

Date of Hearing: May 5, 2025

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Avelino Valencia, Chair

AB 771 (Macedo) – As Introduced February 18, 2025

SUBJECT: Financing statements: mortgages

SUMMARY: Allows a mortgage filing to be used as a financing statement if it provides the individual name of the debtor or the debtor's surname and first personal name.

EXISTING LAW:

- 1) Provides that a financing statement is sufficient only if it provides the name of the debtor and the name of the secured party or a representative of the secured party, and indicates the collateral covered by the financing statement. (Commercial Code Section 9502.)
- 2) With respect to a debtor that is an individual, provides that a financing statement is sufficient only if it provides either the individual name of the debtor, or the surname and first personal name of the debtor. (Section 9503(a)(5).)
- 3) Provides that a financing statement that otherwise provides the name of the debtor in accordance with these provisions is not rendered ineffective by the absence of either of the following:
 - a) A trade name or other name of the debtor.
 - b) The names of partners, members, associates, or other persons comprising the debtor, unless otherwise required, as specified. (Section 9503(b).)
- 4) Provides that a person is liable for damages in the amount of any loss caused by a failure to comply with Article 9 of the UCC, and that loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing. (Section 9625(b).)

FISCAL EFFECT: This bill is keyed non-fiscal.

COMMENTS:

- 1) Purpose. According to the author:

Getting mortgages approved has become increasingly difficult for Californians. Technical barriers especially need to be cleared to allow Californians easier access to get into their dream homes. AB 771 updates California's Uniform Commercial Code (UCC) to match the national standard used in 44 states, simplifying how debtor names are recorded on mortgage-related documents. Currently, California requires an exact name match to a state ID, leading to unnecessary filings and costs. AB 771 corrects this by allowing mortgages or deeds of trust to serve as fixture filings without an exact match, reducing paperwork, saving money, and easing administrative burdens for borrowers and lenders. This reform will streamline commercial transactions and ensure California's laws align with modern business practices.

- 2) Uniform Commercial Code. The California Commission on Uniform State Laws (CCUSL), established in 1897, represents California on the Uniform Law Commission and ensures the state's unique concerns are considered. The CCUSL recommends legislation for legislation on uniform acts recommended by the National Conference of Commissioner on Uniform State Laws.¹

In 2013, AB 502 (Wagner, Chapter 531, Statutes of 2013) incorporated the 2010 amendments to the Uniform Commercial Code (UCC) Article 9, which governs security interests in personal property. Specifically, AB 502 incorporated the naming of the debtor on a financing statement only if it does so in accordance with specified rules, known as Alternative A.

Alternative A, the "only if" rule, requires the debtor's name on a financing statement to exactly match their unexpired driver's license or state ID. Suppose a person uses their middle initial instead of their full middle name as found on their driver's license or state ID. In that case, it results in filing a separate financing statement containing the name exactly as shown on the debtor's California ID.

By contrast, Alternative B, also known as the "safe harbor rule," would instead allow (a) the driver's license as specified by Alternative A, in addition to (b) the individual name of the debtor, as under current Article 9, and (c) the debtor's surname and first personal name. AB 771 proposes using Alternative B for mortgage fixture filings as financial statements to eliminate additional filing.²

ARGUMENTS IN SUPPORT

The California Lawyers Association writes:

California is currently an outlier. Forty-four states, the District of Columbia, and Puerto Rico have enacted Alternative A. Of these 46 jurisdictions, California is one of only three that has failed to include language this bill seeks to enact. The other two are Louisiana, which does not have the language because it does not permit a mortgage or deed of trust to serve as a fixture filing, and Puerto Rico. The other states have enacted Alternative B. AB 771 amends Section 9502 of California's Commercial Code to make it consistent with the uniform version of the UCC's Alternative A, as enacted in almost every other state.

REGISTERED SUPPORT / OPPOSITION:

Support

California Lawyers Association, Business Law Section (Sponsor)

Opposition

None on file.

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¹ <https://ccusl.ca.gov/purpose>

² Assembly Judiciary Analysis of AB 502 (Wagner, Chapter 531, Statutes of 2013)