

House Bill 2600

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that record of financing statement sufficiently provides name of debtor who is individual when record provides individual name, or surname and first personal name, of debtor.

Provides that financing statement sufficiently provides name of debtor who is individual when financing statement provides name of debtor as indicated on debtor's valid Oregon driver license or identification card or provides individual name, or surname and first personal name, of debtor if debtor does not hold valid Oregon driver license or identification card.

Becomes operative on July 1, 2013.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to secured transactions in personal property; creating new provisions; amending ORS
3 79.0502 and 79.0503; and declaring an emergency.

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

5 **SECTION 1.** ORS 79.0502 is amended to read:

6 79.0502. (1) Subject to subsection (2) of this section, a financing statement is sufficient only if
7 it:

8 (a) Provides the name of the debtor;

9 (b) Provides the name of the secured party or a representative of the secured party; and

10 (c) Indicates the collateral covered by the financing statement.

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

14 (a) Indicate that it covers this type of collateral;

15 (b) Indicate that it is to be filed for record in the real property records;

16 (c) Provide a description of the real property to which the collateral is related sufficient to give
17 constructive notice of a mortgage under the law of this state if the description were contained in
18 a record of the mortgage of the real property; and

19 (d) If the debtor does not have an interest of record in the real property, provide the name of
20 a record owner.

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

24 (a) The record indicates the goods or accounts that it covers;

25 (b) The goods are or are to become fixtures related to the real property described in the record
26 or the collateral is related to the real property described in the record and is as-extracted collateral
27 or timber to be cut;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) The record satisfies the requirements for a financing statement in this section *[other than*
 2 *an indication that it]* **except that:**

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

5 **(B) If the record provides the name of the debtor or the surname and first personal name**
 6 **of the debtor, even if the debtor is an individual to whom ORS 79.0503 (1)(d) applies, the re-**
 7 **cord sufficiently provides the name of the debtor; and**

8 (d) The record is *[duly]* recorded.

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

11 **SECTION 2.** ORS 79.0503, as amended by section 12, chapter 12, Oregon Laws 2012, is amended
 12 to read:

13 79.0503. (1) A financing statement sufficiently provides the name of the debtor:

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

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

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

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

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

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

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

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

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

36 (d) If the debtor is an individual **to whom this state has issued a driver license or identifi-**
 37 **cation card that has not expired and, subject to subsection (7) of this section,** only if the fi-
 38 nancing statement^[.] **provides the name of the individual that is indicated on the driver license**
 39 **or identification card;**

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

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

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

45 **(e) If the debtor is an individual to whom paragraph (d) of this subsection does not apply,**

1 **only if the financing statement provides the individual name of the debtor and the surname**
2 **and first personal name of the debtor; and**

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

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

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

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

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

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

14 (3) A financing statement that provides only the debtor's trade name does not sufficiently pro-
15 vide the name of the debtor.

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

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

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

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

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

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

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

31 **SECTION 3. The amendments to ORS 79.0502 and 79.0503 by sections 1 and 2 of this 2013**
32 **Act become operative on July 1, 2013.**

33 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**
34 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
35 **on its passage.**

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