

# ALABAMA'S

## UNIFORM COMMERCIAL CODE

### FILING PROCEDURES/FORM INSTRUCTIONS

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## ***Introduction***

### **Scope and Purpose of this Booklet**

The Uniform Commercial Code appears as Title 7 in Volume 6 of the Code of Alabama, 1975. The UCC became effective in Alabama on January 1, 1967, and directly affects virtually all commercial transactions in personal property in the state of Alabama.

Since its adoption in 1967, the UCC has had one major revision and many amendments. On February 1, 1982, Revised Article 9 of the UCC went into effect. This major revision of the original Article 9 was based on modifications suggested by the Permanent Editorial Board of the UCC in its 1972 text of Article 9. The 1972 text of Article 9 was further studied and amended by a committee of Alabama attorneys under the guidance of the Alabama Law Institute before it was finally passed by the Alabama Legislature.

The Alabama Legislature of 1983 amended §40-1-2(d) to provide for the filing of Alabama tax liens in the Office of the Secretary of State, when the state, rather than the county, would be the appropriate place to file the UCC Financing Statement.

In response to §1324 of the Federal Food Security Act of 1985, the 1986 Alabama Legislature, amended state law with Act 86-907 requiring the secretary of state to implement a central filing system for farm products conforming with the rules and regulations issued by the U.S. Secretary of Agriculture.

A 1987 amendment to the state law was enacted to give the secretary of state the authority to publish rules and regulations and set fees to fund the central filing system for farm products.

In 1989, §35-11-40 and §35-11-41 were amended to provide for the filing of certain federal tax liens in the UCC files in the Office of the Secretary of State.

The entire UCC text consists of 11 articles. The specific emphasis of this booklet, however, will be on Parts 3 and 4 of Revised Article 9, which pertains to the perfecting and enforcing of security interests by filing Financing Statements and other papers with the Office of the Secretary of State.

The purpose of this booklet is to acquaint members of the legal, financial, commercial and industrial professions with the filing procedures and forms which have been adopted and approved by the Office of the Secretary of State for all filings made in this office pursuant to Revised Article 9.

For background purposes, this booklet includes general statements pertaining to the scope and applicability of Revised Article 9. These statements are only general guides, and should not serve as substitutes for statutory analysis when dealing with individual or specific problems.

**THIS BOOKLET IS NOT INTENDED AS A SUBSTITUTE FOR CONSULTATION WITH LEGAL COUNSEL ON LEGAL MATTERS, OR FINANCIAL COUNSEL ON BANKING OR FINANCIAL MATTERS.**

The complete text of Part 4 of Revised Article 9 and §7-9-307 of Part 3 of Revised Article 9 has been included in this booklet as a convenience to the user and for ready reference purposes.

This booklet also contains an appendix of the forms which have been approved for use when filing in the Office of the Secretary of State. For purposes of uniformity, accuracy and efficiency, all interested parties are urged to submit all filings to the Office of the Secretary of State on the approved forms in the manner outlined herein.

**Scope and Extent of Revised Article 9**

Except as provided in §7-9-103 and §7-9-104, Revised Article 9 applies to all transactions, regardless of form, which are intended to create a security interest in personal property or fixtures located in Alabama. Section 7-9-102 specifically includes within the scope of Revised Article 9, transactions which create security interests in personal property or fixtures, including goods, documents, instruments, general intangibles, chattel paper, or accounts. Also included are certain sales of accounts or chattel paper.

Revised Article 9 applies to security interests created by contract, including pledge, assignment, chattel mortgage, chattel trust, trust deed, factor's lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security.

**Revised Article 9 does not apply to--**

- (a) A security interest subject to any statute of the United States to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property.
- (b) A non-consensual landlord's lien; except as provided in §7-9-310 on priority of such liens.
- (c) A lien given by statute or other rule of law for services or materials except as provided in §7-9-310 on priority of such liens.
- (d) A transfer of a claim for wages, salary or other compensation of an employee.
- (e) Any security interest created in connection with any of its securities by this state, any municipal corporation, county, public authority, public corporation or other similar public or governmental agency or unit in this state, or any political subdivision of any thereof, or by any educational institution or educational corporation organized under the laws of this state, whether such institution or corporation is public or private.
- (f) A sale of accounts or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts or chattel paper which is for the purpose of collection only, or a transfer of a right of payment under the contract to an assignee who is also to do the performance under the contract, or a transfer of a single account to an assignee in whole or partial satisfaction of a pre-existing indebtedness.
- (g) A transfer of an interest in or claim in or under any policy of insurance or contract for an annuity except including a variable annuity, except as provided with respect to proceeds (§7-9-306) and priorities in proceeds (§7-9-312).
- (h) A right represented by a judgment (other than a judgment taken on a right to payment which was collateral).
- (i) Any right of set-off.
- (j) Except to the extent that provision is made for fixtures in §7-9-313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder.
- (k) A transfer in whole or in part of any claim arising out of tort.

- (l) A transfer of an interest in any deposit account [subsection (1) of §7-9-105], except as provided with respect to proceeds (§7-9-306) and priorities in proceeds (§7-9-312).

Purchase money security interests are also subject to Revised Article 9, even if the security interest arises solely under the provisions of the article on Sales (Article 2) of the UCC. However, §7-9-113 provides that where a purchase money security interest arises solely under the provisions of Article 2, and as long as the debtor does not have or lawfully obtain possession of the goods, no security agreement is necessary to enforce the security interest, no filing is required to perfect the security interest, and in case of default, the secured party's rights are governed by Article 2.

### When Security Interest Attaches

Section 7-9-203 of Revised Article 9 designates when a security interest attaches to collateral. Section 7-9-204 states the rules applicable to after-acquired property and future advances.

Under §7-9-203, a security interest does not attach unless (1) the collateral is in the possession of the secured party pursuant to agreement, or the debtor has signed a security agreement, which contains a description of the collateral and, also, contains a description of the land concerned if the collateral is crops or timber to be cut, and (2) value has been given, and (3) the debtor has rights in the collateral. A security interest attaches as soon as all of the events in the preceding sentence have taken place, unless explicit agreement postpones the time of attaching. Those events may occur in any order, and attachment occurs when the last of them, whichever that may be, occurs.

"Attachment" is synonymous with creation of the security interest and entitles the secured party to all of the rights that Revised Article 9 affords a secured party against the debtor (§§7-9-501 through 7-9-507). The additional step of perfecting the security interest by filing a Financing Statement, discussed below, is not necessary in order for the secured party to have its Revised Article 9 rights against the debtor. Perfection is, however, usually needed by the secured party in order to prevail over a third party asserting a competing claim to the collateral.

### When Filing is Necessary to Perfect a Security Interest

"Perfection" denotes the compliance that fixes the rights of a secured party in collateral as against third persons.

Perfection of the security interest, if accomplished in the proper manner and at the proper time, gives the secured party the maximum protection against the borrower's creditors and other third-party claimants that can be obtained under Revised Article 9.

An unperfected security interest on the other hand, although good against the debtor, is not generally good against third persons.

Section 7-9-303 of Revised Article 9 indicates when a security interest is perfected and governs the continuity of perfection.

Under §7-9-303, a security interest is perfected when it has attached and when all of the applicable steps required for perfection have been taken.

The steps required for perfection are specified in §7-9-302, 7-9-304, 7-9-305 and 7-9-306. If the steps indicated in the foregoing sections are taken before the security interest attaches, the security interest is perfected at the time when it attaches.

Section 7-9-302 of Revised Article 9 specifies when a financing statement must be filed in order to perfect a security interest in collateral.

Under §7-9-302 a financing statement must be filed to perfect all security interests, except in the following cases:

- (a) A security interest in collateral in possession of the secured party under §7-9-305.
- (b) A security interest temporarily perfected in instruments or documents without delivery under §7-9-304 or in proceeds for a 20-day period under §7-9-306.

- (c) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate.
- (d) A purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in §7-9-313.
- (e) An assignment of accounts which does not, alone or in conjunction with other assignments to the same assignee, transfer a significant part of the outstanding accounts of the assignor.
- (f) A security interest of a collecting bank (§7-4-208) or arising under the article on Sales (§7-9-113) or covered in §7-9-302(3).
- (g) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

Section 7-9-302(2) states that if a secured party assigns a perfected security interest, no filing is required under Revised Article 9 to continue the perfected status of the security interest against the original debtor's creditors and transferees.

Section 7-9-302(3) provides that the filing of a financing statement otherwise required by the article is not necessary or effective to perfect a security interests in property that is subject to:

- (a) A statute or treaty of the United States which provides for a national or international registration or certificate of title or which specifies a place of filing different from that specified in Revised Article 9.
- (b) The following statutes of this state; any certificate of title statute covering automobiles, trailers, mobile homes, boats, farm tractors, or the like, and any central filing statute; however, during the period in which collateral is invested or held for sale by a person who is in the business of selling goods of that kind, the filing provision of Revised Article 9 applies to a security interests in the collateral created by him as debtor.
- (c) A certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection. §7-9-103(2)

Perfection of security interest in motor vehicles and mobile homes is governed by the Uniform Certificate of Title and Anti-theft Act in the §32-8-61.

Section 7-9-302(4) provides that compliance with a statute or treaty described in §7-9-302(3) is equivalent to the filing of a financing statement under Revised Article 9 and a security interest in property subject to such a statute or treaty can be perfected only by compliance therewith.

Section 7-9-304 sets forth the rules applicable to the perfection of security interests in instruments, documents and goods covered by documents. This section provides for the perfection of certain security interests by permissive filing, and also explains when security interests may be temporarily perfected without either filing or transfer of possession.

Section 7-9-305 provides that certain designated security interests may be perfected if the secured party takes possession of the collateral.

Section 7-9-306 defines "proceeds" of collateral, and points out the secured party's rights on disposition of collateral.

### ***I. What, When, Where and How to File Under Part 3 of Revised Article 9 of the Uniform Commercial Code***

Part 3 of Revised Article 9, explained in the preceding section, specifies when a Financing Statement must be filed to perfect security interests. This section of the booklet deals only with §7-9-307 (4), (5) and (6), added by the 1986 amendment, which specifies that a security interest in farm products can only be enforced against buyers by filing with the central filing system for farm products in the Office of the Secretary of State.

Section 7-9-307(4) describes the formal requisites of a farm products form and indicates the proper place of filing. Sections 7-9-307(5) and 7-9-307(6) establish the fees for filing the form and relate the new filing for farm products to the UCC Financing Statement with relation to

duration of filing, the effect of lapsed filings, the procedure for release of collateral and the procedure for termination of a filing.

This section of the booklet is intended to instruct lenders in the correct method of filing for the UCC-1F and UCC-3F Farm Products Financing Statement form. *Buyers should turn to Part IV, section B for instructions on how to register to receive this information.*

#### A. What to File

##### 1. UCC-1F Farm Products Financing Statement

The standard UCC-1F Farm Products Financing Statement form is the correct form to use when filing an original farm products Financing Statement with the Alabama Office of the Secretary of State. When the UCC-1F is properly executed and signed, it may be filed with the Office of the Secretary of State to notify buyers of a security interest in farm products. The UCC-1F has been prepared to comply with Revised Article 9 and approved by the Alabama Secretary of State. The form UCC-1F is a five-part carbon interleaved or NCR paper snap-out form. The last page of the form contains instructions, and the county codes and farm product codes needed for completing the form correctly.

Provisions are made for the filing of a non-standard UCC-1F, but it is highly recommended that the standard form approved by the Secretary of State be used when filing in Alabama. The Alabama form is easily identified as a farm products filing and therefore is quickly routed to the correct section for processing. The approved form provides the correct product codes to be used when completing the form and requests all of the information needed to comply with the filing requirements of state law.

To comply with state law, a Farm Products Financing Statement must contain the following:

1. The name, address, and tax identification number of each person subjecting the farm products to a security interest. In case of a natural person, the surname must appear first; in the case of a corporation or other entity the name must appear beginning with the first word which is not an article.
2. The name, address, and tax identification number of the secured party from which information concerning the security interest may be obtained.
3. The three digit product code of each farm product covered by the Financing Statement. The name of the farm product subject to the security interest is optional.
4. All forms must identify the county in which the farm product covered is produced by entering the two digit county code for each county in which that particular farm product is produced or is to be produced. You may also include the county code for each county where the same product is located or is foreseen to be located.
5. To further identify the products covered, the crop year, the quantity, the unit and a reasonable description of the real estate where the farm products are growing or to be grown should be included. For crops grown in the soil, the crop year is the calendar year in which it is harvested or to be harvested; for animals, the calendar year in which they are born or acquired; for poultry or eggs, the calendar year in which they are sold or to be sold. The need to supply additional information arises only where some of the product owned by that person is subject to the security interest and some is not. The additional information about quantity (amount) and the property description must be sufficient to enable a reader of the information to identify what product owned by the person is subject to the security interest, as distinguished from what of the same product owned by the same person is not subject. The precision needed, in the description of the amount and the location, would vary from case to case.
6. The signature of each debtor listed and the signature of the secured party.

### When the Original Debtor's Signature is Required

Section 7-9-307 (4) (b) lists "the borrower's signature" as one of the requirements on the form to be filed with the Alabama Secretary of State and although §7-9-307(5) states that "The effectiveness and continuation of the form is to be treated as if it were a Financing Statement," it does not relate the signature requirement for the farm product filing to the signature requirement for UCC-1 Financing Statement and gives no circumstances under which a UCC-1F Farm Products Financing Statement can be filed without the debtor's signature.

### When the Original Secured Party's Signature is Required

Section 7-9-307(4) states "A secured party may enforce a security interest in farm products against a buyer who, in the ordinary course of business, purchases farm products from, or a commission merchant or selling agent who, in the ordinary course of business, sells farm products for a person engaged in farming operation only where the secured party has signed and filed with the Secretary of State a form containing the following information: ..." but does not give any instances where the secured party does not have to sign.

When filing Farm Product Financing Statements in the Office of the Secretary of State, all interested parties are urged to use the UCC-1F form.

### 2. UCC-3F Farm Products Financing Statement — Continuation, Termination, Assignment and Amendment

A standard form UCC-3F has been prepared to comply with Revised Article 9 and approved by the Secretary of State. The form UCC-3F is a five-part carbon interleaved or NCR paper snap-out form. The last page of the form contains instructions, and the county codes and farm product codes needed for completing the form correctly. It contains the same parts as the standard UCC-1F Farm Products Financing Statement form. Standard form UCC-3F has all the benefits of standard form UCC-1F, and because it is a composite form, UCC-3F eliminates the need for separate forms for continuation, termination, amendment, and assignment.

Provisions are made for filing a non-standard UCC-3F, but it is highly recommended that the standard form approved by the Secretary of State is used when filing in Alabama. The Alabama form is easily identified as a farm products filing and therefore is quickly routed to the correct section for processing. The approved form provides the correct product codes to be used when completing the form and requests all of the information needed to comply with the filing requirements of state law.

#### Continuation:

Section 7-9-307(5) provides for the effectiveness and continuation of UCC-1F Farm Products Financing Statement forms to be treated as if they were UCC-1 Financing Statements. Section 7-9-403 (2) specifies that a filed Financing Statement is effective for a period of five years from the date of filing and lapses on the expiration of the five year period unless a Continuation Statement is filed prior to the lapse. Section 7-9-403 (3) states that the secured party may file a Continuation Statement anytime within six months prior to the expiration of the five year period.

To comply with state law, a Continuation Statement must contain the following:

1. A statement that the original Financing Statement is effective.
2. Identification of the original Financing Statement by file number.
3. The names and addresses of the debtor(s) and the secured party as they appeared on the original filing, unless these were subsequently amended or assigned.
4. The signature of the secured party of record, or if signed by another person, a separate written statement of assignment signed by the secured party of record.



When filing a Continuation Statement in the Office of the Secretary of State, all interested parties are urged to use the standard form UCC-3F.

#### Termination:

Section 7-9-307(5) provides for the effectiveness of the UCC-1F Farm Products Financing Statement to be treated as if it were a Financing Statement. Section 7-9-404 provides the instructions for filing a termination statement.

To comply with state law, a Termination Statement must contain the following:

1. A statement that the secured party no longer claims a security interest under the Financing Statement.
2. Identification of the original Financing Statement by file number.
3. The names and addresses of the debtor(s) and the secured party as they appear on the original filing, or as amended or assigned.
4. The signatures of the secured party of record, or if signed by another person, a separate written statement of assignment signed by the secured party of record.

When filing a Termination Statement in the Office of the Secretary of State, all interested parties are urged to use the standard form UCC-3F.

#### Assignment:

Section 7-9-307 of Revised Article 9 does not provide for the secured party to assign his rights in a Farm Products Financing Statement, but since §7-9-307(5) does provide for a Farm Products Financing Statement to be treated as if it were a Financing Statement in other matters, Farm Products Financing Statement Assignments will be treated the same as Financing Statement Assignments.

Section 7-9-405 provides two methods by which a secured party may assign all or part of his rights under a Financing Statement. The first method is by the disclosure of the assignee or the assignment itself, on the face of the Financing Statement. The second method is by the filing of a separate written statement of assignment.

If the secured party of record assigns his rights under a Financing Statement by use of a separate written statement, §7-9-405 provides that the statement must be signed by the secured party of record, and contain all of the following:

1. The name of the debtor and the secured party of record.
2. The file number, and the date of filing of the financing statement assigned.
3. The name and address of the assignee.
4. A description of the collateral assigned.

As noted above, when this assignment is filed, the assignee becomes the secured party of record. However, an assignment from one secured party to another need not be placed on record; the provision is merely optional.

Under §7-9-302(2), no filing is necessary to continue the perfected security interest in the hands of the assignee. But the assignee cannot continue, terminate, assign, or release collateral from the Financing Statement until an assignment of the Financing Statement to the assignee, signed by the secured party, is filed.

When filing an Assignment Statement with the Office of the Secretary of State, all interested parties are urged to use the standard form UCC-3F.

#### Amendment:

Section 7-9-307(5) permits the filing of an amendment to a Farm Products Financing Statement. Instructions for completing the UCC-3F as an amendment are on the back of the form and only the sections you wish to amend should be completed. All changes, such as correcting debtor information, adding, deleting or updating collateral information can be accomplished with

this form. An Amendment Statement must be signed by both the debtor and the secured party of record.

To comply with state law, an Amendment Statement must contain the following:

1. Identification of the original Financing Statement by file number.
2. The names and addresses of the debtor(s) and the secured party as they appear on the original filing, or as previously amended or assigned.
3. Statement of what is being amended. UCC-3F amendments are used to both add or delete farm products, add or remove debtors and make changes in debtor and secured party addresses.
4. The signatures of each debtor and the secured party of record, or if signed by another person, a separate written statement of assignment signed by the secured party of record.

When filing an amendment to a Farm Products Financing Statement in the Office of the Secretary of State, all interested parties are urged to use the standard form UCC-3F.

#### Partial Release:

Section 7-9-307 of Revised Article 9 does not provide for Partial Releases as a separate action. Section 7-9-307(5) states that "The form described in §7-9-307(4) must be amended in writing within three months, and similarly signed and filed, to reflect material changes."

A partial release of the collateral on a Farm Products Financing Statement can be filed by completing the UCC-3F as an amendment, following the instructions set out in the preceding section.

If the purpose of the form UCC-3F is to release all collateral set out on the original Farm Products Financing Statement, the form UCC-3F should be filed as a Termination. An Amendment Statement used to file a Partial Release should only be filed when part of the collateral is released by the secured party from the security interest.

When filing a Partial Release Statement with the Office of the Secretary of State, all interested parties are urged to use the standard form UCC-3F.

#### B. When to File

This part of the booklet is concerned only with the provisions of Part 3 of Revised Article 9 which specifically indicates when Farm Products Financing Statements should be filed with the Office of the Secretary of State.

The reader is again cautioned to place primary reliance on the provisions of the state law, rather than on the general statements in this booklet. In determining when to file under state law, the reader's attention is directed to §7-9-307 of Revised Article 9 and §§ 7-9-402 through 7-9-406, since this section also states the "effectiveness and continuation of the form is to be treated as a if it were a Financing Statement."

##### 1. UCC-1F Farm Products Financing Statements

There are no specific provisions in Part 3 of Revised Article 9 which states at what point in time Farm Products Financing Statement must be filed. However, §7-9-307 states that, "a secured party may enforce a security interest in farm products against a buyer who, in the ordinary course of business, purchases farm products from, or a commission merchant or selling agent who, in the ordinary course of business, sells farm products for a person engaged in farming operations only where the secured party has signed and filed with the Secretary of State a form ..." therefore, the form must be filed prior to the time the products are sold.

## 2. UCC-3F Farm Products Financing Statement — Continuation, Termination, Assignment and Amendment

### Continuation:

Since the time of the continuation of a Farm Products Financing Statement is to be treated as if it were a Financing Statement, §7-9-403 specifies when a filed Financing Statement lapses, and provides a method of continuing the effectiveness of a Financing Statement by means of filing a Continuation Statement.

A filed Financing Statement is effective for a period of five years from the date of filing. The effectiveness of a filed Financing Statement lapses on the expiration of the five-year period, unless a Continuation Statement is filed prior to the lapse. A Continuation Statement may be filed by the secured party within six months prior to the expiration of the five-year period. Upon timely filing of the Continuation Statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective. Succeeding Continuation Statements may be filed in the same manner to continue the effectiveness of the original statement. If succeeding Continuation Statements are not filed, the effectiveness of the original Financing Statement will lapse.

### Termination:

Section 7-9-307(5) states that, "The effectiveness of the form is to be treated as if it were a Financing Statement," and §7-9-404 provides that whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must, on written demand by the debtor, send the debtor a Termination Statement to the effect that he no longer claims a security interest under the Financing Statement.

Section 7-9-404 also provides that if the affected secured party fails to send such a Termination Statement to the debtor within 10 days after a proper demand, the secured party shall be liable to the debtor for \$100.00, and in addition, for any loss caused to the debtor by the secured party's failure to send the Termination Statement. The secured party must provide the debtor with a Termination Statement for each filing officer with whom the Financing Statement was filed.

There are no specific provisions in Part 4 of Revised Article 9 which require either the debtor or the secured party to file a Termination Statement in the Office of the Secretary of State. However, when a security interest in collateral has terminated, it is to the debtor's advantage to have the Financing Statement removed from the file.

Since the accuracy of the files in the Office of the Secretary of State can be maintained only by the cooperation of debtors and secured parties, such parties are urged to use diligence in filing Termination Statements so that ineffective Financing Statements may be removed from the files.

### Assignment:

There is no specific provision in Part 3 of Revised Article 9 for an assignment and therefore this section does not address when, in point of time, a secured party must file an Assignment Statement. However, since the secured party may only enforce a security interest in farm products under §7-9-307(4), where he has signed and filed a form containing "the name and address of the secured party," it would appear that any change in the name and/or address of the secured party should be noted on the lien immediately.

Also, since the effectiveness of the Farm Products Financing Statement is to be treated as if it were a Financing Statement, §7-9-405 provides that an assignment may be disclosed on the Financing Statement at the time of filing, or the secured party may assign all or part of his rights under a Financing Statement by filing a separate written statement of Assignment. Part 4 of Revised Article 9 does not specifically indicate when an Assignment Statement must be filed.

Section 7-9-405(3) states that after the disclosure or filing of an Assignment Statement, the assignee is the secured party of record.

#### Amendment:

Section 7-9-307(5) provides that "forms described in §7-9-307(4) must be amended in writing within three months, and similarly signed and filed, to reflect material changes." All changes in collateral, whether additions or deletions, should be filed as an amendment, as this section of the state law does not make provisions for separate partial releases. Changes in the name and/or address of the debtor, or the name and/or address of the secured party should also be filed as an amendment. Amendment Statements should be filed promptly so that the statements on file will not be misleading.

#### Partial Release:

There is no specific provision in Part 3 of Revised Article 9 for Partial Releases, however, §7-9-307(5) states that, "The form described in §7-9-307(4) must be amended in writing within three months, and similarly signed and filed, to reflect material changes." Therefore, since a partial release would be a material change in the collateral covered, it follows that they should be filed as an amendment and the point in time would be that of an amendment.

#### C. Where to File

##### 1. UCC-1F Farm Products Financing Statements

Section 7-9-307(4) provides that the Office of the Secretary of State is the proper place to file in order to ENFORCE a security interest in farm products against a BUYER who, in the ordinary course of business, purchases farm products from, or a commission merchant or selling agent who, in the ordinary course of business, sell farm products for a person engaged in farming operations. UCC-1F forms filed with the Office of the Secretary of State will be indexed in the master list described in §7-9-407(3) and the information distributed in printed or microfiche form on a regular basis to buyers, commission merchants and selling agents who have registered in accordance with §7-9-407(4).

##### 2. UCC-3F Farm Products Financing Statement — Continuation, Termination, Assignment and Amendment

All Continuation, Amendment, Assignment and Termination Statements should be filed at the same filing office where the original Financing Statement was filed.

#### D. How to File

The standard forms have the basic components of the filing system adopted and approved by the Office of the Secretary of State.

The first standard form which should be used for filings in the Office of the Secretary of State is the UCC-1F Farm Products Financing Statement form. When this standard form is used by secured parties, the act of filing is relatively simple, convenient and effective, because the standard forms contain complete instructions for filing plus the county codes and farm product codes needed to complete the form. In addition, the standard forms are compatible with our data entry format so that time and effort is saved in processing filings, thereby benefiting the filing officer and the secured party.

The second standard form which should be used for filing in the Office of the Secretary of State is the UCC-2F Farm Products Financing Statement Supplement form. This form is to be used as an extension sheet when the collateral covered in a UCC-1F or UCC-3F Farm Products

Financing Statement requires additional space. All of the required information is contained on the same standard size form.

The third standard form which should be used for filing in the Office of the Secretary of State is the UCC-3F Farm Products Financing Statement-Continuation, Termination, Assignment, and Amendment form. This single composite form may be used as a Continuation Statement, an Assignment Statement, an Amendment to a Financing Statement, and a Termination Statement. Because this one form fulfills all of these functions, its use is especially convenient for secured parties. For these reasons, when filing in the Office of the Secretary of State, all parties are urged to use standard forms.

#### 1. UCC-1F Farm Products Financing Statements

When filing a Farm Products Financing Statement on standard forms, the following rules apply:

1. The instructions on the forms should be read carefully.
2. The form should be completed and executed in accordance with the statutory requirements listed in Revised Article 9. These requirements are contained in §7-9-307, and are reviewed in this booklet under the heading "What To File."
3. The standard forms are all carbon interleaved or NCR paper, therefore the information on the form should be typed. If the form cannot be typed, it should be printed with a ball-point pen.
4. When presenting the standard UCC-1F Farm Products Financing Statement form for filing, send only the first two pages with the interleaved carbon paper to the filing officer. The form will be validated with the carbon paper in place so that the date, time and file number will be identical on all forms.

Do not separate or remove the perforated top section from the rest of the form before mailing. This will be done by the filing officer immediately after filing.

5. If the debtor is an individual, type his last name first in the space provided. Tax identification numbers must be listed for each individual or business named as a debtor.
6. If there are numerous debtors to be listed on the form, each debtor should be listed separately in the space provided. If additional space is needed, the UCC-2F form should be used. An additional name cross-indexing fee will be charged for each additional debtor but the additional page fee will not be charged when the UCC-2F form is used.
7. If additional space is needed to describe the collateral, the filing party is again urged to use form UCC-2F. If any other additional sheet is used the additional page fee must be submitted and only the UCC-2F contains all the same information blocks as the UCC-1F.
8. If additional space is needed to describe the location of the collateral, the UCC-2F or an additional sheet of paper may be used. Again, additional page fees will be charged for all other additional sheets.
9. If the secured party desires to have the Financing Statement disclose an assignment, the name and address of the assignee should be typed on the face of the form in the space reserved for the assignee.
10. If a filing is made on a non-standard form, the form will require special handling and a \$2.00 non-standard form fee will be charged. Also, the submitting party should carefully review the form before filing to be sure that it contains all of the necessary information required by Revised Article 9. The filing party should also remember that under state law, the filing officer is not required to acknowledge the filing unless the secured party furnishes a copy of the Financing Statement and requests an acknowledgment.

#### 2. UCC-3F Farm Products Financing Statement — Continuation, Termination, Assignment and Amendment

When standard form UCC-3F is used to file a Statement of Continuation, Assignment, Amendment, or Termination, the following rules apply:

1. The instructions should be read carefully.
2. The filing party should be sure to indicate in the proper place on the form whether the form is being used as a Statement of Continuation, Assignment, Amendment or Termination. This may be done by placing an "X" in the space provided for this purpose.
3. After the filing party has designated the purpose of the filing, the form should be completed and executed in accordance with the statutory requirements listed in Revised Article 9 for the specific type of statement filed.

These requirements are reviewed in this booklet under the general heading, "What to File," and the specific headings for Continuation , Partial Release, Assignment, Amendment and Termination Statements.

4. When presenting standard form UCC-3F for filing, send only the first two pages with the interleaved carbon paper to the filing officer. The form will be validated with the carbon paper in place so that the date, time and file number will be identical on all forms. Do not separate or remove the perforated top section from the rest of the form before mailing. This will be done by the filing officer immediately after filing.
5. If the debtor is an individual, type his last name first in the space provided.
6. If there are numerous debtors to be listed on the form, each debtor should be listed separately in the space provided. If additional space is needed, the UCC-2F form should be used. An additional name cross-indexing fee will be charged for each additional debtor but the additional page fee will not be charged when the UCC-2F form is used.
7. If additional space is needed to describe the collateral or to add any other remarks, the filing party may use form UCC-2F at no additional page charge or an additional sheet of paper.
8. When filing a Farm Products Statement of Continuation, Assignment, Amendment or Termination, it is very important to use a standard form. If a filing is made on a non-standard form, the submitting party should carefully review the non-standard form to be sure that it contains all of the necessary information required by Revised Article 9 for a farm products filing. The submitting party should also remember that under state law, the filing officer is not required to acknowledge the filing unless the secured party furnishes an acknowledgment copy.

### 3. Presentation for Filing

After properly executing the statements that are required to be filed under Revised Article 9, the filing party should present the statements to the proper office for filing. 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 Revised Article 9.

All filings made in the Office of the Secretary of State may be presented by mail or in person. No statement will be accepted for filing unless it is accompanied by the correct statutory filing fee.

## ***II. What, When, Where and How to File Under Part 4 of Revised Article 9 of the Uniform Commercial Code***

Part 4 of Revised Article 9 defines the duties of the filing officers, establishes the fees for filing, indicates the proper place of filing, what constitutes filing, the formal requisites of a Financing Statement, the duration of filing, the effect of lapsed filing, the assignment of security interests, the procedure for the release of collateral and the procedure for termination of a Financing Statement. Part 4 also makes provisions for securing information from filing officers.

## A. What to File

### 1. UCC-1 Financing Statements

The new 8x10 UCC-1 Financing Statement is the proper form to use for the original filing with the Office of the Secretary of State. To perfect a security interest in collateral by filing, the secured party should file with the proper filing officer a Financing Statement that complies with the formal requisites contained in §7-9-402.

A Financing Statement substantially complying with the following is sufficient:

1. The name and mailing address of the debtor, and the name and address of the secured party from which information concerning the security interest may be obtained.
2. A statement indicating the types, or describing the items of collateral. (the new UCC-1 form approved for filing in the State of Alabama contains a collateral coding section under block 5A. These codes are not to be used as a substitute for the description of collateral, as they are for sorting purposes only.)
3. Section 7-9-405 provides that a financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indicating the name and address of the assignee on the face of the financing statement.

#### When the Debtor's Signature May Be Omitted

Section 7-9-402(2) provides that a Financing Statement which is otherwise complete is sufficient for filing although it is signed only by the secured party if the statement is filed to perfect a security interest in:

- (1) Collateral already subject to a security interest in another jurisdiction when it was brought into Alabama.
- (2) Collateral already subject to a security interest in another jurisdiction when debtor's location changed to Alabama.
- (3) Collateral which is proceeds of the original collateral in which a security interest is already perfected.
- (4) Collateral as to which the filing has lapsed.
- (5) Collateral acquired after a change of name, identity or corporate structure of debtor.

Financing Statements filed under this subsection must explain the circumstances under which they are filed with the secured party's signature rather than that of the debtor. Also, when filing under §7-9-402 (1) or (2) above, the Financing Statement should state the jurisdiction where the original is filed. For a proper filing under §7-9-402 (3) or (4) above, the Financing Statement should contain a description of the original collateral in which the security was perfected.

#### When the Original Secured Party's Signature is Required

Section 7-9-402 omits the secured party's signature as a requirement for filing a UCC-1 Financing Statement, unless you are filing without debtor's signature for any of the five reasons permitted in §7-9-402(2).

#### Transmitting Utility Filings

The secured party should clearly indicate on the UCC-1 form if the debtor is a utility as defined in §7-9-105 (1) (n). These filings are effective until terminated, but only if the exemption is claimed on the face of the form at the time of filing.

## 2. UCC-3 Statements of Continuation, Partial Release, Assignment, etc.

The new 8x10 UCC-3 Statements of Continuation, Partial Release, Assignment, etc., is the proper form to use when filing a continuation, partial release, assignment, amendment or termination against an original filing with the Alabama Secretary of State. New standard form UCC-3 is the same size as the new standard form UCC-1, and the debtor's name and the secured party's name are in the same position on both forms. This feature permits the easy inter-filing of both forms, and insures the accuracy of search information.

### Continuation:

Section 7-9-403 specifies when a filed Financing Statement lapses, and provides a method of continuing the effectiveness of a Financing Statement by filing a Continuation Statement.

To comply, each Continuation Statement filed with the Office of the Secretary of State must contain all of the following:

1. A statement that the original Financing Statement is effective.
2. The file number of the original Financing Statement.
3. The signatures of the secured party or, if signed by another person, a separate written statement of assignment signed by the secured party of record.

When filing a Continuation Statement in the Office of the Secretary of State, all interested parties are urged to use the new 8x10 UCC-3 form.

### Termination:

Section 7-9-404 provides that whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must, on written demand by the debtor, send the debtor a statement that he no longer claims a security interest under the Financing Statement. If the secured party fails to send a Termination Statement to the debtor within 10 days after a proper demand, §7-9-404 provides that the secured party shall be liable to the debtor for \$100.00, and in addition, for any loss caused to the debtor by such failure.

A Termination Statement is sufficient if it contains all of the following:

1. The name and address of the debtor, as last amended.
2. The name and address of the secured party of record.
3. The UCC-3 must state that the secured party no longer claims a security interest under the Financing Statement and identify the Financing Statement by file number.
4. The UCC-3 must be signed by the secured party of record.

Section 7-9-404 also states that when the Financing Statement is signed by a person other than the secured party of record, the Termination Statement must be accompanied by a Statement of Assignment signed by the secured party of record indicating that he has assigned the security interest to the signer of the Termination Statement.

If a termination to a Financing Statement is filed with the Office of the Secretary of State, all interested parties are urged to use the new 8x10 UCC-3F form.

### Partial Release:

Section 7-9-406 of Revised Article 9 provides that a secured party of record may, by his signed statement, release all or a part of any collateral described in a filed Financing Statement.

A statement of release is sufficient if it contains all of the following:

1. A description of the collateral being released.
2. The name and address of the debtor.
3. The name and address of the secured party.



4. The file number of the original Financing Statement.
5. The signature of the secured party, or if signed by another person, a separate written statement of assignment signed by the secured party of record.

If the purpose of the form UCC-3 is to terminate completely the security interest in all the collateral, the form UCC-3 should not be filed as a Partial Release Statement. When a security interest is terminated and, thus, all the collateral released, the form UCC-3 is used as a Termination Statement. Normally, a Partial Release Statement is filed when only part of the collateral is being released by the secured party from the security interest.

When filing a Partial Release Statement with the Office of the Secretary of State, all interested parties are urged to use the new 8x10 UCC-3.

### Assignment

Section 7-9-405 provides for two methods by which a secured party may assign all or part of his rights under a Financing Statement. The first method is by the disclosure of the assignee or the assignment itself, on the face of the Financing Statement. The second method is by the filing of a separate written Assignment Statement.

Under the first method, the assignment should be noted on the UCC-1 Financing Statement form by typing in Box 4 the name and address of the assignee. By indicating the assignment on the form UCC-1, the assignee becomes the secured party of record. Thus, the assignee can thereafter sign a statement of continuation, termination, amendment, assignment or partial release without a separate assignment from the original secured party.

If the secured party or record assigns all or part of his rights under a Financing Statement by use of a separate written statement, §7-9-405 provides that the statement must be signed by the secured party of record, and contain the following:

1. The name of the debtor and the secured party of record.
2. The file number, and the date of filing of the financing statement assigned.
3. The name and address of the assignee.
4. A description of the collateral assigned.

Note, when this assignment is filed, the assignee becomes the secured party of record. However, an assignment from one secured party to another need not be placed on record; the provision is merely optional. Under §7-9-302(2), no filing is necessary to continue the perfected security interest in the hands of the assignee. But the assignee cannot continue, terminate, amend, assign or release collateral from the Financing Statement until an assignment of the Financing Statement to the assignee, signed by the secured party of record, is filed.

Section 7-9-405 provides that a copy of the assignment is sufficient as a separate statement if it contains all of the features listed above.

However, for uniformity, accuracy, convenience and simplicity, when filing a Statement of Assignment in the Office of the Secretary of State, all interested parties are urged to use the new of 8x10 UCC-3.

### Amendment:

Section 7-9-402 permits the filing of an amendment to a Financing Statement. The requirements for a UCC-3 Amendment are substantially the same as those for an original Financing Statement. A UCC-3 containing the following information is sufficient:

1. The name and address of the debtor on the amendment must be identical to the name and address of the debtor as it appeared on the original Financing Statement, except where this information has been previously amended.
2. The name and address of the secured party on the amendment must be identical to the name and address of the secured party on the original Financing Statement unless that statement has been previously amended or assigned, then the new secured party of record should appear in the secured party block. If an amendment is filed by an assignee of the secured

party, it will be returned unless there is on file with the Office of the Secretary of State, an assignment or Assignment Statement which complies with the statutory requirements discussed under the heading "Assignments."

3. The section of the UCC-3 form that indicates the file number and the date and place of filing of the original to which the amendment refers should be completed.
4. The information being amended should be clearly stated in the section of the UCC-3 form set aside for this purpose. If collateral is being amended or added, the UCC-3 must contain a statement indicating the types, or describing the items of collateral. (The new UCC-3 form approved for filing in Alabama contains a collateral coding section. These codes are not to be used as a substitute for the description of collateral, as they are for sorting purposes only.)
5. The signature of the debtor must be the same as it appeared on the original Financing Statement, except where the debtor's name has been previously amended or if the amendment is being filed to change or correct the debtor's name, then the signature should be that of the debtor as amended.
6. The UCC-3 Amendment Statement must be signed by the secured party of record. The secured party of record is the secured party as it appeared on the original Financing Statement, except where the secured party's name has been previously amended.

If an amendment to a Financing Statement is filed with the Office of the Secretary of State, all interested parties are urged to use the new 8x10 UCC-3 form.

#### B. When to File

This part of the booklet is concerned only with the provisions of Part 4 of Revised Article 9 which specifically indicates when in point of time a filing can or should be made with the Alabama Secretary of State.

Since the time of filing is an extremely important factor under Revised Article 9, the reader is again cautioned to place primary reliance on the provisions of the state law, rather than on the general statements in this booklet. In determining when to file, the reader's attention is especially directed to Part 3 of Revised Article 9 which deals with the rules of priority. Furthermore, a secured party should be aware that §547 of the Bankruptcy Code of 1978 (11 USC 547) may allow a bankruptcy trustee to avoid a security interest that is not perfected within the time limits specified in that section.

#### 1. UCC-1 Financing Statements

There are no specific provisions in Part 4 of Revised Article 9 which states when, in point of time, a Financing Statement must be filed. However, the secured party will be well advised to file at the earliest possible date. Depending on the circumstances, various priority rules in Part 3 necessitate that the secured party file a Financing Statement before the interest of a competing claimant to the collateral arises in order to prevail over the competing claimant. [§§7-9-301(1)(b), 7-9-301(1)(c), and 7-9-312(5)(a)]

#### 2. UCC-3 Statements of Continuation, Partial Release, Assignment, etc. Continuation:

Section 7-9-403 specifies when a filed Financing Statement lapses, and provides a method of continuing the effectiveness of a Financing Statement by means of filing a Continuation Statement.

A filed Financing Statement is effective for a period of five years from the date of filing and the effectiveness of a filed Financing Statement lapses on the expiration of the five-year period, unless a Continuation Statement is filed prior to the lapse. A Continuation Statement may be filed by the secured party any time within six months prior to the expiration of the five-year period.

Upon timely filing of the Continuation Statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective. Succeeding Continuation Statements may be filed in the same manner to continue the effectiveness of the original statement. If succeeding Continuation Statements are not filed, the effectiveness of the original Financing Statement will lapse.

EXCEPTIONS: There are three types of filings that remain effective until a Termination Statement is filed. The first of these is correctly filed in the Office of the Secretary of State. The other two must be filed in the Office of the Judge of Probate in order to claim the exemption from continuation.

Section 7-9-403(6) states that if the debtor is a utility as defined in §7-9-105(n) and a filed Financing Statement so states, the filing will remain effective until a Termination Statement is filed. A utility is correctly filed in the Office of the Secretary of State and the UCC-1 and UCC-3 forms approved by the Secretary of State have a box in the upper left hand corner of the form to check if you wish to claim this exemption.

Section 7-9-403(6) also states that a real estate mortgage which is effective as a fixture filing under subsection (6) of §7-9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate, and that a Financing Statement covering a mobile home, other than a mobile home constituting inventory, remains effective, if it so states, until a Termination Statement is filed. Fixture filings and consumer good mobile home filings are correctly filed with the Office of the Judge of Probate.

#### Partial Release:

There is no specific provision in Part 4 of Revised Article 9 which states at what point in time, a secured party must file a statement which releases part of any collateral described in a filed Financing Statement. However, it should be noted that under §7-9-208, a debtor may sign a statement indicating what he believes to be the aggregate amount of unpaid indebtedness owed the secured party, and a list of the collateral subject to the debt. The statement may be sent to the secured party for correction or approval and the secured party must then return the corrected or approved statement to the debtor. If, without a reasonable excuse, the secured party fails to act on the statement within two weeks of its receipt, the secured party is liable for any loss caused to the debtor, and thereby may claim a security interest only to the extent of the obligation and in the collateral shown on the statement as against persons who are misled by the secured party's failure to comply with state law. Section 7-9-208 provides that a debtor is entitled to such a statement once every six months without charge.

#### Assignment:

Section 7-9-405 provides that an assignment may be disclosed on the Financing Statement, or the secured party may assign all or part of his rights under a Financing Statement by filing a separate written statement or the assignment itself. Part 4 of Revised Article 9 does not specifically indicate when assignments must be filed. Section 7-9-405(3) states that after the disclosure or filing of an assignment, the assignee is the secured party of record.

#### Amendment:

Section 7-9-402 (4) provides that the term "Financing Statement" means the original Financing Statement and any amendments, but if any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment.

There are no specific provisions in Part 4 of Revised Article 9 which state when an amendment to a Financing Statement must be filed. However, since by definition a Financing Statement includes any amendments, the priority rules governing the filing of Financing Statements are also applicable to amendments to Financing Statements.

## Termination:

Section 7-9-404 provides that whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must, on written demand by the debtor, send the debtor a Termination Statement to the effect that he no longer claims a security interest under the Financing Statement. The Termination Statement should identify the Financing Statement by its file number.

Section 7-9-404 also provides that if the affected secured party fails to send such a Termination Statement to the debtor within 10 days after a proper demand, the secured party shall be liable to the debtor for \$100.00, and in addition, for any loss caused to the debtor by the secured party's failure to send the Termination Statement. The secured party must provide the debtor with a Termination Statement for each filing officer with whom the Financing Statement was filed.

There are no specific provisions in Part 4 of Revised Article 9 which require either the debtor or the secured party to file a Termination Statement in the Office of the Secretary of State. However, when a security interest in collateral has terminated, it is to the debtor's advantage to have the Financing Statement removed from the file.

Since the accuracy of the files in the Office of the Secretary of State can only be maintained by the cooperation of debtors and secured parties, such parties are urged to use diligence in filing termination statements so that ineffective financing statements may be removed from the files.

## C. Where to File

Section 7-9-401 indicates the proper place to file in order to perfect a security interest.

### 1. UCC-1 Financing Statements

Under §7-9-401, the following rules apply:

- (1) In order to perfect a security interest in collateral that is equipment used in farming operations, or farm products, or accounts, or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, the Financing Statement must be filed in the Office of the Judge of Probate in the county of the debtor's residence. If the debtor is not a resident of this state, then the Financing Statement covering the above collateral must be filed in the county where the goods are kept. In addition to the foregoing, when the collateral is crops growing or to be grown, the Financing Statement must be filed in the Office of the Judge of Probate in the county where the land is located.
- (2) When the Financing Statement is filed as a fixture filing (§7-9-313) and the collateral is goods which are to become fixtures, the Financing Statement must be filed in the office where a mortgage on the real estate would be filed or recorded; if timber to be cut, then in the Office of the Judge of Probate in the county where the land on which the timber is standing is located.
- (3) In order to perfect a security interest in any collateral other than the collateral listed in (1) and (2) above, the Financing Statement must be filed in the Office of the Secretary of State.

Section 7-9-401(5) provides that the proper place to file in order to perfect a security interest in collateral, including fixtures of a utility, is the Office of the Secretary of State.

Section 7-9-401(2) provides that a filing made in good faith in an improper place or not in all of the places required by §7-9-401, is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of Revised Article 9, and is also effective with regard to collateral covered by the Financing Statement against any person who has knowledge of the contents of such Financing Statement.

Section 7-9-401(3) provides that when a filing is made in the proper place in this state, the filing remains effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

Due to the provision set out in §7-9-401(2), the Office of the Secretary of State will not refuse to accept any filing if it is accompanied by the correct statutory fee. UCC document examiners will return forms when they find that they do not meet the proper form requirements of state law so that corrections may be made before filing, but the responsibility for filing in the proper manner at the proper place is that of the secured party.

## 2. UCC-3 Statements of Continuation, Partial Release, Assignment, etc.

All Continuation Statements, Partial Release Statements, Assignments, Amendments and Termination Statements should be filed at the same filing office where the original Financing Statement was filed.

## D. How to File

The standard forms have the basic components of the filing system adopted and approved by the Alabama Secretary of State. When these standard forms are used by secured parties, the act of filing is relatively simple, convenient and effective. In addition, these forms have been designed to be compatible with the data entry format and the use of these standard forms expedites the filing process, thereby benefiting the filing officer and the secured party. For these reasons, when filing in the Office of the Secretary of State, all parties are urged to use standard forms.

The first standard form which should be used when filing in the Office of the Secretary of State is the UCC-1 Financing Statement form. This form may be used for all Financing Statements, regardless of the place of filing.

The second standard form which should be used for filings in the Office of the Secretary of State, is the UCC-3 form. This single composite form may be used as a Continuation Statement, a Partial Release Statement, an Assignment Statement, an Amendment to a Financing Statement, and a Termination Statement. Because this one form fulfills all of these functions, its use is especially convenient for secured parties.

The third standard form which should be used for filing in the Office of the Secretary of State is the UCC-E form. This form is to be used as an extension sheet when the collateral covered in Financing Statement requires additional space. All of the required information is contained on the same standard size form. Any required cross-indexing fees will be charged when this extension sheet is used, we do not charge additional page fee for this form.

## 1. UCC-1 Financing Statement

When filing a Financing Statement on standard forms, the following rules apply:

1. The instructions on the forms should be read carefully.
2. The Financing Statement should be completed and executed in accordance with the statutory requirements listed in Revised Article 9 . These requirements are contained in §7-9-402, and are reviewed in this booklet under the heading "What To File."
3. The standard forms are all interleaved carbon or NCR paper, therefore the information on the form should be typed. If the form cannot be typed, it should be printed with a ball-point pen.
4. When presenting the standard Financing Statement form UCC-1 for filing, send only the first three pages with the interleaved carbon paper to the filing officer. The form will be validated with the carbon paper in place so that the date, time and file number will be identical on all forms.

Do not separate or remove the perforated top section from the rest of the form before mailing. This will be done by the filing officer immediately after validation.

5. If the debtor is an individual, type his last name first in the space provided.

6. If there are numerous debtors to be listed on the Financing Statement, the debtors' names should first fill the space provided. If additional space is needed, the debtors' names may be listed on the UCC-E, with no additional page fee.
7. If the debtor is a utility, this should be indicated in the space provided.
8. If additional space is needed to describe the collateral, the filing party may use form UCC-E at no additional charge or any other additional sheet at \$1.00 per page.
9. When filing with the probate judge, and the collateral is timber to be cut, crops, or fixtures, the Financing Statement must include a description of the real estate and give the name of the record owner. The Financing Statement must also indicate if it is to be cross-indexed in the real estate mortgage records.
10. If a copy of the security agreement is used as a Financing Statement, the secured party should nevertheless execute a form UCC-1 and send the form unsigned, together with the security agreement, to the Office of the Secretary of State. This method of filing will provide the secured party with an acknowledgment copy of the filing and assure that the filing is indexed correctly. For filings of this type, in the space on the standard form reserved for a description of the collateral, the secured party should type the following: "SEE ATTACHED SECURITY AGREEMENT."
11. If the secured party desires to have the Financing Statement disclose an assignment, the "Assignee" block should be completed with the assignee's name and address.  
If a filing is made on a non-standard form, the form will require special handling and there will be a \$2.00 non-standard form fee. Also, the secured party should carefully review the form before filing to be sure that it contains all of the necessary information required under Revised Article 9. The filing party should also remember that under state law, the filing officer is not required to acknowledge the filing unless the secured party furnishes a copy of the Financing Statement and requests an acknowledgment.

## 2. UCC-3 Statements of Continuation, Partial Release, Assignment, etc.

When standard form UCC-3 is used to file as a Statement of Continuation, Partial Release, Assignment, Amendment, or Termination, the following rules apply:

1. The instructions should be read carefully.
2. The filing party should be sure to indicate in the proper place on the form whether the form is being used as a Statement of Continuation, Partial Release, Assignment, Amendment or Termination. This may be done by placing an "X" in the space provided for this purpose.
3. After the filing party has designated the purpose of the filing, the form should be completed and executed in accordance with the statutory requirements listed in Revised Article 9 for the specific type of statement filed. These requirements are reviewed in this booklet under the general heading, "What to File," and the specific headings for Continuation Statements, Partial Releases, Assignments, Amendments and Termination Statements.
4. When presenting standard form UCC-3 for filing, send only the first three pages with the interleaved carbon paper to the filing officer. The form will be validated with the carbon paper in place so that the date, time and file number will be identical on all forms.  
Do not separate or remove the perforated top section from the rest of the form before mailing. This will be done by the filing officer immediately after validation.
5. If the debtor is an individual, type his last name first in the space provided.
6. If there are numerous debtors to be listed on the Financing Statement, the debtors' names should first fill the space provided. If additional space is needed, the debtors' names may be listed on the new standard form UCC-E, at a no additional page fee.
7. If the debtor is a utility, this should be indicated in the space provided.
8. If additional space is needed to describe the collateral or any other remarks, the filing party may use new standard form UCC-E at no additional charge or an additional sheet of paper at \$1.00 per page.
9. If the filing of a Continuation, Partial Release, Assignment, Amendment or Termination Statement is made on a non-standard form, the form will require special handling.

Therefore, the filing party should carefully review the form before filing to be sure that it contains all of the necessary features required by Revised Article 9. The filing party should also remember that under state law, the filing officer is not required to acknowledge the filing unless the secured party furnishes a copy of the UCC-3 or of the non-standard statement and requests an acknowledgment.

### 3. Presentation for Filing

After properly executing the statements that are required to be filed under Revised Article 9, the filing party should present the statements to the proper office for filing. Presentation for filing of a Financing Statement and tender of the filing fee or acceptance of the statement by the filing officer constitute filing under Revised Article 9.

All filings made in the Office of the Secretary of State may be presented by mail or in person. No statement will be accepted for filing unless it is accompanied by the correct statutory filing fee.

## **III. Acknowledgment of Filings**

Revised Article 9 provides that the filing officer shall stamp, "a copy furnished by the secured party to show the date and place of filing for an original Financing Statement ...". Always submit the form intact to insure that the filing information on each copy is exact.

If the standard forms described in this booklet are used by filing parties, the filing officer's acknowledgment of a filing will be made on the "Acknowledgment Copy" in each set of standard forms.

When non-standard forms are used, the filing party must submit the correct number of copies of the non-standard form if he wishes to receive a stamped copy in return.

It is also desirable to use the standard form supplemental sheet, but when this is not possible, then these too must be submitted in multiple copies to receive a stamped copy in return.

The "Return copy to" block should be completed on each form, especially if the acknowledgment copy is to be returned to an addressee other than the one listed in the secured party block.

Self-addressed envelopes are not required, but should be included if you wish to have the acknowledgment copy sent to any address other than the one set out on the form.

## **IV. Requests for Information**

In the preceding sections we have described the various UCC forms secured parties or their representatives file in the Office of the Secretary of State UCC section. In addition, certain federal and state tax liens are on file in this office. This section concerns all of the public records filed in the Office of the Secretary of State UCC section. The means by which you can access this information follows.

### A. UCC-11 Requests for Copies or Information

Section 7-9-407(2) provides that upon request of any person, and the payment of the prescribed fee, the filing officer may issue his certificate showing whether there is on file on the stated date and hour, any presently effective Financing Statements or Assignment Statements thereof naming a particular debtor. If any such statement is on file, the filing officer shall give the date and hour of filing of such statement, and the names and addresses of each secured party therein. The uniform fee for this certificate is \$5.00 per name searched plus \$1.00 for each Financing Statement and for each Assignment Statement reported in the certificate.

Certificates issued by the Secretary of State will list all documents filed in the UCC section, unless the requesting party specifically asks that the search be limited to either UCC-1 Financing Statements, UCC-1F Farm Products Financing Statements, Federal Tax Liens or State Tax Liens.

Information requests will list the file numbers, and the date and hour of filing of each statement listed, plus the name and address of each secured party where additional information can be obtained.

In addition to information concerning statements on file, any person may request a copy of all documents in any given debtor's name or a copy of any one or more specific documents. The uniform fee for such a copy is \$1.00 per page.

The certificate issued by the Alabama Secretary of State that attests to authenticity of the copy of a document, has the same force and effect at law as the original record and can be received in evidence in any court where the original record could have been introduced. If you wish to request a certified copy, with the state seal affixed, to be used in court, please so specify. The fee for this certificate is \$5.00, plus \$1.00 per page for each page of the document.

When requesting copies of statements or other information from the Office of the Secretary of State, all interested parties are urged to use the UCC-11 Request for Copies or Information form. Please carefully read the instructions on the back of form UCC-11.

An additional fee of \$2.00 is charged for each request not made on the standard form prescribed by the Secretary of State.

The Office of the Secretary of State recognizes that requesting parties will not necessarily know how many liens are filed against a given debtor and would therefore be unable to submit the correct amount of moneys when requesting a search of the files. One option used by many requesting parties is a blank draft to be completed by the filing officer for the amount of the search.

#### B. UCC-20 Registration for Farm List

In 1986, §7-9-407 (3), (4), (5) and (6), added by the Alabama Legislature, instructs the Secretary of State to develop and implement a central indexing system for farm products. Also, it instructs the Secretary of State to distribute this information to buyers of farm products at a fee.

The UCC section publishes monthly, the central indexing system farm products list.

Any buyer of farm products, commission merchant or selling agent who wishes to register to receive this list should contact the UCC Section and request a copy of form UCC-20.

#### C. DIALUP — Direct Information Access Link Using PC's

DIALUP allows subscribers access to UCC filings in the Alabama Office of the Secretary of State. Via a modem attached personal computer, subscribers can dial directly into the Secretary of State's computer system.

DIALUP access enables subscribers to conduct a UCC search by debtor name or filing number. A search will yield the following: file number, the date and time of the filing, the number of pages filed, the expiration date of the filing, the debtor's name and address, as well as the secured party's name and address.

For more information, contact the Office of the Secretary of State DIALUP Coordinator.

#### D. Telephone Inquiries

Due to the large volume of statements filed each day in the Office of the Secretary of State under Revised Article 9, it will not be possible for the staff of this office to confirm filings over the telephone.

Acknowledgment copies, properly submitted, will be stamped with the file number, date and time of filing and returned to the submitting party immediately.

File searches should be made in writing on the proper form, UCC-11, and should be sent to the Office of the Secretary of State with the prescribed statutory fee.



Central indexing system for farm products information may be requested by telephone. Buyers needing a verbal search should telephone (334) 242-5231. When a search of the central indexing system for farm filings is requested, the Office of the Secretary of State will provide, within 24 hours, a verbal report followed by written confirmation in the form of a UCC-11 Request For Copies or Information. The fee for confirming a verbal search will be the same as for the search submitted in writing. See section A "UCC-11 Requests For Copies or Information" above.

For questions concerning filing procedures not found in this booklet, call (334) 242-5231.

## **V. General Information**

### **A. File Organization**

All documents recorded in the UCC Section are filed both alphabetically and numerically in the computer system. Filings may be accessed alphabetically, according to the debtor's name or numerically according to the file number assigned.

The UCC Section stores all forms recorded in this office by means of optical imaging. Optical imaging allows the large volume of forms filed in the Office of the Secretary of State to be computerized. Once the UCC document data and image have been entered in the computer system and verified, they are packed and stored in numerical order by recording date. Because of the extreme importance of these records and the need for proper and exact filing, the public is not given access to the actual files. A Customer Data Display Program computer terminal is located in the Office of the Secretary of State Business Division to provide public viewing of the files, and copies of the documents may be purchased at \$1.00 per page.

### **B. Procedures for Processing Filings Presented In Person**

All filings presented in person are processed and validated immediately. To insure prompt service for filings presented in person, all interested parties are urged to submit standard forms, prepared in the manner outlined in this booklet.

Please consult the fee schedule in this booklet. If you plan to pay in cash, bring the correct amount, as this office does not keep cash on hand and will be unable to make change for large bills. We also will accept personal or company checks and money orders made payable to the Secretary of State. Acknowledgment copies will be returned to you at the time of filing, unless you request otherwise.

When filing additional pages, be sure to submit them in duplicate.

### **C. Filings in the Office of the Judge of Probate**

The following is intended only as a brief guide to those persons who will wish to file with the probate judge. For specific problems legal counsel should be obtained.

Section 40-22-2 states that a privilege or license tax must be paid on certain instruments before they shall be received for filing by the probate judge. These instruments are defined as follows: "No mortgage, deed of trust, contract of conditional sale, or other instrument of like character which is given to secure the payment of any debt which conveys any real or personal property situated within this state or any interest therein or any security agreement or Financing Statement provided for by the UCC, except a security agreement or a Financing Statement relating solely to security interests in accounts, contract rights or general intangibles, as such terms are defined in the UCC, shall be received for record or for filing in the office of any Judge of Probate of this state unless the following privilege or license taxes shall have been paid upon such instrument before the same shall be received for record or for filing ... "

Therefore, in connection with all Financing Statements which are to be presented for filing to the probate judge, the secured party must declare the amount of the initial indebtedness

secured. In the event a form is used which has no appropriate designation in the body of the instrument, then such amount should be noted in that section of the Financing Statement in which the goods covered are described. However, where the body of the Financing Statement includes within it appropriate language and spaces in which to set out this information, such should be included in the body of the Financing Statement.

Section 40-22-2(1) sets this tax on the initial indebtedness as \$.15 per \$100.00 or fraction thereof. The UCC-1 Financing Statement form contains the necessary features required by §40-22-2 and also space in which to declare the amount of tax due the probate judge. The filing party must submit this tax in addition to the uniform filing fee as required by Revised Article 9 in order to file a Financing Statement with the probate judge.

Other requirements for filing with the probate judge are the same as those required for filing with the Alabama Secretary of State and the approved forms may be used without further information being required. It is suggested that all parties filing with the probate acquaint themselves with §40-22-2.

### ***Appendix A: Revised Article 9 of the Uniform Commercial Code***

Code Sections 7-9-307 and 7-9-401 through 7-9-410

Sections:

- 7-9-307. Protection of buyer of goods.
- 7-9-401. Place of filing; erroneous filing; removal of collateral.
- 7-9-402. Formal requisites of financing statement; amendments; mortgage as financing statement.
- 7-9-403. What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer.
- 7-9-404. Termination statement.
- 7-9-405. Assignment of security interest; duties of filing officer; fees.
- 7-9-406. Release of collateral; duties of filing officer; fees.
- 7-9-407. Information from filing officer.
- 7-9-408. Financing statement covering consigned or leased goods.
- 7-9-409. Prescribed fees in lieu of all others.
- 7-9-410. Rules and regulations and fees to implement central filing system.

#### **7-9-307. Protection of buyer of goods.**

- (1) A buyer in ordinary course of business (subsection (9) of section 7-1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.
- (2) In the case of consumer goods, a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for a value and for his own personal, family or household purposes unless prior to the purchase the secured party has filed a financing statement covering such goods.
- (3) A buyer of goods other than a buyer in ordinary course of business (subsection (1) of this section) takes free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the purchase, or more than 45 days after the purchase, whichever first occurs, unless made pursuant to a commitment entered into without knowledge of the purchase and before the expiration of the 45-day period.
- (4) A secured party may enforce a security interest in farm products against a buyer who, in the ordinary course of business, purchases farm products from, or a commission merchant or selling agent who, in the ordinary course of business, sells farm products for a person engaged in farming operations only where the secured party has signed and filed with the secretary of state a form containing the following information:

- (a) the name and address of the borrower;
  - (b) the borrower's signature;
  - (c) the name and address of the secured party;
  - (d) the social security number of the borrower, or in the case of a borrower doing business other than as an individual, the borrower's Internal Revenue Service taxpayer identification number;
  - (e) a description of the farm products subject to the security interest including the amount of such products (where applicable);
  - (f) a reasonable description of the real estate (including county) where the farm products are located;
  - (g) a stockyard buyer or seller is exempt from sections 7-9-307, 7-9-402, 7-9-403, 7-9-404 and 7-9-407 provided this exemption does not disqualify certification of sections 7-9-307, 7-9-402, 7-9-403, 7-9-404 and 7-9-407 by the U.S. Department of Agriculture. If this exemption does disqualify sections 7-9-307, 7-9-402, 7-9-403, 7-9-404 and 7-9-407 for certification by the U. S. Department of Agriculture, this particular subdivision (g) shall be null and void and shall not affect any other parts of this law.
- (5) The form described in subsection (4) must be amended in writing within three months, and similarly signed and filed, to reflect material changes. The effectiveness and continuation of the form is to be treated as if it were a financing statement. The fee for filing the amendatory documents is \$5.00 for the first page and \$1.00 for each additional page if the statement is in the standard form prescribed by the secretary of state and an additional \$2.00 for each statement if not in the standard form. The uniform fee for each name more than one required to be indexed shall be \$1.00. The secured party may at his option show a trade name for any person and an extra uniform indexing fee of \$1.00 shall be paid with respect thereto.
- (6) The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement relating to farm products shall be \$10.00 for the first page and \$1.00 per page for each additional page if the statement is in the standard form prescribed by the secretary of state and an additional \$2.00 for each statement if not in the standard form. The uniform fee for each name more than one required to be indexed shall be \$1.00. The secured party may at his option show a trade name for any person and an extra uniform indexing fee of \$1.00 shall be paid with respect thereto. The cost of filing the forms described in subsection (4), with the secretary of state, shall not be charged or assessed to the borrower.
- (7) There is hereby created in the state treasury a fund to be known and designated as the Uniform Commercial Code and Farm Products Central Index System Fund. All funds, fees, charges, costs and collections accruing to or collected by the office of the secretary of state under the provisions of sections 7-9-307, 7-9-402, 7-9-403, 7-9-404, 7-9-407, or any fees collected in relation to uniform fees for filing an original financing statement or effective financing statements for farm products shall be deposited into the state treasury to the credit of the Uniform Commercial Code and Farm Products Central Index System Fund except as provided in subsection (9).
- (8) All funds now or hereafter deposited in the state treasury to the credit of the Uniform Commercial Code and Farms Products Central Index Systems Fund shall be expended for the purpose of carrying out the provisions of the law authorizing the collection of such funds and shall be payable from said fund on the requisition of the secretary of state; provided, however, that no funds shall be withdrawn nor expended for any purpose whatsoever unless the same shall have been allotted and budgeted in accordance with the provisions of article 4 chapter 4 of Title 41, and only in the amounts and for the purposes provided by the legislature in the general appropriation bill.
- (9) Funds collected in accordance with the Uniform Commercial Code and Farm Products Central Index System provided in sections 7-9-307, 7-9-402, 7-9-403, 7-9-404 and 7-9-407, or any other fees collected in direct relation to the Uniform Commercial Code or Farm Products Central Index System during the fiscal year shall be deposited to the credit of the

state general fund. (Acts 1965, No. 549, p. 811; Acts 1981, No. 81-312, p. 399; Acts 1986, No. 86-507, p. 989, §1; Acts 1987, No. 87-410, p. 595, §1.)

Part 4.  
Filing.

7-9-401. Place of Filing; erroneous filing; removal of collateral.

- (1) The proper place to file in order to perfect a security interest is as follows:
  - (a) When the collateral is equipment used in farming operations, or farm products, or accounts or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the judge of probate in the county of .. the judge of probate in the county where the goods are kept, and in addition when the collateral is crops growing or to be grown in the office of the judge of probate in the county where the land is located;
  - (b) When the financing statement is filed as a fixture filing (section 7-9-313) and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate would be filed or recorded; and when the collateral is timber to be cut, then in the office of the judge of probate in the county where the land on which the timber is standing is located;
  - (c) In all other cases, in the office of the secretary of state.
- (2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.
- (3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.
- (4) The rules stated in section 7-9-103 determine whether filing is necessary in this state.
- (5) Notwithstanding the preceding subsections, and subject to subsections (3) and (4) of section 7-9-302 and subsection (5) (a) of section 7-9-302, the proper place to file in order to perfect a security interest in collateral, including fixtures, of a utility is the office of the secretary of state. This filing constitutes a fixture filing (section 7-9-313) as to the collateral described therein which is or is to become fixtures.
- (6) For the purposes of this section, the residence of an organization is its place of business if it has one or its chief executive office if it has more than one place of business. 7-9-402. Formal requisites of financing statement; amendments; mortgage as financing statement. (Acts 1965, No. 549, p. 811; Acts 1982, No. 81-312, p. 399.)

7-9-402. Formal requisites of financing statement; amendments; mortgage as a financing statement.

- (1) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers timber to be cut or crops growing or to be grown, or when the financing statement is filed as a fixture filing (section 7-9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other

reproduction of a signed security agreement or a signed financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

- (2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in:
  - (a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; or
  - (b) Proceeds under section 7-9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or
  - (c) Collateral as to which the filing has lapsed; or
  - (d) Collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)).
- (3) A form substantially as follows is sufficient to comply with subsection (1):
  - Name of debtor (or assignor).....
  - Address.....
  - Name of secured party (or assignee).....
  - Address.....
  - 1. This financing statement covers the following types (or items) of property:  
(Describe).....
  - 2. (If collateral is crops) The above-described crops are growing or are to be grown on:  
(Describe real estate).....  
(If the debtor does not have an interest of record in the real estate) The name of a record owner of the above-described real estate is:  
(Name record owner).....  
This financing statement is to be cross-indexed in the real estate mortgage records.
  - 3. (If collateral is goods which are or are to become fixtures) The above described goods are or are to become fixtures on:  
(Describe real estate).....  
(If the debtor does not have an interest of record in the real estate) The name of a record owner of the above-described real estate is:  
(Name record owner).....  
This financing statement is to be cross-indexed in the real estate mortgage records.
  - 4. (If collateral is timber to be cut) The above-described collateral is standing on:  
(Describe real estate).....  
(If the debtor does not have an interest of record in the real estate) The name of a record owner of the above-described real estate is:  
(Name record owner).....  
This financing statement is to be cross-indexed in the real estate mortgage records.
  - 5. (If products of collateral are claimed) Products of the collateral are also covered.  
Signature of debtor (or assignor).....  
Signature of secured party (or assignee).....  
(Use whichever is applicable)
- (4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party which identifies the financing statement by file number. The uniform fee for filing and indexing an amendment shall be \$5.00 for the first page and \$1.00 per page for each additional page if the amendment is in the standard form prescribed by the secretary of state and an additional \$2.00 if not in the standard form, plus in each case an additional fee of \$1.00 for each name more than one against which the amendment is required to be indexed. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this article, unless the context otherwise requires,

the term "financing statement" means the original financing statement and any amendments.

- (5) A financing statement covering timber to be cut or covering crops growing or to be grown, or a financing statement filed as a fixture filing (section 7-9-313) where the debtor is not a utility, must show that it covers this type of collateral, must show that it is to be cross-indexed in the real estate mortgage records and must contain a description of the real estate. If the debtor does not have an interest of record in the real estate, the financing statement must also show the name of a record owner.
- (6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if (a) the goods are described in the mortgage by item or type, (b) the goods are or are to become fixtures related to the real estate described in the mortgage, (c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records and (d) the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.
- (7) The name of the debtor in the financing statement shall be the individual, partnership or corporate name of the debtor, regardless of trade names or the names of partners. The secured party may at his option add trade names and obtain additional indexing under such names (subsections (4) and (5) of section 7-9-403). Where the debtor so changes his name or, in the case of an organization, its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of the transfer.
- (8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. (Acts 1965, No. 549, p.811; Acts 1981, No. 81-312, p. 399; Acts 1987, No. 87-410, p. 595, §1.)

**7-9-403. What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer.**

- (1) 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 article.
- (2) Except as provided in subsection (6), a filed financing statement is effective for a period of five years from the date of filing, or, where both (i) the collateral described consists only of consumer goods and (ii) the secured obligation is originally \$2000 or less, then until the 30th day following any maturity date if specified in the financing statement. The effectiveness of a filed financing statement lapses on the expiration of the effective period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the effective period, whichever occurs later; but when the effective period expires before the expiration of the 60-day period, the security interest remains continuously perfected beyond the 60-day period only if a continuation statement is filed before expiration of the effective period or a new financing statement is filed between the time of expiration of the effective period and expiration of the 60-day period. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.
- (3) A continuation statement may be filed by the secured party within six months prior to the expiration of the effective period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective, and, may where both (i) the collateral

described consists only of consumer goods and (ii) the secured obligation is originally \$2000 or less, specify the maturity date. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 7-9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective or until the 30th day following any maturity date specified in the continuation statement, whichever is earlier, whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it. Microfilm or other photographic records may be removed and destroyed after five years after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five years past, those which have been continued by continuation statement or which are still effective under subsection (6) shall be retained.

- (4) The filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and such trade names as are shown (subsection (7) of section 7-9-402) and shall note in the index the file number and the address of the debtor given in the statement.
- (5) The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement which includes filing and indexing a termination statement and for stamping a copy furnished by the secured party to show the date and place of filing thereof, or for a continuation statement shall be \$10.00 for the first page and \$1.00 per page for each additional page if the statement is in the standard form prescribed by the secretary of state and an additional \$2.00 for each statement if not in the standard form, plus in each case, if the financing statement is subject to subsection (5) of section 7-9-402, \$1.00. The uniform fee for each name more than one required to be indexed shall be \$1.00. The secured party may at his option show a trade name for any person and an extra uniform indexing fee of \$1.00 shall be paid with respect thereto.
- (6) If the debtor is a utility (subsection (5) of section 7-9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of section 7-9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate. A financing statement covering a mobile home, other than a mobile home covering inventory, remains effective, if it so states, until a termination statement is filed.
- (7) When a financing statement covers timber to be cut or crops growing or to be grown, or is filed as a fixture filing, the filing officer shall, in addition to indexing it in the ordinary manner prescribed in subsection (4) of this section, index it in the real estate mortgage records under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, then also under the name of the secured party as if he were the mortgagee thereunder, and where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described. (Acts 1965, No. 549, p. 811; Acts 1973, No. 865, p. 1365, §1; Acts 1981, No. 81-312, p. 399; Acts 1984, No. 84-307; Acts 1984, No. 84-446, p. 1040, §2; Acts 1987, No. 87-410, p. 595, §1; Acts 1991, No. 91-593, §1.)

#### 7-9-404. Termination Statement.

- (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by the file number. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record complying with subsection (2) of section 7-9-405, including payment of the required fee. If the affected secured party fails to send such termination statement within 10 days after proper demand therefor he shall be liable to the debtor for \$100.00, and in addition for any loss caused to the debtor by such failure.
- (2) On presentation to the filing officer of such a termination statement he must index it with the financing statement. If he has received the termination statement in duplicate, he shall return one copy of termination statement to the secured party stamped to show the time of receipt thereof. If the filing officer has a microfilm or other photographic record of the financing statement, and of any related continuation statement, statement of assignment, statement of release and termination statement, he may remove the originals from the files at any time after receipt of the termination statement, or if he has no such record, he may remove them from the files at any time after the financing statement would have lapsed under section 7-9-403(2). Microfilm or other photographic records may be removed and destroyed after five years after the financing statement would have lapsed under section 7-9-403(2).
- (3) The uniform fee for filing and indexing a termination statement for those original financing statements prior to October 1, 1987, and for stamping a copy furnished by the secured party to show the date and place of filing thereof shall be \$5.00 for the first page and \$1.00 for each additional page if the statement is in the standard form prescribed by the secretary of state and an additional \$2.00 if not in the standard form. There shall be no charge to terminate an original financing statement which is originally filed after October 1, 1987. (Acts 1965, No. 549, p. 811; Acts 1973, No. 865, p. 1365, §1; Acts 1981, No-81-312, p. 399; Acts 1984, No. 84-446, p. 1040, §2; Acts 1987, No. 87-410, p. 595, §1.)

#### 7-9-405. Assignment of security interest, duties of filing officer; fees.

- (1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of a such a financing statement the filing officer shall mark and index it as provided in subsections (4) and (7) of section 7-9-403.
- (2) A secured party may assign of record all or part of his rights under a financing statement by filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall index the assignment with the financing statement, and in the case of a fixture filing, or a filing covering timber to be cut or crops growing or to be grown,



he shall also index the assignment in the real estate mortgage records under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment under the name of the assignee. The uniform fee for filing, indexing and stamping a copy furnished by the secured party to show the date, hour and place of filing for such a separate statement of assignment shall be \$5.00 for the first page and \$1.00 per page for each additional page if the statement is in the standard form prescribed by the secretary of state and an additional \$2.00 if not in the standard form, plus, in each case, if the assignment pertains to a financing statement subject to subsection (5) of section 7-9-402, \$1.00. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of section 7-9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this title.

- (3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record. (Acts 1965, No. 549, p. 811; Acts 1973, No. 865, p. 1365, §1; Acts 1981, No. 81-312, p. 399; Acts 1984, No. 84-446, §2.)

#### 7-9-406. Release of collateral; duties of filing officer; fees.

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 7-9-405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer he shall mark the statement with the hour and date of filing and shall index the same with the financing statement. The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date, hour and place of filing for such a statement of release shall be \$5.00 for the first page and \$1.00 per page for each additional page if the statement is in the standard form prescribed by the secretary of state and an additional \$2.00 if not in the standard form. (Acts 1965, No. 549, p. 811; Acts 1973, No. 865, p. 1365, §1; Acts 1981, No. 81-312, p. 399; Acts 1984, No. 84-446, §2.)

#### 7-9-407. Information from filing officer.

- (1) If the person filing any financing statement, termination statement, statement of assignment or statement of release furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.
- (2) Upon request of any person and upon payment of the uniform fee, the filing officer may issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be \$5.00, plus \$1.00 for each financing statement and for each statement of assignment reported therein. Upon request the filing officer may furnish a copy of any filed financing or statement of assignment for a uniform fee of \$1.00 per page. An additional fee of \$2.00 shall be charged for each request not made on the standard form prescribed by the secretary of state. The filing officer may distribute micro-image portions of the U.C.C. files for a fee of \$50.00.
- (3) The secretary of state shall develop and implement a central indexing system containing the information filed with his office pursuant to Section 7-9-307(4). Under this system the secretary shall record the date and time of filing and compile the information into a master

list organized according to farm products. The list shall be organized within each farm product category in alphabetical order according to the last name of the borrower (or, in the case of borrowers doing business other than as individuals, the first word in the name of such borrower), in numerical order according to the social security or taxpayer identification number of the borrower, geographically by county, and by crop year. The master list shall also contain the name and address of the secured party, the name and address of the borrower, a description of the farm products (including amount where applicable) subject to the security interest and a reasonable description of the real estate, including the county, where the farm products are located.

- (4) The secretary of state shall maintain a list of all buyers of farm products, commission merchants, and selling agents who register with the secretary of state indicating an interest in receiving the lists described in subsection (5).
- (5) The secretary of state shall distribute on such regular intervals as determined by him, to each buyer, commission merchant and selling agent registered under subsection (4) a copy in written or printed form of those portions of the master list which the buyer, commission merchant or selling agent has indicated an interest in receiving. The charge for a printed copy of the entire or any portion of master list and any supplements to that list shall be up to a fee of \$25.00 per collateral code requested annually. The charge for receiving a portion of the master list on microfiche shall be \$15.00 per collateral code requested annually.
- (6) Upon the request of any person the secretary of state shall provide, within 24 hours, an oral confirmation of whether there is on file on the date and hour stated, any presently effective financing statement naming a particular debtor to be followed by a written confirmation. The fee for confirming an oral search shall be \$5.00 plus \$1.00 for each financing statement and for each statement of assignment reported therein. (Acts 1965, No. 549, p. 811; Acts 1973, No. 865, p. 1365, §1; Acts 1981, No. 81-312, p. 399; Acts 1984, No. 84-446, p. 1040, §2; Acts 1986, No. 86-507, p. 989, §1; Acts 1987, No. 87-410, p. 595, §1; Acts 1990, No. 90-480, p. 706.)

#### 7-9-408. Financing statements covering consigned or leased goods.

A consignor or lessor of goods may file a financing statement using the terms "consignor," "consignee," "lessor," "lessee" or the like instead of the terms specified in section 7-9-402. The provisions of this part shall apply as appropriate to such a financing statement but its filing shall not of itself be a factor in determining whether or not the consignment or lease is intended as security (section 7-1-201(37)). However, if it is determined for other reasons that the consignment or lease is so intended, a security interest of the consignor or lessor which attaches to the consigned or leased goods is perfected by such filing. (Acts 1981, No. 81-312, p. 399.)

#### 7-9-409. Prescribed fees in lieu of all others.

The fees provided in this part 4 of article 9 for the performance of certain duties by filing officers shall be in lieu of all other fees otherwise provided by law for the performance of such duties. (Acts 1965, No. 549, p. 811; Acts 1981, No. 81-312, p. 399.)

#### 7-9-410. Rules and regulations and fees to implement central filing system; user and public training as to Uniform Commercial Code and Farm Products Central Index System Program.

The secretary of state is authorized to promulgate regulations and set reasonable fees which have not been delineated in sections 7-9-307, 7-9-402, 7-9-403, 7-9-404 and 7-9-407 in order to implement a central filing system which conforms with the requirements of section 1324 of the Federal Food Security Act of 1985, as now enacted or as hereafter amended. Such regulations and fees shall be adopted in accordance with the Administrative Procedures Act. The secretary of state also is authorized to conduct user and public training relating to the Uniform Commercial

Code and Farm Products Central Index System Program and is entitled to expenses as authorized in the general appropriations act. (Acts 1987, No. 87-410, p. 595, §2.)

## **Appendix B: Glossary**

"ACCOUNT" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. (7-9-106)

"BULK TRANSFER" a bulk transfer is any transfer in bulk and not in the ordinary course of the transferor's business of a major part of the materials, supplies, merchandise or other inventory of the enterprise subject to this article. (7-6-102)

"CHATTEL PAPER" means a writing or writing which evidence both a monetary debt and a security interest in or a lease of specific goods. When a transaction evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together is chattel paper. (7-9-105)

"COLLATERAL" means the property subject to a security interest, and includes accounts and chattel paper which have been sold. (7-9-109)

"CONSUMER GOODS" means goods which are used or bought for use primarily for personal, family, or household purposes.

"DEBTOR" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. (7-9-105)

"EQUIPMENT" means goods used or bought for use primarily in business (including farming or a profession) or by a debtor who is a nonprofit organization or a governmental subdivision or agency or if the goods are not included in the definitions of inventory, farm products or consumer goods. (7-9-109)

"FARM PRODUCTS" means goods which are crops or livestock, or supplies used or produced in farming operations or if they are products of crops or livestock in their un-manufactured states, and if they are in the possession of a debtor engaged in raising, fattening, grazing or other farming operations. If goods are farm products they are neither equipment nor inventory. (7-9-109)

"FIXTURE FILING" a "fixture filing" is the filing in the office where a mortgage on the real estate would be filed or recorded of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of subsection (5) of section 7-9-402 or of a mortgage conforming to the requirements of subsection (6) of section 7-9-302. (7-9-313)

"FIXTURES" goods are "fixtures" when they become so related to a particular real estate that an interest in them arises under real estate law. (7-9-313)

"GENERAL INTANGIBLES" means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments and money. (7-9-106)

"GOODS" includes all which are movable at the time the security interest attaches or which are fixtures, but does not include money, documents, instruments, accounts, chattel paper, general

intangibles or minerals or the like before extraction. "Goods" also include the unborn young of animals, growing crops and timber to be cut. (7-9-205)

"INSTRUMENT" means a negotiable instrument, or security or any other writing that evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary endorsement or assignment. (7-9-105)

"INVENTORY" means goods held by a person who holds them for sale or lease or to be furnished under contracts of service or if he has so furnished them, or if they are raw materials, work in process or materials used or consumed in a business. Inventory of a person is not to be classified as his equipment. (7-9-109)

"MORTGAGE" means a consensual interest created by a real estate mortgage, a trust deed or real estate or the like. (7-9-105)

"PURCHASE MONEY SECURITY INTEREST" means a security interest that is taken or retained by the seller of the collateral to secure all or part of its price; or taken by a person who by making advances or incurring an obligation gives value to enable the debtor to acquire rights in or the use of collateral if such value is in fact so used. (7-9-107)

"SECURED PARTY" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. (7-9-105)

"SECURITY AGREEMENT" means an agreement that creates or provides for a security interest. (7-9-105)

"SECURITY INTEREST" means an interest in personal property or fixtures which secures payment or performance of an obligation. The term also includes any interest of a buyer of accounts or chattel paper which is subject to Article 9. (7-1-201)

"TIMBER TO BE CUT" means standing timber and trees, and cutting rights with respect thereto, to the extent, and only to the extent, the same are and are to be considered as chattels and not real property, or any interest therein, as provided by section 35-4-363. (7-9-105)

"UNIFORM COMMERCIAL CODE" The purposes and policies of this title are to simplify, clarify and modernize the law governing commercial transactions; to permit the continued expansion of commercial practices through customs, usage and agreement of the parties; to make uniform the law among the various jurisdictions. (7-1-102)

"UTILITY" means any person primarily engaged in the railroad, street railway or trolley bus business, the telephone or telegraph business, the transmission of goods by pipeline or the transmission or the production and transmission of electricity, steam, gas or water. The term transmission shall include distribution. (7-9-105)

## **Appendix C: Instructions**

FOR ALL FILINGS MADE PURSUANT TO  
REVISED ARTICLE 9 OF THE  
UNIFORM COMMERCIAL CODE  
OFFICE OF THE SECRETARY OF STATE

### UCC-1 INSTRUCTIONS

1. Please type this form in black. Do not write in Filing Office space.
2. If the space provided for any item(s) on this form is inadequate, the item(s) should be continued on an additional sheet(s), preferably the UCC-E EXTENSION FORM, but you may use any 5"x8" or "8x10" sheet. Three copies of such additional sheets should be presented to the filing officer with a set of at least three copies of the UCC-1 financing form.
3. Each debtor box should contain only one name and address. The UCC-E form should be used for any additional debtors or debtor addresses.
4. The filing fee for the UCC-1 form is \$10.00 with one debtor and one debtor address and \$1.00 for each additional debtor or debtor address. If the UCC-E form is used for additional sheets, there is no charge for the sheet itself but there is a \$1.00 per page charge for any other additional sheets. Please state at top of form the number of additional sheets presented.
5. If the debtor is a UTILITY as defined by §7-9-105(n), check box 1.
6. If this is an original filing for a security interest that has been assigned, you may type the name and address of the assignee in box 4 at no additional charge.
7. The financing statement must be signed by the debtor unless one of the reasons in box 6 applies. The secured party must sign if you check one of the boxes in block 6.
8. If collateral is timber to be cut, crops, or fixtures and is to be cross indexed in the real estate mortgage records, check box 8 and describe real estate and if debtor does not have an interest or record, give name of record owner in box 5.
9. Please choose the collateral code(s) below that best describe(s) the collateral set out in block 5 and enter one or more in block 5A.

000—ACCOUNTS	500—FIXTURES
001—ACCOUNTS RECEIVABLE	600—GOODS
100—CHattel PAPER	601—AUTOMOBILES
101—INSTRUMENTS	602—MOBILE HOMES
102—LEASES	700—INTANGIBLES
103—SECURITY AGREEMENTS	800—INVENTORY
200—CONTRACT RIGHTS	801—APPLIANCES
300—EQUIPMENT	802—AUTOMOBILES
301—FARM	803—FURNITURE
302—FURNITURE	804—MOBILEHOMES
303—HEAVY	900—SECURITIES
400—FARM PRODUCTS	901—BONDS
401—CROPS	902—STOCKS
402—LIVESTOCK	

THESE CODES ARE NOT TO BE USED AS LEGAL DESCRIPTION. They are only for sorting purposes and you may use the first code under each section that is applicable or define it further by using a code under that section that more closely describes the collateral. Example: If inventory is the collateral you may use "800" or if this inventory is mobile homes you may choose to use "804" instead.

### UCC-3 INSTRUCTIONS

1. Please type this form in black. Do not write in Filing Office space.
2. If the space provided for any item(s) on this form is inadequate, the item(s) should be continued on an additional sheet(s), preferably the UCC-E EXTENSION FORM, but you may use any 5"x8" or "8x10" sheet. Three copies of such additional sheets should be

presented to the filing officer with a set of at least three copies of the UCC-3 financing form.

3. Each debtor box should contain only one name and address. The UCC-E form should be used for any additional debtors or debtor addresses.
4. The filing fee for the UCC-3 form is \$10.00 for continuations and \$5.00 for all other filings with one debtor and one debtor address and \$1.00 for each additional debtor or debtor address. If the UCC-E form is used for additional sheets, there is no charge for the sheet itself but there is a \$1.00 per page charge for any other additional sheets. Please state at top of form the number of additional sheets presented.
5. If the debtor is a UTILITY as defined by §7-9-105(n), check box 1.
6. This form should be used for continuation, assignment, partial release, amendment, and/or termination. Select and check the appropriate purpose(s) on the form, boxes 6-10.
7. This form must be signed by the secured party of record at the time of filing and also by the debtor, if item 9 is applicable.
8. Please choose the collateral code(s) below that best describe(s) the collateral set out in block 11 and enter one or more in block 11A.

000—ACCOUNTS	500—FIXTURES
001—ACCOUNTS RECEIVABLE	600—GOODS
100—CHATTEL PAPER	601—AUTOMOBILES
101—INSTRUMENTS	602—MOBILE HOMES
102—LEASES	700—INTANGIBLES
103—SECURITY AGREEMENTS	800—INVENTORY
200—CONTRACT RIGHTS	801—APPLIANCES
300—EQUIPMENT	802—AUTOMOBILES
301—FARM	803—FURNITURE
302—FURNITURE	804—MOBILE HOMES
303—HEAVY	900—SECURITIES
400—FARM PRODUCTS	901—BONDS
401—CROPS	902—STOCKS
402—LIVESTOCK	

THESE CODES ARE NOT TO BE USED AS LEGAL DESCRIPTION. They are only for sorting purposes and you may use the first code under each section that is applicable or define it further by using a code under that section that more closely describes the collateral. Example: If inventory is the collateral you may use "800" or if this inventory is mobile homes you may choose to use "804" instead.

#### UCC-E INSTRUCTIONS

##### \*USE THIS FORM WITH UCC-1 OR UCC-3 ONLY

1. Please type this form in black. Do not write in Filing Office space.
2. This form is to be used for listing additional debtors, secured parties, collateral or collateral codes when the space on the UCC-1 or the UCC-3 is not sufficient.
3. Three copies of this form with interleaved carbon papers should be filed with your completed UCC-1 or UCC-3.
4. This filing will be rejected if illegible.
5. There is no fee for filing this additional sheet when submitted with three copies of UCC-1 financing statement, or three copies of UCC-3 financing statement change. You will be charged for additional debtors or debtor addresses only.

#### UCC-1F INSTRUCTIONS

1. The form must be typed or legibly printed. Illegible forms will be returned without processing. Give name, address and Social Security number, or if other than a natural

- person the IRS Tax payer identification number of each person subjecting farm product to security interest.
2. Debtor name space (block A).
    - a. Only one debtor must be entered. Names of individuals must be entered with the surname (last name) first, followed by a comma and the individual's first name and middle initial or name, if any.
    - b. Corporate names, partnerships names and assumed business names must be entered exactly as the business is officially designated.
    - c. Precision in spelling and exact designation of names is imperative, since the name is the primary key by which searches are done. Abbreviations which do not appear in an official name should not be used.
    - d. If there are more debtors, the excess debtor names may be entered on an attached financing statement supplement, UCC-2F.
  3. SSN or TIN space (block B).
    - a. For each individual debtor named, the Social Security account number (SSN) must be entered.
    - b. For each corporation, partnership or other entity which has been assigned an IRS Taxpayer Identification Number (TIN) which is named as a debtor, the TIN must be entered.
    - c. For an assumed business name of a sole proprietor, his SSN must be entered. Where a husband and wife are involved, both Social Security Numbers should be entered beside the assumed business named.
  4. Debtor address space (Block C).
    - a. The address of each debtor must be entered. At least a city, state, and zip must be entered, and a more exact address if it is available.
    - b. If a debtor has more than one address and the filing party wished to indicate all of them, a separate entry should be made for each address: i.e. the debtor's name and SSN or TIN should be repeated for the second subsequent addresses.
  5. The Completion of the Secured Party and Assignee spaces (Blocks D and E) should follow instructions for debtors.
  6. The three-digit product code of each farm product covered by the financing statement must be entered in the Product Code column (Block G). The product code table is located on page 40.
  7. Product name space (Block H).
    - a. The product name may be entered for the convenience of the filing party. Entry in this space is optional.
    - b. Entries in this space will be disregarded by the Secretary of State.
  8. The two-digit county code for each county in which the particular farm product is produced or to be produced must be entered in the County Code filed (Block I). The table of county codes is located on page. If all Alabama counties are involved, 99 should be entered.
  9. Crop year field (Block J).
    - a. No entry is required if all crop years of the farm product are covered by the financing statement.
    - b. If fewer than all crop years are covered, the last two digits of each covered crop year should be entered.
  10. Amount and unit spaces (Blocks K and L).
    - a. No entry should be made unless less than all the farm product is covered by the financing statement. If an amount of a farm product covered by the financing statement can be distinguished by use of county or crop year entries from an amount which is not, those means will be used, and not entry made for amount.
    - b. If an amount is entered, the appropriate unit code must be entered. The table of unit code is located on page 40.
  11. Additional information.

- a. If the county, crop year and amount do not sufficiently distinguish that part of a farm product which is covered from that which is not, an "X" should be entered in the column marked "Add. Info," (Block M).
- b. In such case, the additional distinguishing information must be entered in Block N.
12. If there are not enough lines in the UCC-1F for all farm products covered by the financing statement, the excess may be entered on an attached UCC-2F.
13. Debtor signature space (Block P).
  - a. Each individual debtor named in the Debtor space must sign.
  - b. Each corporate debtor must sign by an authorized officer.
  - c. Each partnership debtor, when the general partners are not also named individually as debtors, must sign by a general partner.
14. Enter in Block Q the number of pages attached to the UCC-1F, not including any attached UCC-2F forms.
15. The secured party must sign in the designated space (Block R).
16. a. After completing the UCC-1F, retain the filing party copy and submit the other two (2) copies to the Secretary of State. The acknowledgment copy will be returned after processing.
  - b. When the secured party no longer has a security interest under the financing statement a termination must be filed with the Secretary of State.
17. Pages of information attached to the UCC-1F must be printed on only side, and must not exceed 8.5x11 in size.
18. Fee schedule.
  - a. The base fee for filing a UCC-1F is \$10.00. The base fee covers one entry in the Debtor space.
  - b. For each entry in the Debtor space after the first entry, there is an additional fee of \$1.00.

For each page of attached information, there is an additional fee of \$1.00. The UCC-2F is not counted as an additional page.

#### UCC-2F INSTRUCTIONS

1. The UCC-2F is to be used exclusively with an attached UCC-1F or UCC-3F form.
2. This form must be typed or legibly printed. Illegible forms will be returned without processing.
3. Enter in Block A the debtor name and SSN or TIN exactly as they are listed on the associated UCC-1F or UCC-3F to which this UCC-2F is attached.
4. An entry in an "Additional Information" space (Block N) should not exceed 150 characters and spaces.
5. When computing fees, the UCC-2F is not counted as an attached page.
6. Instructions for use of this form in conjunction with the UCC-1F and UCC-3F forms are found in the instructions for those forms.
7. Action codes are used only with UCC-3F filing.

#### UCC-3F INSTRUCTIONS

1. The forms must be typed or legibly printed. Illegible forms will be returned without processing.
2. Enter in Block A the file number assigned by the Secretary of State to the UCC-1F financing statement to which the UCC-3F relates. This number can be found in the upper right hand corner of the UCC-1F.
3. Enter in Block B the number of pages attached to the UCC-3F, not including any attached UCC-2F forms.
4. a. List in Block C the debtor name and address as they appear on the UCC-1F.
  - b. enter the name and address of the secured party Block D.
5. Check the "continuation" box (Block E) if the UCC-3F continues a financing statement.
6. Check the "termination" box (Block F) if the UCC-3F terminates a financing statement.



7. Check the "assignment" box (Block G) to indicate an assignment of the security interest. Enter the name, social security or tax identification number and address, including city, state and zip code of assignee in Block Z.
8. Amendment to debtor information.
  - a. If debtors are added or deleted, or if debtor name(s) or address(es) is/are changed, check the Block H.
  - b. If a debtor is to be added, enter action code "A" in Block I and the new debtor information in Block J, K and L.
  - c. If a debtor is to be deleted, enter action code "D" in Block I and the deleted debtor information in Blocks J, K and L.
  - d. If a debtor's name, SSN or TIN, or address is to be changed, enter action code "D" in Block I followed by the old information on one line. On the next line enter action code "A" followed by the debtor's name SSN or TIN and address as changed.
  - e. If there is more amended information that space on the UCC-3F, the excess information may be entered on an attached UCC-2F. Enter the appropriate action code in front of the line of debtor information being amended in the same manner as on a UCC-3F.
  - f. Names of individuals debtors must be entered last name first. Names of business entities must be entered exactly as officially designated.
9. Amendment to coded collateral information.
  - a. Check the box indicating that coded collateral information is being amendment (Block M).
  - b. Enter in Block N the number of the item on the UCC-1F which is to be amended from Block F of the UCC-1F. If adding a whole new line, enter in Block N the next available item number from the UCC-1F Block F.
  - c. Enter in Block O the action code "D" if a line of collateral information is to be deleted, followed in Block P through V
  - d. Enter in Block O the action code "A" if a line is to be added, followed by the complete line as it appears on the UCC-1F.
  - e. If a new line of collateral information is to replace an existing line of information, enter in Block O action code "D," followed by the old information that is to be replaced. On the next line, enter action code "A," followed by the new line of information.
  - f. No entry should be made in the amount space (Block T) on an added line unless less than all of the farm product is covered. If an amount is entered, the appropriate unit code must be entered in Block U.
  - g. Additional information.
    - i. If county, crop year, and amount do not sufficiently distinguish that part of an added farm product which is covered from that which is not, enter "X" in the "Add. Inform." column (Block V).
    - ii. The distinguishing information may be entered in the "Uncoded Collateral Information" space (Blocks W and X) or on an attached UCC-2F. Enter in Block W the item number to which the additional information pertains.
  - h. If there are not enough lines on the UCC-3F for farm product amendments, excess amendments may be entered on an attached UCC-2F. Enter the appropriate action code in front of the line of information in the same manner as on a UCC-3F.
10. Other amendment section (Block Y).  
Enter any information which materially changes the financing statement which cannot be covered by the amendments to debtor information and amendments to collateral information. This section is used to amend a secured party's name or address.
11. The debtor covered by the financing statement as amended must sign the UCC-3F (Block AA) if box H, M, or Y is checked.
12. The secured party or assignee of record must sign the UCC-3F.

13. Pages of information attached to the UCC-3F must be printed only on one side and must not exceed 8.5x11 inches in size.
14. Fee Schedule
  - a. The UCC-3F form is \$10.00 for a Continuation and \$5.00 for all other filings except for a termination for which no fee is required.  
For each debtor name more than one in the debtor block, there is a fee of \$1.00. The number of debtor names counted for the purpose of computing this fee includes existing names on file plus all new or changed debtor names.  
For each page of information attached to a UCC-3F, there is a fee of \$1.00. A UCC-2F is not counted as a page of collateral information.  
The fee for filing a UCC-3F must be paid at the time of filing.

#### UCC-11 REQUEST FOR INFORMATION OR COPIES

1. Please type this form in black. Do not write in filing officer block.
2. Place an "X" in the appropriate box to indicate the following items.
  - a. A request for UCC-1 financing statements, UCC-1F farm product filings and/or State of Alabama Tax Liens and/or Federal Tax Liens. Filing officer will send all filings in name listed in block #1 if no blocks are checked.
  - b. A request for information, copies or both. Filing officer will send list of filings only if no block is checked.
3. The first 3 copies of the form must be sent to the filing officer. The fourth, yellow copy should be retained by the requesting party as a record showing that a request has been initiated. **DO NOT DETACH FIRST THREE SHEETS FROM "STUB" OR REMOVE FIRST TWO SHEETS.**
4. The filing officer will search all names listed in block #1. Unrelated debtors should be listed on a separate form. The \$5.00 per debtor name statutory fee should be submitted at the time of the request.
5. If requesting only a list of filings (file number, date & hour of filings, and name & address of secured party) check the information box. The Secretary of State's officer will certify that this is a correct list of all presently effective filings in this debtors name on file in this office.
6. If you wish to know the collateral covered by the filing, you must request copies.
  - a. If you know the file number and want copies of specific filings, check the COPY REQUEST box and list the number of the filing.
  - b. If you do not know the file number and want copies of all filings, check INFORMATION REQUEST box and COPY REQUEST box and a listing of all filings and copies will be certified to you.
  - c. If you need a CERTIFIED COPY (a copy certified by the Secretary of State under the State Seal to be an exact copy of a filing on file in this office) check the COPY REQUEST box, list the file number, and type beside the file number "CERTIFIED COPY REQUEST." The charge for this certificate is \$5.00 in addition to the copy charge of \$1.00 per page.
7. If the information request box does not indicate the period for which you are requesting filings, the Secretary of State's office will provide you information on all presently effective filings to the date this form is received.

#### SEARCH FEE SCHEDULE

- \$5.00—Each name set out in block #1 of the UCC-11**  
**\$1.00—Each secured party or assignee listed on the UCC-11**  
**\$1.00—Each page of each financing statement listed on the UCC-11**  
**\$2.00—Each non-standard form submitted**

**Appendix D: Uniform Commercial Code Filings Fees**

Financing Statement	UCC-1 or UCC-1F	\$10
Continuation Statement	UCC-3 or UCC-3F	\$10
Assignment Statement	UCC-3 or UCC-3F	\$5
Amendment Statement	UCC-3 or UCC-3F	\$5
Partial Release	UCC-3	\$5
Termination Statement	UCC- or UCC-3F	No charge
Extension Sheet	UCC-E or UCC-2F	No charge
Extra pages	Writing on front & back constitutes 2 pages	\$1 per page
Additional Debtor Name		\$1 per name
Additional Debtor Address		\$1 per address
Non-standard Form Fee		\$2

## Our Mailing address and telephone number:

Alabama Secretary of State  
Uniform Commercial Code Section  
PO Box 5616  
Montgomery, Alabama 36003-5616  
(334) 242-5231

## Our courier/express mail address:

Alabama Secretary of State  
Uniform Commercial Code Section  
11 South Union Street, Room 207  
Montgomery, AL 36104

**PRODUCT  
CODE TABLE**

101—Apples  
102—Apricots  
103—Artichokes  
104—Asparagus  
105—Avocados  
106—Bananas  
107—Barley  
108—Beans,  
Butter  
109—Beans, Dry  
110—Beans, Lima  
111—Beans, Snap  
112—Beans, Waxed  
113—Beets  
114—Berries, Black  
115—Berries, Blue  
116—Berries, Straw

117—Broccoli  
118—Brussels  
Sprouts  
119—Cabbage  
120—Carrots  
121—Cauliflower  
122—Celery  
123—Cherries  
124—Coffee  
125—Collards  
126—Corn  
127—Corn, Sweet  
128—Cotton  
129—Cucumbers  
130—Dates  
131—Eggplant  
132—Escarole  
133—Figs  
134—Flaxseed  
135—Garlic

136—Grapes &  
Raisins  
137—Grapefruit  
138—Hay  
139—Hops  
140—Irish Potatoes  
141—Kiwi  
142—Legumes, Seed  
143—Lemons  
144—Lettuce  
145—Limes  
146—Maple Syrup  
147—Melons,  
Canteloupe  
148—Melons, Honey  
Dew  
149—Melons, Water  
150—Milo &  
Sorghum Grain  
151—Mint

152—Mushrooms  
153—Muscadine  
154—Mustards  
155—Nectarines  
156—Nutmeg  
157—Oats  
158—Olives  
159—Onions  
160—Oranges  
161—Papayas  
162—Peaches  
163—Peanuts  
164—Pears  
165—Peas, Dry  
166—Peas, Field  
167—Peas, Green  
168—Pecans  
169—Peppers  
170—Persimmons  
171—Pineapple

172—Plums &  
Prunes  
173— Pomegranates  
174—Popcorn  
175—Pumpkins  
176—Rape Seed  
177—Rice  
178—Rye  
179—Sorghum  
Grain  
180—Soybeans  
181—Spinach  
182—Sugar Beets  
183—Sugar Cane  
184—Sunflower  
Seeds  
185—Sweet Potatoes  
186—Tangelos  
187—Tangerines  
188—Taro  
189—Tea  
190—Tobacco  
191—Tomatoes  
192—Trees  
193—Turnips  
194—Walnuts  
195—Wheat  
201—Cattle &  
Calves  
202—Catfish & Fish  
203—Chicken  
204—Ducks  
205—Eggs, Hatching  
206—Geese  
207—Goats  
208—Guineas  
209—Hogs  
210—Horses  
211—Lambs &  
Sheep  
212—Mules  
213—Quail  
214—Turkeys  
215—Earthworms  
216—Shellfish  
301—Eggs  
302—Flowers  
303—Foliage Plants  
304—Grass  
305—Honey  
306—Milk  
307—Cotton Seed  
308—Mohair  
309—Shrubbery  
310—Wool

#### ALABAMA COUNTY CODES

01—Autauga  
02—Baldwin  
03—Barbour  
04—Bibb  
05—Blount  
06—Bullock  
07—Butler  
08—Calhoun  
09—Chambers  
10—Cherokee  
11—Chilton

12—Choctaw  
13—Clarke  
14—Clay  
15—Cleburne  
16—Coffee  
17—Colbert  
18—Conecuh  
19—Coosa  
20—Covington  
21—Crenshaw  
22—Cullman  
23—Dale  
24—Dallas  
25—DeKalb  
26—Elmore  
27—Escambia  
28—Etowah  
29—Fayette  
30—Franklin  
31—Geneva  
32—Greene  
33—Hale  
34—Henry  
35—Houston  
36—Jackson  
37—Jefferson  
38—Lamar  
39—Lauderdale  
40—Lawrence  
41—Lee  
42—Limestone  
43—Lowndes  
44—Macon  
45—Madison  
46—Marengo  
47—Marion  
48—Marshall  
49—Mobile  
50—Monroe  
51—Montgomery  
52—Morgan  
53—Perry  
54—Pickens  
55—Pike  
56—Randolph  
57—Russell  
58—Saint Clair  
59—Shelby  
60—Sumter  
61—Talladega  
62—Tallapoosa  
63—Tuscaloosa  
64—Walker  
65—Washington  
66—Wilcox  
67—Winston  
99—ALL

#### UNIT CODES

A—acres  
B—bushels  
C—hundred weight  
E—cases  
F—flats  
G—gallons  
H—head  
L—pounds  
N—bins  
S—sacks  
W—lugs  
X—boxes  
Z—stubs