

SENATE BILL NO. 2206

Introduced by

Senator Nething

Representative Klemm

1 A BILL for an Act to amend and reenact section 41-09-84 of the North Dakota Century Code,
2 relating to the effectiveness of a Uniform Commercial Code termination statement; and to
3 provide for retroactive application.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 41-09-84 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **41-09-84. Termination statement - Remedies - Fees.**

8 1. If a financing statement covering consumer goods is filed after December 31, 1973,
9 then within one month or within ten days following written demand by the debtor
10 after there is no outstanding secured obligation and no commitment to make
11 advances, incur obligations, or otherwise give value, the secured party shall file
12 with each filing officer with whom the financing statement was filed, a termination
13 statement to the effect that the secured party no longer claims a security interest
14 under the financing statement, which must be identified by file number. In other
15 cases when there is no outstanding secured obligation and no written commitment
16 between the secured party and the debtor to make advances, incur obligations, or
17 otherwise give value, the secured party, unless requested by the debtor in writing
18 to continue the filing, must send to each filing officer with whom the financing
19 statement was filed, a termination statement to the effect that the secured party no
20 longer claims a security interest under the financing statement nor under the
21 central notice system, which shall be identified by file number. If the affected
22 secured party fails to file a termination statement as required by this subsection
23 within sixty days of when the secured obligation is fully satisfied, and the debtor
24 has not requested in writing that the filing be continued, then under section

1 41-09-120 the secured party is liable to the debtor for one hundred dollars and for
2 any loss caused to the debtor by such failure. The debtor's written request for a
3 filing to be continued may be made at any time and be effective under this section.
4 If the affected secured party fails to file a termination statement within ten days
5 after proper written demand by the debtor, then under section 41-09-120 the
6 secured party is liable to the debtor for one hundred dollars and for any loss
7 caused to the debtor by such failure.

8 2. Except as otherwise provided in section 41-09-81, upon the filing of a termination
9 statement with the filing office, the financing statement to which the termination
10 statement relates ceases to be effective. Except as provided in section 41-09-81,
11 for purposes of subsection 7 of section 41-09-90, subsection 1 of section 41-09-93,
12 and subsection 3 of section 41-09-94, the filing with the filing office of a termination
13 statement relating to a financing statement that indicates that the debtor is a
14 transmitting utility also causes the effectiveness of the financing statement to
15 lapse.

16 ~~2.~~ 3. The fee for filing and indexing a termination statement, including sending or
17 delivering the financing statement, is five dollars. For any financing statement filed
18 after April 8, 1991, the fee must be paid at the time the fee for filing the financing
19 statement is paid.

20 **SECTION 2. RETROACTIVE APPLICATION.** This Act applies retroactively to
21 termination statements filed with the filing office after July 31, 2001.