

ADMINISTRATIVE RULES

OFFICE OF THE SECRETARY OF STATE

UNIFORM COMMERCIAL CODE REVISED ARTICLE 9

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**UCC Administrative Rules
Uniform Commercial Code -- Article 9**

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Section 1 -- General Provisions

- 100 Policy statement. The administration of the UCC has an important impact on the economy and upon the rights of the public, in this state and in the United States. The volume of international, interstate and multistate transactions pursuant to the UCC requires that the administration of the UCC be conducted in a manner that promotes both local and multi-jurisdictional commerce by striving for uniformity in policies and procedures among the various states.

As provided in Section 9-526 of the UCC, the interpretation and implementation of the filing office's duties and responsibilities shall be expressed in a written set of administrative rules, which the public shall have a voice in creating. Such rules have the following purposes:

To simplify and improve the administration of the UCC by promoting uniform UCC filing procedures in this state and in the nation;

To simplify the public's ability to discover and understand the UCC filing procedures of the various states by establishing a uniform framework for describing the procedures;

To increase public access to information;

To increase public participation in the formulation of administrative policy and procedures;
and

To increase public accountability of the filing officer.

- 101 Definitions. The following words and terms shall have the respective meanings provided in this rule. Words and terms not defined in this rule which are defined in the UCC shall have the respective meanings accorded such terms in the UCC.

101.1 "Amendment" means a UCC document that purports to amend the information contained in a financing statement. Amendments include assignments, continuations and terminations.

101.2 "Assignment" is an amendment that purports to reflect an assignment of all or a part of a secured party's power to authorize an amendment to a financing statement.

101.3 "Continuation" means an amendment that purports to continue the effectiveness of a financing statement.

101.4 "Correction statement" means a UCC document that purports to indicate that a financing statement is inaccurate or wrongfully filed.

101.5 "File number" means the unique identifying information assigned to an initial financing statement by the filing officer for the purpose of identifying the financing statement and UCC

documents relating to the financing statement in the filing officer's information management system. For a financing statement with an initial financing statement filed on or after January 1, 2006, the file number shall include a digit that: (1) is mathematically derived from or related to the other digits of the file number; and (2) aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

- 101.6 “Filing office” and “filing officer” mean Office of the Secretary of State.
- 101.7 “Financing statement” means a record or records composed of an initial financing statement and any filed record(s) relating to the initial financing statement.
- 101.8 “Individual” means a human being, or a decedent in the case of a debtor that is such decedent's estate.
- 101.9 “Information Management System” means the body of information containing the UCC records, index and related database maintained by the office of the Secretary of State, including without limitation, all UCC documents relating to any given file number. The requirements for the forms and administration of the records, index and database maintained within this Information Management System may be restructured and/or revised from time to time in conformity with Revised Article 9, as enacted in this State, and these Administrative Rules, as otherwise promulgated and revised from time to time by the Office of the Secretary of State.
- 101.10 “Initial financing statement” means a UCC document that does not identify itself as an amendment or identify an initial financing statement to which it relates, as required by UCC Section 9-512, 9-514 or 9-518.
- 101.11 “Lapse date” means a lapse date calculated for each initial financing statement (unless the debtor is indicated to be a transmitting utility). The lapse date is the same date of the same month as the filing date in the fifth year after the filing date or relevant subsequent fifth anniversary thereof if a timely continuation statement is filed. If the initial financing statement indicates that it is filed with respect to a public finance transaction or a manufactured home transaction, the lapse date is the same date of the same month as the filing date in the thirtieth year after the filing date. If there is no timely filing of a continuation, the financing statement will be indicated as “lapsed” after midnight at the end of the lapse date. The relevant anniversary for a February 29 filing date shall be the March 1 in the fifth or thirtieth year following the year of the filing date depending upon the type of transaction.
- 101.12 “Organization” means a legal person who is not an Individual under rule 101.8.

- 101.13 “Organizational number” means the identifying number issued to an entity upon the formation of that entity by the filing office in the jurisdiction of formation.
- 101.14 “Remitter” means a person who tenders a UCC document to the filing officer for filing, whether the person is a filer or an agent of a filer responsible for tendering the document for filing. "Remitter" does not include a person responsible merely for the delivery of the document to the filing office, such as the postal service or a courier service but does include a service provider who acts as a filer's representative in the filing process.
- 101.15 “Secured party of record” means, a secured party or a representative of the secured party shown in the filing officer’s record keeping system as the then currently active secured party with respect to a financing statement. If an amendment is filed under UCC Section 9-514(b), the assignee named in the amendment is a secured party of record. A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.
- 101.16 “Termination” means an amendment intended to indicate that the related financing statement has ceased to be effective with respect to the secured party authorizing the termination.
- 101.17 “UCC” means the Uniform Commercial Code as adopted in this state and in effect from time to time.
- 101.18 “UCC document” means an initial financing statement, an amendment, an assignment, a continuation, a termination or a correction statement. (Note: this definition is used for the purpose of these rules only. The use of the term "UCC document" in these rules has no relation to the definition of the term "document" in UCC Section 9-102(a)(30).)
- 102 Singular and plural forms. Singular nouns shall include the plural form, and plural nouns shall include the singular form, unless the context otherwise requires.
- 103 Place to file. The filing office is the office for filing UCC documents relating to all types of collateral except for timber to be cut, as-extracted collateral as defined in UCC Section 9-102(a)(6) and, when the relevant financing statement is filed as a fixture filing, goods which are or are to become fixtures. Regardless of the nature of the collateral, the filing office is the office for filing all UCC documents where the debtor is a transmitting utility.
- 104 Filing office identification. In addition to the promulgation of these rules, the filing office will disseminate information of its location, mailing address, telephone and fax number, and its internet and other electronic “addresses” through usual and customary means.

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- 104.1 On-line information service. The filing officer cannot offer on-line information services at this time.
- 104.2 Electronic Mail. Electronic mail cannot be used for filing UCC documents or for requesting searches of the records of financing statements at this time.
- 105 Office hours. The filing office is open to the public between the hours of 8:30 AM and 4:30 PM, Monday through Friday, except for state holidays.
- 106 UCC document delivery. UCC documents may be tendered for filing at the filing office as follows:
- 106.1 Personal delivery, at the filing office's street address. The file time for a UCC document delivered by this method is when delivery of the UCC document is received by the filing office (even though the UCC document may not yet have been accepted for filing and subsequently may be rejected).
- 106.2 Courier delivery, at the filing office's street address. The file time for a UCC document delivered by this method is, notwithstanding the time of delivery, at the earlier of the time the UCC document is first examined by a filing officer for processing (even though the UCC document may not yet have been accepted for filing and may be subsequently rejected), or the next close of business following the time of delivery. A UCC document delivered after regular business hours or on a day the filing office is not open for business will have a filing time of the close of business on the next day the filing office is open for business.
- 106.3 Postal service delivery, to the filing office's street address. The file time for a UCC document delivered by this method is, notwithstanding the time of delivery, at the earlier of the time the UCC document is first examined by a filing officer for processing (even though the UCC document may not yet have been accepted for filing and may be subsequently rejected), or the next close of business following the time of delivery. A UCC document delivered after regular business hours or on a day the filing office is not open for business will have a filing time of the close of business on the next day the filing office is open for business.

Numbers 106.4 through 106.5 are reserved.

107 Search request delivery. UCC search requests may be delivered to the filing office by any of the means by which UCC documents may be delivered to the filing office. Requirements concerning search requests are set forth in rule 501. UCC search requests upon a debtor named on an initial financing statement may be made by an appropriate indication on the face of the initial financing statement form if the form is entitled to be filed with the standard form fee and the relevant search fee is also tendered with the initial financing statement.

108 Approved forms. Forms for UCC documents that conform to the requirements of this rule will be acceptable by the filing office. Other forms will not be accepted by the filing office.

108.1 Statutory forms. The forms set forth in UCC Section 9-521 will be acceptable.

108.2 IACA forms approved. A form approved for the relevant UCC document by the International Association of Corporation Administrators will be acceptable.

108.3 Secretary of State-approved. A form approved for the relevant UCC document by the Office of the Secretary of State will be acceptable. Copies of all such forms then approved shall be distributed with these rules when they are distributed by the filing office, and the filing office shall cause copies of such forms to be made available to prospective filers and remitters upon request.

Number 108.4 is reserved.

109 Form -- UCC search. A form that meets the requirements regarding dimensions and location of information on the search form approved by the Office of the Secretary of State will be acceptable. Copies of such form then approved shall be distributed with these rules when they are distributed by the filing office and the filing office shall cause copies of such forms to be made available to prospective filers and remitters upon request.

110 Forms suppliers. The filing office will make lists of forms suppliers available to prospective filers and remitters upon request.

111 Filing fees.

111.1 Filing fee. The fee for filing and indexing a UCC document of one or two pages communicated on paper is \$16.00. If there are additional pages, the fee is \$32.00. The

fee for filing and indexing a record communicated by another medium authorized by the filing-office rule is \$8.00.

111.2 Additional fees. In addition to fees set forth in rules 111.1 and 111.3, a fee of \$16.00 shall be paid for an initial financing statement that indicates that it is filed in connection with a public-finance transaction; a fee of \$16.00 shall be paid for an initial financing statement that indicates that it is filed in connection with a manufactured-home transaction. The number of names required to be indexed does not affect the amount of the fees listed above.

111.3 UCC search fee. The fee for a UCC search request communicated on paper or in a paper-based format is \$5.00. The fee for filing and indexing a UCC search request communicated by a medium authorized by these rules which is other than on paper or in a paper-based format shall be \$5.00.

111.4 UCC search – copies. The fee for UCC search copies is \$.15 per page.

112 Expedited services. Expedited services are not provided at this time.

113 Methods of payment. Filing fees and fees for public records services may be paid by the following methods.

113.1 Cash. The filing officer discourages cash payment unless made in person to the cashier at the filing office.

113.2 Checks. Personal checks, cashier's checks and money orders made payable to the Secretary of State shall be conditionally accepted as the appropriate means for payment of the prescribed fee, provided that such payment instrument is honored and paid to the Secretary of State upon presentation and sufficient funds are on deposit and available therefor.

114 Overpayment and underpayment policies.

114.1 Overpayment. The filing officer shall provide the remitter with written instructions on how to obtain a refund of an overpayment amount.

114.2 Underpayment. Upon receipt of a document with an insufficient fee, the filing officer shall return the document and the insufficient fee to the remitter as provided in rule 205.

115 Public records services. Public records services are provided on a non-discriminatory basis to any member of the public on the terms described in these rules. The following methods are available for obtaining copies of UCC documents.

115.1 Individually identified documents. Copies of individually identified UCC documents are available in the following forms: Copies provided on paper.

115.2 Bulk copies of documents. Bulk copies of UCC documents are available in the following forms: Copies provided on paper.

Numbers 115.3 through 115.4 are reserved.

116 Fees for public records services. Fees for public records services are established as follows:

116.1 Paper copies of individual documents.

116.1.1 Regular delivery method \$.15 per page

116.1.2 Fax delivery not provided

116.2 Bulk copies of documents \$.15 per page

Numbers 116.3 through 116.4 are reserved.

117 New practices and technologies. The filing officer is authorized to adopt practices and procedures to accomplish receipt, processing, maintenance, retrieval and transmission of, and remote access to, Article 9 filing data by means of electronic, voice, optical and/or other technologies, and, without limiting the foregoing, to maintain and operate, in addition to or in lieu of a paper-based system, a non-paper-based Article 9 filing system utilizing any of such technologies. In developing and utilizing technologies and practices, the filing officer shall, to the greatest extent feasible, take into account compatibility and consistency with, and whenever possible be uniform with, technologies, practices, policies and regulations adopted in connection with Article 9 filing systems in other states.

Numbers 118 through 199 are reserved.

Section 2 -- Acceptance and Refusal of Documents

- 200 Policy statement. The duties and responsibilities of the filing officer with respect to the administration of the UCC are ministerial. In accepting for filing or refusing to file a UCC document pursuant to these rules, the filing officer does none of the following:
- 200.1 Determine the legal sufficiency or insufficiency of a document.
 - 200.2 Determine that a security interest in collateral exists or does not exist.
 - 200.3 Determine that information in the document is correct or incorrect, in whole or in part.
 - 200.4 Create a presumption that information in the document is correct or incorrect, in whole or in part.
- 201 Duty to file. Provided that there is no ground to refuse acceptance of the document under rule 202, a UCC document is filed upon its receipt by the filing officer with the filing fee and the filing officer shall promptly assign a file number to the UCC document and index it in the information management system.
- 202 Grounds for refusal of UCC document. The following grounds are the sole grounds for the filing officer's refusal to accept a UCC document for filing.
- 202.1 Debtor name and address. An initial financing statement or an amendment that purports to add a debtor shall be refused if the document fails to include a legible debtor name and address for a debtor, in the case of an initial financing statement, or for the debtor purporting to be added in the case of such an amendment. If the document contains more than one debtor name or address and some names or addresses are missing or illegible, the filing officer shall index the legible name and address pairings, and provide a notice to the remitter containing the file number of the document, identification of the debtor name(s) that was (were) indexed, and a statement that debtors with illegible or missing names or addresses were not indexed.
 - 202.2 Additional debtor identification. An initial financing statement or an amendment adding one or more debtors shall be refused if the document fails to identify whether each named debtor (or each added debtor in the case of such an amendment) is an individual or an organization, if the last name of each individual debtor is not identified, or if, for each debtor identified as an organization, the document does not include in legible form the organization's type, state of organization and organization number (if it has one) or a statement that it does not have one.
 - 202.3 Secured party name and address. An initial financing statement, an amendment purporting to add a secured party of record, or an assignment, shall be refused if the document fails to

include a legible secured party (or assignee in the case of an assignment) name and address. If the document contains more than one secured party (or assignee) name or address and some names or addresses are missing or illegible, the filing officer shall refuse the UCC document.

202.4 Lack of identification of initial financing statement. A UCC document other than an initial financing statement shall be refused if the document does not provide a file number of a financing statement in the UCC information management system that has not lapsed.

202.5 Identifying information. A UCC document that does not identify itself as an amendment or identify an initial financing statement to which it relates, as required by Section 9-512, 9-514 or 9-518, is an initial financing statement.

202.6 Timeliness of continuation. A continuation shall be refused if it is not received during the six-month period concluding on the day upon which the related financing statement would lapse.

202.6.1 First day permitted. The first day on which a continuation may be filed is the date of the month corresponding to the date upon which the financing statement would lapse, six months preceding the month in which the financing statement would lapse. If there is no such corresponding date during the sixth month preceding the month in which the financing statement would lapse, the first day on which a continuation may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse, although filing by certain means may not be possible on such date if the filing office is not open on such date.

202.6.2 Last day permitted. The last day on which a continuation may be filed is the date upon which the financing statement lapses.

202.7 Fee. A document shall be refused if the document is accompanied by less than the full filing fee tendered by a method described in rule 113.

202.8 Means of communication. UCC documents communicated to the filing office by a means of communication not authorized by the filing officer for the communication of UCC documents shall be refused.

Number 202.9 is reserved.

203 Grounds not warranting refusal. The sole grounds for the filing officer's refusal to accept a UCC document for filing are enumerated in rule 202. The following are examples of defects that do not constitute grounds for refusal to accept a document. They are not a comprehensive enumeration of defects outside the scope of permitted grounds for refusal to accept a UCC document for filing.

- 203.1 Errors. The UCC document contains or appears to contain a misspelling or other apparently erroneous information.
- 203.2 Incorrect names.
- 203.2.1 The UCC document appears to identify a debtor incorrectly.
- 203.2.2 The UCC document appears to identify a secured party or a secured party of record incorrectly.
- 203.3 Extraneous information. The UCC document contains additional or extraneous information of any kind.
- 203.4 Insufficient information. The UCC document contains less than the information required by Article 9 of the UCC, provided that the document contains the information required in rule 202.1 through 202.5.
- 203.5 Collateral description. The UCC document incorrectly identifies collateral, or contains an illegible or unintelligible description of collateral, or appears to contain no such description.
- 203.6 Excessive fee. The document is accompanied by funds in excess of the full filing fee.
- 204 Time limit. The filing officer shall determine whether criteria exist to refuse acceptance of a UCC document for filing not later than the second business day after the date the document would have been filed had it been accepted for filing and shall index a UCC document not so refused within the same time period.
- 205 Procedure upon refusal. If the filing officer finds grounds under rule 202 to refuse acceptance of a UCC document, the filing officer shall return the document, if written, to the remitter and will refund the filing fee. The filing office shall send a notice that contains the date and time the document would have been filed had it been accepted for filing (unless such date and time are stamped on the document), and a brief description of the reason for refusal to accept the document under rule 202. The notice shall be sent to a secured party or the remitter as provided in rule 401.3.2 no later than the second business day after the filing office receives the document.
- 206 Acknowledgment. At the request of a filer or remitter who files a paper or paper-based UCC document, the filing officer shall either (i) send to said filer or remitter a photostatic copy of the record of the UCC document showing the file number assigned to it and the date and time of filing

or, (ii) if such filer or remitter provides a copy of such UCC document, note the file number and the date and time of filing on the copy and deliver or send it to said filer or remitter.

207 Other notices. Nothing in these rules prevents a filing officer from communicating to a filer or a remitter that the filing officer noticed apparent potential defects in a UCC document, whether or not it was filed or refused for filing. However, the filing office is under no obligation to do so and may not, in fact, have the resources to do so or to identify such defects. **THE RESPONSIBILITY FOR THE LEGAL EFFECTIVENESS OF FILING RESTS WITH FILERS AND REMITTERS AND THE FILING OFFICE BEARS NO RESPONSIBILITY FOR SUCH EFFECTIVENESS.**

208 Refusal errors. If a secured party or a remitter demonstrates to the satisfaction of the filing officer that a UCC document that was refused for filing should not have been refused under rule 202, the filing officer will file the UCC document as provided in these rules with a filing date and time assigned of when such filing was wrongfully refused. The filing officer will also file a statement (and such demonstration of error shall constitute the secured party's authorization to do so) that states that the effective date and time of filing is the date and time the UCC document was originally tendered for filing, and sets forth such date and time.

Numbers 209 through 299 are reserved.

Section 3 -- UCC Information Management System

300 Policy statement. The filing officer uses an information management system to store, index, and retrieve information relating to financing statements. The information management system includes an index of the names of debtors named on financing statements which have not lapsed. The rules in this section describe the UCC information management system.

301 Primary data elements. The primary data elements used in the UCC information management system are the following.

301.1 Identification numbers

301.1.1 Each initial financing statement is identified by its file number as described in rule 101.5. Identification of the initial financing statement is stamped on written UCC documents or otherwise permanently associated with the record maintained for UCC documents in the UCC information management system. A record is created in the information management system for each initial financing statement and all information comprising

such record is maintained in such system. Such record is identified by the same information assigned to the initial financing statement.

301.1.2 A UCC document other than an initial financing statement is identified by a unique file number assigned by the filing officer. In the information management system, records of all UCC documents other than initial financing statements are linked to the record of their related initial financing statement.

301.2 Type of document. The type of UCC document from which data is transferred is identified in the information management system from information supplied by the remitter.

301.3 Filing date and filing time. The filing date and filing time of UCC documents are stored in the information management system. Calculation of the lapse date of an initial financing statement is based upon the filing date.

301.4 Identification of parties. The names and addresses of debtors and secured parties are transferred from UCC documents to the UCC information management system using one or more data entry or transmittal techniques.

301.5 Status of financing statement. In the information management system, each financing statement has a status of active or inactive.

301.6 Page count. The total number of pages in a UCC document is maintained in the information management system.

301.7 Lapse indicator. An indicator is maintained by which the information management system identifies whether or not a financing statement will lapse and, if it does, when it will lapse. The lapse date is determined as provided in rule 404.

302 Names of debtors who are individuals. For the purpose of this rule, "individual" means a human being, or a decedent in the case of a debtor that is such decedent's estate. This rule applies to the name of a debtor or a secured party on a UCC document who is an individual.

Numbers 302.1 through 302.4 are reserved.

303 Names of debtors that are organizations. This rule applies to the name of an organization who is a debtor or a secured party on a UCC document.

Numbers 303.1 through 303.2 are reserved.

- 304 Estates. Although they are not human beings, estates are treated as if the decedent were the debtor under rule 302.
- 305 Trusts. If the trust is named in its organic document(s), its full legal name, as set forth in such document(s), is used. Such trusts are treated as organizations. If the trust is not so named, the name of the settlor is used. If a settlor is indicated to be an organization, the name is treated as an organization name. If the settlor is an individual, the name is treated as an individual name. A UCC document that uses a settlor's name should include other information provided by the filer to distinguish the debtor trust from other trusts having the same settlor and all financing statements filed against trusts or trustees acting with respect to property held in trust should indicate the nature of the debtor.
- 306 Initial financing statement Upon the filing of an initial financing statement the status of the parties and the status of the financing statement shall be as follows.
- 306.1 Status of secured party. Each secured party named on an initial financing statement shall be a secured party of record, except that if the UCC document names an assignee, the secured party/assignor shall not be a secured party of record and the secured party/assignee shall be a secured party of record.
- 306.2 Status of debtor. The status of a debtor named on the document shall be active and shall continue as active until one year after the financing statement lapses.
- 306.3 Status of financing statement. The status of the financing statement shall be active. A lapse date shall be calculated, five years from the file date, unless the initial financing statement indicates that it is filed with respect to a public-financing transaction or a manufactured-home transaction, in which case the lapse date shall be thirty years from the file date, or if the initial financing statement indicates that it is filed against a transmitting utility, in which case there shall be no lapse date. A financing statement remains active until one year after it lapses, or if it is indicated to be filed against a transmitting utility, until one year after it is terminated with respect to all secured parties of record.
- 307 Amendment. Upon the filing of an amendment the status of the parties and the status of the financing statement shall be as follows:
- 307.1 Status of secured party and debtor. An amendment shall affect the status of its debtor(s) and secured party(ies) as follows:
- 307.1.1 Collateral amendment or address change. An amendment that amends only the collateral description or one or more addresses has no effect upon

the status of any debtor or secured party. If a statement of amendment is authorized by less than all of the secured parties (or, in the case of an amendment that adds collateral, less than all of the debtors), the statement affects only the interests of each authorizing secured party (or debtor).

- 307.1.2 Debtor name change. An amendment that changes a debtor's name has no effect on the status of any debtor or secured party, except that the related initial financing statement and all UCC documents that include an identification of such initial financing statement shall be cross-indexed in the UCC information management system so that a search under either the debtor's old name or the debtor's new name will reveal such initial financing statement and such related UCC documents. Such a statement of amendment affects only the rights of its authorizing secured party(ies).
- 307.1.3 Secured party name change. An amendment that changes the name of a secured party has no effect on the status of any debtor or any secured party, but the new name is added to the index as if it were a new secured party of record.
- 307.1.4 Addition of a debtor. An amendment that adds a new debtor name has no effect upon the status of any party to the financing statement, except the new debtor name shall be added as a new debtor on the financing statement. The addition shall affect only the rights of the secured party(ies) authorizing the statement of amendment.
- 307.1.5 Addition of a secured party. An amendment that adds a new secured party shall not affect the status of any existing party to the financing statement, except that the new secured party name shall be added as a new secured party on the financing statement and such addition shall not affect the rights of any existing secured party or any secured party not authorizing the amendment.
- 307.1.6 Deletion of a debtor. An amendment that deletes a debtor has no effect on the status of any party to the financing statement, even if the amendment purports to delete all debtors.
- 307.1.7 Deletion of a secured party. An amendment that deletes a secured party of record has no effect on the status of any party to the financing statement, even if the amendment purports to delete all secured parties of record.

- 307.2 Status of financing statement. An amendment shall have no effect upon the status of the financing statement, except that a continuation may extend the period of effectiveness of a financing statement.
- 308 Assignment of powers of secured party of record.
- 308.1 Status of the parties. An assignment shall have no effect on the status of the parties to the financing statement, except that each assignee named in the assignment shall become a secured party of record.
- 308.2 Status of financing statement. An assignment shall have no effect upon the status of the financing statement.
- 309 Continuation.
- 309.1 Continuation of lapse date. Upon the timely filing of one or more continuations by any secured party(ies) of record, the lapse date of the financing statement shall be postponed for five years.
- 309.2 Status of parties. The filing of a continuation shall have no effect upon the status of any party to the financing statement.
- 309.3 Status of financing statement. Upon the filing of a continuation statement, the status of the financing statement remains active.
- 310 Termination.
- 310.1 Status of parties. The filing of a termination shall have no effect upon the status of any party to the financing statement.
- 310.2 Status of financing statement. A termination shall have no effect upon the status of the financing statement and the financing statement shall remain active in the information management system until one year after it lapses, unless the termination relates to a financing statement that indicates it is filed against a transmitting utility, in which case the financing statement will become inactive one year after it is terminated with respect to all secured parties of record.
- 311 Correction statement.

311.1 Status of parties. The filing of a correction statement shall have no effect upon the status of any party to the financing statement.

311.2 Status of financing statement. A correction statement shall have no effect upon the status of the financing statement.

312 Procedure upon lapse. If there is no timely filing of a continuation with respect to a financing statement, the financing statement lapses on its lapse date but no action is then taken by the filing office. On the first anniversary of such lapse date, the information management system renders or is caused to render the financing statement inactive and the financing statement will no longer be made available to a searcher unless inactive statements are requested by the searcher and the financing statement is still retrievable by the information management system.

Numbers 313 through 339 are reserved.

Numbers 340 through 349 are reserved.

Numbers 350 through 369 are reserved.

Numbers 370 through 399 are reserved.

Section 4 -- Filing Procedures.

400 Policy statement. This section contains rules describing the filing procedures of the filing officer upon and after receipt of a UCC document. It is the policy of the filing officer to promptly file a document that conforms to these rules. Personnel who create reports in response to search requests type search criteria exactly as set forth on the search request. No effort is made to detect or correct errors of any kind.

401 Document indexing and other procedures. The Information Management System referenced herein may be restructured and/or revised at any time in a manner consistent with applicable law and administrative rules and regulations promulgated by the Office of the Secretary of State.

401.1 Date and time stamp. The date and time of receipt shall be noted on the document or otherwise permanently associated with the record maintained for a UCC document in the UCC information management system at the earliest possible time.

401.2 Cash management. Transactions necessary to payment of the filing fee are performed.

401.3 Document review. The filing office determines whether a ground exists to refuse the document under rule 202.

401.3.1 File stamp. If there is no ground for refusal of the document, the document is stamped or deemed filed and a unique identification number and the filing date is stamped on the document or permanently associated with the record of the document maintained in the UCC information management system. The sequence of the identification number is not an indication of the order in which the document was received.

401.3.2 Correspondence. If there is a ground for refusal of the document, notification of refusal to accept the document is prepared as provided in rule 205. If there is no ground for refusal of the document, an acknowledgment of filing is prepared as provided in rule 206. If the UCC document was tendered in person, notice of refusal or acknowledgment of the filing is given to the remitter by personal delivery. Acknowledgment of filing or notice of refusal of a UCC document tendered by means other than personal delivery is sent to the secured party (or the first secured party if there are more than one) named on the UCC document or to the remitter if the remitter so requests by regular mail or by overnight courier if the remitter provides a prepaid waybill or access to the remitter's account with the courier.

Number 401.4 is reserved.

402 Filing date. The filing date of a UCC document is the date the UCC document is delivered to the filing officer with the proper filing fee if the filing office is open to the public on that date or, if the filing office is not so open on that date, the filing date is the next date the filing office is so open, except that, in each case, UCC documents received after 4:30 P.M. shall be deemed received on the following day. The filing officer may perform any duty relating to the document on the filing date or on a date after filing date.

403 Filing time. The filing time of a UCC document is determined as provided in rule 106.

404 Lapse date and time. A lapse date is calculated for each initial financing statement (unless the debtor is indicated to be a transmitting utility). The lapse date is the same date of the same month as the filing date in the fifth year after the filing date or relevant subsequent fifth anniversary thereof if timely continuation statement[s] are filed, but if the initial financing statement indicates that it is filed with respect to a public-finance transaction or a manufactured-home transaction, the lapse date is the same date of the same month as the filing date in the thirtieth year after the filing date. The lapse

takes effect at midnight at the end of the lapse date. The relevant anniversary for a February 29 filing date shall be the March 1 in the fifth year following the year of the filing date.

405 Errors of the filing officer. The filing office may correct the errors of filing officer personnel in the UCC information management system at any time. If the correction is made after the filing officer has issued a certification date that includes the filing date of a corrected document, the filing officer shall proceed as follows. A record relating to the relevant initial financing statement will be placed in the UCC information management system stating the date of the correction and explaining the nature of the corrective action taken. The record shall be preserved for so long as the record of the initial financing statement is preserved in the UCC information management system.

406 Errors other than filing office errors. An error by a filer is the responsibility of such filer. It can be corrected by filing an amendment or it can be disclosed by a correction statement.

Numbers 407 through 409 are reserved. The Information Management System referenced herein shall be restructured and/or revised as necessary to accommodate the database of information prescribed therefore.

410 Initial financing statement. A new record is opened in the UCC information management system for each initial financing statement that bears the file number of the financing statement and the date and time of filing.

410.1 The name and address of each debtor that are legibly set forth in the financing statement are entered into the record of the financing statement. Each such debtor name is included in the searchable index and is not removed until one year after the financing statement lapses. Debtor addresses might not be included in the searchable index except to the extent the filing office offers or intends to offer limited searches or limited copy requests as provided in rule 502.

410.2 The name and address of each secured party that are legibly set forth in the financing statement are thereby included in the record of the financing statement.

410.3 The record is indexed according to the name of the debtor(s) and numerically and is maintained for public inspection.

- 410.4 A lapse date is established for the financing statement, unless the initial financing statement indicates it is filed against a transmitting utility, and the lapse date is maintained as part of the record.
- 411 Amendment. A record is created for the amendment that bears the file number for the amendment and the date and time of filing.
- 411.1 The record of the amendment is associated with the record of the related initial financing statement in a manner that causes the amendment to be retrievable each time a record of the financing statement is retrieved.
- 411.2 The name and address of each additional debtor and secured parties are included in the UCC information management system in the record of the financing statement. Each such additional debtor name is added to the searchable index and are not removed until one year after the financing statement lapses. Debtor addresses might not be included in the searchable index except to the extent the filing office offers or intends to offer limited searches or limited copy requests as provided in rule 502.
- 411.3 If the amendment is a continuation, a new lapse date is established for the financing statement and maintained as part of its record.
- 412 Correction statement. The record of the correction statement is associated with the record of the related initial financing statement in a manner that causes the correction statement to be retrievable each time a record of the financing statement is retrieved.

Number 413 is reserved.

- 414 Archives – general. Active filings are available by search of the debtor name or by request under a specific file number. Inactive records are available upon request by debtor name and by file number.
- 414.1 Paper UCC documents.
- 414.1.1 Storage. Documents are stored in alphabetical order by debtor name in file boxes.
- 414.1.2 Retention. Documents are stored on site for one year after the effectiveness of the financing statement has lapsed under Section 9-515. After one year, documents are transported to the State Records Center for storage until disposal under the records retention schedule.

Numbers 414.2 through 414.3 are reserved.

Number 415 is reserved.

416 Archival Searches. Terminated or lapsed filings may be searched by debtor name or by file number for a period of one year through normal search procedures.

417 Notice of bankruptcy. The filing officer takes no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding involving a debtor named in the UCC information management system. Accordingly, financing statements will lapse as scheduled unless properly continued.

Numbers 418 through 499 are reserved.

Section 5 -- Search Requests and Reports

500 General requirements. The filing officer maintains for public inspection a searchable index for all records of UCC documents that provides for the retrieval of a record by the name of the debtor and by the file number of the initial financing statement to which the record relates and which associates with one another each initial financing statement and each filed UCC document relating to the initial financing statement.

501 Search requests. Search requests shall contain the following information.

501.1 Name searched. A search request should set forth the full correct name of a debtor or the name variant desired to be searched and must specify whether the debtor is an individual or an organization. The full name of an individual shall consist of a first name, a middle name or initial, and a last name, although a search request may be submitted with no middle name or initial and, if only a single name is presented (e.g., "Cher") it will be treated as a last name. The full name of an organization shall consist of the name of the organization as stated on the articles of incorporation or other organic documents in the state or country of organization or the name variant desired to be searched. A search request will be processed using the name in the exact form it is submitted.

501.2 Requesting party. The name and address of the person to whom the search report is to be sent.

- 501.3 Fee. The appropriate fee shall be enclosed, payable by a method described in rule 113.
- 501.4 Search request with filing. If a filer requests a search at the time a UCC document is filed, by checking the box on the form set forth in Section 9-521 or otherwise, the name to be searched will be the debtor name as set forth on the form, the requesting party will be the remitter of the UCC document, and the search request will be deemed to request a search that would be effective to retrieve all financing statements filed on or prior to the date the UCC document is filed.
- 502 Optional information. A UCC search request may contain any of the following information.
- 502.1 A request that copies of documents referred to in the report be included with the report. The request may limit the copies requested by limiting them to the city of the debtor, the date of filing or the identity of the secured party(ies) of record on the financing statements located by the related search. The request may ask for copies of UCC documents identified on the primary search response.
- 502.2 A request that the search of a debtor name be limited to debtors in a particular city. A report created by the filing officer in response to such a request shall contain the following statement:
- "A search limited to a particular city may not reveal all filings against the debtor searched and the searcher bears the risk of relying on such a search."
- 502.3 Instructions on the mode of delivery requested, if other than by ordinary mail, which request will be honored if the requested mode is then made available by the filing office.
- 503 Rules applied to search requests. The following, and only the following rules are applied to conduct searches.
- 503.1 There is no limit to the number of matches that may be returned in response to the search criteria.
- 503.2 No distinction is made between upper and lower case letters.
- 503.3 Punctuation marks and accents are disregarded.

503.4 Words and abbreviations that indicate the existence or nature of an entity are disregarded (e.g., company, limited, incorporated, corporation, limited partnership, limited liability company or abbreviations of the foregoing).

503.5 The word "the" at the beginning of the search criteria is disregarded.

503.6 All spaces are disregarded.

Numbers 503.7 through 503.8 are reserved.

504 Search responses. Reports created in response to a search request shall include the following.

504.1 Filing officer. Identification of the filing officer and the certification of the filing officer required by the UCC.

504.2 Report date. The date the report was generated.

504.3 Name searched. Identification of the name searched.

504.4 Certification date. The certification date applicable to the report; i.e., the date and time through the search is effective to reveal all relevant UCC documents filed on or prior to that date.

504.5 Identification of initial financing statements. Identification of each unexpired initial financing statement filed on or prior to the certification date and time corresponding to the search criteria, by name of debtor, by identification number, and by file date and file time.

504.6 History of financing statement. For each initial financing statement on the report, a listing of all related UCC documents filed by the filing officer on or prior to the certification date.

504.7 Copies. Copies of all UCC documents revealed by the search and requested by the searcher.

Numbers 506 through 599 are reserved.

Section 6 -- Other Notices of Liens

600 Policy statement. The purpose of rules in this section is to describe records of liens maintained by the filing office created pursuant to statutes other than the UCC that are treated by the filing officer in a manner substantially similar to UCC documents and are included on request with the reports described in rule 504.

Numbers 601 through 603 are reserved.

604 Agricultural liens.

604.1 Mechanics of filing. Agricultural liens are filed in the same manner as an initial financing statement and may use all forms and formats of communication permitted to be used in connection with initial financing statements. Each communication of a record of an agricultural lien must identify itself as such. They are indexed by debtor name and will be revealed by searches under rules 504.

604.1.1 Where to file - Agricultural liens are filed with the filing office.

604.1.2 Fee - If the record is communicated in writing and consists of one or two pages, the filing fee is \$16.00. If the record is more than two pages, the filing fee is \$32.00.

604.1.3 Duration - Five (5) years.

604.2 Mechanics of search.

604.2.1 Fee for search. – The fee for a search is \$5.00.

604.2.2 Search available with UCC search.

Numbers 605 through 699 are reserved.

Section 7 -- Rule Making Procedure

700 Policy statement. When taking action affecting the rights of the public, the filing officer shall, in addition to other requirements imposed by the constitution or by statute, do all of the following.

700.1 The filing officer shall adopt rules describing the mission of the filing office, describing the general course and method of operations, and describing the methods by which the public may obtain information or make submissions or requests.

700.2 The filing officer shall adopt rules of practice describing the nature and requirements of all formal and informal procedures available to the public, including a description of forms that may be used to file UCC documents and to request UCC searches.

- 700.3 The filing officer shall make available for public inspection all rules, and make available for public inspection and index by subject, all other written statements of law or policy, or interpretations formulated, adopted or used in the administration of the UCC.
- 701 Public inspection. No rule or other statement or expression of law or policy, or interpretation, order, decision or opinion is valid or effective against any person or party until it has been made available for public inspection as required by these rules, or unless these rules expressly permit otherwise.
- 702 Procedure for adoption of rules. Prior to the adoption, amendment, or repeal of a rule, the filing officer shall comply with this rule.
- 702.1 Delivery of notice. The filing officer shall deliver notice of its intended action at least thirty days in advance of the action to the executive officer of the state bar association, the executive officer of the state bankers association, the chairperson of the UCC section of the International Association of Corporation Administrators, and any other person who requests written notice of intended action to adopt, amend, or repeal a rule and who agrees to pay the cost of transmitting such notice to such other person. The notice shall state the substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views.
- 702.2 Public participation. The filing officer shall afford all interested persons an opportunity to submit data, views or arguments in writing. If requested in writing within fourteen days after the date of the notice of intended action by a governmental subdivision, by twenty-five persons, or by an association having not less than twenty-five members, the filing officer shall give interested persons an opportunity to make an oral presentation prior to adopting a rule. The filing officer shall consider fully all written and oral submissions. Within one hundred eighty days following either the notice or within one hundred eighty days after the last date of the oral presentations on the proposed rule, whichever is later, the filing officer shall adopt a rule or terminate action to adopt the rule. If requested to do so by an interested person, either prior to adoption or within thirty days thereafter, the filing officer shall issue a concise statement of the principal reasons for and against the rule, including the reasons for overruling any considerations urged against the rule.
- 703 When notice not required. When the filing officer finds for good cause that notice and public participation would be contrary to the public interest, the provisions of rule 702 shall be inapplicable. The filing officer shall incorporate in each rule issued in reliance upon this provision the finding and a brief statement of the reasons for the finding that the notice provisions of rule 702 were contrary to the public interest.

- 704 Notice of adoption of rule and effective date. The filing officer shall deliver a notice of adoption of a rule to the executive officer of the state bar association, the executive officer of the state bankers association, the chairperson of the UCC section of the International Association of Corporation Administrators, and any other person who requests written notice of adopted rules and who agrees to pay the cost of transmitting such notice to such other person.
- 704.1 Except as provided in rule 704.2, a rule is effective thirty days after the date of the notice of adoption, as required in this rule, unless a later date is required by statute or specified in the rule.
- 704.2 Subject to applicable constitutional or statutory provisions, a rule becomes effective immediately upon delivery to the executive officer of the state bar association, the executive officer of the state bankers association, the chairperson of the UCC section of the International Association of Corporation Administrators, any other person who requests written notice of adopted rules, if the filing officer finds that compliance with the provisions of rule 702 is contrary to the public interest and if the filing officer complies with the notice requirements of rule 703.
- 705 Petition for adoption of rules. An interested person may petition a filing officer to adopt a rule. Within sixty days after submission of a petition, the filing officer either shall deny the petition in writing on the merits, stating its reasons for the denial, or initiate a proceeding to adopt the rule in accordance with rule 702.
- 706 What constitutes delivery. In this section, "deliver" and "delivery" mean placing a copy of a proposed rule or an adopted rule in ordinary mail, postpaid and correctly addressed to the recipient.
- 707 Authority to adopt rules. Rules on the administration of the UCC are adopted pursuant to Section 9-526 of the UCC and adopted and published in accordance with chapter 35 of title 42.
- 708 Implementation. Rules on the administration of the UCC are intended to implement Part 5 of Article 9 of the UCC.

Numbers 709 through 799 are reserved.