

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 3526

DATE: April 4, 2006

Version: Second engrossment

Authors: Vandever

Subject: UCC Article 9 financing statements; fraudulent filings

Analyst: Thomas R. Pender, 651-296-1885

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Background

This bill deals with fraudulent filings of financing statements with the secretary of state under Article 9 of the Uniform Commercial Code, codified in Minnesota Statutes as Article 9 of chapter 336. The bill addresses filings made to harass public officials.

In the regular course of business, a financing statement is filed by a creditor as a public record that the creditor has a security interest in (a lien on) certain personal property owned by a debtor. For instance, a business or individual may buy furniture on credit. The creditor files a financing statement as notice that the creditor has a security interest in the furniture as collateral for payment of the debt. If someone else buys the furniture, or lends money to the owner and accepts a security interest in the furniture as collateral, the new buyer's ownership or the new creditor's security interest in the furniture is subject to the security interest of the first creditor. Financing statements are a way of protecting security interests held by creditors.

Section

- 1 Expedited process to review and determine the effectiveness of financing statements forms.** Provides an expedited court procedure by which any person harmed by a fraudulent financing statement may challenge its validity and get a court determination of whether it is valid.
- 2 Civil liability for fraudulent or otherwise improper financing statements; harassment.**

Section

Provides a civil cause of action for damages against a person who files a financing statement that is fraudulent or filed for an improper purpose. In addition, allows a person harmed by an improper financing statement felony to request specific relief like terminating the financing statement and removing the named debtor from the index so the party would not show up in a search for debtors.

- 3** **Fraudulent or improper financing statement.** Creates a crime of fraudulent or improper felony of a financing statement. Makes it a gross misdemeanor, except it becomes a felony (5 years and/or \$10,000) if the offense (1) is intended to tamper with a juror or judicial proceeding or to retaliate against a judicial officer; or (2) is a second or subsequent offense.

Allows prosecution in the county where the felony is made is where the listed debtor resides.

This section is effective August 1, 2006, for crimes on or after that date.