

By Representative Miller

1 A bill to be entitled
2 An act relating to the Department of State;
3 providing legislative findings; amending s.
4 679.401, F.S.; providing for alternative
5 locations of certain filings; creating s.
6 679.4015, F.S.; establishing the Florida
7 Secured Transaction Registry; requiring the
8 Department of State to cease operating as
9 designated filing officer and filing office for
10 certain purposes; providing duties and
11 responsibilities of the Department of State
12 relating to establishing and maintaining the
13 registry; providing criteria for the registry;
14 providing effective dates.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. The Legislature of the State of Florida
19 finds that, consistent with the revisions of the Uniform
20 Commercial Code drafted by the National Conference of
21 Commissioners on Uniform State Laws, the need for government
22 regulation of Florida's secured transaction registry no longer
23 exists. The benefits to the lending industry of Florida in
24 self administration of a registry which affects only that
25 sector are consistent with the legislative policy of reducing
26 the regulation and involvement of government in commerce and
27 business.

28 Section 2. Effective October 1, 2001, subsections (1)
29 and (5) of section 679.401, Florida Statutes, are amended to
30 read:

31

1 679.401 Place of filing; erroneous filing; removal of
2 collateral.--
3 (1) The proper place to file in order to perfect a
4 security interest is as follows:
5 (a) If the collateral is farm products, or accounts,
6 or general intangibles arising from or relating to the sale of
7 farm products by a farmer, by recording:
8 1. In the office of the clerk of the circuit court in
9 the county of the debtor's place of business if he or she has
10 one, in the county of the debtor's chief executive office if
11 he or she has more than one place of business, otherwise in
12 the county of the debtor's residence; or
13 2. If the debtor is not a resident of this state, in
14 the office of the clerk of the circuit court in the county
15 where the collateral is located; and
16 3. In addition, if the collateral is crops, in the
17 office of the clerk of the circuit court in the county where
18 the land is located on which the crops are growing or to be
19 grown.
20 (b) When the collateral is timber to be cut or is
21 minerals or the like (including oil and gas) or is accounts
22 subject to s. 679.103(5) or is goods which are or are to
23 become fixtures, then in the office where a mortgage on the
24 real estate would be filed or recorded.
25 (c) In all other cases, by filing in the office of the
26 Department of State, or as otherwise provided by law.
27 (5) Notwithstanding the preceding subsections, and
28 subject to s. 679.302(3), the proper place to file in order to
29 perfect a security interest in collateral, including fixtures,
30 of a transmitting utility is the office of the Department of
31 State, or as otherwise provided by law.

1 Section 3. Section 679.4015, Florida Statutes, is
2 created to read:

3 679.4015 Florida Secured Transaction Registry.--

4 (1) There is hereby created the Florida Secured
5 Transaction Registry. The Department of State shall cease
6 serving as the designated filing officer and filing office
7 specified in this part no later than October 1, 2001.

8 (2) The Department of State shall immediately develop
9 and issue a Request for Qualifications seeking capable parties
10 to perform both the administrative and operational functions
11 currently being performed by the department as a filing
12 officer and filing office under the Uniform Commercial Code.

13 (a) The qualifications shall, at a minimum, provide
14 for the organization and maintenance of the Florida Secured
15 Transaction Registry as the centralized Uniform Commercial
16 Code filing and retrieval system, which:

17 1. Is comparable and compatible with the existing
18 filing system.

19 2. Is open to the public and accessible through the
20 Internet, to permit the review of all existing filings of the
21 department and all future filings, in compliance with chapter
22 119.

23 3. Provides for oversight and compliance audits by the
24 department.

25 4. Requires records maintenance in compliance with
26 this part and chapter 119.

27 5. Maintains the current level of filing fees and
28 procedures for the deposit of revenues with the department as
29 specified in chapter 15, net of operating costs, for a period
30 of 5 years.

31

1 (b) Notwithstanding the provisions of chapter 287, the
2 Department of State shall select from the respondents the most
3 qualified entities based on the department's qualifications
4 and negotiate a contract.

5 (c) The Department of State shall develop performance
6 standards to ensure that the filing system is accurate and
7 complete and that the users thereof are being well-served.
8 Periodically, the department shall verify that these
9 performance standards are being met or modified as may be
10 needed from time to time.

11 Section 4. Except as otherwise provided herein, this
12 act shall take effect upon becoming a law.

14 *****

15 HOUSE SUMMARY

16 Establishes the Florida Secured Transaction Registry as
17 the filing office for Uniform Commercial Code filings.
18 Requires the Department of State to cease operating as
19 designated filing officer and filing office for Uniform
20 Commercial Code purposes. See bill for details.