

By: Representative Simpson

To: Banks and Banking

HOUSE BILL NO. 1442

1 AN ACT TO AMEND SECTION 75-9-403, MISSISSIPPI CODE OF 1972,
2 TO REVISE PROVISIONS WITH REGARD TO FINANCING STATEMENTS UNDER THE
3 SECURED TRANSACTIONS PORTION OF THE UNIFORM COMMERCIAL CODE; AND
4 FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. Section 75-9-403, Mississippi Code of 1972, is
7 amended as follows:

8 75-9-403. (1) Presentation for filing of a financing
9 statement and tender of the filing fee or acceptance of the
10 statement by the filing officer constitutes filing under this
11 chapter.

12 (2) Except as provided in subsection (6), a filed financing
13 statement is effective for a period of five (5) years from the
14 date of filing. The effectiveness of a filed financing statement
15 lapses on the expiration of the five-year period unless a
16 continuation statement is filed prior to the lapse. If a security
17 interest perfected by filing exists at the time insolvency
18 proceedings are commenced by or against the debtor, the security
19 interest remains perfected until termination of the insolvency
20 proceedings and thereafter for a period of sixty (60) days or
21 until expiration of the five-year period, whichever occurs later.
22 Upon lapse, the security interest becomes unperfected unless it is
23 perfected without filing. If the security interest becomes
24 unperfected upon lapse, it is deemed to have been unperfected as
25 against a person who became a purchaser or lien creditor before
26 lapse. Except as provided in subsection (6), this section shall
27 apply to all filed financing statements, including fixture filings

28 filed in the real estate records where the mortgage on the real
29 estate is filed.

30 (3) A continuation statement may be filed by the secured
31 party within six (6) months prior to the expiration of the
32 five-year period specified in subsection (2). Any such
33 continuation statement must be signed by the secured party,
34 identify the original statement by file number, and state that the
35 original statement is still effective. A continuation statement
36 signed by a person other than the secured party of record must be
37 accompanied by a separate written statement of assignment signed
38 by the secured party of record and complying with Section
39 75-9-405(2), including payment of the required fee. Upon timely
40 filing of the continuation statement, the effectiveness of the
41 original statement is continued for five (5) years after the last
42 date to which the filing was effective, whereupon it lapses in the
43 same manner as provided in subsection (2) unless another
44 continuation statement is filed prior to such lapse. Succeeding
45 continuation statements may be filed in the same manner to
46 continue the effectiveness of the original statement. Unless a
47 statute on disposition of public records provides otherwise, the
48 filing officer may remove a lapsed statement from the files and
49 destroy it immediately if he has retained a microfilm or other
50 photographic record, or in other cases after one (1) year after
51 the lapse. The filing officer shall so arrange matters by
52 physical annexation of financing statements to continuation
53 statements or other related filings, or by other means, that if he
54 physically destroys the financing statements of a period more than
55 five (5) years past, those which have been continued by a
56 continuation statement or which are still effective under
57 subsection (6) shall be retained.

58 (4) Except as provided in subsection (7), a filing officer
59 shall mark each statement with a file number and with the date and
60 hour of filing and shall hold the statement or a microfilm or
61 other photographic copy thereof for public inspection. In
62 addition, the filing officer shall index the statements according
63 to the name of the debtor and shall note in the index the file
64 number and the address of the debtor given in the statement.

65 Also, for indexing purposes, a continuation statement shall be
66 treated as a financing statement by the filing officer and indexed
67 in the same manner as financing statements.

68 (5) (a) Except as provided in (b) of this subsection, upon
69 the filing of an original financing statement or a continuation
70 statement, the filing officer will furnish the secured party a
71 copy thereof showing the file number and the date, hour and place
72 of filing. If the statement is in the standard form prescribed by
73 the Secretary of State, the filing fee shall be Five Dollars
74 (\$5.00), and otherwise it shall be Ten Dollars (\$10.00). The
75 secured party may, at his option, show a trade name for any
76 person. The uniform fee for each name, including trade name, more
77 than one (1) required to be indexed shall be Two Dollars (\$2.00).

78 (b) If an original financing statement or a continuation
79 statement is filed under the provisions of Section 75-9-402(5),
80 the uniform fee for recording and indexing the first page of the
81 statement shall be Five Dollars (\$5.00). If the statement
82 consists of more than one (1) page, the recording fee for such
83 excess shall be determined in accordance with Section
84 25-7-9(1)(f). The secured party may, at his option, show a trade
85 name for any person. The uniform fee for indexing each name,
86 including trade name, more than one (1) shall be Two Dollars
87 (\$2.00), and if more than one (1) entry is required to be made in
88 the sectional index, the provisions of Section 25-7-9(1)(f) shall
89 apply to the excess. When the statement has been recorded and
90 indexed, the filing officer will return the statement, or a copy
91 thereof, to the secured party showing the date, hour, book and
92 page number and place of recording.

93 (6) If the debtor is a transmitting utility (Section
94 75-9-401(5)) and a filed financing statement so states, it is
95 effective until a termination statement is filed. A real estate
96 mortgage which is effective as a fixture filing under Section
97 75-9-402(6) remains effective as a fixture filing until the

98 mortgage is released or satisfied of record or its effectiveness
99 otherwise terminates as to the real estate. A financing statement
100 covering a mobile home, other than a mobile home constituting
101 inventory, remains effective, if it so states, until a termination
102 statement is filed.

103 (7) When a financing statement covers timber to be cut or
104 covers minerals or the like (including oil and gas) or accounts
105 subject to Section 75-9-103(5) or is filed as a fixture filing, it
106 shall be filed for record and the filing officer shall index it
107 under the names of the debtor and any owner of record shown on the
108 financing statement in the same fashion as if they were the
109 mortgagors in a mortgage of the real estate described, and, to the
110 extent that the law of this state provides for indexing of
111 mortgages under the name of the mortgagee, under the name of the
112 secured party as if he were the mortgagee thereunder, or where
113 indexing is by description in the same fashion as if the financing
114 statement were a mortgage of the real estate described.

115 SECTION 2. This act shall take effect and be in force from
116 and after July 1, 1999.