

1st Sub. S.B. 93

UNIFORM COMMERCIAL CODE FILING AMENDMENTS

SENATE FLOOR AMENDMENTS

AMENDMENT 1

FEBRUARY 4, 2015 2:06 PM

Senator **Lyle W. Hillyard** proposes the following amendments:

1. *Page 3, Lines 57 through 63:*

57 (2) A person identified as debtor in a filed financing statement may deliver to the filing
58 office the debtor's notarized affidavit, signed under penalty of perjury, that identifies the
59 financing statement by file number, indicates the affiant's mailing address, and states that the
60 affiant believes that the filed record identifying the affiant as debtor was caused to be
61 communicated to the filing office with the intent to harass or defraud the affiant. The {~~Division~~
62 ~~of Corporations and Commercial Code~~} filing office shall adopt a form of affidavit for use under this
63 section. **The filing office may reject an affidavit described in this Subsection (2) if:**
(a) the affidavit is incomplete; or
(b) the filing office reasonably believes that the affidavit was communicated to the filing office with the
intent to harass or defraud, or for any other unlawful purpose.

2. *Page 3, Lines 80 through 87:*

80 (6) (a) A secured party that believes in good faith that the filed record identified in an
81 affidavit delivered to the filing office under Subsection (2) was not caused to be communicated
82 to the filing office with the intent to harass or defraud the affiant may :
(i) before the termination statement takes effect under Subsection (2), request the filing office to review
the filed record concerning whether the filed record was filed with the intent to harass or defraud; or
(ii) file an action against the
83 filing office seeking reinstatement of the financing statement to which the filed record relates.
84 (b) If the affiant is not named as a defendant in the action described in Subsection (6)(a)(ii) , the
secured party shall send a copy of
85 the complaint to the affiant at the address indicated in the affidavit. The exclusive venue for
86 the action shall be in the Third District Court. A party may petition the court to consider the
87 matter on an expedited basis.

3. *Page 8, Line 233 through Page 9, Line 243:*

233 76-6-503.7. Records filed with intent to harass or defraud.
234 (1) No person shall cause a record to be communicated to the filing office, as defined
235 in Section 70A-9a-513.5, for filing if:
236 (a) the person is not authorized to file the record under Section 70A-9a-509,
237 70A-9a-708, or 70A-9a-808;

238 (b) the record is not related to an existing or anticipated transaction that is or will be
239 governed by Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions; and

240 (c) the record is filed ~~{with the intent}~~ knowingly or intentionally to :
(i) harass ~~{or defraud}~~ the person identified as debtor

241 in the record ~~{-}~~ ; or
(ii) defraud the person identified as debtor in the record

242 (2) (a) A person ~~{that}~~ who violates Subsection (1) (c)(i) is guilty of a class B
misdemeanor for a first

243 offense and a class A misdemeanor for a second or subsequent offense.

(b) A person who violates Subsection (1)(c)(ii) is guilty of a third degree felony.