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Yule *House* BILL NO. *422* *McCluskey*

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT THE ORIGINAL OF CERTAIN DOCUMENTS FILED BY FACSIMILE WITH THE SECRETARY OF STATE BE RECEIVED BY AND FILED WITH THE SECRETARY OF STATE WITHIN 5 DAYS OF THE RECEIPT AND FILING OF THE FACSIMILE; AND AMENDING SECTIONS 30-9-403, 30-9-431, 30-13-221, 30-13-341, 35-1-218, 35-2-120, 35-8-207, 35-10-112, 35-12-615, AND 35-15-211, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 30-9-403, MCA, is amended to read:

"30-9-403. What constitutes filing -- duration of filing -- fees -- effect of lapsed filing -- duties of filing officer -- computerized farm statement system. (1) (a) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this chapter.

(b) The secretary of state may treat a facsimile copy of a document and the signatures on the facsimile copy in the same manner as an original for purposes of 30-9-402 and subsection (1)(a), ~~provided that the original document is received within 5 working days of the receipt of the facsimile copy of this section.~~ If all other requirements are met, the date of filing relates back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under subsection (1)(a) if it:~~

~~(i) is produced by a method of transmission of images in which the image is scanned at the transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

~~(ii) is legible and the same size as the original.~~

~~(c) During the 5 day period referred to in subsection (1)(b), the recorded facsimile copy constitutes constructive notice for all purposes of the original document.~~

~~(d) If the original document is not received within 5 working days of receipt of the facsimile copy as provided in subsection (1)(b), the filing of the facsimile copy is void.~~

~~(e)(c) A person who files a false document by facsimile copy is liable to the party aggrieved for~~

1 three times the amount of damages resulting from the filing of the false document.

2 (2) Except as provided in subsection (6), a filed financing statement is effective for a period of 5
3 years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of
4 the 5-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected
5 by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security
6 interest remains perfected until 60 days after termination of the insolvency proceedings or until expiration
7 of the 5-year period, whichever occurs later. Upon lapse the security interest becomes unperfected unless
8 it is perfected without filing. If the security interest becomes unperfected upon lapse, it is considered to
9 have been unperfected as against a person who became a purchaser or lien creditor before lapse.

10 (3) A continuation statement may be filed by the secured party within 6 months prior to the
11 expiration of the 5-year period specified in subsection (2). Any continuation statement must be signed by
12 the secured party, identify the original statement by file number, and state that the original statement is
13 still effective. A continuation statement signed by a person other than the secured party of record must be
14 accompanied by a separate written statement of assignment signed by the secured party of record and
15 complying with 30-9-405(2), including payment of the required fee. Upon timely filing of the continuation
16 statement, the effectiveness of the original statement is continued for 5 years after the last date to which
17 the filing was effective, after which it lapses in the same manner as provided in subsection (2) unless
18 another continuation statement is filed prior to the lapse. Succeeding continuation statements may be filed
19 in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition
20 of public records provides otherwise, the filing officer may remove a lapsed statement from the files and
21 destroy it immediately if the filing officer has retained a microfilm or other photographic record or a record
22 produced according to rules adopted by the secretary of state, or, in other cases after 1 year after the
23 lapse, upon approval by the local government records destruction subcommittee provided for in 2-6-403.
24 The filing officer shall arrange matters by physical annexation of financing statements to continuation
25 statements or other related filings, or by other means, that if the filing officer physically destroys the
26 financing statements of a period more than 5 years past, those ~~which~~ that have been continued by a
27 continuation statement or ~~which~~ that are still effective under subsection (6) ~~shall~~ must be retained.

28 (4) Except as provided in subsection (7), a filing officer shall mark each statement with a file
29 number and with the date and hour of filing. The filing officer shall hold the statement or a microfilm or
30 other photographic copy or a copy produced according to rules adopted by the secretary of state for public

1 inspection. In addition, the filing officer shall index the statements according to the name of the debtor and
2 shall note in the index the file number and the address of the debtor given in the statement.

3 (5) The uniform fees for filing, indexing, and stamping a copy furnished by the filing party to show
4 the date and place of filing must be set pursuant to subsection (12).

5 (6) If the debtor is a transmitting utility and a filed financing statement so states, it is effective until
6 a termination statement is filed. A real estate mortgage that is effective as a fixture filing under 30-9-402(6)
7 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness
8 otherwise terminates as to the real estate.

9 (7) When a financing statement covers timber to be cut or covers minerals or the like (including
10 oil and gas) or accounts subject to 30-9-103(5) or is filed as a fixture filing, the filing officer shall index it
11 under the names of the debtor and any owner of record shown on the financing statement in the same
12 fashion as if they were the mortgagors in a mortgage of the real estate described and, to the extent that
13 the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name
14 of the secured party as if the secured party were the mortgagee under the financing statement or, if
15 indexing is by description, in the same fashion as if the financing statement were a mortgage of the real
16 estate described.

17 (8) When a financing or continuation statement filed by a financial institution covers farm products
18 or accounts, livestock, general intangibles arising from or relating to the sale of farm products by a farmer,
19 crops growing or to be grown, or equipment used in farming operations, the fee for filing must be
20 established by the secretary of state in an amount commensurate with the costs of establishing and
21 operating the computerized access system described in subsection (9).

22 (9) Within 1 working day of receipt of a financing or continuation statement, the secretary of state
23 shall record the information contained in the statement on a centralized computer system that the secretary
24 of state shall establish. The computer system must allow access to financing statement information by any
25 type of communications ~~which~~ that conform to standards used by the state central computer. The system
26 must have safeguards to allow only access to UCC data and to prevent alteration, addition, or deletion of
27 the UCC data. The computer must be accessible whenever the state computer system is available. A
28 perfected security interest is not created until the financing statement information is recorded on the
29 system. A printout of information from the system is prima facie evidence of the existence or nonexistence
30 of the filing of a financing statement. The secretary of state shall maintain adequate errors and omissions

1 liability coverage to protect against input errors causing loss to a secured party.

2 (10) The secretary of state shall, upon request of a clerk and recorder, mail a certified copy of a
3 financing statement, continuation statement, assignment, amendment, or termination covering collateral
4 described in subsection (8) to the clerk and recorder in the county of the principal debtor's residence. The
5 secretary of state shall mail the requested copies at least once each week. This subsection does not require
6 the secretary of state to mail a copy of any document ~~which~~ that does not specifically indicate the county
7 of the principal debtor's residence on its face.

8 (11) Financing statement information in the computer system constitutes public writings within the
9 meaning of 2-6-101, but the information may not be used to compile mailing lists.

10 (12) The secretary of state, with advice from the county clerk and recorders, shall by administrative
11 rule establish fees as required by this part. The fees must be commensurate with the costs of processing
12 the documents. The secretary of state shall maintain records sufficient to support the amounts of the fees
13 established under this subsection. The secretary of state shall deposit all fees in the enterprise fund in the
14 state treasury. The secretary of state shall disseminate the uniform fee schedule to the county clerk and
15 recorders for their use."

16

17 **Section 2.** Section 30-9-431, MCA, is amended to read:

18 **"30-9-431. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of a
19 document that is required to be filed under this part and the signatures on the facsimile copy in the same
20 manner as an original for purposes of this part, ~~provided that he receives the original document within 5~~
21 ~~working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of filing relates
22 back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this section if it:~~

23 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
24 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

25 ~~(b) is legible and the same size as the original.~~

26 ~~(2) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
27 ~~constructive notice for all purposes of the original document.~~

28 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
29 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

30 ~~(4)~~(2) A person who files a false document by facsimile copy is liable to the party aggrieved for

1 three times the amount of damages resulting from the filing of the false document."

2

3 **Section 3.** Section 30-13-221, MCA, is amended to read:

4 **"30-13-221. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of
5 a document that is required to be filed under this part and the signatures on the facsimile copy in the same
6 manner as an original for purposes of this part, ~~provided that he receives the original document within 5~~
7 ~~working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of filing relates
8 back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this section if it:~~

9 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
10 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

11 ~~(b) is legible and the same size as the original.~~

12 ~~(2) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
13 ~~constructive notice for all purposes of the original document.~~

14 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
15 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

16 ~~(4)~~(2) A person who files a false document by facsimile copy is liable to the party aggrieved for
17 three times the amount of damages resulting from the filing of the false document."

18

19 **Section 4.** Section 30-13-341, MCA, is amended to read:

20 **"30-13-341. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of
21 a document that is required to be filed under this part and the signatures on the facsimile copy in the same
22 manner as an original for purposes of this part, ~~provided that he receives the original document within 5~~
23 ~~working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of filing relates
24 back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this section if it:~~

25 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
26 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

27 ~~(b) is legible and the same size as the original.~~

28 ~~(2) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
29 ~~constructive notice for all purposes of the original document.~~

30 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~

1 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

2 ~~(4)(2)~~ A person who files a false document by facsimile copy is liable to the party aggrieved for
3 three times the amount of damages resulting from the filing of the false document."
4

5 **Section 5.** Section 35-1-218, MCA, is amended to read:

6 **"35-1-218. Facsimile filing -- requirements -- liability.** (1) The secretary of state shall treat a
7 facsimile copy of a document that is required or permitted to be filed under this chapter and the signatures
8 on the facsimile copy in the same manner as an original for purposes of this chapter ~~provided that the~~
9 ~~secretary of state receives the original document within 5 working days of the receipt of the facsimile copy.~~
10 If all other requirements are met, the date of filing relates back to the date of receipt of the facsimile copy.

11 (2) ~~A facsimile copy is entitled to be filed under this section if it is:~~

12 ~~(a) produced by a method of transmission of images in which the image is scanned at the~~
13 ~~transmitter; and~~

14 ~~(b) legible and the same size as the original.~~

15 ~~(3) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
16 ~~constructive notice for all purposes of the original document.~~

17 ~~(4) If the original document is not received within 5 working days of receipt of the facsimile copy~~
18 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

19 ~~(5)~~ A person who files a false document by facsimile copy is liable to an aggrieved party for three
20 times the amount of damages resulting from the filing of the false document."
21

22 **Section 6.** Section 35-2-120, MCA, is amended to read:

23 **"35-2-120. Facsimile filing.** (1) The secretary of state shall treat a facsimile copy of a document
24 that is required or permitted to be filed under 35-2-119, 35-2-121 through 35-2-123, 35-2-1003,
25 35-2-1108 through 35-2-1112, and this section and the signatures on the facsimile copy in the same
26 manner as an original for purposes of 35-2-119, 35-2-121 through 35-2-123, 35-2-1003, 35-2-1108
27 through 35-2-1112, and this section ~~provided that the secretary of state receives the original document~~
28 ~~within 5 working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of
29 filing relates back to the date of receipt of the facsimile copy.

30 (2) ~~A facsimile copy is entitled to be filed under this section if it is:~~

1 ~~(a) produced by a method of transmission of images in which the image is scanned at the~~
2 ~~transmitter; and~~

3 ~~(b) legible and the same size as the original.~~

4 ~~(3) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
5 ~~constructive notice for all purposes of the original document.~~

6 ~~(4) If the original document is not received within 5 working days of receipt of the facsimile copy~~
7 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

8 ~~(5) A person who files a false document by facsimile copy is liable to an aggrieved party for three~~
9 ~~times the amount of damages resulting from the filing of the false document."~~

10

11 **Section 7.** Section 35-8-207, MCA, is amended to read:

12 **"35-8-207. Filing of facsimile copy.** (1) The secretary of state may treat a facsimile copy of a
13 document that is required to be filed under this chapter and the signatures on the facsimile copy in the
14 same manner as an original for purposes of this chapter, ~~provided that the secretary of state receives the~~
15 ~~original document within 5 working days of the receipt of the facsimile copy.~~ If all other requirements are
16 met, the date of filing relates back to the date of receipt of the facsimile copy. ~~A facsimile copy may be~~
17 ~~filed under this section if it:~~

18 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
19 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

20 ~~(b) is legible and the same size as the original.~~

21 ~~(2) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
22 ~~constructive notice for all purposes of the original document.~~

23 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
24 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

25 ~~(4)~~(2) A person who files a false document by facsimile copy is liable to the party aggrieved for
26 three times the amount of damages resulting from the filing of the false document."

27

28 **Section 8.** Section 35-10-112, MCA, is amended to read:

29 **"35-10-112. Facsimile filing -- requirements -- liability.** (1) The secretary of state shall treat a
30 facsimile copy of a document that is required or permitted to be filed under this chapter and the signatures

1 on the facsimile copy in the same manner as an original for purposes of this chapter ~~provided that the~~
2 ~~secretary of state receives the original document within 5 working days of the receipt of the facsimile copy.~~
3 If all other requirements are met, the date of filing relates back to the date of receipt of the facsimile copy.

4 (2) ~~A facsimile copy is entitled to be filed under this section if it is:~~

5 ~~(a) produced by a method of transmission of images in which the image is scanned at the~~
6 ~~transmitter; and~~

7 ~~(b) legible and the same size as the original.~~

8 ~~(3) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
9 ~~constructive notice for all purposes of the original document.~~

10 ~~(4) If the original document is not received within 5 working days of receipt of the facsimile copy~~
11 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

12 ~~(5) A person who files a false document by facsimile copy is liable to an aggrieved party for three~~
13 ~~times the amount of damages resulting from the filing of the false document."~~

14
15 **Section 9.** Section 35-12-615, MCA, is amended to read:

16 **"35-12-615. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of
17 a document that is required to be filed under this chapter and the signatures on the facsimile copy in the
18 same manner as an original for purposes of this chapter, ~~provided that he receives the original document~~
19 ~~within 5 working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of
20 filing relates back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this~~
21 ~~section if it:~~

22 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
23 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

24 ~~(b) is legible and the same size as the original.~~

25 ~~(2) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
26 ~~constructive notice for all purposes of the original document.~~

27 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
28 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

29 ~~(4)~~(2) A person who files a false document by facsimile copy is liable to the party aggrieved for
30 three times the amount of damages resulting from the filing of the false document."

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0422, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

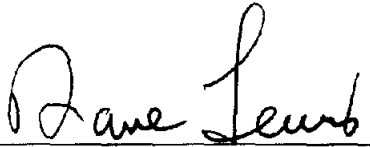
An act eliminating the requirement that the original of certain documents filed by facsimile with the Secretary of State be received by and filed with the Secretary of State within five days of the receipt and filing of the facsimile.

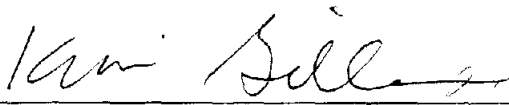
ASSUMPTIONS:

1. The Office of the Secretary of State anticipates no fiscal impact.

FISCAL IMPACT:

None.

 2-7-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


KIM GILLAN, PRIMARY SPONSOR DATE
Fiscal Note for HB0422, as introduced

HB 422

APPROVED BY COM ON
STATE ADMINISTRATION

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INTRODUCED BY Yule House BILL NO. 422 McCluskey
BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT THE ORIGINAL OF CERTAIN DOCUMENTS FILED BY FACSIMILE WITH THE SECRETARY OF STATE BE RECEIVED BY AND FILED WITH THE SECRETARY OF STATE WITHIN 5 DAYS OF THE RECEIPT AND FILING OF THE FACSIMILE; AND AMENDING SECTIONS 30-9-403, 30-9-431, 30-13-221, 30-13-341, 35-1-218, 35-2-120, 35-8-207, 35-10-112, 35-12-615, AND 35-15-211, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO INTRODUCED COPY (WHITE) FOR COMPLETE TEXT.

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Yella *House* BILL NO. *422*
McCluskey

INTRODUCED BY _____

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT THE ORIGINAL OF CERTAIN DOCUMENTS FILED BY FACSIMILE WITH THE SECRETARY OF STATE BE RECEIVED BY AND FILED WITH THE SECRETARY OF STATE WITHIN 5 DAYS OF THE RECEIPT AND FILING OF THE FACSIMILE; AND AMENDING SECTIONS 30-9-403, 30-9-431, 30-13-221, 30-13-341, 35-1-218, 35-2-120, 35-8-207, 35-10-112, 35-12-615, AND 35-15-211, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO INTRODUCED COPY (WHITE) FOR COMPLETE TEXT.

1 HOUSE BILL NO. 422

2 INTRODUCED BY GILLAN, MCCULLOCH

3 BY REQUEST OF THE SECRETARY OF STATE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT THE ORIGINAL OF
6 CERTAIN DOCUMENTS FILED BY FACSIMILE WITH THE SECRETARY OF STATE BE RECEIVED BY AND
7 FILED WITH THE SECRETARY OF STATE WITHIN 5 DAYS OF THE RECEIPT AND FILING OF THE
8 FACSIMILE; ~~AND~~ AMENDING SECTIONS 30-9-403, 30-9-431, 30-13-221, 30-13-341, 35-1-218,
9 35-2-120, 35-8-207, 35-10-112, 35-12-615, AND 35-15-211, MCA; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 Section 1. Section 30-9-403, MCA, is amended to read:

15 "30-9-403. What constitutes filing -- duration of filing -- fees -- effect of lapsed filing -- duties of
16 filing officer -- computerized farm statement system. (1) (a) Presentation for filing of a financing statement
17 and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this
18 chapter.

19 (b) The secretary of state may treat a facsimile copy of a document and the signatures on the
20 facsimile copy in the same manner as an original for purposes of 30-9-402 and subsection (1)(a), ~~provided~~
21 ~~that the original document is received within 5 working days of the receipt of the facsimile copy of this~~
22 section. If all other requirements are met, the date of filing relates back to the date of receipt of the
23 facsimile copy. ~~A facsimile copy may be filed under subsection (1)(a) if it:~~

24 ~~(i) is produced by a method of transmission of images in which the image is scanned at the~~
25 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

26 ~~(ii) is legible and the same size as the original.~~

27 ~~(c) During the 5-day period referred to in subsection (1)(b), the recorded facsimile copy constitutes~~
28 ~~constructive notice for all purposes of the original document.~~

29 ~~(d) If the original document is not received within 5 working days of receipt of the facsimile copy~~
30 ~~as provided in subsection (1)(b), the filing of the facsimile copy is void.~~

1 ~~(a)(c)~~ A person who files a false document by facsimile copy is liable to the party aggrieved for
2 three times the amount of damages resulting from the filing of the false document.

3 (2) Except as provided in subsection (6), a filed financing statement is effective for a period of 5
4 years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of
5 the 5-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected
6 by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security
7 interest remains perfected until 60 days after termination of the insolvency proceedings or until expiration
8 of the 5-year period, whichever occurs later. Upon lapse the security interest becomes unperfected unless
9 it is perfected without filing. If the security interest becomes unperfected upon lapse, it is considered to
10 have been unperfected as against a person who became a purchaser or lien creditor before lapse.

11 (3) A continuation statement may be filed by the secured party within 6 months prior to the
12 expiration of the 5-year period specified in subsection (2). Any continuation statement must be signed by
13 the secured party, identify the original statement by file number, and state that the original statement is
14 still effective. A continuation statement 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 secured party of record and
16 complying with 30-9-405(2), including payment of the required fee. Upon timely filing of the continuation
17 statement, the effectiveness of the original statement is continued for 5 years after the last date to which
18 the filing was effective, after which it lapses in the same manner as provided in subsection (2) unless
19 another continuation statement is filed prior to the lapse. Succeeding continuation statements may be filed
20 in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition
21 of public records provides otherwise, the filing officer may remove a lapsed statement from the files and
22 destroy it immediately if the filing officer has retained a microfilm or other photographic record or a record
23 produced according to rules adopted by the secretary of state, or, in other cases after 1 year after the
24 lapse, upon approval by the local government records destruction subcommittee provided for in 2-6-403.
25 The filing officer shall arrange matters by physical annexation of financing statements to continuation
26 statements or other related filings, or by other means, that if the filing officer physically destroys the
27 financing statements of a period more than 5 years past, those ~~which~~ that have been continued by a
28 continuation statement or ~~which~~ that are still effective under subsection (6) ~~shall~~ must be retained.

29 (4) Except as provided in subsection (7), a filing officer shall mark each statement with a file
30 number and with the date and hour of filing. The filing officer shall hold the statement or a microfilm or

1 other photographic copy or a copy produced according to rules adopted by the secretary of state for public
2 inspection. In addition, the filing officer shall index the statements according to the name of the debtor and
3 shall note in the index the file number and the address of the debtor given in the statement.

4 (5) The uniform fees for filing, indexing, and stamping a copy furnished by the filing party to show
5 the date and place of filing must be set pursuant to subsection (12).

6 (6) If the debtor is a transmitting utility and a filed financing statement so states, it is effective until
7 a termination statement is filed. A real estate mortgage that is effective as a fixture filing under 30-9-402(6)
8 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness
9 otherwise terminates as to the real estate.

10 (7) When a financing statement covers timber to be cut or covers minerals or the like (including
11 oil and gas) or accounts subject to 30-9-103(5) or is filed as a fixture filing, the filing officer shall index it
12 under the names of the debtor and any owner of record shown on the financing statement in the same
13 fashion as if they were the mortgagors in a mortgage of the real estate described and, to the extent that
14 the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name
15 of the secured party as if the secured party were the mortgagee under the financing statement or, if
16 indexing is by description, in the same fashion as if the financing statement were a mortgage of the real
17 estate described.

18 (8) When a financing or continuation statement filed by a financial institution covers farm products
19 or accounts, livestock, general intangibles arising from or relating to the sale of farm products by a farmer,
20 crops growing or to be grown, or equipment used in farming operations, the fee for filing must be
21 established by the secretary of state in an amount commensurate with the costs of establishing and
22 operating the computerized access system described in subsection (9).

23 (9) Within 1 working day of receipt of a financing or continuation statement, the secretary of state
24 shall record the information contained in the statement on a centralized computer system that the secretary
25 of state shall establish. The computer system must allow access to financing statement information by any
26 type of communications ~~which~~ that conform to standards used by the state central computer. The system
27 must have safeguards to allow only access to UCC data and to prevent alteration, addition, or deletion of
28 the UCC data. The computer must be accessible whenever the state computer system is available. A
29 perfected security interest is not created until the financing statement information is recorded on the
30 system. A printout of information from the system is prima facie evidence of the existence or nonexistence

1 of the filing of a financing statement. The secretary of state shall maintain adequate errors and omissions
2 liability coverage to protect against input errors causing loss to a secured party.

3 (10) The secretary of state shall, upon request of a clerk and recorder, mail a certified copy of a
4 financing statement, continuation statement, assignment, amendment, or termination covering collateral
5 described in subsection (8) to the clerk and recorder in the county of the principal debtor's residence. The
6 secretary of state shall mail the requested copies at least once each week. This subsection does not require
7 the secretary of state to mail a copy of any document ~~which~~ that does not specifically indicate the county
8 of the principal debtor's residence on its face.

9 (11) Financing statement information in the computer system constitutes public writings within the
10 meaning of 2-6-101, but the information may not be used to compile mailing lists.

11 (12) The secretary of state, with advice from the county clerk and recorders, shall by administrative
12 rule establish fees as required by this part. The fees must be commensurate with the costs of processing
13 the documents. The secretary of state shall maintain records sufficient to support the amounts of the fees
14 established under this subsection. The secretary of state shall deposit all fees in the enterprise fund in the
15 state treasury. The secretary of state shall disseminate the uniform fee schedule to the county clerk and
16 recorders for their use."

17
18 **Section 2.** Section 30-9-431, MCA, is amended to read:

19 **"30-9-431. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of a
20 document that is required to be filed under this part and the signatures on the facsimile copy in the same
21 manner as an original for purposes of this part, ~~provided that he receives the original document within 5~~
22 ~~working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of filing relates
23 back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this section if it:~~

24 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
25 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

26 ~~(b) is legible and the same size as the original.~~

27 ~~(2) During the 5-day period referred to in subsection (1), the recorded facsimile copy constitutes~~
28 ~~constructive notice for all purposes of the original document.~~

29 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
30 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

1 ~~(4)(2)~~ A person who files a false document by facsimile copy is liable to the party aggrieved for
2 three times the amount of damages resulting from the filing of the false document."

3
4 **Section 3.** Section 30-13-221, MCA, is amended to read:

5 "**30-13-221. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of
6 a document that is required to be filed under this part and the signatures on the facsimile copy in the same
7 manner as an original for purposes of this part, ~~provided that he receives the original document within 5~~
8 ~~working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of filing relates
9 back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this section if it:~~

10 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
11 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

12 ~~(b) is legible and the same size as the original.~~

13 ~~(2) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
14 ~~constructive notice for all purposes of the original document.~~

15 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
16 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

17 ~~(4)(2)~~ A person who files a false document by facsimile copy is liable to the party aggrieved for
18 three times the amount of damages resulting from the filing of the false document."

19
20 **Section 4.** Section 30-13-341, MCA, is amended to read:

21 "**30-13-341. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of
22 a document that is required to be filed under this part and the signatures on the facsimile copy in the same
23 manner as an original for purposes of this part, ~~provided that he receives the original document within 5~~
24 ~~working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of filing relates
25 back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this section if it:~~

26 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
27 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

28 ~~(b) is legible and the same size as the original.~~

29 ~~(2) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
30 ~~constructive notice for all purposes of the original document.~~

1 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
2 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

3 ~~(4)(2)~~ A person who files a false document by facsimile copy is liable to the party aggrieved for
4 three times the amount of damages resulting from the filing of the false document."

5
6 **Section 5.** Section 35-1-218, MCA, is amended to read:

7 "**35-1-218. Facsimile filing -- requirements -- liability.** (1) The secretary of state shall treat a
8 facsimile copy of a document that is required or permitted to be filed under this chapter and the signatures
9 on the facsimile copy in the same manner as an original for purposes of this chapter ~~provided that the~~
10 ~~secretary of state receives the original document within 5 working days of the receipt of the facsimile copy.~~
11 If all other requirements are met, the date of filing relates back to the date of receipt of the facsimile copy.

12 ~~(2) A facsimile copy is entitled to be filed under this section if it is:~~

13 ~~(a) produced by a method of transmission of images in which the image is scanned at the~~
14 ~~transmitter; and~~

15 ~~(b) legible and the same size as the original.~~

16 ~~(3) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
17 ~~constructive notice for all purposes of the original document.~~

18 ~~(4) If the original document is not received within 5 working days of receipt of the facsimile copy~~
19 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

20 ~~(5)~~ A person who files a false document by facsimile copy is liable to an aggrieved party for three
21 times the amount of damages resulting from the filing of the false document."

22
23 **Section 6.** Section 35-2-120, MCA, is amended to read:

24 "**35-2-120. Facsimile filing.** (1) The secretary of state shall treat a facsimile copy of a document
25 that is required or permitted to be filed under 35-2-119, 35-2-121 through 35-2-123, 35-2-1003,
26 35-2-1108 through 35-2-1112, and this section and the signatures on the facsimile copy in the same
27 manner as an original for purposes of 35-2-119, 35-2-121 through 35-2-123, 35-2-1003, 35-2-1108
28 through 35-2-1112, and this section ~~provided that the secretary of state receives the original document~~
29 ~~within 5 working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of
30 filing relates back to the date of receipt of the facsimile copy.

1 (2) A facsimile copy is entitled to be filed under this section if it is:
 2 (a) ~~produced by a method of transmission of images in which the image is scanned at the~~
 3 ~~transmitter; and~~
 4 (b) ~~legible and the same size as the original.~~
 5 (3) ~~During the 5-day period referred to in subsection (1), the recorded facsimile copy constitutes~~
 6 ~~constructive notice for all purposes of the original document.~~
 7 (4) ~~If the original document is not received within 5 working days of receipt of the facsimile copy~~
 8 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~
 9 (5) A person who files a false document by facsimile copy is liable to an aggrieved party for three
 10 times the amount of damages resulting from the filing of the false document."

11
 12 **Section 7.** Section 35-8-207, MCA, is amended to read:

13 **"35-8-207. Filing of facsimile copy.** (1) The secretary of state may treat a facsimile copy of a
 14 document that is required to be filed under this chapter and the signatures on the facsimile copy in the
 15 same manner as an original for purposes of this chapter, ~~provided that the secretary of state receives the~~
 16 ~~original document within 5 working days of the receipt of the facsimile copy.~~ If all other requirements are
 17 met, the date of filing relates back to the date of receipt of the facsimile copy. ~~A facsimile copy may be~~
 18 ~~filed under this section if it:~~

19 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
 20 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

21 ~~(b) is legible and the same size as the original.~~

22 ~~(2) During the 5-day period referred to in subsection (1), the recorded facsimile copy constitutes~~
 23 ~~constructive notice for all purposes of the original document.~~

24 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
 25 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

26 (4)(2) A person who files a false document by facsimile copy is liable to the party aggrieved for
 27 three times the amount of damages resulting from the filing of the false document."

28
 29 **Section 8.** Section 35-10-112, MCA, is amended to read:

30 **"35-10-112. Facsimile filing -- requirements -- liability.** (1) The secretary of state shall treat a

1 facsimile copy of a document that is required or permitted to be filed under this chapter and the signatures
 2 on the facsimile copy in the same manner as an original for purposes of this chapter ~~provided that the~~
 3 ~~secretary of state receives the original document within 5 working days of the receipt of the facsimile copy.~~
 4 If all other requirements are met, the date of filing relates back to the date of receipt of the facsimile copy.

5 ~~(2) A facsimile copy is entitled to be filed under this section if it is:~~

6 ~~(a) produced by a method of transmission of images in which the image is scanned at the~~
 7 ~~transmitter; and~~

8 ~~(b) legible and the same size as the original.~~

9 ~~(3) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
 10 ~~constructive notice for all purposes of the original document.~~

11 ~~(4) If the original document is not received within 5 working days of receipt of the facsimile copy~~
 12 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

13 ~~(5) A person who files a false document by facsimile copy is liable to an aggrieved party for three~~
 14 ~~times the amount of damages resulting from the filing of the false document."~~

15
 16 **Section 9.** Section 35-12-615, MCA, is amended to read:

17 **"35-12-615. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of
 18 a document that is required to be filed under this chapter and the signatures on the facsimile copy in the
 19 same manner as an original for purposes of this chapter, ~~provided that he receives the original document~~
 20 ~~within 5 working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of
 21 filing relates back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this~~
 22 ~~section if it:~~

23 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
 24 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

25 ~~(b) is legible and the same size as the original.~~

26 ~~(2) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
 27 ~~constructive notice for all purposes of the original document.~~

28 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
 29 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

30 ~~(4)~~(2) A person who files a false document by facsimile copy is liable to the party aggrieved for

1 three times the amount of damages resulting from the filing of the false document."

2

3 **Section 10.** Section 35-15-211, MCA, is amended to read:

4 **"35-15-211. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of
5 a document that is required to be filed under this chapter and the signatures on the facsimile copy in the
6 same manner as an original for purposes of this chapter, ~~provided that he receives the original document~~
7 ~~within 5 working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of
8 filing relates back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this~~
9 ~~section if it:~~

10 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
11 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

12 ~~(b) is legible and the same size as the original.~~

13 ~~(2) During the 5-day period referred to in subsection (1), the recorded facsimile copy constitutes~~
14 ~~constructive notice for all purposes of the original document.~~

15 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
16 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

17 ~~(4)(2)~~ A person who files a false document by facsimile copy is liable to the party aggrieved for
18 three times the amount of damages resulting from the filing of the false document."

19

20 **NEW SECTION. SECTION 11. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND**
21 **APPROVAL.**

22

-END-

HOUSE BILL NO. 422

INTRODUCED BY GILLAN, MCCULLOCH

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT THE ORIGINAL OF CERTAIN DOCUMENTS FILED BY FACSIMILE WITH THE SECRETARY OF STATE BE RECEIVED BY AND FILED WITH THE SECRETARY OF STATE WITHIN 5 DAYS OF THE RECEIPT AND FILING OF THE FACSIMILE; ~~AND~~ AMENDING SECTIONS 30-9-403, 30-9-431, 30-13-221, 30-13-341, 35-1-218, 35-2-120, 35-8-207, 35-10-112, 35-12-615, AND 35-15-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 30-9-403, MCA, is amended to read:

~~30-9-403. What constitutes filing -- duration of filing -- fees -- effect of lapsed filing -- duties of filing officer -- computerized farm statement system.~~ (1) (a) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this chapter.

(b) The secretary of state may treat a facsimile copy of a document and the signatures on the facsimile copy in the same manner as an original for purposes of 30-9-402 and subsection (1)(a), ~~provided that the original document is received within 5 working days of the receipt of the facsimile copy of this section.~~ If all other requirements are met, the date of filing relates back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under subsection (1)(a) if it:~~

~~(i) is produced by a method of transmission of images in which the image is scanned at the transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

~~(ii) is legible and the same size as the original.~~

~~(c) During the 5-day period referred to in subsection (1)(b), the recorded facsimile copy constitutes constructive notice for all purposes of the original document.~~

~~(d) If the original document is not received within 5 working days of receipt of the facsimile copy as provided in subsection (1)(b), the filing of the facsimile copy is void.~~

1 ~~(e)~~(c) A person who files a false document by facsimile copy is liable to the party aggrieved for
2 three times the amount of damages resulting from the filing of the false document.

3 (2) Except as provided in subsection (6), a filed financing statement is effective for a period of 5
4 years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of
5 the 5-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected
6 by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security
7 interest remains perfected until 60 days after termination of the insolvency proceedings or until expiration
8 of the 5-year period, whichever occurs later. Upon lapse the security interest becomes unperfected unless
9 it is perfected without filing. If the security interest becomes unperfected upon lapse, it is considered to
10 have been unperfected as against a person who became a purchaser or lien creditor before lapse.

11 (3) A continuation statement may be filed by the secured party within 6 months prior to the
12 expiration of the 5-year period specified in subsection (2). Any continuation statement must be signed by
13 the secured party, identify the original statement by file number, and state that the original statement is
14 still effective. A continuation statement 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 secured party of record and
16 complying with 30-9-405(2), including payment of the required fee. Upon timely filing of the continuation
17 statement, the effectiveness of the original statement is continued for 5 years after the last date to which
18 the filing was effective, after which it lapses in the same manner as provided in subsection (2) unless
19 another continuation statement is filed prior to the lapse. Succeeding continuation statements may be filed
20 in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition
21 of public records provides otherwise, the filing officer may remove a lapsed statement from the files and
22 destroy it immediately if the filing officer has retained a microfilm or other photographic record or a record
23 produced according to rules adopted by the secretary of state, or, in other cases after 1 year after the
24 lapse, upon approval by the local government records destruction subcommittee provided for in 2-6-403.
25 The filing officer shall arrange matters by physical annexation of financing statements to continuation
26 statements or other related filings, or by other means, that if the filing officer physically destroys the
27 financing statements of a period more than 5 years past, those ~~which~~ that have been continued by a
28 continuation statement or ~~which~~ that are still effective under subsection (6) ~~shall~~ must be retained.

29 (4) Except as provided in subsection (7), a filing officer shall mark each statement with a file
30 number and with the date and hour of filing. The filing officer shall hold the statement or a microfilm or

1 other photographic copy or a copy produced according to rules adopted by the secretary of state for public
2 inspection. In addition, the filing officer shall index the statements according to the name of the debtor and
3 shall note in the index the file number and the address of the debtor given in the statement.

4 (5) The uniform fees for filing, indexing, and stamping a copy furnished by the filing party to show
5 the date and place of filing must be set pursuant to subsection (12).

6 (6) If the debtor is a transmitting utility and a filed financing statement so states, it is effective until
7 a termination statement is filed. A real estate mortgage that is effective as a fixture filing under 30-9-402(6)
8 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness
9 otherwise terminates as to the real estate.

10 (7) When a financing statement covers timber to be cut or covers minerals or the like (including
11 oil and gas) or accounts subject to 30-9-103(5) or is filed as a fixture filing, the filing officer shall index it
12 under the names of the debtor and any owner of record shown on the financing statement in the same
13 fashion as if they were the mortgagors in a mortgage of the real estate described and, to the extent that
14 the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name
15 of the secured party as if the secured party were the mortgagee under the financing statement or, if
16 indexing is by description, in the same fashion as if the financing statement were a mortgage of the real
17 estate described.

18 (8) When a financing or continuation statement filed by a financial institution covers farm products
19 or accounts, livestock, general intangibles arising from or relating to the sale of farm products by a farmer,
20 crops growing or to be grown, or equipment used in farming operations, the fee for filing must be
21 established by the secretary of state in an amount commensurate with the costs of establishing and
22 operating the computerized access system described in subsection (9).

23 (9) Within 1 working day of receipt of a financing or continuation statement, the secretary of state
24 shall record the information contained in the statement on a centralized computer system that the secretary
25 of state shall establish. The computer system must allow access to financing statement information by any
26 type of communications ~~which~~ that conform to standards used by the state central computer. The system
27 must have safeguards to allow only access to UCC data and to prevent alteration, addition, or deletion of
28 the UCC data. The computer must be accessible whenever the state computer system is available. A
29 perfected security interest is not created until the financing statement information is recorded on the
30 system. A printout of information from the system is prima facie evidence of the existence or nonexistence

1 of the filing of a financing statement. The secretary of state shall maintain adequate errors and omissions
2 liability coverage to protect against input errors causing loss to a secured party.

3 (10) The secretary of state shall, upon request of a clerk and recorder, mail a certified copy of a
4 financing statement, continuation statement, assignment, amendment, or termination covering collateral
5 described in subsection (8) to the clerk and recorder in the county of the principal debtor's residence. The
6 secretary of state shall mail the requested copies at least once each week. This subsection does not require
7 the secretary of state to mail a copy of any document ~~which~~ that does not specifically indicate the county
8 of the principal debtor's residence on its face.

9 (11) Financing statement information in the computer system constitutes public writings within the
10 meaning of 2-6-101, but the information may not be used to compile mailing lists.

11 (12) The secretary of state, with advice from the county clerk and recorders, shall by administrative
12 rule establish fees as required by this part. The fees must be commensurate with the costs of processing
13 the documents. The secretary of state shall maintain records sufficient to support the amounts of the fees
14 established under this subsection. The secretary of state shall deposit all fees in the enterprise fund in the
15 state treasury. The secretary of state shall disseminate the uniform fee schedule to the county clerk and
16 recorders for their use."

17

18 **Section 2.** Section 30-9-431, MCA, is amended to read:

19 **"30-9-431. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of a
20 document that is required to be filed under this part and the signatures on the facsimile copy in the same
21 manner as an original for purposes of this part, ~~provided that he receives the original document within 5~~
22 ~~working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of filing relates
23 back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this section if it:~~

24 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
25 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

26 ~~(b) is legible and the same size as the original.~~

27 ~~(2) During the 5 day period referred to in subsection (1), the recorded facsimile copy constitutes~~
28 ~~constructive notice for all purposes of the original document.~~

29 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
30 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

1 ~~(4)~~(2) A person who files a false document by facsimile copy is liable to the party aggrieved for
2 three times the amount of damages resulting from the filing of the false document."

3
4 **Section 3.** Section 30-13-221, MCA, is amended to read:

5 "**30-13-221. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of
6 a document that is required to be filed under this part and the signatures on the facsimile copy in the same
7 manner as an original for purposes of this part, ~~provided that he receives the original document within 5~~
8 ~~working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of filing relates
9 back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this section if it:~~

10 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
11 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

12 ~~(b) is legible and the same size as the original.~~

13 ~~(2) During the 5-day period referred to in subsection (1), the recorded facsimile copy constitutes~~
14 ~~constructive notice for all purposes of the original document.~~

15 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
16 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

17 ~~(4)~~(2) A person who files a false document by facsimile copy is liable to the party aggrieved for
18 three times the amount of damages resulting from the filing of the false document."

19
20 **Section 4.** Section 30-13-341, MCA, is amended to read:

21 "**30-13-341. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of
22 a document that is required to be filed under this part and the signatures on the facsimile copy in the same
23 manner as an original for purposes of this part, ~~provided that he receives the original document within 5~~
24 ~~working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of filing relates
25 back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this section if it:~~

26 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
27 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

28 ~~(b) is legible and the same size as the original.~~

29 ~~(2) During the 5-day period referred to in subsection (1), the recorded facsimile copy constitutes~~
30 ~~constructive notice for all purposes of the original document.~~

1 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
 2 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

3 ~~(4)(2) A person who files a false document by facsimile copy is liable to the party aggrieved for~~
 4 ~~three times the amount of damages resulting from the filing of the false document."~~

5
 6 **Section 5.** Section 35-1-218, MCA, is amended to read:

7 **"35-1-218. Facsimile filing -- requirements -- liability.** (1) The secretary of state shall treat a
 8 facsimile copy of a document that is required or permitted to be filed under this chapter and the signatures
 9 on the facsimile copy in the same manner as an original for purposes of this chapter ~~provided that the~~
 10 ~~secretary of state receives the original document within 5 working days of the receipt of the facsimile copy.~~
 11 If all other requirements are met, the date of filing relates back to the date of receipt of the facsimile copy.

12 (2) ~~A facsimile copy is entitled to be filed under this section if it is:~~

13 ~~(a) produced by a method of transmission of images in which the image is scanned at the~~
 14 ~~transmitter; and~~

15 ~~(b) legible and the same size as the original.~~

16 ~~(3) During the 5-day period referred to in subsection (1), the recorded facsimile copy constitutes~~
 17 ~~constructive notice for all purposes of the original document.~~

18 ~~(4) If the original document is not received within 5 working days of receipt of the facsimile copy~~
 19 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

20 ~~(5) A person who files a false document by facsimile copy is liable to an aggrieved party for three~~
 21 ~~times the amount of damages resulting from the filing of the false document."~~

22
 23 **Section 6.** Section 35-2-120, MCA, is amended to read:

24 **"35-2-120. Facsimile filing.** (1) The secretary of state shall treat a facsimile copy of a document
 25 that is required or permitted to be filed under 35-2-119, 35-2-121 through 35-2-123, 35-2-1003,
 26 35-2-1108 through 35-2-1112, and this section and the signatures on the facsimile copy in the same
 27 manner as an original for purposes of 35-2-119, 35-2-121 through 35-2-123, 35-2-1003, 35-2-1108
 28 through 35-2-1112, and this section ~~provided that the secretary of state receives the original document~~
 29 ~~within 5 working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of
 30 filing relates back to the date of receipt of the facsimile copy.

1 (2) ~~A facsimile copy is entitled to be filed under this section if it is:~~
 2 ~~(a) produced by a method of transmission of images in which the image is scanned at the~~
 3 ~~transmitter; and~~
 4 ~~(b) legible and the same size as the original.~~
 5 ~~(3) During the 5-day period referred to in subsection (1), the recorded facsimile copy constitutes~~
 6 ~~constructive notice for all purposes of the original document.~~
 7 ~~(4) If the original document is not received within 5 working days of receipt of the facsimile copy~~
 8 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~
 9 ~~(5) A person who files a false document by facsimile copy is liable to an aggrieved party for three~~
 10 ~~times the amount of damages resulting from the filing of the false document."~~

11
 12 **Section 7.** Section 35-8-207, MCA, is amended to read:

13 "**35-8-207. Filing of facsimile copy.** (1) The secretary of state may treat a facsimile copy of a
 14 document that is required to be filed under this chapter and the signatures on the facsimile copy in the
 15 same manner as an original for purposes of this chapter, ~~provided that the secretary of state receives the~~
 16 ~~original document within 5 working days of the receipt of the facsimile copy.~~ If all other requirements are
 17 met, the date of filing relates back to the date of receipt of the facsimile copy. ~~A facsimile copy may be~~
 18 ~~filed under this section if it:~~

19 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
 20 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

21 ~~(b) is legible and the same size as the original.~~

22 ~~(2) During the 5-day period referred to in subsection (1), the recorded facsimile copy constitutes~~
 23 ~~constructive notice for all purposes of the original document.~~

24 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
 25 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

26 ~~(4)(2) A person who files a false document by facsimile copy is liable to the party aggrieved for~~
 27 ~~three times the amount of damages resulting from the filing of the false document."~~

28
 29 **Section 8.** Section 35-10-112, MCA, is amended to read:

30 "**35-10-112. Facsimile filing -- requirements -- liability.** (1) The secretary of state shall treat a

1 facsimile copy of a document that is required or permitted to be filed under this chapter and the signatures
 2 on the facsimile copy in the same manner as an original for purposes of this chapter ~~provided that the~~
 3 ~~secretary of state receives the original document within 5 working days of the receipt of the facsimile copy.~~
 4 If all other requirements are met, the date of filing relates back to the date of receipt of the facsimile copy.

5 (2) ~~A facsimile copy is entitled to be filed under this section if it is:~~

6 ~~(a) produced by a method of transmission of images in which the image is scanned at the~~
 7 ~~transmitter; and~~

8 ~~(b) legible and the same size as the original.~~

9 ~~(3) During the 5-day period referred to in subsection (1), the recorded facsimile copy constitutes~~
 10 ~~constructive notice for all purposes of the original document.~~

11 ~~(4) If the original document is not received within 5 working days of receipt of the facsimile copy~~
 12 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

13 ~~(5) A person who files a false document by facsimile copy is liable to an aggrieved party for three~~
 14 ~~times the amount of damages resulting from the filing of the false document."~~

15
 16 **Section 9.** Section 35-12-615, MCA, is amended to read:

17 **"35-12-615. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of
 18 a document that is required to be filed under this chapter and the signatures on the facsimile copy in the
 19 same manner as an original for purposes of this chapter, ~~provided that he receives the original document~~
 20 ~~within 5 working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of
 21 filing relates back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this~~
 22 ~~section if it:~~

23 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
 24 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

25 ~~(b) is legible and the same size as the original.~~

26 ~~(2) During the 5-day period referred to in subsection (1), the recorded facsimile copy constitutes~~
 27 ~~constructive notice for all purposes of the original document.~~

28 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
 29 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

30 ~~(4)~~(2) A person who files a false document by facsimile copy is liable to the party aggrieved for

1 three times the amount of damages resulting from the filing of the false document."

2

3 **Section 10.** Section 35-15-211, MCA, is amended to read:

4 "**35-15-211. Filing of a facsimile copy.** (1) The secretary of state may treat a facsimile copy of
5 a document that is required to be filed under this chapter and the signatures on the facsimile copy in the
6 same manner as an original for purposes of this chapter, ~~provided that he receives the original document~~
7 ~~within 5 working days of the receipt of the facsimile copy.~~ If all other requirements are met, the date of
8 filing relates back to the date of receipt of the facsimile copy. ~~A facsimile copy may be filed under this~~
9 ~~section if it:~~

10 ~~(a) is produced by a method of transmission of images in which the image is scanned at the~~
11 ~~transmitter, reconstructed at the receiving station, and duplicated on paper at the receiving station; and~~

12 ~~(b) is legible and the same size as the original.~~

13 ~~(2) During the 5-day period referred to in subsection (1), the recorded facsimile copy constitutes~~
14 ~~constructive notice for all purposes of the original document.~~

15 ~~(3) If the original document is not received within 5 working days of receipt of the facsimile copy~~
16 ~~as provided in subsection (1), the filing of the facsimile copy is void.~~

17 ~~(4)(2)~~ A person who files a false document by facsimile copy is liable to the party aggrieved for
18 three times the amount of damages resulting from the filing of the false document."

19

20 **NEW SECTION. SECTION 11. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND**
21 **APPROVAL.**

22

-END-