STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1331 By: Smith

AS INTRODUCED

An Act relating to commercial law; amending 12A O.S. 1991, Section 9-402, which relates to financing statements; providing for construction of certain provisions with respect to paper or electronic filings; specifying intent and application of certain provisions; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12A O.S. 1991, Section 9-402, is amended to read as follows:

Section 9-402. Formal Requisites of Financing Statement; Amendments; Mortgage as Financing Statement.

(1) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financing statement covers timber to be cut or covers minerals or the like, including oil and gas, or accounts subject to subsection (5) of Section 9-103.1 of this title, or when the financing statement is filed as a fixture filing (Section 9-313 of this title) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5) of this section, as

applicable, and Section 9-401A of this title. A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic, or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in:

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; or

(b) proceeds under Section 9-306 of this title if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) collateral ~~as to~~ for which the filing has lapsed; or

(d) collateral acquired after a change of name, identity, or corporate structure of the debtor (subsection (7) of this section).

(3) A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor).....

Address.....

Name of secured party (or assignee).....

Address.....

1. This financing statement covers the following types (or items) of property:

(Describe).....

2. (If collateral is crops) The above described crops are growing or are to be grown on:

(Describe Real Estate).....

3. (If applicable) The above (goods are to become fixtures on) (timber is standing on) (minerals or the like (including oil and gas) or accounts will be financed at the wellhead or minehead of the well or mine located on):

(Describe Real Estate).....

and this financing statement is to be filed against the tract index in the real estate records.

4. (If products of collateral are claimed) Products of the collateral are also covered.

.....

Signature of Debtor (or Assignor).....

.....

Signature of Secured Party (or Assignee).....

(Use whichever signature is applicable)

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) When a writing constituting a mortgage upon lands, or interests in lands such as oil and gas leasehold estates, also covers minerals to be severed from such lands, equipment used in mining, storing, treating, and marketing such minerals and the

accounts and proceeds to be derived from disposition of such minerals contains a legal description of such lands sufficient to comply with Sections 287, 291 and 298 of Title 19 of the Oklahoma Statutes, as amended, has been validly executed, acknowledged, and recorded in the office of the county clerk for the county in which ~~such~~ the lands are located, ~~such~~ the mortgage shall constitute a financing statement covering ~~such~~ the collateral and no other filing or recording shall be required to perfect the security interests in ~~such~~ the collateral covered by the mortgage. The mortgage shall remain effective to perfect ~~such~~ the security interests until it shall be released or satisfied of record or its effectiveness as to the lands or interests in lands described therein shall be otherwise effectively terminated. A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of Section 9-103.1 of this title, or a financing statement filed as a fixture filing (Section 9-313 of this title) where the debtor is not a transmitting utility, that is not a mortgage as set out in the first sentence of this subsection, must show that it covers this type of collateral, must recite that it is to be filed against the tract index in the real estate records and must comply with Section 9-401A of this title, but may be recorded and shall be effective as a financing statement even though it does not comply with the execution and acknowledgement requirements of Sections 15, 26, 93, 94, or 95 of Title 16 of the Oklahoma Statutes, as amended, or other statutes, if any, of like import that would impose requirements beyond those of the kind encompassed in this title.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if it complies with subsection (5) of this section or if:

(a) the goods are described in the mortgage by item or type;

(b) the goods are or are to become fixtures related to the real estate described in the mortgage;

(c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed against the tract index; and

(d) the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership, or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes ~~his~~ the debtor's name, or in the case of an organization, its name, identity, or corporate structure, that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

(9) Nothing in this title shall be construed to require that a financing statement or other filing made under its provisions be created or transmitted to the filing office on paper. A financing statement or other filing made in accordance with procedures adopted by the filing office is not ineffective or insufficient because the financing statement or other filing is generated or transmitted

electronically. The provisions of this subsection are intended to clarify law existing before the effective date of this act, and the authority expressed herein is within the authority of the filing office to control its records. This act applies to the filing of a financing statement or other filing made before, on, or after the effective date of this act.

SECTION 2. This act shall become effective November 1, 2000.

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