

554.9513A Termination of wrongfully filed financing statement — reinstatement.

1. *Trusted filer.* “Trusted filer” means a person that does any of the following:

a. Regularly causes records to be communicated to the filing office for filing and has provided the filing office with current contact information and information sufficient to establish the person’s identity.

b. Satisfies either of the following conditions:

(1) The filing office has issued the person credentials for access to online filing services.

(2) The person has established a prepaid or direct debit account for payment of filing fees, regardless of whether the account is used in a particular transaction.

2. *Affidavit of wrongful filing.* A person identified as debtor in a filed financing statement may deliver to the filing office a notarized, sworn affidavit that identifies the financing statement by file number, indicates the affiant’s mailing address, and states that the affiant believes that the filed record identifying the affiant as debtor was not authorized to be filed and was caused to be communicated to the filing office with the intent to harass or defraud the affiant. The filing office may reject an affidavit that is incomplete or that it believes was delivered to it with the intent to harass or defraud the secured party. The office of the secretary of state shall adopt a form of affidavit for use under [this section](#).

3. *Termination statement by filing office.* Subject to [subsection 11](#), if an affidavit is delivered to the filing office under [subsection 2](#), the filing office shall promptly file a termination statement with respect to the financing statement identified in the affidavit. The termination statement must identify by its file number the initial financing statement to which it relates and must indicate that it was filed pursuant to [this section](#). A termination statement filed under [this subsection](#) is not effective until ninety days after it is filed.

4. *No fee charged or refunded.* The filing office shall not charge a fee for the filing of an affidavit under [subsection 2](#) or a termination statement under [subsection 3](#). The filing office shall not return any fee paid for filing the financing statement identified in the affidavit, whether or not the financing statement is reinstated under [subsection 7](#).

5. *Notice of termination statement.* On the same day that a filing office files a termination statement under [subsection 3](#), the filing office shall send to the secured party of record for the financing statement to which the termination statement relates a notice stating that the termination statement has been filed and will become effective ninety days after filing. The notice shall be sent by certified mail, return receipt requested, to the address provided for the secured party of record in the financing statement with a copy sent by electronic mail to the electronic mail address provided by the secured party of record, if any.

6. *Administrative review — action for reinstatement.* A secured party that believes in good faith that the filed record identified in an affidavit delivered to the filing office under [subsection 2](#) was authorized to be filed and was not caused to be communicated to the filing office with the intent to harass or defraud the affiant may:

a. Before the termination statement takes effect, request that the filing office conduct an expedited review of the filed record and any documentation provided by the secured party. The filing office may as a result of this review remove from the record the termination statement filed by it under [subsection 3](#) before the termination statement takes effect and conduct an administrative review under [subsection 11](#).

b. File an action against the filing office seeking reinstatement of the financing statement to which the filed record relates at any time before the expiration of six months after the date on which the termination statement filed under [subsection 3](#) becomes effective. If the affiant is not named as a defendant in the action, the secured party shall send a copy of the petition to the affiant at the address indicated in the affidavit. The exclusive venue for the action shall be in the district court for the county where the filing office in which the financing statement was filed is located. The action shall be considered by the court on an expedited basis.

7. *Filing office to file notice of action for reinstatement.* Within ten days after being served with process in an action under [subsection 6](#), the filing office shall file a notice indicating that the action has been commenced. The notice must indicate the file number of the initial financing statement to which the notice relates.

8. *Action for reinstatement successful.* If, in an action under [subsection 6](#), the court determines that the financing statement was authorized to be filed and was not caused to be

communicated to the filing office with the intent to harass or defraud the affiant, the court shall order that the financing statement be reinstated. If an order of reinstatement is issued by the court, the filing office shall promptly file a record that identifies by its file number the initial financing statement to which the record relates and indicates that the financing statement has been reinstated.

9. *Effect of reinstatement.* Upon the filing of a record reinstating a financing statement under [subsection 8](#), the effectiveness of the financing statement is reinstated and the financing statement shall be considered never to have been terminated under [this section](#) except as against a purchaser of the collateral that gives value in reasonable reliance upon the termination. A continuation statement filed as provided in [section 554.9515](#), [subsection 4](#), after the effective date of a termination statement filed under [subsection 3 or 11](#) becomes effective if the financing statement is reinstated.

10. *Liability for wrongful filing.* If, in an action under [subsection 6](#), the court determines that the filed record identified in an affidavit delivered to the filing office under [subsection 2](#) was caused to be communicated to the filing office with the intent to harass or defraud the affiant, the filing office and the affiant may recover from the secured party that filed the action the costs and expenses, including reasonable attorney fees and the reasonable allocated costs of internal counsel, that the filing office and the affiant incurred in the action. This recovery is in addition to any recovery to which the affiant is entitled under [section 554.9625](#).

11. *Procedure for record filed by trusted filer.* If an affidavit delivered to a filing office under [subsection 2](#) relates to a filed record communicated to the filing office by a trusted filer, the filing office shall promptly send to the secured party of record a notice stating that the affidavit has been delivered to the filing office and that the filing office is conducting an administrative review to determine whether the record was caused to be communicated with the intent to harass or defraud the affiant. The notice shall be sent by certified mail, return receipt requested, to the address provided for the secured party in the financing statement with a copy sent by electronic mail to the electronic mail address provided by the secured party of record, if any, and a copy shall be sent in the same manner to the affiant. The administrative review shall be conducted on an expedited basis and the filing office may require the affiant and the secured party of record to provide any additional information that the filing office deems appropriate. If the filing office concludes that the record was caused to be communicated with the intent to harass or defraud the affiant, the filing office shall promptly file a termination statement under [subsection 2](#) that will be effective immediately and send to the secured party of record the notice required by [subsection 5](#). The secured party may thereafter file an action for reinstatement under [subsection 6](#) and the provisions of [subsections 7 through 10](#) are applicable.

[2021 Acts, ch 183, §10](#)

Referred to in [§554.9510](#)