

ASSEMBLY, No. 132

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman JONES

1 AN ACT concerning filed financing statements and amending
2 N.J.S.12A:9-403.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. N.J.S.12A:9-403 is amended to read as follows:

8 12A:9-403 Filing of financing statement.

9 (1) Presentation for filing of a financing statement, tender of the
10 filing fee and acceptance of the statement by the filing officer
11 constitute filing under this chapter.

12 (2) Except as provided in subsection (6) a filed financing statement
13 is effective for [a] the period of [five years from the date of filing]
14 time indicated on the financing statement by which the registration is
15 effected. The effectiveness of a filed financing statement lapses on the
16 expiration of the [five-year] period of time indicated on the filed
17 financing statement unless a continuation statement is filed prior to the
18 lapse. If a security interest perfected by filing exists at the time
19 insolvency proceedings are commenced by or against the debtor, the
20 security interest remains perfected until termination of the insolvency
21 proceedings and thereafter for a period of 60 days or until expiration
22 of the [five-year] period of time indicated on the filed financing
23 statement, whichever occurs later. Upon lapse the security interest
24 becomes unperfected, unless it is perfected without filing. If the
25 security interest becomes unperfected upon lapse, it is deemed to have
26 been unperfected as against a person who became a purchaser or lien
27 creditor before lapse.

28 (3) A continuation statement may be filed by the secured party
29 within six months prior to the expiration of the [five-year] time period
30 specified in subsection (2). Any such continuation statement [must]
31 shall be signed by the secured party, identify the original statement by
32 file number and state that the original statement is still effective. A

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 continuation statement signed by a person other than the secured party
2 of record [~~must~~] shall be accompanied by a separate written statement
3 of assignment signed by the secured party of record and complying
4 with subsection (2) of 12A:9-405, including payment of the required
5 fee.

6 Upon timely filing of the continuation statement, the effectiveness
7 of the original statement is continued for [five years after the last date
8 to which the filing was effective] the period of time indicated on the
9 continuation statement whereupon it lapses in the same manner as
10 provided in subsection (2) unless another continuation statement is
11 filed prior to such lapse. Succeeding continuation statements may be
12 filed in the same manner to continue the effectiveness of the original
13 statement. The filing officer shall [so arrange matters by physical
14 annexation of] attach financing statements to continuation statements
15 or other related filings[, or by other means, that if he physically
16 destroys the financing statements of a period more than five years past,
17 those which have been continued by a continuation statement or which
18 are still effective under subsection (6) shall be retained].

19 (4) Except as provided in subsection (7), a filing officer shall mark
20 each statement with a file number [and with] the date and hour of
21 filing, and the period of time for which the statement is effective and
22 shall hold the statement or a microfilm or other photographic copy
23 thereof for public inspection. In addition, the filing officer shall index
24 the statements according to the name of the debtor and shall note in
25 the index the file number and the address of the debtor given in the
26 statement and the period of time for which the statement is effective.
27 A financing statement covering collateral which is or is to become a
28 fixture or fixtures, or crops growing or to be grown, shall also be
29 indexed in the name of the record owner of the realty.

30 (5) The uniform fee for filing, indexing and furnishing filing data
31 for an original or a continuation statement or any amendment of either
32 shall be ~~[\$25.00.]~~ as follows:

- 33 (a) for an original or continuation statement:
34 (i) 1 through 25 year filing option (per year) \$5
35 (ii) infinite filing life option \$500
36 (b) for an amendment \$25
37 (c) for furnishing filing data \$25

38 (6) A real estate mortgage which is effective as a fixture filing
39 under subsection (6) of 12A:9-402 remains effective as a fixture filing
40 until the mortgage is released or satisfied of record or its effectiveness
41 otherwise terminates as to the real estate.

42 (7) When a financing statement covers timber to be cut or covers
43 minerals or the like (including oil and gas) or accounts subject to
44 subsection (5) of 12A:9-103, or is filed as a fixture filing, it shall be
45 filed for record and the filing officer shall index it under the names of
46 the debtor and any owner of record shown on the financing statement

1 in the same fashion as if they were the mortgagors in a mortgage of the
2 real estate described, and, to the extent that the law of this State
3 provides for indexing of mortgages under the name of the mortgagee,
4 under the name of the secured party as if he were the mortgagee
5 thereunder, or where indexing is by description in the same fashion as
6 if the financing statement were a mortgage of the real estate described.
7 (cf: P.L.1987, c.435, s.4)

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9 2. This act shall take effect on the first day of the month
10 immediately following 90 days after the date of enactment.

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12

13 STATEMENT

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15 This bill provides options to the person filing a financing statement
16 to perfect a security interest under Article 9 of the Uniform
17 Commercial Code. Under the bill, the person filing a financing
18 statement would have to write on the financing statement the number
19 of years for which the financing statement shall be effective, from one
20 through 25, or indicate infinite. The bill provides fees in an amount of
21 \$5 per year written on the financing statement or if the person filing
22 the statement chooses the category of infinite, the fee amount charged
23 would be \$500. The bill also provides the opportunity to continue a
24 financing statement, if the initial period of time written on the
25 financing statement was not sufficient.

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30 Concerns the duration of and fees for filed financing statements.