

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

*As Engrossed: H3/18/99 S4/6/99*

## A Bill

HOUSE BILL 1965

5 By: Representative Vess  
6  
7

### For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE § 4-9-404 TO CLARIFY  
10 THE UNIFORM FEE FOR FILING AND INDEXING A TERMINATION  
11 STATEMENT; AND FOR OTHER PURPOSES."

### Subtitle

14 "TO CLARIFY THE UNIFORM FEE FOR FILING  
15 AND INDEXING A TERMINATION STATEMENT."  
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17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code 4-9-404 is amended to read as follows:

21 "4-9-404. Termination statement.

22 (1) If a financing statement covering any goods is filed, then within  
23 sixty (60) days or within ten (10) days following written demand by the debtor  
24 after there is no outstanding secured obligation and no commitment to make  
25 advances, incur obligations, or otherwise give value, the secured party must  
26 file with each filing officer with whom the financing statement was filed, a  
27 termination statement to the effect that he no longer claims a security  
28 interest under the financing statement, which shall be identified by file  
29 number. The secured party shall not be required to file a termination  
30 statement in the event of the lapse of a filing or the debtor waives filing of  
31 the termination statement. A termination statement signed by a person other  
32 than the secured party of record must be accompanied by a separate written  
33 statement of assignment signed by the secured party of record and complying  
34 with § 4-9-405(2), including payment of the required fee. If the affected  
35 secured party fails to file such a termination statement as required by this  
36 subsection, or to send such a termination statement within ten (10) days after

1 proper demand therefor, he shall be liable to the debtor for one hundred  
2 dollars (\$100), and in addition for any loss caused to the debtor by such  
3 failure.

4 (2) On presentation to the filing officer of such a termination  
5 statement he must note it in the index. If he has received the termination  
6 statement in duplicate, he shall return one (1) copy of the termination  
7 statement to the secured party stamped to show the time of receipt thereof. If  
8 the filing officer has a microfilm or other photographic record of the  
9 financing statement, and of any related continuation statement, statement of  
10 assignment, and statement of release, he may remove the originals from the  
11 files at any time after receipt of the termination statement, or if he has no  
12 such record, he may remove them from the files at any time after one (1) year  
13 after receipt of the termination statement.

14 (3)(A) The uniform fee for filing and indexing a termination statement  
15 including sending or delivering the financing statement shall not exceed six  
16 dollars (\$6.00).

17 (B) In counties with a population in excess of 150,000 persons,  
18 the uniform fee for filing and indexing a termination statement including  
19 sending or delivering the financing statement shall not exceed six dollars  
20 (\$6.00) for the first page and two dollars (\$2.00) for each and every page or  
21 exhibit thereafter, up to a maximum fee of one hundred (\$100).

22 (C) For filings with the Secretary of State's Office, the uniform  
23 fee for filing and indexing a termination statement including sending or  
24 delivering the financing statement shall not exceed ten dollars (\$10.00) for  
25 the first page and two dollars (\$2.00) for each and every page or exhibit  
26 thereafter, up to a maximum fee of one hundred dollars (\$100). For filing  
27 with the Secretary of State's Office after July 1, 2001, the uniform fee for  
28 filing and indexing a termination statement including sending or delivering  
29 the financing statement shall not exceed six dollars (\$6.00) for the first  
30 page and two dollars (\$2.00) for each and every page or exhibit thereafter, up  
31 to a maximum fee of one hundred dollars (\$100).

32 (D) However, this The fee for filing and indexing a termination  
33 statement shall be collected by the filing officer at the time of the initial  
34 filing and indexing of the original financing statement."

35  
36 SECTION 2. Arkansas Code 4-9-403(5) is amended to read as follows:

1           “(5) The uniform fee for filing and indexing and for stamping a copy  
2 furnished by the secured party to show the date and place of filing for an  
3 original financing statement or for a continuation statement shall not exceed  
4 six dollars (\$6.00) for the first page and two dollars (\$2.00) for each and  
5 every page or exhibit thereafter, up to a maximum fee of one hundred dollars  
6 (\$100). For filings with the Secretary of State's Office, the uniform fee for  
7 filing and indexing and for stamping a copy furnished by the secured party to  
8 show the date and place of filing for an original financing statement or for a  
9 continuation statement shall not exceed ten dollars (\$10.00) for the first  
10 page and two dollars (\$2.00) for each and every page or exhibit thereafter, up  
11 to a maximum fee of one hundred dollars (\$100). For filings with the  
12 Secretary of State's Office after July 1, 2001, the uniform fee for filing and  
13 indexing and for stamping a copy furnished by the secured party to show the  
14 date and place of filing for an original financing statement or for a  
15 continuation statement shall not exceed six dollars (\$6.00) for the first page  
16 and two dollars (\$2.00) for each and every page or exhibit thereafter, up to a  
17 maximum fee of one hundred dollars (\$100).”

18  
19           SECTION 3. Arkansas Code 4-9-405 is amended to read as follows:

20           “4-9-405. Assignment of security interest - Duties of filing officer -  
21 Fees.

22           (1) A financing statement may disclose an assignment of a security  
23 interest in the collateral described in the financing statement by indication  
24 in the financing statement of the name and address of the assignee or by an  
25 assignment itself or a copy thereof on the face or back of the statement. On  
26 presentation to the filing officer of such a financing statement, the filing  
27 officer shall mark the same as provided in § 4-9-403(4). The uniform fee for  
28 filing, indexing, and furnishing filing data for a financing statement so  
29 indicating an assignment shall not exceed six dollars (\$6.00) for the first  
30 page and two dollars (\$2.00) for each and every page or exhibit thereafter, up  
31 to a maximum fee of one hundred dollars (\$100). For filings with the Secretary  
32 of State's Office, the uniform fee for filing, indexing, and furnishing filing  
33 data for a financing statement so indicating an assignment shall not exceed  
34 ten dollars (\$10.00) for the first page and two dollars (\$2.00) for each and  
35 every page or exhibit thereafter, up to a maximum fee of one hundred dollars  
36 (\$100). For filings with the Secretary of State's Office after July 1, 2001,

1 the uniform fee for filing, indexing, and furnishing filing data for a  
2 financing statement so indicating an assignment shall not exceed six dollars  
3 (\$6.00) for the first page and two dollars (\$2.00) for each and every page or  
4 exhibit thereafter, up to a maximum fee of one hundred dollars (\$100).

5 (2) A secured party may assign of record all or part of his rights under  
6 a financing statement by the filing in the place where the original financing  
7 statement was filed of a separate written statement of assignment signed by  
8 the secured party of record and setting forth the name of the secured party of  
9 record and the debtor, the file number, and the date of filing of the  
10 financing statement and the name and address of the assignee and containing a  
11 description of the collateral assigned. A copy of the assignment is sufficient  
12 as a separate statement if it complies with the preceding sentence. On  
13 presentation to the filing officer of such a separate statement, the filing  
14 officer shall mark such separate statement with the date and hour of the  
15 filing. He shall note the assignment on the index of the financing statement,  
16 or in the case of a fixture filing, or a filing covering timber to be cut, or  
17 covering minerals or the like (including oil and gas) or accounts subject to  
18 §4-9-103(5), he shall index the assignment under the name of the assignor or  
19 grantor, and, to the extent that the law of this state provides for indexing  
20 the assignment of a mortgage under the name of the assignee, he shall index  
21 the assignment of the financing statement under the name of the assignee. The  
22 uniform fee for filing, indexing, and furnishing filing data about such a  
23 separate statement of assignment shall not exceed six dollars (\$6.00) for the  
24 first page and two dollars (\$2.00) for each and every page or exhibit  
25 thereafter, up to a maximum fee of one hundred dollars (\$100). For filings  
26 with the Secretary of State's Office, the uniform fee for filing, indexing,  
27 and furnishing filing data about such a separate statement of assignment shall  
28 not exceed ten dollars (\$10.00) for the first page and two dollars (\$2.00) for  
29 each and every page or exhibit thereafter, up to a maximum fee of one hundred  
30 dollars (\$100). For filings with the Secretary of State's Office after July  
31 1, 2001, the uniform fee for filing, indexing, and furnishing filing data  
32 about such a separate statement of assignment shall not exceed six dollars  
33 (\$6.00) for the first page and two dollars (\$2.00) for each and every page or  
34 exhibit thereafter, up to a maximum fee of one hundred dollars (\$100).  
35 Notwithstanding the provisions of this subsection, an assignment of record of  
36 a security interest in a fixture contained in a mortgage effective as a

1 fixture filing (§ 4-9-402(6)) may be made only by an assignment of the  
2 mortgage in the manner provided by the law of this state other than this  
3 subtitle.

4 (3) After the disclosure or filing of an assignment under this section,  
5 the assignee is the secured party of record."  
6

7 SECTION 4. Arkansas Code 4-9-406 is amended to read as follows:

8 "4-9-406. Release of collateral - Duties of filing officer - Fees.

9 A secured party of record may by his signed statement release all or a  
10 part of any collateral described in a filed financing statement. The statement  
11 of release is sufficient if it contains a description of the collateral being  
12 released, the name and address of the debtor, the name and address of the  
13 secured party, and the file number of the financing statement. A statement of  
14 release signed by a person other than the secured party of record must be  
15 accompanied by a separate written statement of assignment signed by the  
16 secured party of record and complying with § 4-9-405(2), including payment of  
17 the required fees. Upon presentation of such a statement of release to the  
18 filing officer he shall mark the statement with the hour and the date of  
19 filing and shall note the same upon the margin of the index of the filing of  
20 the financing statement. There shall be a fee for filing and noting such a  
21 statement of release not to exceed six dollars (\$6.00) for the first page and  
22 two dollars (\$2.00) for each and every page or exhibit thereafter, up to a  
23 maximum fee of one hundred dollars (\$100). In the Secretary of State's Office  
24 there shall be a fee for filing and noting such a statement of release not to  
25 exceed ten dollars (\$10.00) for the first page and two dollars (\$2.00) for  
26 each and every page or exhibit thereafter, up to a maximum fee of one hundred  
27 dollars (\$100). In the Secretary of State's Office after July 1, 2001, there  
28 shall be a fee for filing and noting such a statement of release not to exceed  
29 six dollars (\$6.00) for the first page and two dollars (\$2.00) for each and  
30 every page or exhibit thereafter, up to a maximum fee of one hundred dollars  
31 (\$100)."

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33 SECTION 5. Arkansas Code 4-9-407(2) is amended to read as follows:

34 "(2) Upon request of any person, the filing officer shall issue his  
35 certificate showing whether there is on file on the date and hour stated  
36 therein any presently effective financing statement naming a particular debtor

1 and any statement of assignment thereof and if there is, giving the date and  
2 hour of filing of each such statement and the names and addresses of each  
3 secured party named therein. The fee for such a certificate shall not exceed  
4 six dollars (\$6.00). Upon request, the filing officer shall furnish a copy of  
5 any filed financing statement, continuation statement, termination statement,  
6 statement of assignment or statement of release for a fee of six dollars  
7 (\$6.00) for the first page and two dollars (\$2.00) for each and every page or  
8 exhibit thereafter, up to a maximum fee of one hundred dollars (\$100). The fee  
9 for such a certificate from the Secretary of State's Office shall not exceed  
10 ten dollars (\$10.00). Upon request, the Secretary of State shall furnish a  
11 copy of any filed financing statement, continuation statement, termination  
12 statement, statement of assignment or statement of release for a fee of ten  
13 dollars (\$10.00) for the first page and two dollars (\$2.00) for each and every  
14 page or exhibit thereafter, up to a maximum fee of one hundred dollars (\$100).  
15 The fee for such a certificate from the Secretary of State's Office after July  
16 1, 2001 shall not exceed six dollars (\$6.00). Upon request, the Secretary of  
17 State shall furnish after July 1, 2001 a copy of any filed financing  
18 statement, continuation statement, termination statement, statement of  
19 assignment or statement of release for a fee not to exceed six dollars (\$6.00)  
20 for the first page and two dollars (\$2.00) for each and every page or exhibit  
21 thereafter, up to a maximum fee of one hundred dollars (\$100)."

22

23 SECTION 6. All provisions of this act of a general and permanent nature  
24 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
25 Revision Commission shall incorporate the same in the Code."

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27 SECTION 7. If any provision of this act or the application thereof to  
28 any person or circumstance is held invalid, such invalidity shall not affect  
29 other provisions or applications of the act which can be given effect without  
30 the invalid provision or application, and to this end the provisions of this  
31 act are declared to be severable.

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33 SECTION 8. All laws and parts of laws in conflict with this act are  
34 hereby repealed.

35

/s/ Vess

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