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STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
LANSING

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House Bill 4840 (As Introduced)

Topic: Uniform Commercial Code—Unauthorized Liens
Sponsor: Representative Coulouris
Co-sponsors: None
Committee: House Banking and Financial Services

Date Introduced: April 29, 2009

Date of Summary: May 20, 2009

The bill amends the Uniform Commercial Code to prohibit the filing of a financing statement against a public officer by a person not authorized to file. A public officer may file an affidavit stating that a financing statement was filed by a person not entitled to file. The filing office receiving such an affidavit is required to file a termination statement. No fee would be charged for the affidavit or termination, but the filer of the financing statement would not be entitled to a refund of filing fees.

An individual who believes in good faith that he or she was entitled to file the financing statement may file an action to reinstate. This action would be in either the Ingham County Circuit Court if the public officer was an employee of the state or in the circuit court of the county in which the public officer filing the affidavit resides. A court that determines that a financing statement should be reinstated is required to provide a copy of its order to the filing office. Upon receipt of the reinstatement order a filing office is required to file a record that identifies by its file number the initial financing statement and indicates that the financing statement has been reinstated. A reinstated filing statement is retroactively reinstated and is to be considered never to have been ineffective. If a reinstated financing statement would have lapsed during the period between termination and restatement, the secured party may file a continuation statement not later than 30 days after the reinstatement record is filed. The effectiveness of the financing statement continues for five days after the day on which the financing statement would have lapsed if a termination statement had not been filed.

If the court determines that the individual was not entitled to file the financing statement, that individual is required to pay the costs and expenses, including legal fees, of the public officer in the action. An individual knowingly filing a false affidavit is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$2,500, or both.

The bill strikes out existing language in the act relating to filing fraudulent statements.

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Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

Section 9521 is amended by striking the reference to the current format prescribed by the National Conference of Commissioners on Uniform State laws and publishing the current form.

The bill repeals Section 9501a, which sets forth the current procedure relating to fraudulent financing statements.