

By Senator Campbell

33-358-02

1 A bill to be entitled
2 An act relating to secured transactions under
3 the Uniform Commercial Code; amending s.
4 679.210, F.S.; revising provisions relating to
5 a debtor's request for a list of collateral;
6 amending s. 679.5011, F.S.; correcting
7 grammatical and typographical errors; amending
8 s. 679.510, F.S.; repealing provisions relating
9 to effectiveness of filed records; amending s.
10 679.516, F.S.; repealing provisions allowing
11 filings using a last name and initial; amending
12 s. 679.525, F.S.; revising processing fees for
13 filing an initial financing statement; amending
14 s. 679.527, F.S.; revising provisions relating
15 to maintenance of the Florida Secured
16 Transaction Registry; amending s. 679.625,
17 F.S.; revising provisions relating to remedies
18 for failure to comply with chapter 679, F.S.;
19 providing an effective date.

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21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Subsection (6) of section 679.210, Florida
24 Statutes, is amended to read:

25 679.210 Request for accounting; request regarding list
26 of collateral or statement of account.--

27 (6) A debtor is entitled under this section without
28 charge to one response to a request for an accounting or a
29 request regarding a statement of account for each secured
30 obligation during any 6-month period. A debtor in a consumer
31 transaction is entitled to a single response to a request

1 regarding a list of collateral, ~~for a transaction other than a~~
2 ~~consumer transaction~~, without charge during any 6-month
3 period. The secured party may require payment of a charge not
4 exceeding \$25 for each additional response to a request for an
5 accounting, a request regarding a statement of account, or a
6 request regarding a list of collateral for a consumer
7 transaction. To the extent provided in an authenticated
8 record, the secured party may require the payment of
9 reasonable expenses, including attorney's fees, reasonably
10 incurred in providing a response to a request regarding a list
11 of collateral for a transaction other than a consumer
12 transaction under this section; otherwise, the secured party
13 may not charge more than \$25 for each request regarding a list
14 of collateral. Excluding a request related to a proposed
15 satisfaction of the secured obligation, a secured party is not
16 required to respond to more than 12 of each of the permitted
17 requests in any 12-month period.

18 Section 2. Paragraph (b) of subsection (1) and
19 subsection (2) of section 679.5011, Florida Statutes, are
20 amended to read:

21 679.5011 Filing office.--

22 (1) Except as otherwise provided in subsection (2),
23 the office in which to file a financing statement to perfect a
24 security interest or agricultural lien is:

25 (b) The Florida Secured Transaction Registry, in
26 accordance with ss. 679.3011-679.3071, ~~and~~ in all other cases.

27 (2) The office in which to file a financing statement
28 to perfect a security interest in collateral, including
29 fixtures, of a transmitting utility is the Office of the
30 Secretary of State, or the filing office authorized by
31 s.679.527 ~~s. 697.527~~ to accept filings for the Florida Secured

1 Transaction Registry. The financing statement also
2 constitutes a fixture filing as to the collateral indicated in
3 the financing statement which is or is to become fixtures.

4 Section 3. Subsections (1), (3), and (4) of section
5 679.510, Florida Statutes, are amended to read:

6 679.510 Effectiveness of filed record.--

7 (1) ~~Subject to subsection (3),~~A filed record is
8 effective only to the extent that it was filed by a person who
9 may file it under s. 679.509.

10 ~~(3) If a person may file a termination statement only~~
11 ~~under s. 679.509(3)(b), the filed termination statement is~~
12 ~~effective only if the debtor authorizes the filing and the~~
13 ~~termination statement indicates that the debtor authorized it~~
14 ~~to be filed.~~

15 (3)~~(4)~~ A continuation statement that is not filed
16 within the 6-month period prescribed by s. 679.515(4) is
17 ineffective.

18 Section 4. Subsections (2), (3), and (4) of section
19 679.516, Florida Statutes, are amended to read:

20 679.516 What constitutes filing; effectiveness of
21 filing.--

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

24 (a) The record is not communicated by a method or
25 medium of communication authorized by the filing office;

26 (b) An amount equal to or greater than the applicable
27 processing fee is not tendered;

28 (c) The record does not include the notation required
29 by s. 201.22 indicating that the excise tax required by
30 chapter 201 had been paid or is not required;

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- 1 (d) The filing office is unable to index the record
2 because:
- 3 1. In the case of an initial financing statement, the
4 record does not provide an organization's name or, if an
5 individual, the individual's last name and first name or
6 initial;
- 7 2. In the case of an amendment or correction
8 statement, the record:
- 9 a. Does not correctly identify the initial financing
10 statement as required by s. 679.512 or s. 679.518, as
11 applicable; or
- 12 b. Identifies an initial financing statement the
13 effectiveness of which has lapsed under s. 679.515;
- 14 3. In the case of an initial financing statement that
15 provides the name of a debtor identified as an individual or
16 an amendment that provides a name of a debtor identified as an
17 individual which was not previously provided in the financing
18 statement to which the record relates, the record does not
19 identify the debtor's last name and first name ~~or initial~~; or
- 20 4. In the case of a record filed or recorded in the
21 filing office described in s. 679.5011(1)(a), the record does
22 not provide a sufficient description of the real property to
23 which it relates;
- 24 (e) In the case of an initial financing statement or
25 an amendment that adds a secured party of record, the record
26 does not provide an organization's name or, if an individual,
27 the individual's last name and first name ~~or initial~~ and
28 mailing address for the secured party of record;
- 29 (f) In the case of an initial financing statement or
30 an amendment that provides a name of a debtor which was not
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1 | previously provided in the financing statement to which the
2 | amendment relates, the record does not:
3 | 1. Provide a mailing address for the debtor;
4 | 2. Indicate whether the debtor is an individual or an
5 | organization; or
6 | 3. If the financing statement indicates that the
7 | debtor is an organization, provide:
8 | a. A type of organization for the debtor;
9 | b. A jurisdiction of organization for the debtor; or
10 | c. An organizational identification number for the
11 | debtor or indicate that the debtor has none;
12 | (g) In the case of an assignment reflected in an
13 | initial financing statement under s. 679.514(1) or an
14 | amendment filed under s. 679.514(2), the record does not
15 | provide an organization's name or, if an individual, the
16 | individual's last name and first name ~~or initial~~ and mailing
17 | address for the assignee;
18 | (h) In the case of a continuation statement, the
19 | record is not filed within the 6-month period prescribed by s.
20 | 679.515(4);
21 | (i) In the case of an initial financing statement or
22 | an amendment, which amendment requires the inclusion of a
23 | collateral statement but the record does not provide any, the
24 | record does not provide a statement of collateral; or
25 | (3) For purposes of subsection (2):
26 | (a) A record does not provide information if the
27 | filing office is unable to read or decipher the information;
28 | and
29 | (b) A record that does not indicate that it is an
30 | amendment or identify an initial financing statement to which
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1 it relates, as required by s. 679.512, s. 679.514, or s.
2 679.518, is an initial financing statement.

3 (4) A record that is communicated to the filing office
4 with tender of the filing fee, but that the filing office
5 refuses to accept for a reason other than one set forth in
6 subsection (2), is effective as a filed record except as
7 against a purchaser of the collateral which gives value in
8 reasonable reliance upon the absence of the record from the
9 files.

10 Section 5. Subsection (1) of section 679.525, Florida
11 Statutes, is amended to read:

12 679.525 Processing fees.--

13 (1) Except as otherwise provided in subsection (3),
14 the nonrefundable processing fee for filing and indexing a
15 record under this part, other than an initial financing
16 statement of the kind described in s. 679.5021(3), is:

17 (a) For filing an initial financing statement, ~~\$28~~\$25
18 for the first two pages ~~page~~, which shall include the cost of
19 filing a termination statement for the financing statement;

20 (b) For filing an amendment, \$12 for the first page;

21 (c) For indexing by additional debtor, secured party,
22 or assignee, \$3 per additional name indexed;

23 (d) For use of a nonapproved form, \$5;

24 (e) For each additional page attached to a record, \$3;

25 (f) For filing a financing statement communicated by
26 an electronic filing process authorized by the filing office,
27 \$15 with no additional fees for multiple names or attached
28 pages;

29 (g) For filing an amendment communicated by an
30 electronic filing process authorized by the filing office, \$5
31 with no additional fees for multiple names or attached pages;

1 (h) For a certified copy of a financing statement and
2 any and all associated amendments, \$30; and

3 (i) For a photocopy of a filed record, \$1 per page.

4 Section 6. Subsections (2) and (4) of section 679.527,
5 Florida Statutes, are amended to read:

6 679.527 Florida Secured Transaction Registry.--

7 (2) Under chapter 287, the department has the
8 authority to determine and select the most qualified
9 respondents to the request for qualifications and to negotiate
10 and enter into one or more contracts as provided in this
11 section. The contract may not be assignable or otherwise
12 transferable without the express written consent of the
13 department, notwithstanding any limitation imposed by s.
14 679.4061 or s. 679.4081.

15 (4) Notwithstanding the terms and conditions of any
16 contract to perform the administrative and operational
17 functions of the filing office or filing officer under this
18 part for the Florida Secured Transaction Registry, the
19 department and the state shall retain sole and exclusive
20 ownership of the materials and records of the registry, shall
21 have the right to inspect and make copies of the materials and
22 records of the registry, and shall have the right to
23 immediately reclaim and take possession and control of the
24 original materials and records of the registry if any entity
25 under contract with the department to administer and operate
26 the registry does not, or cannot, perform the terms and
27 conditions of the contract for any reason or commences or is
28 adjudicated a debtor in ~~consents to~~ an insolvency proceeding.
29 If the department reclaims control of the materials and
30 records of the registry, the department shall provide for the
31 uninterrupted fulfillment of the duties of the filing office

1 and filing officer under this chapter by administration and
2 operation by the department until a subsequent contract for
3 such duties can be executed. The department shall be entitled
4 to injunctive relief if the entity fails to turn over the
5 materials and records upon demand, and the Circuit Court for
6 Leon County, Florida, shall have exclusive original
7 jurisdiction to adjudicate any disputes pertaining to this
8 section or any contract entered into under this section.

9 Section 7. Subsection (5) of section 679.625, Florida
10 Statutes, is amended to read:

11 679.625 Remedies for failure to comply with article.--

12 (5) In lieu of damages recoverable under subsection
13 (2), the debtor, consumer obligor, or person named as a debtor
14 in a filed record, as applicable, may recover \$500 in each
15 case from a person who:

16 (a) Fails to comply with s. 679.2081;

17 (b) Fails to comply with s. 679.209;

18 (c) Files a record that the person is not entitled to
19 file under s. 679.509(1);

20 (d) Fails to cause the secured party of record to file
21 or send a termination statement as required by s. 679.513(1)
22 or (3) after receipt of an authenticated record notifying the
23 person of such noncompliance;

24 (e) Fails to comply with s. 679.616(2)(a) and whose
25 failure is part of a pattern, or consistent with a practice,
26 of noncompliance; or

27 (f) Fails to comply with s. 679.616(2)(b) with respect
28 to a consumer transaction, ~~and with respect to a transaction~~
29 ~~other than a consumer transaction,~~ after receipt of an
30 authenticated record notifying the person of such
31 noncompliance.

1 Section 8. This act shall take effect upon becoming a
2 law.

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5 SENATE SUMMARY

6 Revises provisions governing secured transactions under
7 the Uniform Commercial Code. (See bill for details.)
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