

A-Engrossed
Senate Bill 462

Ordered by the Senate April 20
Including Senate Amendments dated April 20

Sponsored by Senator PROZANSKI (Pre-session filed.)

Corrected 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.

Provides that record [*of mortgage*] is effective as financing statement if record satisfies requirements for financing statement and sufficiently provides name of debtor.

Provides that financing statement sufficiently provides name of debtor if financing statement provides name of individual indicated on driver license or identification that state has issued to debtor and that has not expired.

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

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 or timber to be cut;

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

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

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

9 (d) The record is duly recorded.

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

12 **SECTION 2.** ORS 79.0503 is amended 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, only if the financing statement:*]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 **SECTION 3. (1) Except as otherwise provided in sections 4 to 10 of this 2015 Act, the**
33 **amendments to ORS 79.0502 and 79.0503 by sections 1 and 2 of this 2015 Act apply to a**
34 **transaction or lien that is within the scope of ORS 79.0502 or 79.0503, as amended by sections**
35 **1 and 2 of this 2015 Act, respectively, even if the transaction or lien was entered into or**
36 **created before the operative date specified in section 11 of this 2015 Act.**

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

40 **SECTION 4. (1) A security interest that is a perfected security interest before the oper-**
41 **ative date specified in section 11 of this 2015 Act is a perfected security interest under ORS**
42 **79.0502 and 79.0503, as amended by sections 1 and 2 of this 2015 Act, if, after the operative**
43 **date specified in section 11 of this 2015 Act, the applicable requirements for attachment and**
44 **perfection under ORS 79.0502 and 79.0503, as amended by sections 1 and 2 of this 2015 Act,**
45 **are satisfied without further action.**

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

9 **SECTION 5.** A security interest that is an unperfected security interest before the op-
10 erative date specified in section 11 of this 2015 Act becomes a perfected security interest:

11 (1) Without further action on or after the operative date specified in section 11 of this
12 2015 Act if the applicable requirements for perfection under ORS 79.0502 and 79.0503, as
13 amended by sections 1 and 2 of this 2015 Act, are satisfied on or before the operative date
14 specified in section 11 of this 2015 Act; or

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

17 **SECTION 6.** (1) Filing a financing statement before the operative date specified in section
18 11 of this 2015 Act is effective to perfect a security interest to the extent that the filing
19 would satisfy the applicable requirements for perfection under ORS 79.0502 and 79.0503, as
20 amended by sections 1 and 2 of this 2015 Act.

21 (2) The amendments to ORS 79.0502 and 79.0503 by sections 1 and 2 of this 2015 Act do
22 not render ineffective an effective financing statement that, before the operative date spec-
23 ified in section 11 of this 2015 Act, is filed and satisfies the applicable requirements for per-
24 fection under a law that governs perfection in a jurisdiction, as provided in ORS 79.0102,
25 79.0105, 79.0208, 79.0307, 79.0311, 79.0316, 79.0317, 79.0326, 79.0335, 79.0406, 79.0408, 79.0502,
26 79.0503, 79.0507, 79.0515, 79.0516, 79.0518, 79.0521, 79.0607, 79.0619, 803.030 and 803.097, as the
27 statutes existed before the operative date specified in section 11 of this 2015 Act. Except as
28 provided in subsections (3) and (4) of this section and section 7 of this 2015 Act, however, the
29 financing statement ceases to be effective:

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

33 (b) At the earlier of:

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

37 (B) January 1, 2021.

38 (3) Filing a continuation statement after the operative date specified in section 11 of this
39 2015 Act does not continue the effectiveness of a financing statement that was filed before
40 the operative date specified in section 11 of this 2015 Act, but timely filing a continuation
41 statement after the operative date specified in section 11 of this 2015 Act and in accordance
42 with the law that governs perfection in the jurisdiction in which the continuation statement
43 was filed, as provided in ORS 79.0502 and 79.0503, as amended by sections 1 and 2 of this 2015
44 Act, continues the effectiveness of the financing statement for the period provided in the law
45 of the jurisdiction.

1 (4) Subsection (2)(b)(B) of this section applies to a financing statement that, before the
2 operative date specified in section 11 of this 2015 Act, is filed in a jurisdiction against a
3 transmitting utility and satisfies the applicable requirements for perfection under the law
4 that governs perfection in the jurisdiction, as provided in ORS 79.0102, 79.0105, 79.0208,
5 79.0307, 79.0311, 79.0316, 79.0317, 79.0326, 79.0335, 79.0406, 79.0408, 79.0502, 79.0503, 79.0507,
6 79.0515, 79.0516, 79.0518, 79.0521, 79.0607, 79.0619, 803.030 and 803.097, as the statutes existed
7 before the operative date specified in section 11 of this 2015 Act, only to the extent that the
8 amendments to statutes by sections 1 to 19, 22 and 23, chapter 12, Oregon Laws 2012, provide
9 that the law of the jurisdiction, other than the jurisdiction in which the financing statement
10 is filed, governs perfection of a security interest in collateral covered by the financing
11 statement.

12 (5) A financing statement that includes a financing statement that was filed before the
13 operative date specified in section 11 of this 2015 Act and a continuation statement filed after
14 the operative date specified in section 11 of this 2015 Act is effective only to the extent that
15 the financing statement satisfies the requirements of ORS 79.0503, 79.0515, 79.0516, 79.0518
16 and 79.0521, as amended by sections 12, 14, 15, 16 and 17, chapter 12, Oregon Laws 2012, for
17 an initial financing statement. A financing statement that indicates that the debtor is a
18 trust or is a trustee that is acting with respect to property held in trust indicates that the
19 collateral is held in a trust within the meaning of ORS 79.0503 (1)(c), as amended by section
20 2 of this 2015 Act.

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

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

27 (b) The financing statement filed before the operative date specified in section 11 of this
28 2015 Act was filed in an office in another state; and

29 (c) The initial financing statement satisfies the provisions of subsection (3) of this sec-
30 tion.

31 (2) For a financing statement filed before the operative date specified in section 11 of this
32 2015 Act, filing an initial financing statement under subsection (1) of this section continues
33 the effectiveness of the financing statement for the period provided in ORS 79.0515 with re-
34 spect to an initial financing statement.

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

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

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

42 (c) Indicate that the financing statement filed before the operative date specified in sec-
43 tion 11 of this 2015 Act remains effective.

44 **SECTION 8.** (1) After the operative date specified in section 11 of this 2015 Act, a person
45 may add or delete collateral covered by, continue or terminate the effectiveness of, or oth-

1 erwise amend the information provided in, a financing statement that was filed in a juris-
2 diction before the operative date specified in section 11 of this 2015 Act only in accordance
3 with the law that governs perfection in the jurisdiction, as provided in ORS 79.0502 and
4 79.0503, as amended by sections 1 and 2 of this 2015 Act. The effectiveness of a financing
5 statement that was filed before the operative date specified in section 11 of this 2015 Act
6 may also be terminated in accordance with the law of the jurisdiction in which the financing
7 statement is filed.

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

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

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

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

19 (3) If the law of this state governs perfection of a security interest, the effectiveness of
20 a financing statement that is filed before the operative date specified in section 11 of this
21 2015 Act may be continued only under section 6 (3) or (5) or section 7 of this 2015 Act.

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

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

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

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

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

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

39 **SECTION 10.** ORS 79.0102, 79.0105, 79.0208, 79.0307, 79.0311, 79.0316, 79.0317, 79.0326,
40 79.0335, 79.0406, 79.0408, 79.0502, 79.0503, 79.0507, 79.0515, 79.0516, 79.0518, 79.0521, 79.0607,
41 79.0619, 801.495, 803.030 and 803.097 determine the priority of conflicting claims to collateral,
42 but if the relative priorities of the claims were established before the operative date specified
43 in section 11 of this 2015 Act, ORS 79.0102, 79.0105, 79.0208, 79.0307, 79.0311, 79.0316, 79.0317,
44 79.0326, 79.0335, 79.0406, 79.0408, 79.0502, 79.0503, 79.0507, 79.0515, 79.0516, 79.0518, 79.0521,
45 79.0607, 79.0619, 801.495, 803.030 and 803.097, as the statutes existed before the operative date

1 **specified in section 11 of this 2015 Act, determine priority.**

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

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

7
