

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

# A Bill

HOUSE BILL 1984

5 By: Representative Dunn  
6  
7

## For An Act To Be Entitled

9 AN ACT TO PROVIDE CENTRAL FILING WITH THE  
10 SECRETARY OF STATE FOR AGRICULTURAL LIENS AND  
11 FARM-RELATED SECURITY INTERESTS; TO PROVIDE FOR  
12 FILING FEES WITH THE SECRETARY OF STATE AND THE  
13 DISTRIBUTION OF FILING FEES; AND FOR OTHER  
14 PURPOSES.

## Subtitle

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16 TO PROVIDE CENTRAL FILING WITH THE  
17 SECRETARY OF STATE FOR AGRICULTURAL  
18 LIENS AND FARM-RELATED SECURITY  
19 INTERESTS AND TO PROVIDE FILING FEES  
20 WITH THE SECRETARY OF STATE AND THE  
21 DISTRIBUTION OF FILING FEES.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code § 4-9-501 is amended to read as follows:  
28 4-9-501. Filing office.

29 (a) Except as otherwise provided in subsection (b), if the local law  
30 of this state governs perfection of a security interest or agricultural lien,  
31 the office in which to file a financing statement to perfect the security  
32 interest or agricultural lien is:

33 (1) the office designated for the filing or recording of a  
34 record of a mortgage on the related real property, if:

35 (A) the collateral is as-extracted collateral or timber to  
36 be cut; or



1 (B) the financing statement is filed as a fixture filing  
2 and the collateral is goods that are or are to become fixtures; or

3 (2) ~~the office of the circuit clerk in the county in which the~~  
4 ~~debtor is located in this state if the debtor is engaged in farming~~  
5 ~~operations and the collateral is equipment used in farming operations, or~~  
6 ~~farm products, or accounts arising from the sale of farm products; or~~  
7 [Reserved.]

8 (3) the office of the Secretary of State, in all other cases,  
9 including a case in which the collateral is goods that are or are to become  
10 fixtures and the financing statement is not filed as a fixture filing.

11 (b) The office in which to file a financing statement to perfect a  
12 security interest in collateral, including fixtures, of a transmitting  
13 utility is the office of the Secretary of State. The financing statement also  
14 constitutes a fixture filing as to the collateral indicated in the financing  
15 statement which is or is to become fixtures.

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17 SECTION 2. Arkansas Code § 4-9-510 is amended to read as follows:

18 4-9-510. Effectiveness of filed record.

19 (a) A filed record is effective only to the extent that it was filed  
20 by a person that may file it under § 4-9-509.

21 (b) A record authorized by one (1) secured party of record does not  
22 affect the financing statement with respect to another secured party of  
23 record.

24 (c) A Except as provided in subsection (d) of this section, a  
25 continuation statement that is not filed within the six-month period  
26 prescribed by § 4-9-515(d) is ineffective.

27 (d)(1) A financing statement, a continuation statement to extend the  
28 effectiveness of a financing statement, and a termination statement is  
29 ineffective if:

30 (A) Filed under former § 4-9-501(2) after midnight,  
31 December 31, 2009, with the circuit clerk of the county where a debtor  
32 engaged in farming operations is located; and

33 (B) The collateral described in the financing statement is  
34 an agricultural lien or a security interest in equipment used in farming  
35 operations, farm products, or accounts arising from the sale of farm  
36 products.

1           (2) Unless a continuation statement is filed under subdivision  
 2 (d)(3) of this section, a financing statement that perfects an agricultural  
 3 lien or a security interest in equipment used in farming operations, farm  
 4 products, or accounts arising from the sale of farm products expires on the  
 5 earlier of:

6                   (A) The date that the financing statement would lapse  
 7 under § 4-9-515(c) if a continuation statement was not filed; or

8                   (B) July 1, 2010.

9           (3) The effectiveness of a financing statement that perfects an  
 10 agricultural lien or a security interest in equipment used in farming  
 11 operations, farm products, or accounts arising from the sale of farm products  
 12 may be continued by filing a continuation statement with the Secretary of  
 13 State before the financing statement expires under subdivision (d)(2) of this  
 14 section.

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 16           SECTION 3. Arkansas Code § 4-9-515 is amended to read as follows:

17           4-9-515. Duration and effectiveness of financing statement – Effect of  
 18 lapsed financing statement.

19           (a) Except as otherwise provided in § 4-9-510(d) or subsections (b),  
 20 (e), (f), and (g) of this section, a filed financing statement is effective  
 21 for a period of five (5) years after the date of filing.

22           (b) Except as otherwise provided in subsections (e), (f), and (g), an  
 23 initial financing statement filed in connection with a public-finance  
 24 transaction or manufactured-home transaction is effective for a period of  
 25 thirty (30) years after the date of filing if it indicates that it is filed  
 26 in connection with a public-finance transaction or manufactured-home  
 27 transaction.

28           (c) The effectiveness of a filed financing statement lapses on the  
 29 expiration of the period of its effectiveness unless before the lapse a  
 30 continuation statement is filed pursuant to subsection (d) of this section or  
 31 § 4-9-510(d). Upon lapse, a financing statement ceases to be effective and  
 32 any security interest or agricultural lien that was perfected by the  
 33 financing statement becomes unperfected, unless the security interest is  
 34 perfected otherwise. If the security interest or agricultural lien becomes  
 35 unperfected upon lapse, it is deemed never to have been perfected as against  
 36 a purchaser of the collateral for value.

1 (d)(1) A Except as provided in subdivision (d)(2) of this section, a  
 2 continuation statement may be filed only within six (6) months before the  
 3 expiration of the five-year period specified in subsection (a) or the thirty-  
 4 year period specified in subsection (b), whichever is applicable.

5 (2) A continuation statement may be filed under § 4-9-510(d)(3)  
 6 to extend the effectiveness of a financing statement that perfects a security  
 7 interest or agricultural lien that would otherwise expire pursuant to § 4-9-  
 8 510(d)(2).

9 (e) Except as otherwise provided in § 4-9-510, upon timely filing of a  
 10 continuation statement, the effectiveness of the initial financing statement  
 11 continues for a period of five (5) years commencing on the day on which the  
 12 financing statement would have become ineffective in the absence of the  
 13 filing. Upon the expiration of the five-year period, the financing statement  
 14 lapses in the same manner as provided in subsection (c), unless, before the  
 15 lapse, another continuation statement is filed pursuant to subsection (d).  
 16 Succeeding continuation statements may be filed in the same manner to  
 17 continue the effectiveness of the initial financing statement.

18 (f) If a debtor is a transmitting utility and a filed financing  
 19 statement so indicates, the financing statement is effective until a  
 20 termination statement is filed.

21 (g) A record of a mortgage that is effective as a financing statement  
 22 filed as a fixture filing under § 4-9-502(c) remains effective as a financing  
 23 statement filed as a fixture filing until the mortgage is released or  
 24 satisfied of record or its effectiveness otherwise terminates as to the real  
 25 property.

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 27 SECTION 4. Arkansas Code § 4-9-525 is amended to read as follows:  
 28 4-9-525. Fees.

29 (a) Except as otherwise provided in subsection (e), the fee for filing  
 30 and indexing a record, whether by paper or electronically, under this part,  
 31 other than an initial financing statement of the kind described in § 4-9-  
 32 502(c), is:

33 (1) Records filed only with the Secretary of State pursuant to §  
 34 4-9-501(a)(3), from July 1, 2001, through June 30, ~~2013~~ 2015 – sixteen  
 35 dollars (\$16.00), for filing and indexing the initial financing statement and  
 36 termination statements, if the record consists of one (1) page. On and after

1 July 1, ~~2013~~ 2015 - twelve dollars (\$12.00), for filing and indexing the  
 2 initial financing statement and termination statements, if the record  
 3 consists of one (1) page; and

4 ~~(2) Records filed with circuit clerks pursuant to § 4-9-~~  
 5 ~~501(a)(2) - twelve dollars (\$12.00), for filing and indexing the initial~~  
 6 ~~financing statement and termination statements, if the record consists of one~~  
 7 ~~(1) page;~~

8 ~~(3)~~ Fifty cents (\$0.50) per page up to a maximum of one hundred  
 9 dollars (\$100) if the record consists of more than one (1) page.

10 (b)(1) The fee for filing a continuation, ~~whether with the Secretary~~  
 11 ~~of State or a circuit clerk,~~ is six dollars (\$6.00).

12 (2) The fee for filing a termination statement, ~~whether with the~~  
 13 ~~Secretary of State or a circuit clerk,~~ is six dollars (\$6.00) if it pertains  
 14 to the filing of a financing statement before July 28, 1995.

15 (3) The fee for each separate search, ~~whether by the Secretary~~  
 16 ~~of State or a circuit clerk,~~ is six dollars (\$6.00).

17 (4) The fee for filing an assignment, ~~whether with the Secretary~~  
 18 ~~of State or a circuit clerk,~~ is six dollars (\$6.00).

19 (5) The fee for filing a release, ~~whether with the Secretary of~~  
 20 ~~State or a circuit clerk,~~ is six dollars (\$6.00).

21 (6) The fee for filing an amendment, ~~whether with the Secretary~~  
 22 ~~of State or a circuit clerk,~~ is six dollars (\$6.00).

23 (c) The number of names required to be indexed does not affect the  
 24 amount of the fee in subsection (a).

25 (d) The fee for issuing a certificate or for furnishing a copy of any  
 26 record on file naming a particular debtor, is:

27 (1) Six dollars (\$6.00) if the record consists of one (1) page;  
 28 and

29 (2) Fifty cents (\$0.50) per page for each page up to a maximum  
 30 of one hundred dollars (\$100) if the records supplied consist of more than  
 31 one (1) page.

32 (e) This section does not fix the fee with respect to a record of a  
 33 mortgage which is effective as a financing statement filed as a fixture  
 34 filing or as a financing statement covering as-extracted collateral or timber  
 35 to be cut under § 4-9-502(c). However, the recording and satisfaction fees  
 36 that otherwise would be applicable to the record of the mortgage apply.

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SECTION 5. Effective date. This act becomes effective January 1, 2010.