

88 harass or defraud; or

89 (ii) regardless of whether the affiant seeks a review under Subsection (6)(a)(i), file an  
90 action against the filing office seeking reinstatement of the financing statement to which the  
91 filed record relates.

91a Ĥ→ (b) ←Ĥ Within 10 days after being served with process in an action under this  
92 Subsection (6), the filing office shall file a notice indicating that the action has been  
93 commenced. The notice shall indicate the file number of the initial financing statement to  
94 which it relates.

95 Ĥ→ [(b)] (c) ←Ĥ If the affiant is not named as a defendant in the action described in  
95a Subsection

96 (6)(a)(ii), the secured party shall send a copy of the complaint to the affiant at the address  
97 indicated in the affidavit. The exclusive venue for the action shall be in the Third District  
98 Court. A party may petition the court to consider the matter on an expedited basis.

99 Ĥ→ [(c)] (d) ←Ĥ An action under this Subsection (6) must be filed before the  
99a expiration of six  
100 months after the date on which the termination statement filed under Subsection (3) becomes  
101 effective.

102 (7) If, in an action under Subsection (6), the court determines that the financing  
103 statement should be reinstated, the filing office shall promptly file a record that identifies by its  
104 file number the initial financing statement to which the record relates and indicates that the  
105 financing statement has been reinstated.

106 (8) Upon the filing of a record reinstating a financing statement under Subsection (7),  
107 the effectiveness of the financing statement is reinstated and the financing statement shall be  
108 considered never to have been terminated under this section. A continuation statement filed as  
109 provided in Subsection 70A-9a-515(4) after the effective date of a termination statement filed  
110 under Subsection (3) or (10) becomes effective if the financing statement is reinstated.

111 (9) If, in an action under Subsection (6), the court determines that the filed record  
112 identified in an affidavit delivered to the filing office under Subsection (2) was unauthorized  
113 and was caused to be communicated to the filing office with the intent to harass or defraud the  
114 affiant, the filing office and the affiant may recover from the secured party that filed the action  
115 the costs and expenses, including reasonable attorney fees, that the filing office and the affiant  
116 incurred in the action. This recovery is in addition to any recovery to which the affiant is  
117 entitled under Section 70A-9a-625.

118 (10) If an affidavit delivered to a filing office under Subsection (2) relates to a filed

119 record communicated to the filing office by an established filer, the filing office shall promptly  
 120 send to the secured party of record a notice stating that the affidavit has been delivered to the  
 121 filing office and that the filing office is conducting an administrative review to determine  
 122 whether the record was unauthorized and was caused to be communicated with the intent to  
 123 harass or defraud the affiant. The notice shall be sent by mail to the address provided for the  
 124 secured party in the financing statement or sent by electronic mail to the electronic mail address  
 125 provided by the secured party of record, if any, and a copy shall be sent in the same manner to  
 126 the affiant. The administrative review shall be conducted on an expedited basis and the filing  
 127 office may require the affiant and the secured party of record to provide any additional  
 128 information that the filing office considers appropriate. If the filing office concludes that the  
 129 record was ~~H~~→ **not authorized and was** ←~~H~~ caused to be communicated with the intent to harass  
 129a or defraud the affiant, the  
 130 filing office shall promptly file a termination statement under Subsection (3) that will be  
 131 effective immediately and send to the secured party of record the notice required by Subsection  
 132 (5). The secured party may thereafter file an action for reinstatement under Subsection (6), and  
 133 Subsections (7) through (9) are applicable.

134 Section 3. Section **70A-9a-516** is amended to read:

135 **70A-9a-516. What constitutes filing -- Effectiveness of filing.**

136 (1) Except as otherwise provided in Subsection (2) or [~~(4)~~] (5), communication of a  
 137 record to a filing office and tender of the filing fee or acceptance of the record by the filing  
 138 office constitutes filing.

139 (2) Filing does not occur with respect to a record that a filing office refuses to accept  
 140 because:

141 (a) the record is not communicated by a method or medium of communication  
 142 authorized by the filing office;

143 (b) an amount equal to or greater than the applicable filing fee is not tendered;

144 (c) the filing office is unable to index the record because:

145 (i) in the case of an initial financing statement, the record does not provide a name for  
 146 the debtor;

147 (ii) in the case of an amendment or information statement, the record:

148 (A) does not identify the initial financing statement as required by Section 70A-9a-512  
 149 or 70A-9a-518, as applicable; or

150 (B) identifies an initial financing statement whose effectiveness has lapsed under  
151 Section 70A-9a-515;

152 (iii) in the case of an initial financing statement that provides the name of a debtor  
153 identified as an individual or an amendment that provides a name of a debtor identified as an  
154 individual which was not previously provided in the financing statement to which the record  
155 relates, the record does not identify the debtor's surname; or

156 (iv) in the case of a record filed or recorded in the filing office described in Subsection  
157 70A-9a-501(1)(a), the record does not provide a sufficient description of the real property to  
158 which it relates;

159 (d) in the case of an initial financing statement or an amendment that adds a secured  
160 party of record, the record does not provide a name and mailing address for the secured party of  
161 record;

162 (e) in the case of an initial financing statement or an amendment that provides a name  
163 of a debtor which was not previously provided in the financing statement to which the  
164 amendment relates, the record does not:

165 (i) provide a mailing address for the debtor; or

166 (ii) indicate whether the name provided as the name of the debtor is the name of an  
167 individual or an organization;

168 (f) in the case of an assignment reflected in an initial financing statement under  
169 Subsection 70A-9a-514(1) or an amendment filed under Subsection 70A-9a-514(2), the record  
170 does not provide a name and mailing address for the assignee; ~~or~~

171 (g) in the case of a continuation statement, the record is not filed within the six-month  
172 period prescribed by Subsection 70A-9a-515(4)~~];~~ or

173 (h) in the case of an initial financing statement or an amendment that provides a name  
174 of a debtor that was not previously provided in the financing statement to which the  
175 amendment relates, the record was not communicated to the filing office, as defined in Section  
176 70A-9a-513.5, by an established filer, as defined in Section 70A-9a-513.5, and the filing office  
177 reasonably believes that the record was caused to be communicated to the filing office with the  
178 intent to harass or defraud the person identified as debtor or for another unlawful purpose.

179 (3) ~~It~~ **→** ~~[The]~~ **Except as provided in Section 70A-9a-513.5, the** ~~←~~ **It** filing office  
179a **→** ~~[, as defined in Section 70A-9a-513.5,]~~ ~~←~~ **It** has no duty to form a belief  
180 as to whether a record was caused to be communicated with the intent to harass or defraud the