

HOUSE BILL 202

I4
SB 62/09 – FIN

0lr0366

By: **Delegates Cardin, Morhaim, and Stein**
Introduced and read first time: January 22, 2010
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Uniform Commercial Code – Financing Statements – Termination by**
3 **Government Employees**

4 FOR the purpose of authorizing certain government employees to file certain
5 termination statements with respect to certain financing statements; providing
6 for the contents of the termination statement; requiring a certain filing office to
7 send a copy of the termination statement to a certain secured party along with a
8 certain notice; providing that on the filing of the termination statement, a
9 certain financing statement ceases to be effective as to the government
10 employee; authorizing the secured party to file an action to reinstate a financing
11 statement under certain circumstances; requiring the secured party to provide a
12 certain certified copy of a certain judgment to a certain filing office under
13 certain circumstances; requiring the filing office to file the judgment in a certain
14 manner; providing that on the filing of a certain judgment, a certain financing
15 statement shall be effective and shall be considered never to have been
16 ineffective as against a certain person; authorizing the secured party to file a
17 continuation statement under certain circumstances; providing that a fee may
18 not be charged for the filing of the termination statement; providing that the
19 secured party shall pay the costs, reasonable attorney's fees, and expenses
20 incurred by a government employee in a certain action under certain
21 circumstances; making certain conforming and stylistic changes; defining a
22 certain term; and generally relating to the termination of financing statements
23 by government employees.

24 BY repealing and reenacting, with amendments,
25 Article – Commercial Law
26 Section 9–513 and 9–515(d)
27 Annotated Code of Maryland
28 (2002 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Commercial Law**

4 9–513.

5 (a) A secured party shall cause the secured party of record for a financing
6 statement to file a termination statement for the financing statement if the financing
7 statement covers consumer goods and:

8 (1) There is no obligation secured by the collateral covered by the
9 financing statement and no commitment to make an advance, incur an obligation, or
10 otherwise give value; or

11 (2) The debtor did not authorize the filing of the initial financing
12 statement.

13 (b) To comply with subsection (a), a secured party shall cause the secured
14 party of record to file the termination statement:

15 (1) Within 1 month after there is no obligation secured by the
16 collateral covered by the financing statement and no commitment to make an advance,
17 incur an obligation, or otherwise give value; or

18 (2) If earlier, within 20 days after the secured party receives an
19 authenticated demand from a debtor.

20 (c) In cases not governed by subsection (a), within 20 days after a secured
21 party receives an authenticated demand from a debtor, the secured party shall cause
22 the secured party of record for a financing statement to send to the debtor a
23 termination statement for the financing statement or file the termination statement in
24 the filing office if:

25 (1) Except in the case of a financing statement covering accounts or
26 chattel paper that has been sold or goods that are the subject of a consignment, there
27 is no obligation secured by the collateral covered by the financing statement and no
28 commitment to make an advance, incur an obligation, or otherwise give value;

29 (2) The financing statement covers accounts or chattel paper that has
30 been sold but as to which the account debtor or other person obligated has discharged
31 its obligation;

32 (3) The financing statement covers goods that were the subject of a
33 consignment to the debtor but are not in the debtor's possession; or

34 (4) The debtor did not authorize the filing of the initial financing
35 statement.

1 **(D) (1) IN THIS SUBSECTION, “GOVERNMENT EMPLOYEE” MEANS:**

2 **(A) AN ELECTED OR APPOINTED OFFICIAL OF THE STATE**
3 **OR A POLITICAL SUBDIVISION OF THE STATE;**

4 **(B) AN EMPLOYEE OF:**

5 **(I) THE STATE;**

6 **(II) A COUNTY, MUNICIPAL CORPORATION, OR OTHER**
7 **POLITICAL SUBDIVISION OF THE STATE; OR**

8 **(III) A UNIT OF THE STATE GOVERNMENT OR OF A**
9 **POLITICAL SUBDIVISION OF THE STATE; OR**

10 **(C) A MEMBER OF AN AUTHORITY, BOARD, OR COMMISSION**
11 **ESTABLISHED BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.**

12 **(2) A GOVERNMENT EMPLOYEE WHO IS LISTED AS A DEBTOR ON A**
13 **FINANCING STATEMENT BECAUSE OF THE OFFICE OR POSITION HELD BY THE**
14 **GOVERNMENT EMPLOYEE, AND WHO DID NOT AUTHORIZE THE FILING OF THE**
15 **FINANCING STATEMENT, MAY FILE A TERMINATION STATEMENT FOR THE**
16 **FINANCING STATEMENT.**

17 **(3) A TERMINATION STATEMENT FILED UNDER THIS SUBSECTION**
18 **SHALL STATE THAT:**

19 **(A) THE DEBTOR IS A GOVERNMENT EMPLOYEE; AND**

20 **(B) THE GOVERNMENT EMPLOYEE DID NOT AUTHORIZE THE**
21 **FILING OF THE FINANCING STATEMENT.**

22 **(4) ON THE FILING OF A TERMINATION STATEMENT UNDER THIS**
23 **SUBSECTION, THE FILING OFFICE SHALL SEND A COPY OF THE TERMINATION**
24 **STATEMENT BY FIRST-CLASS MAIL TO THE SECURED PARTY OF RECORD FOR**
25 **THE FINANCING STATEMENT ALONG WITH A NOTICE STATING THAT THE**
26 **FINANCING STATEMENT HAS BEEN TERMINATED.**

27 **(5) ON THE FILING OF A TERMINATION STATEMENT UNDER THIS**
28 **SUBSECTION, THE FINANCING STATEMENT TO WHICH THE TERMINATION**
29 **STATEMENT RELATES CEASES TO BE EFFECTIVE AS TO THE GOVERNMENT**
30 **EMPLOYEE.**

1 **(6) (A)** IF THE SECURED PARTY BELIEVES IN GOOD FAITH THAT
2 THE FINANCING STATEMENT WAS AUTHORIZED AND PROPERLY FILED, THE
3 SECURED PARTY, WITHIN 60 DAYS AFTER THE DATE THE NOTICE OF
4 TERMINATION IS SENT, MAY FILE AN ACTION TO REINSTATE THE FINANCING
5 STATEMENT IN THE CIRCUIT COURT WHERE THE FILING OFFICE IS LOCATED OR
6 WHERE THE GOVERNMENT EMPLOYEE RESIDES.

7 **(B)** IF THE COURT DETERMINES THAT THE FINANCING
8 STATEMENT SHOULD BE REINSTATED, THE SECURED PARTY SHALL PROVIDE A
9 CERTIFIED COPY OF THE FINAL JUDGMENT TO THE FILING OFFICE.

10 **(C)** ON RECEIPT, THE FILING OFFICE SHALL FILE THE
11 JUDGMENT IN A MANNER THAT IDENTIFIES THE FINANCING STATEMENT TO
12 WHICH THE FINAL JUDGMENT RELATES AND INDICATES THAT THE FINANCING
13 STATEMENT HAS BEEN REINSTATED.

14 **(7) (A)** ON THE FILING OF A FINAL JUDGMENT REINSTATING A
15 FINANCING STATEMENT UNDER PARAGRAPH **(6)** OF THIS SUBSECTION, THE
16 FINANCING STATEMENT SHALL BE EFFECTIVE AND SHALL BE CONSIDERED
17 NEVER TO HAVE BEEN INEFFECTIVE AS AGAINST A PERSON THAT IS NOT A
18 PURCHASER OF THE COLLATERAL FOR VALUE.

19 **(B)** IF A FINANCING STATEMENT THAT IS REINSTATED
20 WOULD HAVE LAPSED DURING THE PERIOD OF TERMINATION, THE SECURED
21 PARTY MAY FILE A CONTINUATION STATEMENT WITHIN 30 DAYS AFTER THE
22 FINAL JUDGMENT OF THE COURT REINSTATING THE FINANCING STATEMENT IS
23 FILED.

24 **(8)** A FEE MAY NOT BE CHARGED FOR A FILING OF A
25 TERMINATION STATEMENT UNDER THIS SUBSECTION.

26 **(9)** IF THE COURT IN AN ACTION TO REINSTATE A FINANCING
27 STATEMENT DETERMINES THAT THE FINANCING STATEMENT IS FRAUDULENT,
28 THE SECURED PARTY OF RECORD THAT FILED THE FINANCING STATEMENT
29 SHALL PAY THE COSTS, REASONABLE ATTORNEY'S FEES, AND EXPENSES
30 INCURRED BY THE GOVERNMENT EMPLOYEE IN THE ACTION.

31 **[(d)] (E)** Except as otherwise provided in § 9-510, AND SUBJECT TO
32 SUBSECTION **(D)(5)** OF THIS SECTION, [upon] ON the filing of a termination
33 statement with the filing office, the financing statement to which the termination
34 statement relates ceases to be effective. Except as otherwise provided in § 9-510, for
35 purposes of §§ 9-519(f), 9-522(a), and 9-523(b), the filing with the filing office of a
36 termination statement relating to a financing statement that indicates that the debtor

1 is a transmitting utility also causes the effectiveness of the financing statement to
2 lapse.

3 9–515.

4 (d) [A] **EXCEPT AS PROVIDED IN § 9–513(D)**, A continuation statement
5 may be filed only within six months before the expiration of the five–year period
6 specified in subsection (a), the 30–year period specified in subsection (b), or the date
7 the financing statement ceases to be effective under § 9–705(c) of this title, whichever
8 is applicable.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2010.