S AMD 016
3 By Senator Constantine

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5 On page 56, after line 18, insert the following:

6 "**Sec. 38.** RCW 62A.9A-516 and 2000 c 250 s 9A-516 are each amended
7 to read as follows:

8 WHAT CONSTITUTES FILING; EFFECTIVENESS OF FILING. (a) **What**
9 **constitutes filing.** Except as otherwise provided in subsection (b) of
10 this section, communication of a record to a filing office and tender
11 of the filing fee or acceptance of the record by the filing office
12 constitutes filing.

13 (b) **Refusal to accept record; filing does not occur.** Filing does
14 not occur with respect to a record that a filing office refuses to
15 accept because:

16 (1) The record is not communicated by a method or medium of
17 communication authorized by the filing office;

18 (2) An amount equal to or greater than the applicable filing fee is
19 not tendered or, in the case of a filing office described in RCW
20 62A.9A-501(a)(1), an amount equal to the applicable filing fee is not
21 tendered;

22 (3) The filing office is unable to index the record because:

23 (A) In the case of an initial financing statement, the record does
24 not provide a name for the debtor;

25 (B) In the case of an amendment or correction statement, the
26 record:

27 (i) Does not identify the initial financing statement as required
28 by RCW 62A.9A-512 or 62A.9A-518, as applicable; or

29 (ii) Identifies an initial financing statement whose effectiveness
30 has lapsed under RCW 62A.9A-515;

31 (C) In the case of an initial financing statement that provides the
32 name of a debtor identified as an individual or an amendment that
33 provides a name of a debtor identified as an individual which was not
34 previously provided in the financing statement to which the record
35 relates, the record does not identify the debtor's last name; or

1 (D) In the case of a record filed or recorded in the filing office
2 described in RCW 62A.9A-501(a)(1), the record does not provide a name
3 for the debtor or a sufficient description of the real property to
4 which (~~it~~) the record relates;

5 (4) In the case of an initial financing statement or an amendment
6 that adds a secured party of record, the record does not provide a name
7 and mailing address for the secured party of record;

8 (5) In the case of an initial financing statement or an amendment
9 that provides a name of a debtor which was not previously provided in
10 the financing statement to which the amendment relates, the record does
11 not:

12 (A) Provide a mailing address for the debtor;

13 (B) Indicate whether the debtor is an individual or an
14 organization; or

15 (C) If the financing statement indicates that the debtor is an
16 organization, provide:

17 (i) A type of organization for the debtor;

18 (ii) A jurisdiction of organization for the debtor; or

19 (iii) An organizational identification number for the debtor or
20 indicate that the debtor has none;

21 (6) In the case of an assignment reflected in an initial financing
22 statement under RCW 62A.9A-514(a) or an amendment filed under RCW
23 62A.9A-514(b), the record does not provide a name and mailing address
24 for the assignee; or

25 (7) In the case of a continuation statement, the record is not
26 filed within the six-month period prescribed by RCW 62A.9A-515(d).

27 (c) **Rules applicable to subsection (b) of this section.** For
28 purposes of subsection (b) of this section:

29 (1) A record does not provide information if the filing office is
30 unable to read or decipher the information; and

31 (2) A record that does not indicate that it is an amendment or
32 identify an initial financing statement to which it relates, as
33 required by RCW 62A.9A-512, 62A.9A-514, or 62A.9A-518, is an initial
34 financing statement.

35 (d) **Refusal to accept record; record effective as filed record.** A
36 record that is communicated to the filing office with tender of the
37 filing fee, but which the filing office refuses to accept for a reason
38 other than one set forth in subsection (b) of this section, is
39 effective as a filed record except as against a purchaser of the

1 collateral which gives value in reasonable reliance upon the absence of
2 the record from the files.

3 **Sec. 39.** RCW 62A.9A-520 and 2000 c 250 s 9A-520 are each amended
4 to read as follows:

5 ACCEPTANCE AND REFUSAL TO ACCEPT RECORD. (a) **Mandatory refusal to**
6 **accept record.** ((A)) The filing office described in RCW 62A.9A-
7 501(a)(2) shall refuse to accept a record for filing for a reason set
8 forth in RCW 62A.9A-516(b) ((and)). A filing office described in RCW
9 62A.9A-501(a)(1) shall refuse to accept a record for filing for a
10 reason set forth in RCW 62A.9A-516(b) (1) through (4) and any filing
11 office may refuse to accept a record for filing only for a reason set
12 forth in RCW 62A.9A-516(b).

13 (b) **Communication concerning refusal.** If a filing office refuses
14 to accept a record for filing, it shall communicate to the person that
15 presented the record the fact of and reason for the refusal and the
16 date and time the record would have been filed had the filing office
17 accepted it. The communication must be made at the time and in the
18 manner prescribed by filing-office rule but, in the case of a filing
19 office described in RCW 62A.9A-501(a)(2), in no event more than two
20 business days after the filing office receives the record.

21 (c) **When filed financing statement effective.** A filed financing
22 statement satisfying RCW 62A.9A-502 (a) and (b) is effective, even if
23 the filing office is required to refuse to accept it for filing under
24 subsection (a) of this section. However, RCW 62A.9A-338 applies to a
25 filed financing statement providing information described in RCW
26 62A.9A-516(b)(5) which is incorrect at the time the financing statement
27 is filed.

28 (d) **Separate application to multiple debtors.** If a record
29 communicated to a filing office provides information that relates to
30 more than one debtor, this part applies as to each debtor separately.

31 **Sec. 40.** RCW 62A.9A-523 and 2000 c 250 s 9A-523 are each amended
32 to read as follows:

33 INFORMATION FROM FILING OFFICE; SALE OR LICENSE OF RECORDS. (a)
34 **Acknowledgment of filing written record.** If a person that files a
35 written record requests an acknowledgment of the filing, the filing
36 office shall send to the person an image of the record showing the
37 number assigned to the record pursuant to RCW 62A.9A-519(a)(1) and the

1 date and time of the filing of the record. However, if the person
2 furnishes a copy of the record to the filing office, the filing office
3 may instead:

4 (1) Note upon the copy the number assigned to the record pursuant
5 to RCW 62A.9A-519(a)(1) and the date and time of the filing of the
6 record; and

7 (2) Send the copy to the person.

8 (b) **Acknowledgment of filing other record.** If a person files a
9 record other than a written record, the filing office shall communicate
10 to the person an acknowledgment that provides:

11 (1) The information in the record;

12 (2) The number assigned to the record pursuant to RCW
13 62A.9A-519(a)(1); and

14 (3) The date and time of the filing of the record.

15 (c) **Communication of requested information.** The filing office
16 shall communicate or otherwise make available in a record the following
17 information to any person that requests it:

18 (1) Whether there is on file on a date and time specified by the
19 filing office, but not a date earlier than three business days before
20 the filing office receives the request, any financing statement that:

21 (A) Designates a particular debtor or, if the request so states,
22 designates a particular debtor at the address specified in the request;

23 (B) Has not lapsed under RCW 62A.9A-515 with respect to all secured
24 parties of record; and

25 (C) If the request so states, has lapsed under RCW 62A.9A-515 and
26 a record of which is maintained by the filing office under RCW
27 62A.9A-522(a);

28 (2) The date and time of filing of each financing statement; and

29 (3) The information provided in each financing statement.

30 (d) **Medium for communicating information.** In complying with its
31 duty under subsection (c) of this section, the filing office may
32 communicate information in any medium. However, if requested, the
33 filing office shall communicate information by issuing a record that
34 can be admitted into evidence in the courts of this state without
35 extrinsic evidence of its authenticity.

36 (e) **Timeliness of filing office performance.** The filing office
37 described in RCW 62A.9A-501(a)(2) shall perform the acts required by
38 subsections (a) through (d) of this section at the time and in the

1 manner prescribed by filing-office rule, but not later than two
2 business days after the filing office receives the request.

3 (f) **Public availability of records.** At least weekly, the filing
4 office described in RCW 62A.9A-501(a)(2) shall offer to sell or license
5 to the public on a nonexclusive basis, in bulk, copies of all records
6 filed in it under this part, in every medium from time to time
7 available to the filing office. If information provided pursuant to
8 this section includes a list of individuals, disclosure of the list is
9 specifically authorized."

10 Renumber the remaining sections consecutively and correct any
11 internal references accordingly.

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15 On page 1, line 8 of the title, after "62A.9A-513," insert "62A.9A-
16 516, 62A.9A-520, 62A.9A-523,"

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