

Enrolled
Senate Bill 462

Sponsored by Senator PROZANSKI (Presession filed.)

CHAPTER

AN ACT

Relating to secured transactions in personal property; creating new provisions; amending ORS 79.0502 and 79.0503; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 79.0502 is amended to read:

79.0502. (1) Subject to subsection (2) of this section, a financing statement is sufficient only if it:

- (a) Provides the name of the debtor;
- (b) Provides the name of the secured party or a representative of the secured party; and
- (c) Indicates the collateral covered by the financing statement.

(2) Except as otherwise provided in ORS 79.0501 (2), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (1) of this section and also:

- (a) Indicate that it covers this type of collateral;
- (b) Indicate that it is to be filed for record in the real property records;
- (c) Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
- (d) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(3) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

- (a) The record indicates the goods or accounts that it covers;
- (b) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
- (c) The record satisfies the requirements for a financing statement in this section [*other than an indication that it*] **except that:**

(A) The record need not indicate that the record is to be filed in the real property records; and

(B) If the record provides the name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom ORS 79.0503 (1)(d) applies, the record sufficiently provides the name of a debtor; and

- (d) The record is duly recorded.

(4) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

SECTION 2. ORS 79.0503 is amended to read:

79.0503. (1) A financing statement sufficiently provides the name of the debtor:

(a) Except as otherwise provided in paragraph (c) of this subsection, if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name that is stated to be the registered organization's name on the public organic record most recently filed with or issued or enacted by the registered organization's jurisdiction of organization that purports to state, amend or restate the registered organization's name;

(b) Subject to subsection (6) of this section, if the collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the collateral is being administered by a personal representative;

(c) If the collateral is held in a trust that is not a registered organization, only if the financing statement:

(A) Provides, as the name of the debtor:

(i) If the organic record of the trust specifies a name for the trust, the name specified; or

(ii) If the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

(B) In a separate part of the financing statement:

(i) If the name is provided in accordance with subparagraph (A)(i) of this paragraph, indicates that the collateral is held in trust; or

(ii) If the name is provided in accordance with subparagraph (A)(ii) of this paragraph, provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

[(d) If the debtor is an individual, only if the financing statement:]

[(A) Provides the individual name of the debtor;]

[(B) Provides the surname and first personal name of the debtor; or]

[(C) Subject to subsection (7) of this section, provides the name of the individual that is indicated on a driver license or identification card that this state has issued to the individual and that has not expired; and]

(d) Subject to subsection (7) of this section, if the debtor is an individual to whom this state has issued a driver license or identification card that has not expired, only if the financing statement provides the name of the individual that is indicated on the driver license or identification card;

(e) If the debtor is an individual to whom paragraph (d) of this subsection does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and

[(e)] **(f)** In other cases:

(A) If the debtor has a name, only if the financing statement provides the organizational name of the debtor; and

(B) If the debtor does not have a name, only if the financing statement provides the names of the partners, members, associates or other persons comprising the debtor in a manner that each name provided would be sufficient if the person named were the debtor.

(2) A financing statement that provides the name of the debtor in accordance with subsection (1) of this section is not rendered ineffective by the absence of:

(a) A trade name or other name of the debtor; or

(b) Unless required under subsection *[(1)(e)(B)]* **(1)(f)(B)** of this section, names of partners, members, associates or other persons comprising the debtor.

(3) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(4) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(5) A financing statement may provide the name of more than one debtor and the name of more than one secured party.

(6) The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the name of the decedent under subsection (1)(b) of this section.

(7) If this state has issued to an individual more than one driver license or identification card of a kind described in subsection [(1)(d)(C)] (1)(d) of this section, the one that was issued most recently is the one to which subsection [(1)(d)(C)] (1)(d) of this section refers.

(8) As used in this section, "name of the settlor or testator" means:

(a) If the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization that purports to state, amend or restate the settlor's name; or

(b) In other cases, the name of the settlor or testator indicated in the trust's organic record.

SECTION 3. (1) Except as otherwise provided in sections 4 to 10 of this 2015 Act, the amendments to ORS 79.0502 and 79.0503 by sections 1 and 2 of this 2015 Act apply to a transaction or lien that is within the scope of ORS 79.0502 or 79.0503, as amended by sections 1 and 2 of this 2015 Act, respectively, even if the transaction or lien was entered into or created before the operative date specified in section 11 of this 2015 Act.

(2) The amendments to ORS 79.0502 and 79.0503 by sections 1 and 2 of this 2015 Act do not affect an action, case or proceeding that began before the operative date specified in section 11 of this 2015 Act.

SECTION 4. (1) A security interest that is a perfected security interest before the operative date specified in section 11 of this 2015 Act is a perfected security interest under ORS 79.0502 and 79.0503, as amended by sections 1 and 2 of this 2015 Act, if, after the operative date specified in section 11 of this 2015 Act, the applicable requirements for attachment and perfection under ORS 79.0502 and 79.0503, as amended by sections 1 and 2 of this 2015 Act, are satisfied without further action.

(2) Except as otherwise provided in section 6 of this 2015 Act, if, before the operative date specified in section 11 of this 2015 Act, a security interest is a perfected security interest but the applicable requirements for perfection under ORS 79.0502 and 79.0503, as amended by sections 1 and 2 of this 2015 Act, are not satisfied on or before the operative date specified in section 11 of this 2015 Act, the security interest remains perfected after the operative date specified in section 11 of this 2015 Act only if the applicable requirements for perfection under ORS 79.0502 and 79.0503, as amended by sections 1 and 2 of this 2015 Act, are satisfied within one year after the operative date specified in section 11 of this 2015 Act.

SECTION 5. A security interest that is an unperfected security interest before the operative date specified in section 11 of this 2015 Act becomes a perfected security interest:

(1) Without further action on or after the operative date specified in section 11 of this 2015 Act if the applicable requirements for perfection under ORS 79.0502 and 79.0503, as amended by sections 1 and 2 of this 2015 Act, are satisfied on or before the operative date specified in section 11 of this 2015 Act; or

(2) When the applicable requirements for perfection are satisfied, if the applicable requirements are satisfied after the operative date specified in section 11 of this 2015 Act.

SECTION 6. (1) Filing a financing statement before the operative date specified in section 11 of this 2015 Act is effective to perfect a security interest to the extent that the filing would satisfy the applicable requirements for perfection under ORS 79.0502 and 79.0503, as amended by sections 1 and 2 of this 2015 Act.

(2) The amendments to ORS 79.0502 and 79.0503 by sections 1 and 2 of this 2015 Act do not render ineffective an effective financing statement that, before the operative date specified in section 11 of this 2015 Act, is filed and satisfies the applicable requirements for perfection under a law that governs perfection in a jurisdiction, as provided in ORS 79.0102, 79.0105, 79.0208, 79.0307, 79.0311, 79.0316, 79.0317, 79.0326, 79.0335, 79.0406, 79.0408, 79.0502, 79.0503, 79.0507, 79.0515, 79.0516, 79.0518, 79.0521, 79.0607, 79.0619, 803.030 and 803.097, as the statutes existed before the operative date specified in section 11 of this 2015 Act. Except as provided in subsections (3) and (4) of this section and section 7 of this 2015 Act, however, the financing statement ceases to be effective:

(a) At the time a financing statement filed in this state would have ceased to be effective if the amendments to ORS 79.0502 and 79.0503 by sections 1 and 2 of this 2015 Act had not become operative; or

(b) At the earlier of:

(A) The time at which the financing statement would have ceased to be effective under the law of a jurisdiction, other than this state, in which the financing statement was filed; or

(B) January 1, 2021.

(3) Filing a continuation statement after the operative date specified in section 11 of this 2015 Act does not continue the effectiveness of a financing statement that was filed before the operative date specified in section 11 of this 2015 Act, but timely filing a continuation statement after the operative date specified in section 11 of this 2015 Act and in accordance with the law that governs perfection in the jurisdiction in which the continuation statement was filed, as provided in ORS 79.0502 and 79.0503, as amended by sections 1 and 2 of this 2015 Act, continues the effectiveness of the financing statement for the period provided in the law of the jurisdiction.

(4) Subsection (2)(b)(B) of this section applies to a financing statement that, before the operative date specified in section 11 of this 2015 Act, is filed in a jurisdiction against a transmitting utility and satisfies the applicable requirements for perfection under the law that governs perfection in the jurisdiction, as provided in ORS 79.0102, 79.0105, 79.0208, 79.0307, 79.0311, 79.0316, 79.0317, 79.0326, 79.0335, 79.0406, 79.0408, 79.0502, 79.0503, 79.0507, 79.0515, 79.0516, 79.0518, 79.0521, 79.0607, 79.0619, 803.030 and 803.097, as the statutes existed before the operative date specified in section 11 of this 2015 Act, only to the extent that the amendments to statutes by sections 1 to 19, 22 and 23, chapter 12, Oregon Laws 2012, provide that the law of the jurisdiction, other than the jurisdiction in which the financing statement is filed, governs perfection of a security interest in collateral covered by the financing statement.

(5) A financing statement that includes a financing statement that was filed before the operative date specified in section 11 of this 2015 Act and a continuation statement filed after the operative date specified in section 11 of this 2015 Act is effective only to the extent that the financing statement satisfies the requirements of ORS 79.0503, 79.0515, 79.0516, 79.0518 and 79.0521, as amended by sections 12, 14, 15, 16 and 17, chapter 12, Oregon Laws 2012, for an initial financing statement. A financing statement that indicates that the debtor is a trust or is a trustee that is acting with respect to property held in trust indicates that the collateral is held in a trust within the meaning of ORS 79.0503 (1)(c), as amended by section 2 of this 2015 Act.

SECTION 7. (1) Filing an initial financing statement in the office specified in ORS 79.0501 continues the effectiveness of a financing statement filed before the operative date specified in section 11 of this 2015 Act if:

(a) Filing an initial financing statement in the office would be effective to perfect a security interest under ORS 79.0502 and 79.0503, as amended by sections 1 and 2 of this 2015 Act;

(b) The financing statement filed before the operative date specified in section 11 of this 2015 Act was filed in an office in another state; and

(c) The initial financing statement satisfies the provisions of subsection (3) of this section.

(2) For a financing statement filed before the operative date specified in section 11 of this 2015 Act, filing an initial financing statement under subsection (1) of this section continues the effectiveness of the financing statement for the period provided in ORS 79.0515 with respect to an initial financing statement.

(3) To be effective for the purposes of subsection (1) of this section, an initial financing statement must:

(a) Satisfy the requirements of ORS 79.0501 to 79.0528 for the initial financing statement;

(b) Identify the financing statement that was filed before the operative date specified in section 11 of this 2015 Act by indicating the office in which the financing statement filed and providing the filing date and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(c) Indicate that the financing statement filed before the operative date specified in section 11 of this 2015 Act remains effective.

SECTION 8. (1) After the operative date specified in section 11 of this 2015 Act, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a financing statement that was filed in a jurisdiction before the operative date specified in section 11 of this 2015 Act only in accordance with the law that governs perfection in the jurisdiction, as provided in ORS 79.0502 and 79.0503, as amended by sections 1 and 2 of this 2015 Act. The effectiveness of a financing statement that was filed before the operative date specified in section 11 of this 2015 Act may also be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(2) Except as otherwise provided in subsection (3) of this section, if the law of this state governs perfection of a security interest, the information in a financing statement that is filed before the operative date specified in section 11 of this 2015 Act may be amended after the operative date specified in section 11 of this 2015 Act only if:

(a) The financing statement that is filed before the operative date specified in section 11 of this 2015 Act and an amendment are filed in the office specified in ORS 79.0501;

(b) An amendment is filed in the office specified in ORS 79.0501 concurrently with or after filing in the office an initial financing statement that satisfies section 7 (3) of this 2015 Act; or

(c) An initial financing statement that provides the information as amended and satisfies section 7 (3) of this 2015 Act is filed in the office specified in ORS 79.0501.

(3) If the law of this state governs perfection of a security interest, the effectiveness of a financing statement that is filed before the operative date specified in section 11 of this 2015 Act may be continued only under section 6 (3) or (5) or section 7 of this 2015 Act.

(4) Regardless of whether the law of this state governs perfection of a security interest, the effectiveness of a financing statement that is filed in this state before the operative date specified in section 11 of this 2015 Act may be terminated after the operative date specified in section 11 of this 2015 Act by filing a termination statement in an office in which the financing statement that was filed before the operative date specified in section 11 of this 2015 Act was filed, unless an initial financing statement that satisfies section 7 (3) of this 2015 Act has been filed in the office that the law that governs perfection in the jurisdiction specifies as the office in which to file a financing statement, as provided in the amendments to statutes by sections 1 to 19, 22 and 23, chapter 12, Oregon Laws 2012.

SECTION 9. A person may file an initial financing statement or a continuation statement as provided in this section or section 3, 4, 5, 6, 7, 8 or 10 of this 2015 Act if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under the provisions of this section or section 3, 4, 5, 6, 7, 8 or 10 of this 2015 Act to:

(a) Continue the effectiveness of a financing statement that was filed before the operative date specified in section 11 of this 2015 Act; or

(b) Perfect or continue the perfection of a security interest.

SECTION 10. ORS 79.0102, 79.0105, 79.0208, 79.0307, 79.0311, 79.0316, 79.0317, 79.0326, 79.0335, 79.0406, 79.0408, 79.0502, 79.0503, 79.0507, 79.0515, 79.0516, 79.0518, 79.0521, 79.0607, 79.0619, 801.495, 803.030 and 803.097 determine the priority of conflicting claims to collateral, but if the relative priorities of the claims were established before the operative date specified in section 11 of this 2015 Act, ORS 79.0102, 79.0105, 79.0208, 79.0307, 79.0311, 79.0316, 79.0317, 79.0326, 79.0335, 79.0406, 79.0408, 79.0502, 79.0503, 79.0507, 79.0515, 79.0516, 79.0518, 79.0521, 79.0607, 79.0619, 801.495, 803.030 and 803.097, as the statutes existed before the operative date specified in section 11 of this 2015 Act, determine priority.

SECTION 11. The amendments to ORS 79.0502 and 79.0503 by sections 1 and 2 of this 2015 Act become operative January 1, 2016.

SECTION 12. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by Senate April 22, 2015

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 11, 2015

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State