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ENGROSSED SENATE BILL 5183

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Padden and Kline

Read first time 01/23/13. Referred to Committee on Law & Justice.

1 AN ACT Relating to financing statements to perfect security  
2 interests; amending RCW 62A.9A-502 and 62A.9A-503; providing an  
3 effective date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 62A.9A-502 and 2000 c 250 s 9A-502 are each amended to  
6 read as follows:

7 (a) **Sufficiency of financing statement.** Subject to subsection (b)  
8 of this section, a financing statement is sufficient only if it:

9 (1) Provides the name of the debtor;

10 (2) Provides the name of the secured party or a representative of  
11 the secured party; and

12 (3) Indicates the collateral covered by the financing statement.

13 (b) **Real-property-related financing statements.** Except as  
14 otherwise provided in RCW 62A.9A-501(b), to be sufficient, a financing  
15 statement that covers as-extracted collateral or timber to be cut, or  
16 which is filed as a fixture filing and covers goods that are or are to  
17 become fixtures, must satisfy subsection (a) of this section and also:

18 (1) Indicate that it covers this type of collateral;

1 (2) Indicate that it is to be filed for record in the real property  
2 records;

3 (3) Provide a description of the real property to which the  
4 collateral is related sufficient to give constructive notice of a  
5 mortgage under the law of this state if the description were contained  
6 in a record of the mortgage of the real property; and

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

9 (c) **Record of mortgage as financing statement.** A record of a  
10 mortgage is effective, from the date of recording, as a financing  
11 statement filed as a fixture filing or as a financing statement  
12 covering as-extracted collateral or timber to be cut only if:

- 13 (1) The record indicates the goods or accounts that it covers;
- 14 (2) The goods are or are to become fixtures related to the real  
15 property described in the record or the collateral is related to the  
16 real property described in the record and is as-extracted collateral or  
17 timber to be cut;

18 (3) The record satisfies the requirements for a financing statement  
19 in this section (~~other than an indication that it is to be filed in~~  
20 ~~the real property records~~), but: (A) The record need not indicate  
21 that it is to be filed in the real property records; and (B) the record  
22 sufficiently provides the name of a debtor who is an individual if it  
23 provides the individual name of the debtor or the surname and personal  
24 name of the debtor, even if the debtor is an individual to whom RCW  
25 62A.9A-503(a)(4) applies; and

26 (4) The record is recorded.

27 (d) **Filing before security agreement or attachment.** A financing  
28 statement may be filed before a security agreement is made or a  
29 security interest otherwise attaches.

30 **Sec. 2.** RCW 62A.9A-503 and 2011 c 74 s 401 are each amended to  
31 read as follows:

32 (a) **Sufficiency of debtor's name.** A financing statement  
33 sufficiently provides the name of the debtor:

34 (1) Except as otherwise provided in (3) of this subsection (a), if  
35 the debtor is a registered organization or the collateral is held in a  
36 trust that is a registered organization, only if the financing  
37 statement provides the name that is stated to be the registered

1 organization's name on the public organic record most recently filed  
2 with or issued or enacted by the registered organization's jurisdiction  
3 of organization which purports to state, amend, or restate the  
4 registered organization's name;

5 (2) Subject to subsection (f) of this section, if the collateral is  
6 being administered by the personal representative of a decedent, only  
7 if the financing statement provides, as the name of the debtor, the  
8 name of the decedent and, in a separate part of the financing  
9 statement, indicates that the collateral is being administered by a  
10 personal representative;

11 (3) If the collateral is held in a trust that is not a registered  
12 organization, only if the financing statement:

13 (A) Provides, as the name of the debtor:

14 (i) If the organic record of the trust specifies a name for the  
15 trust, the name specified; or

16 (ii) If the organic record of the trust does not specify a name for  
17 the trust, the name of the settlor or testator; and

18 (B) In a separate part of the financing statement:

19 (i) If the name is provided in accordance with (3)(A)(i) of this  
20 subsection, indicates that the collateral is held in a trust; or

21 (ii) If the name is provided in accordance with (3)(A)(ii) of this  
22 subsection, provides additional information sufficient to distinguish  
23 the trust from other trusts having one or more of the same settlors or  
24 the same testator and indicates that the collateral is held in a trust,  
25 unless the additional information so indicates;

26 (4) Subject to subsection (g) of this section, if the debtor is an  
27 individual to whom this state has issued a driver's license or  
28 identification card that has not expired, only if the financing  
29 statement((+

30 ~~(A) Provides the individual name of the debtor;~~

31 ~~(B) Provides the surname and first personal name of the debtor; or~~

32 ~~(C) Subject to subsection (g) of this section,~~) provides the name  
33 of the individual which is indicated on a driver's license or  
34 identification card ~~((that this state has issued to the individual and~~  
35 ~~which has not expired)); ((and))~~

36 (5) If the debtor is an individual to whom (4) of this subsection  
37 does not apply, only if the financing statement provides the individual

1 name of the debtor or the surname and first personal name of the  
2 debtor; and

3 (6) In other cases:

4 (A) If the debtor has a name, only if the financing statement  
5 provides the organizational name of the debtor; and

6 (B) If the debtor does not have a name, only if the financing  
7 statement provides the names of the partners, members, associates, or  
8 other persons comprising the debtor, in a manner that each name  
9 provided would be sufficient if the person named were the debtor.

10 (b) **Additional debtor-related information.** A financing statement  
11 that provides the name of the debtor in accordance with subsection (a)  
12 of this section is not rendered ineffective by the absence of:

13 (1) A trade name or other name of the debtor; or

14 (2) Unless required under subsection (a)(~~(+5)~~) (6)(B) of this  
15 section, names of partners, members, associates, or other persons  
16 comprising the debtor.

17 (c) **Debtor's trade name insufficient.** A financing statement that  
18 provides only the debtor's trade name does not sufficiently provide the  
19 name of the debtor.

20 (d) **Representative capacity.** Failure to indicate the  
21 representative capacity of a secured party or representative of a  
22 secured party does not affect the sufficiency of a financing statement.

23 (e) **Multiple debtors and secured parties.** A financing statement  
24 may provide the name of more than one debtor and the name of more than  
25 one secured party.

26 (f) **Name of decedent.** The name of the decedent indicated on the  
27 order appointing the personal representative of the decedent issued by  
28 the court having jurisdiction over the collateral is sufficient as the  
29 "name of the decedent" under subsection (a)(2) of this section.

30 (g) **Multiple driver's licenses.** If this state has issued to an  
31 individual more than one driver's license or identification card of a  
32 kind described in subsection (a)(4) of this section, the one that was  
33 issued most recently is the one to which subsection (a)(4) of this  
34 section refers.

35 (h) **Definition.** In this section, the "name of the settlor or  
36 testator" means:

37 (1) If the settlor is a registered organization, the name that is  
38 stated to be the settlor's name on the public organic record most

1 recently filed with or issued or enacted by the settlor's jurisdiction  
2 of organization which purports to state, amend, or restate the  
3 settlor's name; or

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

6 NEW\_SECTION. **Sec. 3.** This act is necessary for the immediate  
7 preservation of the public peace, health, or safety, or support of the  
8 state government and its existing public institutions, and takes effect  
9 July 1, 2013.

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