

D R A F T

FOR APPROVAL

**AMENDMENTS TO  
UNIFORM COMMERCIAL CODE ARTICLE 9**

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NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

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MEETING IN ITS ONE-HUNDRED-AND-NINETEENTH YEAR  
CHICAGO, ILLINOIS  
JULY 9 - JULY 16, 2010

**AMENDMENTS TO  
UNIFORM COMMERCIAL CODE ARTICLE 9**

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By

NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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## AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 9

### Reporter's Prefatory Note

1. **Background.** The Uniform Law Commissioners (“ULC”) and The American Law Institute (“ALI”) promulgated Revised Article 9 of the Uniform Commercial Code in 1998. By the end of 2001, all of the States had enacted the Revised Article.

In 2008 the ULC and the ALI formed an Article 9 Review Committee (“Review Committee”). The Review Committee was asked to review the operation of the 1998 revisions to Article 9 of the Uniform Commercial Code in practice and to consider whether there were select issues arising that would merit the formation of a drafting committee to address them. The Review Committee issued its report to the ULC Scope and Program Committee and Executive Committee on June 24, 2008. The report recommended that a drafting committee consider the issues specified on a list that the Review Committee had formulated in telephone conferences held on April 14, April 23, May 12, May 27, June 9, and June 16, 2008.

After deciding to proceed with the drafting of amendments to Revised Article 9, the ULC and the ALI organized the Joint Review Committee (“JRC”). The JRC has met five times (October, 2008; February, 2009; March 2009; September 2009; March 2010). It also has held ten conference calls (April, 2009; May, 2009; October 2009; November 2009; December 2009; January 2010; February 2010; two in March 2010; April 2010) in which the members of a task force organized by the American Bankers Association were invited to participate.

The Chair of the Joint Review Committee recommended that the JRC use the following standards in proposing revisions of the official text of Article 9:

- We should not recommend changes that would alter policy decisions made during the 1998 revision unless the current provisions appear to be creating significant problems in practice.
- Recommendations for statutory change should focus on issues as to which ambiguities have been discovered in existing statutory language, where there are substantial problems in practice under the current provisions, or as to which there have been significant non-uniform amendments that suggest the need to consider revisions.
- We should recommend that an issue be handled by a revision to the Official Comments rather than to the statutory text whenever we believe that the statutory language is sufficiently clear and produces the desired result, but that judicial decisions or experience in practice indicates that some clarification might be desirable.

The JRC’s discussions focused almost exclusively on the issues listed by the Review Committee. Some additional issues were raised. With the consent of the Scope and Program Committee and Executive Committee, the JRC addressed these issues as well.

**2. Organization of the Amendments.** This document contains amendments to the Official Text of Uniform Commercial Code Article 9 together with any related changes to the comments. Not all of the statutory amendments will require that the comments be changed. Some of the statutory amendments that will require changes to the comments are not yet accompanied by draft amendments to the comments. Appendix I contains modifications to the comments for which no change in statutory text is recommended. Appendix II contains a conforming amendment to the Official Text of Article 2A.

**3. Content of the Amendments.** The statutory changes in this document are largely unremarkable. Most clarify the existing text and comments or conform them to recent amendments to other Articles of the Uniform Commercial Code. A few others correct errors.

The statutory requirement for providing the name of an individual debtor on a financing statement has consumed much more of the JRC's time and attention than any other issue. During its deliberations, the JRC considered a variety of approaches toward this issue, including the possibility of recommending no change to the statute. In evaluating the approaches, the JRC took into account a number of considerations, including (1) the benefits of predictability as to perfection; (2) the benefits of predictability as to priority; (3) the likely costs that would be imposed on filers; (4) the likely costs that would be imposed on searchers; (5) the costs of transition to a new rule; and (6) the likely legislative outcome if a particular approach were to be adopted. The participants in the drafting project assessed and weighed these factors differently, with the result that the JRC was unable to agree on a single approach. Rather, the JRC decided to offer alternatives to each State. These alternatives appear in Section 9-503(a) and are explained in the draft Official Comment and the Reporter's Note to that section.

Also worthy of particular note are new Sections 9-316(h) and (i), which increase the likelihood that (1) a security interest will be perfected in collateral acquired by a debtor after the debtor relocates to another jurisdiction and (2) a security interest in collateral acquired by a new debtor (i.e., a successor) will be perfected by a secured party who filed a financing statement against the original debtor.

1                   **AMENDMENTS TO UNIFORM COMMERCIAL CODE ARTICLE 9**  
2                   **AMENDMENTS TO THE OFFICIAL TEXT AND RELATED COMMENTS**

3  
4                                   **PART 1**

5                                   **GENERAL PROVISIONS**

6                   [SUBPART 1. SHORT TITLE, DEFINITIONS, AND GENERAL CONCEPTS]

7                   \* \* \*

8                   **SECTION 9-102. DEFINITIONS AND INDEX OF DEFINITIONS.**

9                   (a) [Article 9 definitions.] In this article:

10                           (1) “Accession” means goods that are physically united with other goods in such  
11 a manner that the identity of the original goods is not lost.

12                           (2) “Account”, except as used in “account for”, means a right to payment of a  
13 monetary obligation, whether or not earned by performance, (i) for property that has been or is to  
14 be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be  
15 rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation  
16 incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a  
17 vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or  
18 information contained on or for use with the card, or (viii) as winnings in a lottery or other game  
19 of chance operated or sponsored by a State, governmental unit of a State, or person licensed or  
20 authorized to operate the game by a State or governmental unit of a State. The term includes  
21 health-care-insurance receivables. The term does not include (i) rights to payment evidenced by  
22 chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment  
23 property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or  
24 funds advanced or sold, other than rights arising out of the use of a credit or charge card or

1 information contained on or for use with the card.

2 (3) "Account debtor" means a person obligated on an account, chattel paper, or  
3 general intangible. The term does not include persons obligated to pay a negotiable instrument,  
4 even if the instrument constitutes part of chattel paper.

5 (4) "Accounting", except as used in "accounting for", means a record:

6 (A) authenticated by a secured party;

7 (B) indicating the aggregate unpaid secured obligations as of a date not  
8 more than 35 days earlier or 35 days later than the date of the record; and

9 (C) identifying the components of the obligations in reasonable detail.

10 (5) "Agricultural lien" means an interest in farm products:

11 (A) which secures payment or performance of an obligation for:

12 (i) goods or services furnished in connection with a debtor's  
13 farming operation; or

14 (ii) rent on real property leased by a debtor in connection with its  
15 farming operation;

16 (B) which is created by statute in favor of a person that:

17 (i) in the ordinary course of its business furnished goods or  
18 services to a debtor in connection with a debtor's farming operation; or

19 (ii) leased real property to a debtor in connection with the debtor's  
20 farming operation; and

21 (C) whose effectiveness does not depend on the person's possession of the  
22 personal property.

23 (6) "As-extracted collateral" means:

24 (A) oil, gas, or other minerals that are subject to a security interest that:

1 (i) is created by a debtor having an interest in the minerals before  
2 extraction; and

3 (ii) attaches to the minerals as extracted; or

4 (B) accounts arising out of the sale at the wellhead or minehead of oil, gas,  
5 or other minerals in which the debtor had an interest before extraction.

6 (7) “Authenticate” means:

7 (A) to sign; or

8 ~~(B) to execute or otherwise adopt a symbol, or encrypt or similarly~~  
9 ~~process a record in whole or in part, with the present intent of the authenticating person to~~  
10 ~~identify the person and adopt or accept a record~~ with present intent to adopt or accept a record, to  
11 attach to or logically associate with the record an electronic sound, symbol, or process.

12 (8) “Bank” means an organization that is engaged in the business of banking.

13 The term includes savings banks, savings and loan associations, credit unions, and trust  
14 companies.

15 (9) “Cash proceeds” means proceeds that are money, checks, deposit accounts, or  
16 the like.

17 (10) “Certificate of title” means a certificate of title with respect to which a  
18 statute provides for the security interest in question to be indicated on the certificate as a  
19 condition or result of the security interest’s obtaining priority over the rights of a lien creditor  
20 with respect to the collateral. The term includes another record maintained as an alternative to a  
21 certificate of title by the governmental unit that issues certificates of title if a statute permits the  
22 security interest in question to be indicated on the record as a condition or result of the security  
23 interest’s obtaining priority over the rights of a lien creditor with respect to the collateral.

24 (11) “Chattel paper” means a record or records that evidence both a monetary

1 obligation and a security interest in specific goods, a security interest in specific goods and  
2 software used in the goods, a security interest in specific goods and license of software used in  
3 the goods, a lease of specific goods, or a lease of specific goods and license of software used in  
4 the goods. In this paragraph, “monetary obligation” means a monetary obligation secured by the  
5 goods or owed under a lease of the goods and includes a monetary obligation with respect to  
6 software used in the goods. The term does not include (i) charters or other contracts involving  
7 the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of  
8 a credit or charge card or information contained on or for use with the card. If a transaction is  
9 evidenced by records that include an instrument or series of instruments, the group of records  
10 taken together constitutes chattel paper.

11 (12) “Collateral” means the property subject to a security interest or agricultural  
12 lien. The term includes:

13 (A) proceeds to which a security interest attaches;

14 (B) accounts, chattel paper, payment intangibles, and promissory notes  
15 that have been sold; and

16 (C) goods that are the subject of a consignment.

17 (13) “Commercial tort claim” means a claim arising in tort with respect to which:

18 (A) the claimant is an organization; or

19 (B) the claimant is an individual and the claim:

20 (i) arose in the course of the claimant’s business or profession; and

21 (ii) does not include damages arising out of personal injury to or  
22 the death of an individual.

23 (14) “Commodity account” means an account maintained by a commodity  
24 intermediary in which a commodity contract is carried for a commodity customer.

1 (15) “Commodity contract” means a commodity futures contract, an option on a  
2 commodity futures contract, a commodity option, or another contract if the contract or option is:

3 (A) traded on or subject to the rules of a board of trade that has been  
4 designated as a contract market for such a contract pursuant to federal commodities laws; or

5 (B) traded on a foreign commodity board of trade, exchange, or market,  
6 and is carried on the books of a commodity intermediary for a commodity customer.

7 (16) “Commodity customer” means a person for which a commodity  
8 intermediary carries a commodity contract on its books.

9 (17) “Commodity intermediary” means a person that:

10 (A) is registered as a futures commission merchant under federal  
11 commodities law; or

12 (B) in the ordinary course of its business provides clearance or settlement  
13 services for a board of trade that has been designated as a contract market pursuant to federal  
14 commodities law.

15 (18) “Communicate” means:

16 (A) to send a written or other tangible record;

17 (B) to transmit a record by any means agreed upon by the persons sending  
18 and receiving the record; or

19 (C) in the case of transmission of a record to or by a filing office, to  
20 transmit a record by any means prescribed by filing-office rule.

21 (19) “Consignee” means a merchant to which goods are delivered in a  
22 consignment.

23 (20) “Consignment” means a transaction, regardless of its form, in which a  
24 person delivers goods to a merchant for the purpose of sale and:

1 (A) the merchant:  
2 (i) deals in goods of that kind under a name other than the name of  
3 the person making delivery;  
4 (ii) is not an auctioneer; and  
5 (iii) is not generally known by its creditors to be substantially  
6 engaged in selling the goods of others;  
7 (B) with respect to each delivery, the aggregate value of the goods is  
8 \$1,000 or more at the time of delivery;  
9 (C) the goods are not consumer goods immediately before delivery; and  
10 (D) the transaction does not create a security interest that secures an  
11 obligation.

12 (21) “Consignor” means a person that delivers goods to a consignee in a  
13 consignment.

14 (22) “Consumer debtor” means a debtor in a consumer transaction.

15 (23) “Consumer goods” means goods that are used or bought for use primarily  
16 for personal, family, or household purposes.

17 (24) “Consumer-goods transaction” means a consumer transaction in which:

18 (A) an individual incurs an obligation primarily for personal, family, or  
19 household purposes; and

20 (B) a security interest in consumer goods secures the obligation.

21 (25) “Consumer obligor” means an obligor who is an individual and who  
22 incurred the obligation as part of a transaction entered into primarily for personal, family, or  
23 household purposes.

24 (26) “Consumer transaction” means a transaction in which (i) an individual

1 incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest  
2 secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family,  
3 or household purposes. The term includes consumer-goods transactions.

4 (27) "Continuation statement" means an amendment of a financing statement  
5 which:

6 (A) identifies, by its file number, the initial financing statement to which it  
7 relates; and

8 (B) indicates that it is a continuation statement for, or that it is filed to  
9 continue the effectiveness of, the identified financing statement.

10 (28) "Debtor" means:

11 (A) a person having an interest, other than a security interest or other lien,  
12 in the collateral, whether or not the person is an obligor;

13 (B) a seller of accounts, chattel paper, payment intangibles, or promissory  
14 notes; or

15 (C) a consignee.

16 (29) "Deposit account" means a demand, time, savings, passbook, or similar  
17 account maintained with a bank. The term does not include investment property or accounts  
18 evidenced by an instrument.

19 (30) "Document" means a document of title or a receipt of the type described in  
20 Section 7-201(b).

21 (31) "Electronic chattel paper" means chattel paper evidenced by a record or  
22 records consisting of information stored in an electronic medium.

23 (32) "Encumbrance" means a right, other than an ownership interest, in real  
24 property. The term includes mortgages and other liens on real property.

1 (33) "Equipment" means goods other than inventory, farm products, or consumer  
2 goods.

3 (34) "Farm products" means goods, other than standing timber, with respect to  
4 which the debtor is engaged in a farming operation and which are:

5 (A) crops grown, growing, or to be grown, including:

6 (i) crops produced on trees, vines, and bushes; and

7 (ii) aquatic goods produced in aquacultural operations;

8 (B) livestock, born or unborn, including aquatic goods produced in  
9 aquacultural operations;

10 (C) supplies used or produced in a farming operation; or

11 (D) products of crops or livestock in their unmanufactured states.

12 (35) "Farming operation" means raising, cultivating, propagating, fattening,  
13 grazing, or any other farming, livestock, or aquacultural operation.

14 (36) "File number" means the number assigned to an initial financing statement  
15 pursuant to Section 9-519(a).

16 (37) "Filing office" means an office designated in Section 9-501 as the place to  
17 file a financing statement.

18 (38) "Filing-office rule" means a rule adopted pursuant to Section 9-526.

19 (39) "Financing statement" means a record or records composed of an initial  
20 financing statement and any filed record relating to the initial financing statement.

21 (40) "Fixture filing" means the filing of a financing statement covering goods  
22 that are or are to become fixtures and satisfying Section 9-502(a) and (b). The term includes the  
23 filing of a financing statement covering goods of a transmitting utility which are or are to  
24 become fixtures.

1 (41) “Fixtures” means goods that have become so related to particular real  
2 property that an interest in them arises under real property law.

3 (42) “General intangible” means any personal property, including things in  
4 action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents,  
5 goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil,  
6 gas, or other minerals before extraction. The term includes payment intangibles and software.

7 (43) “Good faith” means honesty in fact and the observance of reasonable  
8 commercial standards of fair dealing.

9 (44) “Goods” means all things that are movable when a security interest attaches.  
10 The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a  
11 conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or  
12 to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured  
13 homes. The term also includes a computer program embedded in goods and any supporting  
14 information provided in connection with a transaction relating to the program if (i) the program  
15 is associated with the goods in such a manner that it customarily is considered part of the goods,  
16 or (ii) by becoming the owner of the goods, a person acquires a right to use the program in  
17 connection with the goods. The term does not include a computer program embedded in goods  
18 that consist solely of the medium in which the program is embedded. The term also does not  
19 include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general  
20 intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or  
21 oil, gas, or other minerals before extraction.

22 (45) “Governmental unit” means a subdivision, agency, department, county,  
23 parish, municipality, or other unit of the government of the United States, a State, or a foreign  
24 country. The term includes an organization having a separate corporate existence if the

1 organization is eligible to issue debt on which interest is exempt from income taxation under the  
2 laws of the United States.

3 (46) “Health-care-insurance receivable” means an interest in or claim under a  
4 policy of insurance which is a right to payment of a monetary obligation for health-care goods or  
5 services provided or to be provided.

6 (47) “Instrument” means a negotiable instrument or any other writing that  
7 evidences a right to the payment of a monetary obligation, is not itself a security agreement or  
8 lease, and is of a type that in ordinary course of business is transferred by delivery with any  
9 necessary indorsement or assignment. The term does not include (i) investment property, (ii)  
10 letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit  
11 or charge card or information contained on or for use with the card.

12 (48) “Inventory” means goods, other than farm products, which:

13 (A) are leased by a person as lessor;

14 (B) are held by a person for sale or lease or to be furnished under a  
15 contract of service;

16 (C) are furnished by a person under a contract of service; or

17 (D) consist of raw materials, work in process, or materials used or  
18 consumed in a business.

19 (49) “Investment property” means a security, whether certificated or  
20 uncertificated, security entitlement, securities account, commodity contract, or commodity  
21 account.

22 (50) “Jurisdiction of organization”, with respect to a registered organization,  
23 means the jurisdiction under whose law the organization is formed or organized.

24 (51) “Letter-of-credit right” means a right to payment or performance under a

1 letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand  
2 payment or performance. The term does not include the right of a beneficiary to demand  
3 payment or performance under a letter of credit.

4 (52) “Lien creditor” means:

5 (A) a creditor that has acquired a lien on the property involved by  
6 attachment, levy, or the like;

7 (B) an assignee for benefit of creditors from the time of assignment;

8 (C) a trustee in bankruptcy from the date of the filing of the petition; or

9 (D) a receiver in equity from the time of appointment.

10 (53) “Manufactured home” means a structure, transportable in one or more  
11 sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or  
12 more in length, or, when erected on site, is 320 or more square feet, and which is built on a  
13 permanent chassis and designed to be used as a dwelling with or without a permanent foundation  
14 when connected to the required utilities, and includes the plumbing, heating, air-conditioning,  
15 and electrical systems contained therein. The term includes any structure that meets all of the  
16 requirements of this paragraph except the size requirements and with respect to which the  
17 manufacturer voluntarily files a certification required by the United States Secretary of Housing  
18 and Urban Development and complies with the standards established under Title 42 of the  
19 United States Code.

20 (54) “Manufactured-home transaction” means a secured transaction:

21 (A) that creates a purchase-money security interest in a manufactured  
22 home, other than a manufactured home held as inventory; or

23 (B) in which a manufactured home, other than a manufactured home held  
24 as inventory, is the primary collateral.

1 (55) "Mortgage" means a consensual interest in real property, including fixtures,  
2 which secures payment or performance of an obligation.

3 (56) "New debtor" means a person that becomes bound as debtor under Section  
4 9-203(d) by a security agreement previously entered into by another person.

5 (57) "New value" means (i) money, (ii) money's worth in property, services, or  
6 new credit, or (iii) release by a transferee of an interest in property previously transferred to the  
7 transferee. The term does not include an obligation substituted for another obligation.

8 (58) "Noncash proceeds" means proceeds other than cash proceeds.

9 (59) "Obligor" means a person that, with respect to an obligation secured by a  
10 security interest in or an agricultural lien on the collateral, (i) owes payment or other  
11 performance of the obligation, (ii) has provided property other than the collateral to secure  
12 payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in  
13 part for payment or other performance of the obligation. The term does not include issuers or  
14 nominated persons under a letter of credit.

15 (60) "Original debtor", except as used in Section 9-310(c), means a person that,  
16 as debtor, entered into a security agreement to which a new debtor has become bound under  
17 Section 9-203(d).

18 (61) "Payment intangible" means a general intangible under which the account  
19 debtor's principal obligation is a monetary obligation.

20 (62) "Person related to", with respect to an individual, means:

21 (A) the spouse of the individual;

22 (B) a brother, brother-in-law, sister, or sister-in-law of the individual;

23 (C) an ancestor or lineal descendant of the individual or the individual's  
24 spouse; or

1 (D) any other relative, by blood or marriage, of the individual or the  
2 individual's spouse who shares the same home with the individual.

3 (63) "Person related to", with respect to an organization, means:

4 (A) a person directly or indirectly controlling, controlled by, or under  
5 common control with the organization;

6 (B) an officer or director of, or a person performing similar functions with  
7 respect to, the organization;

8 (C) an officer or director of, or a person performing similar functions with  
9 respect to, a person described in subparagraph (A);

10 (D) the spouse of an individual described in subparagraph (A), (B), or (C);

11 or

12 (E) an individual who is related by blood or marriage to an individual  
13 described in subparagraph (A), (B), (C), or (D) and shares the same home with the individual.

14 (64) "Proceeds", except as used in Section 9-609(b), means the following  
15 property:

16 (A) whatever is acquired upon the sale, lease, license, exchange, or other  
17 disposition of collateral;

18 (B) whatever is collected on, or distributed on account of, collateral;

19 (C) rights arising out of collateral;

20 (D) to the extent of the value of collateral, claims arising out of the loss,  
21 nonconformity, or interference with the use of, defects or infringement of rights in, or damage to,  
22 the collateral; or

23 (E) to the extent of the value of collateral and to the extent payable to the  
24 debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects

1 or infringement of rights in, or damage to, the collateral.

2 (65) “Promissory note” means an instrument that evidences a promise to pay a  
3 monetary obligation, does not evidence an order to pay, and does not contain an  
4 acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

5 (66) “Proposal” means a record authenticated by a secured party which includes  
6 the terms on which the secured party is willing to accept collateral in full or partial satisfaction  
7 of the obligation it secures pursuant to Sections 9-620, 9-621, and 9-622.

8 (67) “Public-finance transaction” means a secured transaction in connection with  
9 which:

10 (A) debt securities are issued;

11 (B) all or a portion of the securities issued have an initial stated maturity  
12 of at least 20 years; and

13 (C) the debtor, obligor, secured party, account debtor or other person  
14 obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a  
15 security interest is a State or a governmental unit of a State.

16 (68) “Public organic record” means a record that is available to the public for  
17 inspection and that is:

18 (A) a record consisting of the record initially filed with or issued by a  
19 State or the United States to form or organize an organization and any record filed with or issued  
20 by the State or the United States which amends or restates the initial record;

21 (B) an organic record of a business trust consisting of the record initially  
22 filed with a State and any record filed with the State which amends or restates the initial record,  
23 if a statute of the State governing business trusts requires that the record be filed with the State;

24 or

1                    (C) a record consisting of legislation enacted by the legislature of a State  
2 or the Congress of the United States which forms or organizes an organization, any record  
3 amending the legislation, and any record filed with or issued by the State or United States which  
4 amends or restates the name of the organization.

5                    ~~(68)~~ (69) “Pursuant to commitment”, with respect to an advance made or other  
6 value given by a secured party, means pursuant to the secured party’s obligation, whether or not  
7 a subsequent event of default or other event not within the secured party’s control has relieved or  
8 may relieve the secured party from its obligation.

9                    ~~(69)~~ (70) “Record”, except as used in “for record”, “of record”, “record or legal  
10 title”, and “record owner”, means information that is inscribed on a tangible medium or which is  
11 stored in an electronic or other medium and is retrievable in perceivable form.

12                    ~~(70)~~ (71) “Registered organization” means an organization formed or organized  
13 solely under the law of a single State or the United States and as to which the State or the United  
14 States must maintain a public record showing the organization to have been organized by the  
15 filing of a public organic record with, the issuance of a public organic record by, or the  
16 enactment of legislation by the State or United States. The term includes a business trust that is  
17 formed or organized under the law of a single State if a statute of the State governing business  
18 trusts requires that the business trust’s organic record be filed with the State.

19                    ~~(71)~~ (72) “Secondary obligor” means an obligor to the extent that:

20                    (A) the obligor’s obligation is secondary; or

21                    (B) the obligor has a right of recourse with respect to an obligation  
22 secured by collateral against the debtor, another obligor, or property of either.

23                    ~~(72)~~ (73) “Secured party” means:

24                    (A) a person in whose favor a security interest is created or provided for

1 under a security agreement, whether or not any obligation to be secured is outstanding;

2 (B) a person that holds an agricultural lien;

3 (C) a consignor;

4 (D) a person to which accounts, chattel paper, payment intangibles, or  
5 promissory notes have been sold;

6 (E) a trustee, indenture trustee, agent, collateral agent, or other  
7 representative in whose favor a security interest or agricultural lien is created or provided for; or

8 (F) a person that holds a security interest arising under Section 2-401,  
9 2-505, 2-711(3), 2A-508(5), 4-210, or 5-118.

10 ~~(73)~~ (74) “Security agreement” means an agreement that creates or provides for a  
11 security interest.

12 ~~(74)~~ (75) “Send”, in connection with a record or notification, means:

13 (A) to deposit in the mail, deliver for transmission, or transmit by any  
14 other usual means of communication, with postage or cost of transmission provided for,  
15 addressed to any address reasonable under the circumstances; or

16 (B) to cause the record or notification to be received within the time that it  
17 would have been received if properly sent under subparagraph (A).

18 ~~(75)~~ (76) “Software” means a computer program and any supporting information  
19 provided in connection with a transaction relating to the program. The term does not include a  
20 computer program that is included in the definition of goods.

21 ~~(76)~~ (77) “State” means a State of the United States, the District of Columbia,  
22 Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the  
23 jurisdiction of the United States.

24 ~~(77)~~ (78) “Supporting obligation” means a letter-of-credit right or secondary

1 obligation that supports the payment or performance of an account, chattel paper, a document, a  
2 general intangible, an instrument, or investment property.

3 ~~(78)~~ (79) “Tangible chattel paper” means chattel paper evidenced by a record or  
4 records consisting of information that is inscribed on a tangible medium.

5 ~~(79)~~ (80) “Termination statement” means an amendment of a financing statement  
6 which:

7 (A) identifies, by its file number, the initial financing statement to which it  
8 relates; and

9 (B) indicates either that it is a termination statement or that the identified  
10 financing statement is no longer effective.

11 ~~(80)~~ (81) “Transmitting utility” means a person primarily engaged in the business  
12 of:

13 (A) operating a railroad, subway, street railway, or trolley bus;

14 (B) transmitting communications electrically, electromagnetically, or by  
15 light;

16 (C) transmitting goods by pipeline or sewer; or

17 (D) transmitting or producing and transmitting electricity, steam, gas, or  
18 water.

19 (b) **[Definitions in other articles.]** “Control” as provided in Section 7-106 and the  
20 following definitions in other articles apply to this article:

21 “Applicant” Section 5-102.

22 “Beneficiary” Section 5-102.

23 “Broker” Section 8-102.

24 “Certificated security” Section 8-102.

1	“Check”	Section 3-104.
2	“Clearing corporation”	Section 8-102.
3	“Contract for sale”	Section 2-106.
4	“Customer”	Section 4-104.
5	“Entitlement holder”	Section 8-102.
6	“Financial asset”	Section 8-102.
7	“Holder in due course”	Section 3-302.
8	“Issuer” (with respect to a letter of credit or letter-of-credit right)	Section 5-102.
9	“Issuer” (with respect to a security)	Section 8-201.
10	“Issuer” (with respect to a document of title)	Section 7-102.
11	“Lease”	Section 2A-103.
12	“Lease agreement”	Section 2A-103.
13	“Lease contract”	Section 2A-103.
14	“Leasehold interest”	Section 2A-103.
15	“Lessee”	Section 2A-103.
16	“Lessee in ordinary course of business”	Section 2A-103.
17	“Lessor”	Section 2A-103.
18	“Lessor’s residual interest”	Section 2A-103.
19	“Letter of credit”	Section 5-102.
20	“Merchant”	Section 2-104.
21	“Negotiable instrument”	Section 3-104.
22	“Nominated person”	Section 5-102.
23	“Note”	Section 3-104.
24	“Proceeds of a letter of credit”	Section 5-114.

1	“Prove”	Section 3-103.
2	“Sale”	Section 2-106.
3	“Securities account”	Section 8-501.
4	“Securities intermediary”	Section 8-102.
5	“Security”	Section 8-102.
6	“Security certificate”	Section 8-102.
7	“Security entitlement”	Section 8-102.
8	“Uncertificated security”	Section 8-102.

9 (c) [Article 1 definitions and principles.] Article 1 contains general definitions and  
10 principles of construction and interpretation applicable throughout this article.

11 **Official Comment**

12 \* \* \*

13  
14  
15 **11. Choice-of-Law-Related Definitions: “Certificate of Title”; “Governmental**  
16 **Unit”; “Jurisdiction of Organization”; “Public Organic Record”; “Registered**  
17 **Organization”; “State.”** These new definitions reflect the changes in the law governing  
18 perfection and priority of security interests and agricultural liens provided in Part 3, Subpart 1.  
19

20 Statutes often require applicants for a certificate of title to identify all security interests  
21 on the application and require the issuing agency to indicate the identified security interests on  
22 the certificate. Some of these statutes provide that priority over the rights of a lien creditor (i.e.,  
23 perfection of a security interest) in goods covered by the certificate occurs upon indication of the  
24 security interest on the certificate; that is, they provide for the indication of the security interest  
25 on the certificate as a “condition” of perfection. Other statutes contemplate that perfection is  
26 achieved upon the occurrence of another act, e.g., delivery of the application to the issuing  
27 agency, that “results” in the indication of the security interest on the certificate. A certificate  
28 governed by either type of statute can qualify as a “certificate of title” under this Article. The  
29 statute need not expressly state the connection between the indication and perfection. For  
30 example, a certificate issued pursuant to a statute that requires applications to identify security  
31 interests, requires the issuing agency to indicate the identified security interests on the  
32 certificate, but is silent concerning the legal consequences of the indication would be a  
33 “certificate of title” if, under a judicial interpretation of the statute, perfection of a security  
34 interest is a legal consequence of the indication.  
35

36 The first sentence of the definition of “certificate of title” includes certificates consisting  
37 of tangible records, of electronic records, and of combinations of tangible and electronic records.

1  
2 In many States, a certificate of title covering goods that are encumbered by a security  
3 interest is delivered to the secured party by the issuing authority. To eliminate the need for the  
4 issuance of a paper certificate under these circumstances, several States have revised their  
5 certificate-of-title statutes to permit or require a State agency to maintain an electronic record  
6 that evidences ownership of the goods and in which a security interest in the goods may be  
7 noted. The second sentence of the definition provides that such a record is a “certificate of title”  
8 if it is in fact maintained as an alternative to the issuance of a paper certificate of title, regardless  
9 of whether the certificate-of-title statute provides that the record is a certificate of title and even  
10 if the statute does not expressly state that the record is maintained instead of issuing a paper  
11 certificate.

12  
13 Not every organization that may provide information about itself in the public records is  
14 a “registered organization.” For example, a general partnership is not a “registered  
15 organization,” even if it files a statement of partnership authority under Section 303 of the  
16 Uniform Partnership Act (1994) or an assumed name (“dba”) certificate. This is because ~~the~~  
17 State under whose law the partnership is organized is not required to maintain a public record  
18 showing that the partnership has been organized such a partnership is not formed or organized by  
19 the filing of a record with, or the issuance of a record by, a State or the United States. In  
20 contrast, corporations, limited liability companies, and limited partnerships ordinarily are  
21 “registered organizations.”

22  
23 Not every record concerning a registered organization that is filed with, or issued by, a  
24 State or the United States is a “public organic record.” For example, a certificate of good  
25 standing issued with respect to a corporation or a published index of domestic corporations  
26 would not be a “public organic record.”

27  
28 When collateral is held in a trust, one must look to non-UCC law to determine whether  
29 the trust is a “registered organization.” Non-UCC law typically distinguishes between statutory  
30 trusts and common-law trusts. A statutory trust is formed by the filing of a record, commonly  
31 referred to as a certificate of trust, in a public office pursuant to a statute. See, e.g., Uniform  
32 Statutory Trust Entity Act § 201 (2009); Delaware Statutory Trust Act, Del. Code Ann. tit. 12, §  
33 3801 et seq. A statutory trust is a juridical entity, separate from its trustee and beneficial owners,  
34 that may sue and be sued, own property, and transact business in its own name. Inasmuch as a  
35 statutory trust is a “legal or commercial entity,” it qualifies as a “person,” and therefore as an  
36 “organization,” under Section 1-201. A statutory trust that is formed by the filing of a record in  
37 a public office is a “registered organization,” and the filed record is a “public organic record” of  
38 the statutory trust, if the filed record is available to the public for inspection. (The requirement  
39 that a record be “available to the public for inspection” is satisfied if a copy of the relevant  
40 record is available for public inspection.)

41  
42 Unlike a statutory trust, a common-law trust—whether its purpose is donative or  
43 commercial—arises from private action without the filing of a record in a public office. See  
44 Uniform Trust Code § 401 (2000); Restatement (Third) of Trusts § 10 (2003). Moreover, under  
45 traditional law, a common-law trust is not itself a juridical entity and therefore must sue and be  
46 sued, own property, and transact business in the name of the trustee acting in the capacity of  
47 trustee. A common-law trust that is a “business trust,” i.e., that has a business or commercial

1 purpose, is an “organization” under Section 1-201. However, such a trust would not be a  
2 “registered organization” if, as is typically the case, the filing of a public record is not needed to  
3 form it.

4  
5 In some states, however, the trustee of a common-law trust that has a commercial or  
6 business purpose is required by statute to file a record in a public office following the trust’s  
7 formation. See, e.g., Mass. Gen. Laws Ch. 182, § 2; Fla. Stat. Ann. § 609.02. A business trust  
8 that is required to file its organic record in a public office is a “registered organization” under the  
9 second sentence of the definition, if the filed record is available to the public for inspection. Any  
10 organic record required to be filed, and filed, with respect to a common-law business trust after  
11 the trust is formed is a “public organic record” of the trust.

12  
13 \* \* \*

### 14 15 **Reporter’s Note**

16  
17 1. The revised definition of “authenticate” derives from the definitions of “sign” in  
18 Revised Articles 1 and 7.

19  
20 2. The amendment to the definition of “certificate of title” addresses the increasingly  
21 common practice of electronic notations of liens on goods subject to certificate-of-title statutes.

22  
23 3. The new definition of “public organic record” is meant to designate more clearly the  
24 public record that is relevant to determining the name of a debtor that is a registered  
25 organization. The relevant public record is always a “public organic record.” In most cases, this  
26 will be a record that is “filed with a State or the United States.” However, the term also includes  
27 a charter that is “issued by a State or the United States” as well as State or federal legislation that  
28 forms or organizes an organization. Any other public record that the State creates, such as a  
29 certificate of good standing or an index of domestic corporations, would not be a “public organic  
30 record” and so would be irrelevant to the determination of the debtor’s name under Section 9-  
31 503(a)(1).

32  
33 4. The amendment to the definition of “registered organization” also is meant to clarify  
34 that the term includes an organization that is created without the need for a public record but that  
35 is “formed” only when a public filing has been made. For example, under Delaware law, a  
36 statutory trust is “created by a governing instrument,” Del. Code Ann. tit. 12, § 3801(g)(1), but is  
37 “formed at the time of the filing of the initial certificate of trust in the office of the Secretary of  
38 State or at any later date or time specified in the certificate of trust.” Id. § 3810(a)(2).

39  
40 \* \* \*

### 41 42 **SECTION 9-105. CONTROL OF ELECTRONIC CHATTEL PAPER.**

43 **(a) [General rule: control of electronic chattel paper.]** A secured party has control of  
44 electronic chattel paper if a system employed for evidencing the transfer of interests in the

1 chattel paper reliably establishes the secured party as the person to which the chattel paper was  
2 assigned.

3 (b) [Specific facts giving control.] A system satisfies subsection (a), and a secured  
4 party has control of electronic chattel paper, if the record or records comprising the chattel paper  
5 are created, stored, and assigned in such a manner that:

6 (1) a single authoritative copy of the record or records exists which is unique,  
7 identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

8 (2) the authoritative copy identifies the secured party as the assignee of the record  
9 or records;

10 (3) the authoritative copy is communicated to and maintained by the secured  
11 party or its designated custodian;

12 (4) copies or ~~revisions~~ amendments that add or change an identified assignee of  
13 the authoritative copy can be made only with the ~~participation~~ consent of the secured party;

14 (5) each copy of the authoritative copy and any copy of a copy is readily  
15 identifiable as a copy that is not the authoritative copy; and

16 (6) any ~~revision~~ amendment of the authoritative copy is readily identifiable as an  
17 authorized or unauthorized ~~revision~~.

## 18 **Official Comment**

19 \* \* \*

20  
21  
22 2. **“Control” of Electronic Chattel Paper.** This Article covers security interests in  
23 “electronic chattel paper,” a new term defined in Section 9-102. This section governs how  
24 “control” of electronic chattel paper may be obtained. Subsection (a), which derives from  
25 Section 16 of the Uniform Electronic Transactions Act, sets forth the general test for control.  
26 Subsection (b) sets forth a safe harbor test that if satisfied, establishes control under the general  
27 test in subsection (a).

28  
29 A secured party’s control of electronic chattel paper (i) may substitute for an  
30 authenticated security agreement for purposes of attachment under Section 9-203, (ii) is a

1 method of perfection under Section 9-314, and (iii) is a condition for obtaining special, non-  
2 temporal priority under Section 9-330. Because electronic chattel paper cannot be transferred,  
3 assigned, or possessed in the same manner as tangible chattel paper, a special definition of  
4 control is necessary. In descriptive terms, this section provides that control of electronic chattel  
5 paper is the functional equivalent of possession of “tangible chattel paper” (a term also defined  
6 in Section 9-102).

7  
8 **3. Development of Control Systems.** This Article leaves to the marketplace the  
9 development of systems and procedures, through a combination of suitable technologies and  
10 business practices, for dealing with control of electronic chattel paper in a commercial context.  
11 Systems that evolve for control of electronic chattel paper may or may not involve a third party  
12 custodian of the relevant records. As under UETA, a system must be shown to reliably establish  
13 that the secured party is the assignee of the chattel paper. Reliability is a high standard and  
14 encompasses the general principles of uniqueness, identifiability, and unalterability found in  
15 subsection (b) without setting forth specific guidelines as to how these principles must be  
16 achieved. However, the standards applied to determine whether a party is in control of  
17 electronic chattel paper should not be more stringent than the standards now applied to  
18 determine whether a party is in possession of tangible chattel paper. For example, just as a  
19 secured party does not lose possession of tangible chattel paper merely by virtue of the  
20 possibility that a person acting on its behalf could wrongfully redeliver the chattel paper to the  
21 debtor, so control of electronic chattel paper would not be defeated by the possibility that the  
22 secured party’s interest could be subverted by the wrongful conduct of a person (such as a  
23 custodian) acting on its behalf.

24  
25 This section and the concept of control of electronic chattel paper are not based on the  
26 same concepts as are control of deposit accounts (Section 9-104), security entitlements, a type of  
27 investment property (Section 9-106), and letter-of-credit rights (Section 9-107). The rules for  
28 control of that collateral are based on existing market practices and legal and regulatory regimes  
29 for institutions such as banks and securities intermediaries. Analogous practices for electronic  
30 chattel paper are developing nonetheless. The flexible approach adopted by this section,  
31 moreover, should not impede the development of these practices and, eventually, legal and  
32 regulatory regimes, which may become analogous to those for, e.g., investment property.

33  
34 **3 4. “Authoritative Copy” of Electronic Chattel Paper.** One requirement for  
35 establishing control under subsection (b) is that a particular copy be an “authoritative copy.”  
36 Although other copies may exist, they must be distinguished from the authoritative copy. This  
37 may be achieved, for example, through the methods of authentication that are used or by  
38 business practices involving the marking of any additional copies. When tangible chattel paper  
39 is converted to electronic chattel paper, in order to establish that a copy of the electronic chattel  
40 paper is the authoritative copy it may be necessary to show that the tangible chattel paper no  
41 longer exists or has been permanently marked to indicate that it is not the authoritative copy.

42  
43 **4. ~~Development of Control Systems.~~** ~~This Article leaves to the marketplace the~~  
44 ~~development of systems and procedures, through a combination of suitable technologies and~~  
45 ~~business practices, for dealing with control of electronic chattel paper in a commercial context.~~  
46 ~~However, achieving control under this section requires more than the agreement of interested~~  
47 ~~persons that the elements of control are satisfied. For example, paragraph (4) contemplates that~~

1 control requires that it be a physical impossibility (or sufficiently unlikely or implausible so as to  
2 approach practical impossibility) to add or change an identified assignee without the  
3 participation of the secured party (or its authorized representative). It would not be enough for  
4 the assignor merely to agree that it will not change the identified assignee without the assignee=  
5 secured party's consent. However, the standards applied to determine whether a party is in  
6 control of electronic chattel paper should not be more stringent than the standards now applied to  
7 determine whether a party is in possession of tangible chattel paper. Control of electronic chattel  
8 paper contemplates systems or procedures such that the secured party must take some action  
9 (either directly or through its designated custodian) to effect a change or addition to the  
10 authoritative copy. But just as a secured party does not lose possession of tangible chattel paper  
11 merely by virtue of the possibility that a person acting on its behalf *could* wrongfully redeliver  
12 the chattel paper to the debtor, so control of electronic chattel paper would not be defeated by the  
13 possibility that the secured party's interest *could* be subverted by the wrongful conduct of a  
14 person (such as a custodian) acting on its behalf.  
15

16 Systems that evolve for control of electronic chattel paper may or may not involve a third  
17 party custodian of the relevant records. However, this section and the concept of control of  
18 electronic chattel paper are not based on the same concepts as are control of deposit accounts  
19 (Section 9-104), security entitlements, a type of investment property (Section 9-106), and letter-  
20 of-credit rights (Section 9-107). The rules for control of that collateral are based on existing  
21 market practices and legal and regulatory regimes for institutions such as banks and securities  
22 intermediaries. Analogous practices for electronic chattel paper are developing nonetheless.  
23 The flexible approach adopted by this section, moreover, should not impede the development of  
24 these practices and, eventually, legal and regulatory regimes, which may become analogous to  
25 those for, e.g., investment property.  
26

### 27 Reporter's Note

28  
29 1. Subsection (a) is new. With its addition, satisfaction of the requirements currently  
30 enumerated in Section 9-105 would become sufficient, but not necessary, to establish control.  
31 Control may arise under the general standard (new subsection (a)) even if the specific  
32 requirements are not satisfied.  
33

34 Subsection (a) largely conforms to Section 7-106, which defines control of an electronic  
35 document of title. However, two changes were necessary. First, in keeping with the general  
36 usage in Article 9, Section 9-105 uses the term "assign" rather than "transfer." Second, although  
37 Section 7-106 (which is not limited to secured parties) expands the control concept to include not  
38 only an assignee of an electronic document of title but also a person to which an electronic  
39 document is originally issued, under Section 9-105 only an assignee of electronic chattel paper  
40 can have control of the chattel paper.  
41

42 The amendments to paragraphs (4), (5), and (6) of subsection (b) are stylistic.  
43

44 2. The change from current Section 9-105 to the revised section *ipso facto* may result in  
45 a secured party's achieving control of electronic chattel paper. In these circumstances, control  
46 would date from the effective date of the revision and would not relate back.  
47

1 \* \* \*

2  
3  
4 **PART 3**

5  
6 **PERFECTION AND PRIORITY**

7  
8 [SUBPART 1. LAW GOVERNING PERFECTION AND PRIORITY]

9  
10 \* \* \*

11  
12 **SECTION 9-307. LOCATION OF DEBTOR.**

13 (a) [**“Place of business.”**] In this section, “place of business” means a place where a  
14 debtor conducts its affairs.

15 (b) [**Debtor’s location: general rules.**] Except as otherwise provided in this section,  
16 the following rules determine a debtor’s location:

17 (1) A debtor who is an individual is located at the individual’s principal  
18 residence.

19 (2) A debtor that is an organization and has only one place of business is located  
20 at its place of business.

21 (3) A debtor that is an organization and has more than one place of business is  
22 located at its chief executive office.

23 (c) [**Limitation of applicability of subsection (b).**] Subsection (b) applies only if a  
24 debtor’s residence, place of business, or chief executive office, as applicable, is located in a  
25 jurisdiction whose law generally requires information concerning the existence of a  
26 nonpossessory security interest to be made generally available in a filing, recording, or  
27 registration system as a condition or result of the security interest’s obtaining priority over the  
28 rights of a lien creditor with respect to the collateral. If subsection (b) does not apply, the debtor  
29 is located in the District of Columbia.

1 (d) **[Continuation of location: cessation of existence, etc.]** A person that ceases to  
2 exist, have a residence, or have a place of business continues to be located in the jurisdiction  
3 specified by subsections (b) and (c).

4 (e) **[Location of registered organization organized under State law.]** A registered  
5 organization that is organized under the law of a State is located in that State.

6 (f) **[Location of registered organization organized under federal law; bank  
7 branches and agencies.]** Except as otherwise provided in subsection (i), a registered  
8 organization that is organized under the law of the United States and a branch or agency of a  
9 bank that is not organized under the law of the United States or a State are located:

10 (1) in the State that the law of the United States designates, if the law designates a  
11 State of location;

12 (2) in the State that the registered organization, branch, or agency designates, if  
13 the law of the United States authorizes the registered organization, branch, or agency to  
14 designate its State of location, including by designating its main office, home office, or other  
15 comparable office; or

16 (3) in the District of Columbia, if neither paragraph (1) nor paragraph (2) applies.

17 (g) **[Continuation of location: change in status of registered organization.]** A  
18 registered organization continues to be located in the jurisdiction specified by subsection (e) or  
19 (f) notwithstanding:

20 (1) the suspension, revocation, forfeiture, or lapse of the registered organization's  
21 status as such in its jurisdiction of organization; or

22 (2) the dissolution, winding up, or cancellation of the existence of the registered  
23 organization.

24 (h) **[Location of United States.]** The United States is located in the District of

1 Columbia.

2 (i) **[Location of foreign bank branch or agency if licensed in only one state.]** A

3 branch or agency of a bank that is not organized under the law of the United States or a State is  
4 located in the State in which the branch or agency is licensed, if all branches and agencies of the  
5 bank are licensed in only one State.

6 (j) **[Location of foreign air carrier.]** A foreign air carrier under the Federal Aviation  
7 Act of 1958, as amended, is located at the designated office of the agent upon which service of  
8 process may be made on behalf of the carrier.

9 (k) **[Section applies only to this part.]** This section applies only for purposes of this  
10 part.

11 **Official Comment**

12 \* \* \*

13  
14  
15 2. **General Rules.** As a general matter, the location of the debtor determines the  
16 jurisdiction whose law governs perfection of a security interest. See Sections 9-301(1), 9-  
17 305(c). It also governs priority of a security interest in certain types of intangible collateral, such  
18 as accounts, electronic chattel paper, and general intangibles. This section determines the  
19 location of the debtor for choice-of-law purposes, but not for other purposes. See subsection (k).  
20

21 Subsection (b) states the general rules: An individual debtor is deemed to be located at  
22 the individual's principal residence with respect to both personal and business assets. Any other  
23 debtor is deemed to be located at its place of business if it has only one, or at its chief executive  
24 office if it has more than one place of business.  
25

26 As used in this section, a "place of business" means a place where the debtor conducts its  
27 affairs. See subsection (a). Thus, every organization, even eleemosynary institutions and other  
28 organizations that do not conduct "for profit" business activities, has a "place of business."  
29 Under subsection (d), a person who ceases to exist, have a residence, or have a place of business  
30 continues to be located in the jurisdiction determined by subsection (b).  
31

32 The term "chief executive office" is not defined in this Section or elsewhere in the  
33 Uniform Commercial Code. "Chief executive office" means the place from which the debtor  
34 manages the main part of its business operations or other affairs. This is the place where persons  
35 dealing with the debtor would normally look for credit information, and is the appropriate place  
36 for filing. With respect to most multi-state debtors, it will be simple to determine which of the  
37 debtor's offices is the "chief executive office." Even when a doubt arises, it would be rare that

1 there could be more than two possibilities. A secured party in such a case may protect itself by  
2 perfecting under the law of each possible jurisdiction.

3  
4 Similarly, the term “principal residence” is not defined. If the security interest in  
5 question is a purchase-money security interest in consumer goods which is perfected upon  
6 attachment, see Section 9-309(1), the choice of law may make no difference. In other cases,  
7 when a doubt arises, prudence may dictate perfecting under the law of each jurisdiction that  
8 might be the debtor’s “principal residence.”

9  
10 Questions sometimes arise about the location of the debtor with respect to collateral held  
11 in a common-law trust. A typical common-law trust is not itself a juridical entity capable of  
12 owing property and so would not be a “debtor” as defined in Section 9-102. Rather, the debtor  
13 with respect to property held in a common-law trust typically is the trustee of the trust acting in  
14 the capacity of trustee. If a common-law trust has multiple trustees located in different  
15 jurisdictions, a secured party who perfects by filing would be well advised to file a financing  
16 statement in each jurisdiction in which a trustee is located, as determined under Section 9-307.  
17 Filing in all relevant jurisdictions would insure perfection and minimize any priority  
18 complications that otherwise might arise.

19  
20 The general rule is subject to several exceptions, each of which is discussed below.

21  
22 **3. Non-U.S. Debtors. \* \* \***

23  
24 **4. Registered Organizations Organized Under Law of a State.** Under subsection (e),  
25 a “registered organization” (~~e.g., a corporation or limited partnership~~) (defined in Section 9-102  
26 so as to ordinarily include corporations, limited partnerships, limited liability companies, and  
27 statutory trusts) organized under the law of a “State” (defined in Section 9-102) is located in its  
28 State of organization. The term “registered organization” includes a business trust described in  
29 the second sentence of the term’s definition. See Section 9-102. The trust’s public organic  
30 record, typically the trust agreement, usually will indicate the jurisdiction under whose law the  
31 trust is organized.

32  
33 Subsection (g) makes clear that events affecting the status of a registered organization,  
34 such as the dissolution of a corporation or revocation of its charter, do not affect its location for  
35 purposes of subsection (e). However, certain of these events may result in, or be accompanied  
36 by, a transfer of collateral from the registered organization to another debtor. This section does  
37 not determine whether a transfer occurs, nor does it determine the legal consequences of any  
38 transfer.

39  
40 Determining the registered organization-debtor’s location by reference to the jurisdiction  
41 of organization could provide some important side benefits for the filing systems. A jurisdiction  
42 could structure its filing system so that it would be impossible to make a mistake in a registered  
43 organization-debtor’s name on a financing statement. For example, a filer would be informed if  
44 a filed record designated an incorrect corporate name for the debtor. Linking filing to the  
45 jurisdiction of organization also could reduce pressure on the system imposed by transactions in  
46 which registered organizations cease to exist—as a consequence of merger or consolidation, for  
47 example. The jurisdiction of organization might prohibit such transactions unless steps were

1 taken to ensure that existing filings were refiled against a successor or terminated by the secured  
2 party.  
3

4 **5. Registered Organizations Organized Under Law of United States; Branches and**  
5 **Agencies of Banks Not Organized Under Law of United States.** Subsection (f) specifies the  
6 location of a debtor that is a registered organization organized under the law of the United States.  
7 It defers to the law of the United States, to the extent that that law determines, or authorizes the  
8 debtor to determine, the debtor’s location. Thus, if the law of the United States designates a  
9 particular State as the debtor’s location, that State is the debtor’s location for purposes of this  
10 Article’s choice-of-law rules. Similarly, if the law of the United States authorizes the registered  
11 organization to designate its State of location, the State that the registered organization  
12 designates is the State in which it is located for purposes of this Article’s choice-of-law rules. In  
13 other cases, the debtor is located in the District of Columbia.  
14

15 In some cases, the law of the United States authorizes the registered organization to  
16 designate a main office, home office, or other comparable office. See, e.g., 12 U.S.C. Sections  
17 22 and 1464(a); 12 C.F.R. Section 552.3. Designation of such an office constitutes the  
18 designation of the State of location for purposes of Section 9-307 (f)(2).  
19

20 Subsection (f) also specifies the location of a branch or agency in the United States of a  
21 foreign bank that has one or more branches or agencies in the United States. The law of the  
22 United States ~~authorized~~ authorizes a foreign bank (or, on behalf of the bank, a federal agency)  
23 to designate a single home state for all of the foreign bank’s branches and agencies in the United  
24 States. See 12 U.S.C. Section 3103(c) and 12 C.F.R. Section 211.22. As authorized, the  
25 designation constitutes the State of location for the branch or agency for purposes of Section 9-  
26 307(f), unless all of a foreign bank’s branches or agencies that are in the United States are  
27 licensed in only one State, in which case the branches and agencies are located in that State. See  
28 subsection (i).  
29

30 In cases not governed by subsection (f) or (i), the location of a foreign bank is determined  
31 by subsections (b) and (c).  
32

### 33 **Reporter’s Note**

34

35 The amendment to subsection (f) would remove any doubt that, as the comment  
36 indicates, when the law of the United States authorizes a registered organization to designate a  
37 main office, home office, or other comparable office, designation of such an office constitutes  
38 the designation of the State of location for purposes of Section 9-307(f)(2).  
39

40 \* \* \*  
41  
42

1 [SUBPART 2. PERFECTION]

2  
3 **SECTION 9-311. PERFECTION OF SECURITY INTERESTS IN PROPERTY**

4 **SUBJECT TO CERTAIN STATUTES, REGULATIONS, AND TREATIES.**

5 (a) **[Security interest subject to other law.]** Except as otherwise provided in  
6 subsection (d), the filing of a financing statement is not necessary or effective to perfect a  
7 security interest in property subject to:

8 (1) a statute, regulation, or treaty of the United States whose requirements for a  
9 security interest's obtaining priority over the rights of a lien creditor with respect to the property  
10 preempt Section 9-310(a);

11 (2) [list any ~~certificate-of-title~~ statute covering automobiles, trailers, mobile  
12 homes, boats, farm tractors, or the like, which provides for a security interest to be indicated on  
13 ~~the a~~ certificate of title as a condition or result of perfection, and any non-Uniform Commercial  
14 Code central filing statute]; or

15 (3) a ~~certificate-of-title~~ statute of another jurisdiction which provides for a  
16 security interest to be indicated on ~~the a~~ certificate of title as a condition or result of the security  
17 interest's obtaining priority over the rights of a lien creditor with respect to the property.

18 (b) **[Compliance with other law.]** Compliance with the requirements of a  
19 statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a  
20 lien creditor is equivalent to the filing of a financing statement under this article. Except as  
21 otherwise provided in subsection (d) and Sections 9-313 and 9-316(d) and (e) for goods covered  
22 by a certificate of title, a security interest in property subject to a statute, regulation, or treaty  
23 described in subsection (a) may be perfected only by compliance with those requirements, and a  
24 security interest so perfected remains perfected notwithstanding a change in the use or transfer of  
25 possession of the collateral.

1 (c) **[Duration and renewal of perfection.]** Except as otherwise provided in  
2 subsection (d) and Section 9-316(d) and (e), duration and renewal of perfection of a security  
3 interest perfected by compliance with the requirements prescribed by a statute, regulation, or  
4 treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other  
5 respects, the security interest is subject to this article.

6 (d) **[Inapplicability to certain inventory.]** During any period in which  
7 collateral subject to a statute specified in subsection (a)(2) is inventory held for sale or lease by a  
8 person or leased by that person as lessor and that person is in the business of selling goods of  
9 that kind, this section does not apply to a security interest in that collateral created by that  
10 person.

11 *Legislative Note: This Article contemplates that perfection of a security interest in goods*  
12 *covered by a certificate of title occurs upon receipt by appropriate State officials of a properly*  
13 *tendered application for a certificate of title on which the security interest is to be indicated,*  
14 *without a relation back to an earlier time. States whose certificate-of-title statutes provide for*  
15 *perfection at a different time or contain a relation-back provision should amend the statutes*  
16 *accordingly.*  
17

18 **Reporter's Note**

19  
20 This amendment reflects the amendment to the definition of "certificate of title" in  
21 Section 9-102.

22 \* \* \*

23  
24  
25  
26 **SECTION 9-316. ~~CONTINUED PERFECTION OF SECURITY INTEREST~~**  
27 **FOLLOWING EFFECT OF CHANGE IN GOVERNING LAW.**

28 (a) **[General rule: effect on perfection of change in governing law.]** A security  
29 interest perfected pursuant to the law of the jurisdiction designated in Section 9-301(1) or  
30 9-305(c) remains perfected until the earliest of:

31 (1) the time perfection would have ceased under the law of that jurisdiction;

1 (2) the expiration of four months after a change of the debtor's location to another  
2 jurisdiction; or

3 (3) the expiration of one year after a transfer of collateral to a person that thereby  
4 becomes a debtor and is located in another jurisdiction.

5 (b) **[Security interest perfected or unperfected under law of new jurisdiction.]** If a  
6 security interest described in subsection (a) becomes perfected under the law of the other  
7 jurisdiction before the earliest time or event described in that subsection, it remains perfected  
8 thereafter. If the security interest does not become perfected under the law of the other  
9 jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have  
10 been perfected as against a purchaser of the collateral for value.

11 (c) **[Possessory security interest in collateral moved to new jurisdiction.]** A  
12 possessory security interest in collateral, other than goods covered by a certificate of title and as-  
13 extracted collateral consisting of goods, remains continuously perfected if:

14 (1) the collateral is located in one jurisdiction and subject to a security interest  
15 perfected under the law of that jurisdiction;

16 (2) thereafter the collateral is brought into another jurisdiction; and

17 (3) upon entry into the other jurisdiction, the security interest is perfected under  
18 the law of the other jurisdiction.

19 (d) **[Goods covered by certificate of title from this state.]** Except as otherwise  
20 provided in subsection (e), a security interest in goods covered by a certificate of title which is  
21 perfected by any method under the law of another jurisdiction when the goods become covered  
22 by a certificate of title from this State remains perfected until the security interest would have  
23 become unperfected under the law of the other jurisdiction had the goods not become so covered.

24 (e) **[When subsection (d) security interest becomes unperfected against purchasers.]**

1 A security interest described in subsection (d) becomes unperfected as against a purchaser of the  
2 goods for value and is deemed never to have been perfected as against a purchaser of the goods  
3 for value if the applicable requirements for perfection under Section 9-311(b) or 9-313 are not  
4 satisfied before the earlier of:

5 (1) the time the security interest would have become unperfected under the law of  
6 the other jurisdiction had the goods not become covered by a certificate of title from this State;

7 or

8 (2) the expiration of four months after the goods had become so covered.

9 **(f) [Change in jurisdiction of bank, issuer, nominated person, securities**  
10 **intermediary, or commodity intermediary.]** A security interest in deposit accounts, letter-of-  
11 credit rights, or investment property which is perfected under the law of the bank's jurisdiction,  
12 the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's  
13 jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until  
14 the earlier of:

15 (1) the time the security interest would have become unperfected under the law of  
16 that jurisdiction; or

17 (2) the expiration of four months after a change of the applicable jurisdiction to  
18 another jurisdiction.

19 **(g) [Subsection (f) security interest perfected or unperfected under law of new**  
20 **jurisdiction.]** If a security interest described in subsection (f) becomes perfected under the law  
21 of the other jurisdiction before the earlier of the time or the end of the period described in that  
22 subsection, it remains perfected thereafter. If the security interest does not become perfected  
23 under the law of the other jurisdiction before the earlier of that time or the end of that period, it  
24 becomes unperfected and is deemed never to have been perfected as against a purchaser of the

1 collateral for value.

2 (h) [Effect on filed financing statement of change in governing law.] The following  
3 rules apply to collateral to which a security interest attaches within four months after the debtor  
4 changes its location to another jurisdiction:

5 (1) A financing statement filed before the change pursuant to the law of the  
6 jurisdiction designated in Section 9-301(1) or 9-305(c) is effective to perfect a security interest  
7 in the collateral if the financing statement would have been effective to perfect a security interest  
8 in the collateral if the debtor had not changed its location.

9 (2) If a security interest that is perfected by a financing statement that is effective  
10 under paragraph (1) becomes perfected under the law of the other jurisdiction before the earlier  
11 of the time the financing statement would have become ineffective under the law of the  
12 jurisdiction designated in Section 9-301(1) or 9-305(c) or the expiration of the four-month  
13 period, it remains perfected thereafter. If the security interest does not become perfected under  
14 the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is  
15 deemed never to have been perfected as against a purchaser of the collateral for value.

16 (i) [Effect of change in governing law on financing statement filed against original  
17 debtor.] If a financing statement naming an original debtor is filed pursuant to the law of the  
18 jurisdiction designated in Section 9-301(1) or 9-305(c) and the new debtor is located in another  
19 jurisdiction, the following rules apply:

20 (1) The financing statement is effective to perfect a security interest in collateral  
21 in which the new debtor has or acquires rights before or within four months after the new debtor  
22 becomes bound under Section 9-203(d), if the financing statement would have been effective to  
23 perfect a security interest in the collateral if the collateral had been acquired by the original  
24 debtor.

1                   (2) A security interest that is perfected by the financing statement and which  
2 becomes perfected under the law of the other jurisdiction before the earlier of the expiration of  
3 the four-month period or the time the financing statement would have become ineffective under  
4 the law of the jurisdiction designated in Section 9-301(1) or 9-305(c) remains perfected  
5 thereafter. A security interest that is perfected by the financing statement but which does not  
6 become perfected under the law of the other jurisdiction before the earlier time or event becomes  
7 unperfected and is deemed never to have been perfected as against a purchaser of the collateral  
8 for value.

9                   **Official Comment**

10  
11               1. **Source.** Former Section 9-103(1)(d), (2)(b), (3)(e), as modified.  
12

13               2. **Continued Perfection.** ~~This section deals~~ Subsections (a) through (g) deal with  
14 continued perfection of security interests that have been perfected under the law of another  
15 jurisdiction. The fact that the law of a particular jurisdiction ceases to govern perfection under  
16 Sections 9-301 through 9-307 does not necessarily mean that a security interest perfected under  
17 that law automatically becomes unperfected. To the contrary: This section generally provides  
18 that a security interest perfected under the law of one jurisdiction remains perfected for a fixed  
19 period of time (four months or one year, depending on the circumstances), even though the  
20 jurisdiction whose law governs perfection changes. However, cessation of perfection under the  
21 law of the original jurisdiction cuts short the fixed period. The four-month and one-year periods  
22 are long enough for a secured party to discover in most cases that the law of a different  
23 jurisdiction governs perfection and to reperfect (typically by filing) under the law of that  
24 jurisdiction. If a secured party properly reperfects a security interest before it becomes  
25 unperfected under subsection (a), then the security interest remains perfected continuously  
26 thereafter. See subsection (b).  
27

28               **Example 1:** Debtor is a general partnership whose chief executive office is in  
29 Pennsylvania. Lender perfects a security interest in Debtor's equipment by filing in  
30 Pennsylvania on May 15, 2002. On April 1, 2005, without Lender's knowledge, Debtor  
31 moves its chief executive office to New Jersey. Lender's security interest remains  
32 perfected for four months after the move. See subsection (a)(2).  
33

34               **Example 2:** Debtor is a general partnership whose chief executive office is in  
35 Pennsylvania. Lender perfects a security interest in Debtor's equipment by filing in  
36 Pennsylvania on May 15, 2002. On April 1, 2007, without Lender's knowledge, Debtor  
37 moves its chief executive office to New Jersey. Lender's security interest remains  
38 perfected only through May 14, 2007, when the effectiveness of the filed financing  
39 statement lapses. See subsection (a)(1). Although, under these facts, Lender would have

1 only a short period of time to discover that Debtor had relocated and to reperfect under  
2 New Jersey law, Lender could have protected itself by filing a continuation statement in  
3 Pennsylvania before Debtor relocated. By doing so, Lender would have prevented lapse  
4 and allowed itself the full four months to discover Debtor's new location and refile there  
5 or, if Debtor is in default, to perfect by taking possession of the equipment.  
6

7 **Example 3:** Under the facts of Example 2, Lender files a financing statement in New  
8 Jersey before the effectiveness of the Pennsylvania financing statement lapses. Under  
9 subsection (b), Lender's security interest is continuously perfected beyond May 14, 2007,  
10 for a period determined by New Jersey's Article 9.  
11

12 Subsection (a)(3) allows a one-year period in which to reperfect. The longer period is  
13 necessary, because, even with the exercise of due diligence, the secured party may be unable to  
14 discover that the collateral has been transferred to a person located in another jurisdiction.  
15

16 **Example 4:** Debtor is a Pennsylvania corporation. Lender perfects a security interest in  
17 Debtor's equipment by filing in Pennsylvania. Debtor's shareholders decide to  
18 "reincorporate" in Delaware. They form a Delaware corporation (Newcorp) into which  
19 they merge Debtor. The merger effectuates a transfer of the collateral from Debtor to  
20 Newcorp, which thereby becomes a debtor and is located in another jurisdiction. Under  
21 subsection (a)(3), the security interest remains perfected for one year after the merger. If  
22 a financing statement is filed in Delaware against Newcorp within the year following the  
23 merger, then the security interest remains perfected thereafter for a period determined by  
24 Delaware's Article 9.  
25

26 Note that although Newcorp is a "new debtor" as defined in Section 9-102, the application of  
27 subsection (a)(3) is not limited to transferees who are new debtors. Note also that, under Section  
28 9-507, the financing statement naming Debtor remains effective even though Newcorp has  
29 become the debtor.  
30

31 ~~This section~~ Subsection (a) addresses security interests that are perfected (i.e., that have  
32 attached and as to which any required perfection step has been taken) before the debtor changes  
33 its location. ~~As the following example explains, this section does not apply~~ Subsection (h)  
34 applies to security interests that have not attached before the location changes. See Comment 7.  
35

36 ~~**Example 5:** Debtor is a Pennsylvania corporation. Debtor grants to Lender a security~~  
37 ~~interest in Debtor's existing and after-acquired inventory. Lender perfects by filing in~~  
38 ~~Pennsylvania. Debtor's shareholders decide to "reincorporate" in Delaware. They form~~  
39 ~~a Delaware corporation (Newcorp) into which they merge Debtor. By virtue of the~~  
40 ~~merger, Newcorp becomes bound by Debtor's security agreement. See Section 9-203.~~  
41 ~~After the merger, Newcorp acquires inventory to which Lender's security interest~~  
42 ~~attaches. Because Newcorp is located in Delaware, Delaware law governs perfection of a~~  
43 ~~security interest in Newcorp's inventory. See Sections 9-301, 9-307. Having failed to~~  
44 ~~perfect under Delaware law, Lender holds an unperfected security interest in the~~  
45 ~~inventory acquired by Newcorp after the merger. The same result follows regardless of~~  
46 ~~the name of the Delaware corporation (i.e., even if the Delaware corporation and Debtor~~  
47 ~~have the same name). A different result would occur if Debtor and Newcorp were~~

1           ~~incorporated in the same state. See Section 9-508, Comment 4.~~

2  
3           **3. Retroactive Unperfection.** Subsection (b) sets forth the consequences of the failure  
4 to reperfect before perfection ceases under subsection (a): the security interest becomes  
5 unperfected prospectively and, as against purchasers for value, including buyers and secured  
6 parties, but not as against donees or lien creditors, retroactively. The rule applies to agricultural  
7 liens, as well. See also Section 9-515 (taking the same approach with respect to lapse).  
8 Although this approach creates the potential for circular priorities, the alternative—retroactive  
9 unperfection against lien creditors—would create substantial and unjustifiable preference risks.

10  
11           **Example 6 5:** Under the facts of Example 4, six months after the merger, Buyer bought  
12 from Newcorp some equipment formerly owned by Debtor. At the time of the purchase,  
13 Buyer took subject to Lender’s perfected security interest, of which Buyer was unaware.  
14 See Section 9-315(a)(1). However, subsection (b) provides that if Lender fails to  
15 reperfect in Delaware within a year after the merger, its security interest becomes  
16 unperfected and is deemed never to have been perfected against Buyer. Having given  
17 value and received delivery of the equipment without knowledge of the security interest  
18 and before it was perfected, Buyer would take free of the security interest. See Section 9-  
19 317(b).

20  
21           **Example 7 6:** Under the facts of Example 4, one month before the merger, Debtor  
22 created a security interest in certain equipment in favor of Financer, who perfected by  
23 filing in Pennsylvania. At that time, Financer’s security interest is subordinate to  
24 Lender’s. See Section 9-322(a)(1). Financer reperfects by filing in Delaware within a  
25 year after the merger, but Lender fails to do so. Under subsection (b), Lender’s security  
26 interest is deemed never to have been perfected against Financer, a purchaser for value.  
27 Consequently, under Section 9-322(a)(2), Financer’s security interest is now senior.

28  
29           Of course, the expiration of the time period specified in subsection (a) does not of itself  
30 prevent the secured party from later reperfecting under the law of the new jurisdiction. If the  
31 secured party does so, however, there will be a gap in perfection, and the secured party may lose  
32 priority as a result. Thus, in Example 7 6, if Lender perfects by filing in Delaware more than  
33 one year under the merger, it will have a new date of filing and perfection for purposes of  
34 Section 9-322(a)(1). Financer’s security interest, whose perfection dates back to the filing in  
35 Pennsylvania under subsection (b), will remain senior.

36  
37           **4. Possessory Security Interests.** Subsection (c) deals with continued perfection of  
38 possessory security interests. It applies not only to security interests perfected solely by the  
39 secured party’s having taken possession of the collateral. It also applies to security interests  
40 perfected by a method that includes as an element of perfection the secured party’s having taken  
41 possession, such as perfection by taking delivery of a certificated security in registered form, see  
42 Section 9-313(a), and perfection by obtaining control over a certificated security. See Section 9-  
43 314(a).

44  
45           **5. Goods Covered by Certificate of Title.** Subsections (d) and (e) address continued  
46 perfection of a security interest in goods covered by a certificate of title. The following  
47 examples explain the operation of those subsections.

1           **Example 8 7:** Debtor’s automobile is covered by a certificate of title issued by Illinois.  
2           Lender perfects a security interest in the automobile by complying with Illinois’  
3           certificate-of-title statute. Thereafter, Debtor applies for a certificate of title in Indiana.  
4           Six months thereafter, Creditor acquires a judicial lien on the automobile. Under Section  
5           9-303(b), Illinois law ceases to govern perfection; rather, once Debtor delivers the  
6           application and applicable fee to the appropriate Indiana authority, Indiana law governs.  
7           Nevertheless, under Indiana’s Section 9-316(d), Lender’s security interest remains  
8           perfected until it would become unperfected under Illinois law had no certificate of title  
9           been issued by Indiana. (For example, Illinois’ certificate-of-title statute may provide  
10          that the surrender of an Illinois certificate of title in connection with the issuance of a  
11          certificate of title by another jurisdiction causes a security interest noted thereon to  
12          become unperfected.) If Lender’s security interest remains perfected, it is senior to  
13          Creditor’s judicial lien.  
14

15          **Example 9 8:** Under the facts in Example 8 7, five months after Debtor applies for an  
16          Indiana certificate of title, Debtor sells the automobile to Buyer. Under subsection (e)(2),  
17          because Lender did not reperfect within the four months after the goods became covered  
18          by the Indiana certificate of title, Lender’s security interest is deemed never to have been  
19          perfected against Buyer. Under Section 9-317(b), Buyer is likely to take free of the  
20          security interest. Lender could have protected itself by perfecting its security interest  
21          either under Indiana’s certificate-of-title statute, see Section 9-311, or, if it had a right to  
22          do so under an agreement or Section 9-609, by taking possession of the automobile. See  
23          Section 9-313(b).  
24

25          The results in Examples 8 7 and 9 8 do not depend on the fact that the original perfection  
26          was achieved by notation on a certificate of title. Subsection (d) applies regardless of the  
27          method by which a security interest is perfected under the law of another jurisdiction when the  
28          goods became covered by a certificate of title from this State.  
29

30          Section 9-337 affords protection to a limited class of persons buying or acquiring a  
31          security interest in the goods while a security interest is perfected under the law of another  
32          jurisdiction but after this State has issued a clean certificate of title.  
33

34          **6. Deposit Accounts, Letter-of-Credit Rights, and Investment Property.** Subsections  
35          (f) and (g) address changes in the jurisdiction of a bank, issuer of an uncertificated security,  
36          issuer of or nominated person under a letter of credit, securities intermediary, and commodity  
37          intermediary. The provisions are analogous to those of subsections (a) and (b).  
38

39          **7. Security Interests that Attach after Debtor Changes Location.** In contrast to  
40          subsections (a) and (b), which address security interests that are perfected (i.e., that have  
41          attached and as to which any required perfection step has been taken) before the debtor changes  
42          its location, subsection (h) addresses security interests that attach within four months after the  
43          debtor changes its location. Under subsection (h), a filed financing statement that would have  
44          been effective to perfect a security interest in the collateral if the debtor had not changed its  
45          location is effective to perfect a security interest in collateral acquired within four months after  
46          the relocation.  
47

1 **Example 9:** Debtor, an individual whose principal residence is in Pennsylvania, grants  
2 to Lender a security interest in Debtor’s existing and after-acquired inventory. Lender  
3 perfects the security interest by filing a proper financing statement in Pennsylvania on  
4 January 2, 2014. On March 31, 2014, Debtor’s principal residence is relocated to New  
5 Jersey. Upon the relocation, New Jersey law governs perfection of a security interest in  
6 Debtor’s inventory. See Sections 9-301, 9-307. Under New Jersey’s Section 9-316(a),  
7 Lender’s security interest in Debtor’s inventory on hand at the time of the relocation  
8 remains perfected for four months thereafter. Had Debtor not relocated, the financing  
9 statement filed in Pennsylvania would have been effective to perfect Lender’s security  
10 interest in inventory acquired by Debtor after March 31. Accordingly, under subsection  
11 (h), the financing statement is effective to perfect Lender’s security interest in inventory  
12 that Debtor acquires within the four months after Debtor’s location changed.

13  
14 In Example 9, Lender’s security interest in the inventory acquired within the four months  
15 after Debtor’s relocation will be perfected when it attaches. It will remain perfected if, before  
16 the expiration of the four-month period, the security interest is perfected under the law of New  
17 Jersey. Otherwise, the security interest will become unperfected at the end of the four-month  
18 period and will be deemed never to have been perfected as against a purchaser for value. See  
19 subsection (h)(2).

20  
21 **8. Collateral Acquired by New Debtor.** Subsection (i) is similar to subsection (h).  
22 Whereas subsection (h) addresses security interests that attach within four months after a debtor  
23 changes its location, subsection (i) addresses security interests that attach within four months  
24 after a new debtor becomes bound as debtor by a security agreement entered into by another  
25 person. Subsection (i) also addresses collateral acquired by the new debtor before it becomes  
26 bound.

27  
28 **Example 10:** Debtor, a Pennsylvania corporation, grants to Lender a security interest in  
29 Debtor’s existing and after-acquired inventory. Lender perfects the security interest by  
30 filing a proper financing statement in Pennsylvania on January 2, 2014. On March 31,  
31 2014, Debtor merges into Survivor, a Delaware corporation. Because Survivor is located  
32 in Delaware, Delaware law governs perfection of a security interest in Survivor’s  
33 inventory. See Sections 9-301, 9-307. Under Delaware’s Section 9-316(a), Lender’s  
34 security interest in the inventory that Survivor acquired from Debtor remains perfected  
35 for one year after the transfer. See Comment 2. By virtue of the merger, Survivor  
36 becomes bound as debtor by Debtor’s security agreement. See Section 9-203(d). As a  
37 consequence, Lender’s security interest attaches to all of Survivor’s inventory under  
38 Section 9-203, and Lender’s collateral now includes inventory in which Debtor never had  
39 an interest. The financing statement filed in Pennsylvania against Debtor is effective  
40 under Delaware’s Section 9-316(i) to perfect Lender’s security interest in inventory that  
41 Survivor acquires before, and within the four months after, becoming bound as debtor by  
42 Debtor’s security agreement. This is because the financing statement filed in  
43 Pennsylvania would have been effective to perfect Lender’s security interest in this  
44 collateral had Debtor, rather than Survivor, acquired it. (Note also that the financing  
45 statement is effective to the extent provided in Section 9-508, despite the fact that it does  
46 not name Survivor as debtor.)

1 If the financing statement is effective, Lender’s security interest in the collateral that  
2 Survivor acquired before, and within four months after, Survivor became bound as debtor will be  
3 perfected upon attachment. It will remain perfected if, before the expiration of the four-month  
4 period, the security interest is perfected under Delaware law. Otherwise, the security interest  
5 will become unperfected at the end of the four-month period and will be deemed never to have  
6 been perfected as against a purchaser for value.

7  
8 Section 9-325 contains special rules governing the priority of competing security  
9 interests in collateral that is transferred, by merger or otherwise, to a new debtor. Section 9-326  
10 contains special rules governing the priority of competing security interests in collateral acquired  
11 by a new debtor other than by transfer from the original debtor.

12  
13 **7 9. Agricultural Liens.** This section does not apply to agricultural liens.

14  
15 **Example 10 11:** Supplier holds an agricultural lien on corn. The lien arises under an  
16 Iowa statute. Supplier perfects by filing a financing statement in Iowa, where the corn is  
17 located. See Section 9-302. Debtor stores the corn in Missouri. Assume the Iowa  
18 agricultural lien survives or an agricultural lien arises under Missouri law (matters that  
19 this Article does not govern). Once the corn is located in Missouri, Missouri becomes  
20 the jurisdiction whose law governs perfection. See Section 9-302. Thus, the agricultural  
21 lien will not be perfected unless Supplier files a financing statement in Missouri.

#### 22 23 **Reporter’s Note**

24  
25 1. Subsection (h) addresses situations in which a debtor changes its location, as  
26 determined under Section 9-307. Suppose, for example, that Debtor is an individual who resides  
27 in Pennsylvania. Lender perfects a security interest in Debtor’s inventory by filing in  
28 Pennsylvania. Then Debtor’s principal residence is relocated to New Jersey. Under Section 9-  
29 316, Lender’s security interest in inventory on hand as of the relocation date remains perfected  
30 for four months thereafter (or, if earlier, until perfection would have ceased under Pennsylvania  
31 law). However, although Lender’s security interest attaches to inventory that Debtor acquires  
32 after relocating to New Jersey, under current law the security interest would be unperfected  
33 because Lender has not filed in New Jersey. The security interest of the secured party would be  
34 unperfected as to the collateral acquired after relocation, and a purchaser of the collateral,  
35 including a buyer, lessee, and competing secured party, would be able to rely on the public  
36 record in New Jersey to determine whether that collateral may be encumbered. A search of the  
37 Pennsylvania filings would be unnecessary.

38  
39 Under new subsection (h), a purchaser of collateral acquired by Debtor during the four  
40 months immediately following the relocation to New Jersey may need to determine whether a  
41 filing has been made against the collateral in Pennsylvania. As a practical matter, the new  
42 subsection is likely to impose a significant risk on purchasers in few cases. Although new  
43 subsection (h) would apply to all kinds of collateral, it is likely to be most useful to pre-  
44 relocation creditors having a security interest in inventory and receivables. A post-relocation  
45 secured party who takes a security interest in Debtor’s existing and after-acquired inventory and  
46 accounts would likely check the Pennsylvania filings even under current law. See Section 9-  
47 316(b). And, a buyer in ordinary course of inventory will take free of the security interest,

1 regardless of whether Lender has perfected by filing in Pennsylvania or in New Jersey. See  
2 Section 9-320(a).

3  
4 2. New subsection (i) is similar to new subsection (h). Whereas the latter addresses a  
5 given debtor's change of location, the former addresses situations in which a successor to the  
6 debtor becomes bound as debtor by the original debtor's security agreement. See Section 9-  
7 203(d). Under new subsection (i), a financing statement filed in the original debtor's jurisdiction  
8 would be effective with respect to collateral acquired by the new debtor before, and within four  
9 months after, the new debtor becomes bound. By increasing the likelihood that a security  
10 interest in certain collateral will be perfected, new subsection (i) may increase the risk to  
11 purchasers of the collateral. As with subsection (h), the situations in which this risk is likely to  
12 materialize are expected to be few.

13  
14  
15 [SUBPART 3. PRIORITY]

16 **SECTION 9-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE**  
17 **OF SECURITY INTEREST OR AGRICULTURAL LIEN.**

18 (a) **[Conflicting security interests and rights of lien creditors.]** A security interest or  
19 agricultural lien is subordinate to the rights of:

20 (1) a person entitled to priority under Section 9-322; and

21 (2) except as otherwise provided in subsection (e), a person that becomes a lien  
22 creditor before the earlier of the time:

23 (A) the security interest or agricultural lien is perfected; or

24 (B) one of the conditions specified in Section 9-203(b)(3) is met and a  
25 financing statement covering the collateral is filed.

26 (b) **[Buyers that receive delivery.]** Except as otherwise provided in subsection (e), a  
27 buyer, other than a secured party, of tangible chattel paper, tangible documents, goods,  
28 instruments, or a ~~security certificate~~ certificated security takes free of a security interest or  
29 agricultural lien if the buyer gives value and receives delivery of the collateral without  
30 knowledge of the security interest or agricultural lien and before it is perfected.

31 (c) **[Lessees that receive delivery.]** Except as otherwise provided in subsection (e), a

1 lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and  
2 receives delivery of the collateral without knowledge of the security interest or agricultural lien  
3 and before it is perfected.

4 (d) **[Licensees and buyers of certain collateral.]** A licensee of a general intangible or a  
5 buyer, other than a secured party, of ~~accounts, electronic chattel paper, electronic documents,~~  
6 ~~general intangibles, or investment property~~ collateral other than tangible chattel paper, tangible  
7 documents, goods, instruments, or a certificated security takes free of a security interest if the  
8 licensee or buyer gives value without knowledge of the security interest and before it is  
9 perfected.

10 \* \* \*

#### 11 Official Comment

12 \* \* \*

#### 13 6. Purchasers Other Than Secured Parties. \* \* \*

14  
15 Subsection (b) governs goods, as well as intangibles of the type whose transfer is effected  
16 by physical delivery of the representative piece of paper (tangible chattel paper, tangible  
17 documents, instruments, and security certificates). To obtain priority, a buyer must both give  
18 value and receive delivery of the collateral without knowledge of the existing security interest  
19 and before perfection. Even if the buyer gave value without knowledge and before perfection,  
20 the buyer would take subject to the security interest if perfection occurred before physical  
21 delivery of the collateral to the buyer. Subsection (c) contains a similar rule with respect to  
22 lessees of goods. Note that a lessee of goods in ordinary course of business takes free of all  
23 security interests created by the lessor, even if perfected. See Section 9-321.  
24  
25

26 \* \* \*

27  
28 The rule of subsection (b) obviously is not appropriate where the collateral consists of  
29 intangibles and there is no representative piece of paper whose physical delivery is the only or  
30 the customary method of transfer. Therefore, with respect to such intangibles (including  
31 accounts, electronic chattel paper, electronic documents, general intangibles, and investment  
32 property other than certificated securities), subsection (d) gives priority to any buyer who gives  
33 value without knowledge, and before perfection, of the security interest. A licensee of a general  
34 intangible takes free of an unperfected security interest in the general intangible under the same  
35 circumstances. Note that a licensee of a general intangible in ordinary course of business takes  
36 rights under a nonexclusive license free of security interests created by the licensor, even if  
37

1 perfected. See Section 9-321.

2  
3 \* \* \*

4  
5 **Reporter’s Note**

6  
7 The application of subsection (d) is expanded to cover buyers of all types of collateral  
8 that are not susceptible to possession. In all likelihood the amendment reflects the original  
9 intention of the Article 9 Drafting Committee.

10  
11 \* \* \*

12  
13  
14 **SECTION 9-326. PRIORITY OF SECURITY INTERESTS CREATED BY NEW**  
15 **DEBTOR.**

16 (a) **[Subordination of security interest created by new debtor.]** Subject to subsection  
17 (b), a security interest that is created by a new debtor which is in collateral in which the new  
18 debtor has or acquires rights and perfected by a filed financing statement that is effective solely  
19 under Section 9-508 in collateral in which a new debtor has or acquires rights would be  
20 ineffective to perfect the security interest but for the application of Section 9-508 or of Sections  
21 9-508 and 9-316(i)(1) is subordinate to a security interest in the same collateral which is  
22 perfected other than by such a filed financing statement ~~that is effective solely under Section 9-~~  
23 ~~508.~~

24 (b) **[Priority under other provisions; multiple original debtors.]** The other provisions  
25 of this part determine the priority among conflicting security interests in the same collateral  
26 perfected by filed financing statements ~~that are effective solely under Section 9-508~~ described in  
27 subsection (a). However, if the security agreements to which a new debtor became bound as  
28 debtor were not entered into by the same original debtor, the conflicting security interests rank  
29 according to priority in time of the new debtor's having become bound.

30  
31 **Reporter’s Note**  
32

1 Section 9-326 addresses the priority contests that may arise when a new debtor  
2 (successor) becomes bound by the security agreement of an original debtor and each debtor has a  
3 secured creditor. With respect to collateral in which the original debtor never held an interest, it  
4 subordinates a security interest perfected by filing against the original debtor to a security  
5 interest perfected by filing against the new debtor. The amendments preserve this subordination  
6 in the face of new Section 9-316(i).

7  
8 \* \* \*

9  
10 **PART 4**

11 **RIGHTS OF THIRD PARTIES**

12 \* \* \*

13 **SECTION 9-406. DISCHARGE OF ACCOUNT DEBTOR; NOTIFICATION OF**  
14 **ASSIGNMENT; IDENTIFICATION AND PROOF OF ASSIGNMENT; RESTRICTIONS**  
15 **ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES,**  
16 **AND PROMISSORY NOTES INEFFECTIVE.**

17 (a) **[Discharge of account debtor; effect of notification.]** Subject to subsections (b)  
18 through (i), an account debtor on an account, chattel paper, or a payment intangible may  
19 discharge its obligation by paying the assignor until, but not after, the account debtor receives a  
20 notification, authenticated by the assignor or the assignee, that the amount due or to become due  
21 has been assigned and that payment is to be made to the assignee. After receipt of the  
22 notification, the account debtor may discharge its obligation by paying the assignee and may not  
23 discharge the obligation by paying the assignor.

24 (b) **[When notification ineffective.]** Subject to subsection (h), notification is ineffective  
25 under subsection (a):

26 (1) if it does not reasonably identify the rights assigned;

27 (2) to the extent that an agreement between an account debtor and a seller of a  
28 payment intangible limits the account debtor's duty to pay a person other than the seller and the

1 limitation is effective under law other than this article; or

2 (3) at the option of an account debtor, if the notification notifies the account  
3 debtor to make less than the full amount of any installment or other periodic payment to the  
4 assignee, even if:

5 (A) only a portion of the account, chattel paper, or payment intangible has  
6 been assigned to that assignee;

7 (B) a portion has been assigned to another assignee; or

8 (C) the account debtor knows that the assignment to that assignee is  
9 limited.

10 (c) **[Proof of assignment.]** Subject to subsection (h), if requested by the account debtor,  
11 an assignee shall seasonably furnish reasonable proof that the assignment has been made.

12 Unless the assignee complies, the account debtor may discharge its obligation by paying the  
13 assignor, even if the account debtor has received a notification under subsection (a).

14 (d) **[Term restricting assignment generally ineffective.]** Except as otherwise provided  
15 in subsection (e) and Sections 2A-303 and 9-407, and subject to subsection (h), a term in an  
16 agreement between an account debtor and an assignor or in a promissory note is ineffective to  
17 the extent that it:

18 (1) prohibits, restricts, or requires the consent of the account debtor or person  
19 obligated on the promissory note to the assignment or transfer of, or the creation, attachment,  
20 perfection, or enforcement of a security interest in, the account, chattel paper, payment  
21 intangible, or promissory note; or

22 (2) provides that the assignment or transfer or the creation, attachment,  
23 perfection, or enforcement of the security interest may give rise to a default, breach, right of  
24 recoupment, claim, defense, termination, right of termination, or remedy under the account,

1 chattel paper, payment intangible, or promissory note.

2 (e) **[Inapplicability of subsection (d) to certain sales.]** Subsection (d) does not apply  
3 to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition  
4 under Section 9-610 or an acceptance of collateral under Section 9-620.

5 \* \* \*

6 (f) **[Legal restrictions on assignment generally ineffective.]** Except as otherwise  
7 provided in Sections 2A-303 and 9-407 and subject to subsections (h) and (i), a rule of law,  
8 statute, or regulation that prohibits, restricts, or requires the consent of a government,  
9 governmental body or official, or account debtor to the assignment or transfer of, or creation of a  
10 security interest in, an account or chattel paper is ineffective to the extent that the rule of law,  
11 statute, or regulation:

12 (1) prohibits, restricts, or requires the consent of the government, governmental  
13 body or official, or account debtor to the assignment or transfer of, or the creation, attachment,  
14 perfection, or enforcement of a security interest in the account or chattel paper; or

15 (2) provides that the assignment or transfer or the creation, attachment,  
16 perfection, or enforcement of the security interest may give rise to a default, breach, right of  
17 recoupment, claim, defense, termination, right of termination, or remedy under the account or  
18 chattel paper.

19 (g) **[Subsection (b)(3) not waivable.]** Subject to subsection (h), an account debtor may  
20 not waive or vary its option under subsection (b)(3).

21 (h) **[Rule for individual under other law.]** This section is subject to law other than this  
22 article which establishes a different rule for an account debtor who is an individual and who  
23 incurred the obligation primarily for personal, family, or household purposes.

24 (i) **[Inapplicability to health-care-insurance receivable.]** This section does not apply

1 to an assignment of a health-care-insurance receivable.

2 (j) **[Section prevails over specified inconsistent law.]** This section prevails over any  
3 inconsistent provisions of the following statutes, rules, and regulations:

4 [List here any statutes, rules, and regulations containing provisions inconsistent  
5 with this section.]

6 *Legislative Note: States that amend statutes, rules, and regulations to remove provisions*  
7 *inconsistent with this section need not enact subsection (j)*  
8

9 \* \* \*

10  
11  
12 **SECTION 9-408. RESTRICTIONS ON ASSIGNMENT OF PROMISSORY**  
13 **NOTES, HEALTH-CARE-INSURANCE RECEIVABLES, AND CERTAIN GENERAL**  
14 **INTANGIBLES INEFFECTIVE.**

15 (a) **[Term restricting assignment generally ineffective.]** Except as otherwise provided  
16 in subsection (b), a term in a promissory note or in an agreement between an account debtor and  
17 a debtor which relates to a health-care-insurance receivable or a general intangible, including a  
18 contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent  
19 of the person obligated on the promissory note or the account debtor to, the assignment or  
20 transfer of, or creation, attachment, or perfection of a security interest in, the promissory note,  
21 health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

22 (1) would impair the creation, attachment, or perfection of a security interest; or

23 (2) provides that the assignment or transfer or the creation, attachment, or  
24 perfection of the security interest may give rise to a default, breach, right of recoupment, claim,  
25 defense, termination, right of termination, or remedy under the promissory note, health-care-  
26 insurance receivable, or general intangible.

27 (b) **[Applicability of subsection (a) to sales of certain rights to payment.]** Subsection

1 (a) applies to a security interest in a payment intangible or promissory note only if the security  
2 interest arises out of a sale of the payment intangible or promissory note, other than a sale  
3 pursuant to a disposition under Section 9-610 or an acceptance of collateral under Section 9-620.

4 (c) **[Legal restrictions on assignment generally ineffective.]** A rule of law, statute, or  
5 regulation that prohibits, restricts, or requires the consent of a government, governmental body  
6 or official, person obligated on a promissory note, or account debtor to the assignment or transfer  
7 of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or  
8 general intangible, including a contract, permit, license, or franchise between an account debtor  
9 and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

10 (1) would impair the creation, attachment, or perfection of a security interest; or

11 (2) provides that the assignment or transfer or the creation, attachment, or  
12 perfection of the security interest may give rise to a default, breach, right of recoupment, claim,  
13 defense, termination, right of termination, or remedy under the promissory note, health-care-  
14 insurance receivable, or general intangible.

15 (d) **[Limitation on ineffectiveness under subsections (a) and (c).]** To the extent that a  
16 term in a promissory note or in an agreement between an account debtor and a debtor which  
17 relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or  
18 regulation described in subsection (c) would be effective under law other than this article but is  
19 ineffective under subsection (a) or (c), the creation, attachment, or perfection of a security  
20 interest in the promissory note, health-care-insurance receivable, or general intangible:

21 (1) is not enforceable against the person obligated on the promissory note or the  
22 account debtor;

23 (2) does not impose a duty or obligation on the person obligated on the  
24 promissory note or the account debtor;

1 (3) does not require the person obligated on the promissory note or the account  
2 debtor to recognize the security interest, pay or render performance to the secured party, or  
3 accept payment or performance from the secured party;

4 (4) does not entitle the secured party to use or assign the debtor's rights under the  
5 promissory note, health-care-insurance receivable, or general intangible, including any related  
6 information or materials furnished to the debtor in the transaction giving rise to the promissory  
7 note, health-care-insurance receivable, or general intangible;

8 (5) does not entitle the secured party to use, assign, possess, or have access to any  
9 trade secrets or confidential information of the person obligated on the promissory note or the  
10 account debtor; and

11 (6) does not entitle the secured party to enforce the security interest in the  
12 promissory note, health-care-insurance receivable, or general intangible.

13 (e) **[Section prevails over specified inconsistent law.]** This section prevails over any  
14 inconsistent provisions of the following statutes, rules, and regulations:

15 [List here any statutes, rules, and regulations containing provisions inconsistent  
16 with this section.]

17 ***Legislative Note:*** *States that amend statutes, rules, and regulations to remove provisions*  
18 *inconsistent with this section need not enact subsection (e).*

### 19 **Reporter's Note**

20  
21 Section 9-406(a) contains a broad override of contractual restrictions on assignability of  
22 receivables. Section 9-408(a) contains a similar, but narrower, override. The most significant  
23 difference between the two concerns whether an assignee may enforce the assigned receivable  
24 against the account debtor or other obligor, notwithstanding a provision in the underlying  
25 contract that purports to prevent an assignee from doing so.

26  
27 The amendment addresses the allocation of transactions between the broader override in  
28 Section 9-406(a) and the narrower override in Section 9-408(a). The distinction is most likely to  
29 matter where the collateral is the right to payment of a loan.  
30

1 Under current law, if the right to payment of the loan is evidenced by chattel paper, then  
2 a contractual restriction would not be effective to restrict the assignee’s right to enforce against  
3 the account debtor. If, however, the right to payment of the loan is evidenced by an instrument,  
4 or is a payment intangible, then a contractual restriction would not be effective to restrict the  
5 assignee’s right to enforce against the account debtor if the assignment is made for security. If,  
6 however, the assignment is a sale of the payment intangible or promissory note, then Section 9-  
7 408(a) applies and the assignee’s right to enforce is limited by any contractual restriction.  
8 Whether current Section 9-406 or 9-408 applies to a foreclosure sale of the receivable by an  
9 assignee for security is unclear. The amendment would clarify that Section 9-406 applies and  
10 that, therefore, a buyer at a foreclosure sale would be free to enforce the account debtor’s  
11 obligation.

12  
13 Consider this example:

14  
15 Lender makes a loan to Borrower. The loan is not evidenced by chattel paper. The loan  
16 agreement (or note) provides that Lender’s rights may not be assigned and, if Lender  
17 wrongfully assigns the rights, an assignee may not enforce Borrower’s obligation to pay.  
18 Lender assigns the right to payment (i.e., the payment intangible or instrument) to  
19 Assignee.

20  
21 If the assignment to Assignee is a sale, then Section 9-408(a) applies and the contractual  
22 restrictions are ineffective with respect to the creation, attachment, and perfection of  
23 Assignee’s security interest.

24  
25 If the assignment to Assignee is for security, the restriction would not be effective if  
26 Assignee itself sought to collect or if Assignee sold to a buyer at foreclosure (and,  
27 presumably, if the foreclosure buyer resold). However, the restriction would be effective  
28 against nonforeclosure buyers who did not take through a foreclosure buyer.

29  
30 Section 9-406 is clear that a contractual restriction would not be effective to restrict the  
31 assignee’s right *qua* assignee to enforce the account debtor’s obligation under Section 9-607.  
32 The amendment would eliminate any doubt that the restriction would not be effective to restrict  
33 the assignee’s right to enforce if the assignee became the owner of the payment intangible or  
34 promissory note by accepting it in a “strict foreclosure” under Section 9-620.

35  
36 \* \* \*

37  
38  
39 **PART 5**

40 **FILING**

41 [SUBPART 1. FILING OFFICE; CONTENTS AND  
42 EFFECTIVENESS OF FINANCING STATEMENT]

43  
44 \* \* \*

1           **SECTION 9-502. CONTENTS OF FINANCING STATEMENT; RECORD OF**  
2 **MORTGAGE AS FINANCING STATEMENT; TIME OF FILING FINANCING**  
3 **STATEMENT.**

4           **(a) [Sufficiency of financing statement.]** Subject to subsection (b), a financing  
5 statement is sufficient only if it:

6                   (1) provides the name of the debtor;

7                   (2) provides the name of the secured party or a representative of the secured  
8 party; and

9                   (3) indicates the collateral covered by the financing statement.

10           **(b) [Real-property-related financing statements.]** Except as otherwise provided in  
11 Section 9-501(b), to be sufficient, a financing statement that covers as-extracted collateral or  
12 timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become  
13 fixtures, must satisfy subsection (a) and also:

14                   (1) indicate that it covers this type of collateral;

15                   (2) indicate that it is to be filed [for record] in the real property records;

16                   (3) provide a description of the real property to which the collateral is related  
17 [sufficient to give constructive notice of a mortgage under the law of this State if the description  
18 were contained in a record of the mortgage of the real property]; and

19                   (4) if the debtor does not have an interest of record in the real property, provide  
20 the name of a record owner.

21           **(c) [Record of mortgage as financing statement.]** A record of a mortgage is effective,  
22 from the date of recording, as a financing statement filed as a fixture filing or as a financing  
23 statement covering as-extracted collateral or timber to be cut only if:

24                   (1) the record indicates the goods or accounts that it covers;

1 (2) the goods are or are to become fixtures related to the real property described  
2 in the record or the collateral is related to the real property described in the record and is as-  
3 extracted collateral or timber to be cut;

4 (3) the record satisfies the requirements for a financing statement in this section,  
5 but:

6 (A) the record need not indicate other than an indication that it is to be  
7 filed in the real property records; and

8 (B) the record sufficiently provides the name of a debtor who is an  
9 individual if it provides the individual name of the debtor or the surname and first personal name  
10 of the debtor, even if the debtor is an individual to whom Section 9-503(a)(4) applies; and

11 (4) the record is [duly] recorded.

12 (d) **[Filing before security agreement or attachment.]** A financing statement may be  
13 filed before a security agreement is made or a security interest otherwise attaches.

14 ***Legislative Note:*** *Language in brackets is optional. Where the State has any special recording*  
15 *system for real property other than the usual grantor-grantee index (as, for instance, a tract*  
16 *system or a title registration or Torrens system) local adaptations of subsection (b) and Section*  
17 *9-519(d) and (e) may be necessary. See, e.g., Mass. Gen. Laws Chapter 106, Section 9-410.*

18 *A State should enact these amendments to Section 9-502 only if the State enacts*  
19 *Alternative A of the amendments to Section 9-503.*

#### 20 21 **Reporter's Note**

22  
23 Under Alternative A of the amendments to Section 9-503, the name required to be  
24 provided in a financing statement may be the name indicated on the debtor's driver's license.  
25 The amendment to Section 9-502 would provide greater latitude with respect to the name that  
26 would be sufficient on a mortgage filed as a fixture filing or as a financing statement covering  
27 as-extracted collateral.

#### 28 29 30 **SECTION 9-503. NAME OF DEBTOR AND SECURED PARTY.**

31 (a) **[Sufficiency of debtor's name.]** A financing statement sufficiently provides the  
32 name of the debtor:

1           (1) except as otherwise provided in paragraph (3), if the debtor is a registered  
2 organization or the collateral is held in a trust that is a registered organization, only if the  
3 financing statement provides the name of the debtor indicated that is stated to be the registered  
4 organization's name on the public organic record of most recently filed with or issued or enacted  
5 by the debtor's registered organization's jurisdiction of organization which shows the debtor to  
6 have been organized purports to state, amend, or restate the registered organization's name;

7           (2) subject to subsection (f), if the debtor is a decedent's estate collateral is being  
8 administered by the personal representative of a decedent, only if the financing statement  
9 provides, as the name of the debtor, the name of the decedent and, in a separate part of the  
10 financing statement, indicates that the debtor is an estate collateral is being administered by a  
11 personal representative;

12           (3) if the debtor is a trust or a trustee acting with respect to property held in trust,  
13 only if the financing statement:

14                   (A) provides the name specified for the trust in its organic documents or,  
15 if no name is specified, provides the name of the settlor and additional information sufficient to  
16 distinguish the debtor from other trusts having one or more of the same settlors; and

17                   (B) indicates, in the debtor's name or otherwise, that the debtor is a trust  
18 or is a trustee acting with respect to property held in trust;  
19 collateral is held in a trust that is not a registered organization, only if the financing statement:

20                   (A) provides, as the name of the debtor:

21                           (i) if the organic record of the trust specifies a name for the trust,  
22 the name so specified; or

23                           (ii) if the organic record of the trust does not specify a name for the  
24 trust, the name of the settlor or testator; and

1                   (B) in a separate part of the financing statement:

2                   (i) if the name is provided in accordance with subparagraph (A)(i),  
3 indicates that the collateral is held in a trust; or

4                   (ii) if the name is provided in accordance with subparagraph  
5 (A)(ii), provides additional information sufficient to distinguish the trust from other trusts having  
6 one or more of the same settlors or the same testator and indicates that the collateral is held in a  
7 trust, unless the additional information so indicates;

8                   **[Alternative A]**

9                   (4) subject to subsection (g), if the debtor is an individual to whom this State has  
10 issued a [driver's license] that has not expired, only if it provides the name of the individual  
11 which is indicated on the [driver's license];

12                   (5) if the debtor is an individual to whom paragraph (4) does not apply, only if it  
13 provides the individual name of the debtor or the surname and first personal name of the debtor;  
14 and

15                   ~~(4)~~ (6) in other cases:

16                   (A) if the debtor has a name, only if it provides the ~~individual or~~  
17 organizational name of the debtor; and

18                   (B) if the debtor does not have a name, only if it provides the names of the  
19 partners, members, associates, or other persons comprising the debtor, in a manner that each  
20 name provided would be sufficient if the person named were the debtor.

21                   **[Alternative B]**

22                   (4) if the debtor is an individual, only if:

23                   (A) it provides the individual name of the debtor;

24                   (B) it provides the surname and first personal name of the debtor; or

1                    (C) subject to subsection (g), it provides the name of the individual which  
2 is indicated on a [driver's license] that this State has issued to the individual and which has not  
3 expired; and

4                    ~~(4)~~ (5) in other cases:

5                    (A) if the debtor has a name, only if it provides the ~~individual or~~  
6 organizational name of the debtor; and

7                    (B) if the debtor does not have a name, only if it provides the names of the  
8 partners, members, associates, or other persons comprising the debtor, in a manner that each  
9 name provided would be sufficient if the person named were the debtor.

10                    **[End of Alternatives]**

11                    (b) **[Additional debtor-related information.]** A financing statement that provides the  
12 name of the debtor in accordance with subsection (a) is not rendered ineffective by the absence  
13 of:

14                    (1) a trade name or other name of the debtor; or

15                    (2) unless required under subsection (a)(4)(B), names of partners, members,  
16 associates, or other persons comprising the debtor.

17                    (c) **[Debtor's trade name insufficient.]** A financing statement that provides only the  
18 debtor's trade name does not sufficiently provide the name of the debtor.

19                    (d) **[Representative capacity.]** Failure to indicate the representative capacity of a  
20 secured party or representative of a secured party does not affect the sufficiency of a financing  
21 statement.

22                    (e) **[Multiple debtors and secured parties.]** A financing statement may provide the  
23 name of more than one debtor and the name of more than one secured party.

24                    (f) **[Name of decedent.]** The name of the decedent indicated on the order appointing the

1 personal representative of the decedent issued by the court having jurisdiction over the collateral  
2 is sufficient as the “name of the decedent” under subsection (a)(2).

3 **[Alternative A]**

4 (g) [Multiple driver’s licenses.] If this State has issued to an individual more than one  
5 [driver’s license] of a kind described in subsection (a)(4), the one that was issued most recently  
6 is the one to which subsection (a)(4) refers.

7 **[Alternative B]**

8 (g) [Multiple driver’s licenses.] If this State has issued to an individual more than one  
9 [driver’s license] of a kind described in subsection (a)(4)(C), the one that was issued most  
10 recently is the one to which the subsection (a)(4)(C) refers.

11 **[End of Alternatives]**

12 (h) [Definition.] The “name of the settlor or testator” means:

13 (1) if the settlor is a registered organization, the name of the registered  
14 organization indicated on the public organic record filed with or issued or enacted by the  
15 registered organization’s jurisdiction of organization; or

16 (2) in other cases, the name of the settlor or testator indicated in the trust’s  
17 organic record.

18 ***Legislative Notes:***

19  
20 1. This Act contains two alternative sets of amendments relating to the names of  
21 individual debtors. A State should enact the same Alternative, A or B, for both subsections (a)  
22 and (i) of Section 9-503. A State that enacts Alternative A of the amendments to this section  
23 should also enact the amendments to Section 9-502.

24  
25 2. Both Alternatives refer, in part, to the name as shown on a debtor’s driver’s license.  
26 The Legislature should be aware that, in some States, certain characters that may be used by the  
27 State’s department of motor vehicles (or similar agency) in the name on a driver’s license may  
28 not be accepted by the State’s central or local UCC filing offices under current regulations or  
29 internal protocols. This may occur because of technological limitations of the filing offices or  
30 merely as a result of inconsistent procedures. Similar issues may exist for field sizes as well. In

1 these situations, perfection of a security interest granted by a debtor with such a driver's license  
2 may be impossible under Alternative A of the amendments and the utility of Alternative B, under  
3 which the name on the driver's license is one of the names that is sufficient, may be reduced.  
4 Accordingly, the State may wish to determine if one or more of these issues exist in this State  
5 and, if so, to make certain that such issues have been resolved. A successful resolution might be  
6 accomplished by statute, agency regulation, or technological change effectuated before or as  
7 part of the enactment of this Act.

8  
9 3. Regardless of which Alternative is enacted, in States in which in which a single agency  
10 issues driver's licenses and non-driver identification cards as an alternative to a driver's  
11 license, such that at any given time an individual may hold either a driver's license or an  
12 identification card but not both, the State should replace each use of the term "driver's license"  
13 with a phrase meaning "driver's license or identification card" but containing the analogous  
14 terms used in the enacting State. In other States, the State should replace the term "driver's  
15 license" with the analogous term used in the enacting State.

## 17 Official Comment

18 \* \* \*

19  
20  
21 **2. Debtor's Name.** The requirement that a financing statement provide the debtor's  
22 name is particularly important. Financing statements are indexed under the name of the debtor,  
23 and those who wish to find financing statements search for them under the debtor's name.  
24 Subsection (a) explains what the debtor's name is for purposes of a financing statement.

25  
26 **a. Registered Organizations.** ~~As a general matter, if~~ if the debtor is a "registered  
27 organization" (defined in Section 9-102 so as to ordinarily include corporations, limited  
28 partnerships, ~~and~~ and limited liability companies, and statutory trusts), then the debtor's name is the  
29 name shown on the ~~public records~~ "public organic record" of the debtor's "jurisdiction of  
30 organization" (both also defined in Section 9-102). ~~Subsections (a)(2) and (a)(3) contain special~~  
31 ~~rules for decedent's estates and common-law trusts. (Subsection (a)(1) applies to business trusts~~  
32 ~~that are registered organizations.)~~

33  
34 ~~Subsection (a)(4)(A) essentially follows the first sentence of former Section 9-402(7).~~  
35 ~~Section 1-201(28) defines the term "organization," which appears in subsection (a)(4), very~~  
36 ~~broadly, to include all legal and commercial entities as well as associations that lack the status of~~  
37 ~~a legal entity. Thus, the term includes corporations, partnerships of all kinds, business trusts,~~  
38 ~~limited liability companies, unincorporated associations, personal trusts, governments, and~~  
39 ~~estates. If the organization has a name, that name is the correct name to put on a financing~~  
40 ~~statement. If the organization does not have a name, then the financing statement should name~~  
41 ~~the individuals or other entities who comprise the organization.~~

42  
43 Together with subsections (b) and (c), subsection (a) reflects the view prevailing under  
44 former Article 9 that the actual individual or organizational name of the debtor on a financing  
45 statement is both necessary and sufficient, whether or not the financing statement provides trade  
46 or other names of the debtor and, if the debtor has a name, whether or not the financing  
47 statement provides the names of the partners, members, or associates who comprise the debtor.

1           **b. Collateral Held in a Trust.** When a financing statement covers collateral that is held  
2 in a trust that is a registered organization, subsection (a)(1) governs the name of the debtor. If,  
3 however, the collateral is held in a trust that is not a registered organization, subsection (a)(3)  
4 applies. (As used in this Article, collateral “held in a trust” includes collateral as to which the  
5 trust is the debtor as well as collateral as to which the trustee is the debtor.) This subsection  
6 adopts a convention that generally results in the name of the trust or the name of the trust’s  
7 settlor being provided as the name of the debtor on the financing statement, even if, as typically  
8 is the case with common-law trusts, the “debtor” (defined in Section 9-102) is a trustee acting  
9 with respect to the collateral. This convention provides more accurate information and eases the  
10 burden for searchers, who otherwise would have difficulty with respect to debtor trustees that are  
11 large financial institutions.

12  
13           More specifically, if a trust’s organic record specifies a name for the trust, subsection  
14 (a)(3) requires the financing statement to provide, as the name of the debtor, the name for the  
15 trust specified in the organic record. In addition, the financing statement must indicate, in a  
16 separate part of the financing statement, that the collateral is held in a trust.

17  
18           If the organic record of the trust does not specify a name for the trust, the name required  
19 for the financing statement is the name of the settlor or, in the case of a testamentary trust, the  
20 testator, in each case as determined under subsection (h). In addition, the financing statement  
21 must provide sufficient additional information to distinguish the trust from other trusts having  
22 one or more of the same settlors or the same testator. In many cases an indication of the date on  
23 which the trust was settled will satisfy this requirement. If neither the name nor the additional  
24 information indicates that the collateral is held in a trust, the financing statement must indicate  
25 that fact, but not as part of the debtor’s name.

26  
27           Neither the indication that the collateral is held in a trust nor the additional information  
28 that distinguishes the trust from other trusts having one or more of the same settlors or the same  
29 testator is part of the debtor’s name. Nevertheless, a financing statement that fails to provide, in  
30 a separate part of the financing statement, any required indication or additional information does  
31 not sufficiently provide the name of the debtor under Sections 9-502(a) and 9-503(a)(3), does not  
32 “substantially satisfy[ ] the requirements” of Part 5 within the meaning of Section 9-506(a), and  
33 so is ineffective.

34  
35           **c. Collateral Administered by a Personal Representative.** Subsection (a)(2) deals  
36 with collateral that is being administered by an executor, administrator, or other personal  
37 representative of a decedent. Even if, as often is the case, the representative is the “debtor”  
38 (defined in Section 9-102), the financing statement must provide the name of the decedent as the  
39 name of the debtor. Subsection (f) provides a safe harbor, under which the name of the decedent  
40 indicated on the order appointing the personal representative issued by the court having  
41 jurisdiction over the collateral is sufficient as the name of the decedent. If the order indicates  
42 more than one name for the decedent, the first name in the list qualifies under subsection (f);  
43 however, other names in the list also may qualify as the “name of the decedent” within the  
44 meaning of subsection (a)(2). In addition to providing the name of the decedent, the financing  
45 statement must indicate that the collateral is being administered by a personal representative.  
46 Although the indication is not part of the debtor’s name, a financing statement that fails to  
47 provide the indication does not sufficiently provide the name of the debtor under Sections 9-

1 502(a) and 9-503(a)(2), does not “substantially satisfy[ ] the requirements” of Part 5 within the  
2 meaning of Section 9-506(a), and so is ineffective.  
3

4 **d. Individuals.** This Article provides alternative approaches towards the requirement  
5 for providing the name of a debtor who is an individual.  
6

7 *Alternative A.* Alternative A distinguishes between two groups of individual debtors.  
8 For debtors holding an unexpired driver’s license issued by the State where the financing  
9 statement is filed (ordinarily the State where the debtor maintains the debtor’s principal  
10 residence), Alternative A requires that a financing statement provide the name indicated on the  
11 license. When a debtor does not hold an unexpired driver’s license issued by the relevant State,  
12 the requirement can be satisfied in either of two ways. A financing statement is sufficient if it  
13 provides the “individual name” of the debtor. Alternatively, a financing statement is sufficient if  
14 it provides the debtor’s surname (i.e., family name) and first personal name (i.e., first name other  
15 than the surname).  
16

17 *Alternative B.* Alternative B provides three ways in which a financing statement may  
18 sufficiently provide the name of an individual who is a debtor. The “individual name” of the  
19 debtor is sufficient, as is the debtor’s surname and first personal name. If the individual holds an  
20 unexpired driver’s license issued by the State where the financing statement is filed (ordinarily  
21 the State of the debtor’s principal residence), the name indicated on the driver’s license also is  
22 sufficient.  
23

24 *Name indicated on the driver’s license.* A financing statement does not “provide the  
25 name of the individual which is indicated” on the debtor’s driver’s license unless the name it  
26 provides is the same as the name indicated on the license. This is the case even if the name  
27 indicated on the debtor’s driver’s license contains an error.  
28

29 **Example 1:** Debtor, an individual whose principal residence is in Illinois, grants a  
30 security interest to SP in certain business equipment. SP files a financing statement with  
31 the Illinois filing office. The financing statement provides the name appearing on  
32 Debtor’s Illinois driver’s license, “Joseph Allan Jones.” Regardless of which Alternative  
33 is in effect in Illinois, this filing would be sufficient under Illinois’ Section 9-503(a),  
34 even if Debtor’s correct middle name is Alan, not Allan.  
35

36 A filing against “Joseph A. Jones” or “Joseph Jones” would not “provide the name of the  
37 individual which is indicated” on the debtor’s driver’s license. However, these filings  
38 might be sufficient if Alternative A is in effect in Illinois and Jones has no current (i.e.,  
39 unexpired) Illinois driver’s license, or if Illinois has enacted Alternative B.  
40

41 Determining the name that should be provided on the financing statement must not be  
42 done mechanically. The order in which the components of an individual’s name appear on a  
43 driver’s license differs among the States. Had the debtor in Example 1 obtained a driver’s  
44 license from a different State, the license might have indicated the name as “Jones Joseph  
45 Allan.” Regardless of the order on the driver’s license, the debtor’s surname must be provided  
46 in the part of the financing statement designated for the surname.  
47

1 Alternatives A and B both refer to a license issued by “this State.” Perfection of a  
2 security interest by filing ordinarily is determined by the law of the jurisdiction in which the  
3 debtor is located. See Section 9-301(1). (Exceptions to the general rule are found in Section 9-  
4 301(3) and (4), concerning fixture filings, timber to be cut, and as-extracted collateral.) A debtor  
5 who is an individual ordinarily is located at the individual’s principal residence. See Section 9-  
6 307(b). (An exception appears in Section 9-307(c).) Thus, a given State’s Section 9-503  
7 ordinarily will apply during any period when the debtor’s principal residence is located in that  
8 State, even if during that time the debtor holds or acquires a driver’s license from another State.  
9

10 When a debtor’s principal residence changes, the location of the debtor under Section 9-  
11 307 also changes and perfection by filing ordinarily will be governed by the law of the debtor’s  
12 new location. As a consequence of the application of that State’s Section 9-316, a security  
13 interest that is perfected by filing under the law of the debtor’s former location will remain  
14 perfected for four months after the relocation, and thereafter if the secured party perfects under  
15 the law of the debtor’s new location. Likewise, a financing statement filed in the former location  
16 may be effective to perfect a security interest that attaches after the debtor relocates. See Section  
17 9-316(h).  
18

19 **Example 2:** Debtor, an individual whose principal residence is in Illinois, grants a  
20 security interest to SP in certain business equipment. SP files a financing statement in  
21 Illinois that provides the name indicated on Debtor’s Illinois driver’s license. On January  
22 1, Debtor relocates to Indiana. Upon the relocation, the law governing perfection of the  
23 security interest changes from the law of Illinois to the law of Indiana.  
24

25 Under Indiana’s Section 9-316, however, a security interest perfected by the Illinois  
26 filing remains perfected, normally for four months. If SP does not file in Indiana before  
27 the four-month period expires, then the security interest will become unperfected and will  
28 be deemed never to have been perfected as against a purchaser of the collateral for value.  
29 In addition, under Indiana’s Section 9-316, the Illinois financing statement normally  
30 would remain effective to perfect a security interest in collateral acquired by Debtor  
31 within the four months after the relocation to Indiana.  
32

33 *Individual name of the debtor.* Article 9 does not determine the “individual name” of a  
34 debtor. Nor does it determine which element or elements in a debtor’s name constitute the  
35 surname. In some cases, determining the “individual name” of a debtor may be difficult, as may  
36 determining the debtor’s surname. This is because in the case of individuals, unlike registered  
37 organizations, there is no public organic record to which reference can be made and from which  
38 the name and its components can be definitively determined.  
39

40 Names can take many forms in the United States. For example, whereas a surname is  
41 often colloquially referred to as a “last name,” the sequence in which the elements of a name are  
42 presented is not determinative. In some cultures, the surname appears first, while in others it  
43 may appear in a location that is neither first nor last. In addition, some surnames are composed  
44 of multiple elements that, taken together, constitute a single surname. These elements may or  
45 may not be separated by a space or connected by a hyphen, “i,” or “y.” In other instances, some  
46 or all of the same elements may not be part of the surname. In some cases, a debtor’s entire  
47 name might be composed of only a single element.

1 In disputes as to whether a financing statement sufficiently provides the “individual  
2 name” a debtor, a court should refer to any non-UCC law concerning names. However, case law  
3 about names may have developed in contexts that implicate policies different from those of  
4 Article 9. A court considering an individual’s name for purposes of determining the sufficiency  
5 of a financing statement is not necessarily bound by cases that were decided in other contexts  
6 and for other purposes.

7  
8 Individuals are asked to provide their names on official documents such as tax returns  
9 and bankruptcy petitions. An individual may provide a particular name on an official document  
10 in response to instructions relating to the document rather than because the individual actually  
11 uses the name. Accordingly, a court should not assume that the name an individual provides on  
12 an official document necessarily constitutes the “individual name” for purposes of the  
13 sufficiency of the debtor’s name on a financing statement. Likewise, a court should not assume  
14 that the name as presented on an individual’s birth certificate is necessarily the individual’s  
15 current name.

16  
17 In applying non-UCC law for purposes of determining the sufficiency of a debtor’s name  
18 on a financing statement, a court should give effect to the instruction in Section 1-103(a)(1) that  
19 the UCC “must be liberally construed and applied to promote its underlying purposes and  
20 policies,” which include simplifying and clarifying the law governing commercial transactions.  
21 Thus, determination of a debtor’s name in the context of the Article 9 filing system must take  
22 into account the needs of both filers and searchers. Filers need a simple and predictable system  
23 in which they can have a reasonable degree of confidence that, without undue burden, they can  
24 determine a name that will be sufficient so as to permit their financing statements to be effective.  
25 Likewise, searchers need a simple and predictable system in which they can have a reasonable  
26 degree of confidence that, without undue burden, they will discover all financing statements  
27 pertaining to the debtor in question. The court also should take into account the purpose of the  
28 UCC to make the law uniform among the various jurisdictions. See Section 1-103(a)(3).

29  
30 Of course, once an individual debtor’s name has been determined to be sufficient for  
31 purposes of Section 9-503, a financing statement that provides a variation of that name, such as a  
32 “nickname” that does not constitute the debtor’s name, does not sufficiently provide the name of  
33 the debtor under this section. Cf. Section 9-503(c) (a financing statement providing only a  
34 debtor’s trade name is not sufficient).

35  
36 If there is any doubt about an individual debtor’s name, a secured party may choose to  
37 file one or more financing statements that provide a number of possible names for the debtor and  
38 a searcher may similarly choose to search under a number of possible names.

39  
40 Note that, even if the name provided in an initial financing statement is correct, the filing  
41 office nevertheless must reject the financing statement if it does not identify an individual  
42 debtor’s last name surname (e.g., if it is not clear whether the debtor’s name surname is Perry  
43 Mason or Mason-Perry). See Section 9-516(b)(3)(C).

44  
45 \* \* \*

46  
47 **Reporter’s Note**

1           1. To be sufficient under Section 9-502(a)(1), a financing statement must provide the  
2 name of the debtor. The revisions to Section 9-503(a) give additional guidance for satisfying  
3 this requirement.  
4

5           2. The provisions governing the name required to be provided with respect to a debtor  
6 who is an individual were the most contentious and perhaps the most difficult issues addressed  
7 by the Joint Review Committee. Recognizing the diversity of views, the Joint Review  
8 Committee recommends that each State be asked to choose between two alternatives.  
9

10           *Alternative A.* Under Alternative A, the name of an individual debtor which is sufficient  
11 for a financing statement is the name that appears on the most recent unexpired driver’s license  
12 issued to the debtor by the State in which the debtor maintains the principal residence. Because  
13 States use different terms for the driver’s licenses they issue, the words “driver’s license” appear  
14 in brackets.  
15

16           The debtor’s name requirement for a debtor who does not hold an unexpired driver’s  
17 license issued by the State of principal residence can be met in either of two ways. As under  
18 existing law, a financing statement would be sufficient if it provides the “individual name of the  
19 debtor.” Alternatively, the financing statement would be sufficient if it provides the debtor’s  
20 surname and first personal name. The term “surname” refers to the family name. The term “first  
21 personal name” refers to the first name other than the surname. In some cases, determining the  
22 “individual name” of debtor may be difficult, as may determining the debtor’s surname. An  
23 Official Comment will give guidance for making these determinations.  
24

25           In some States, a single agency issues both driver’s licenses and non-driver identification  
26 cards as an alternative to a driver’s license, such that at any given time an individual may hold  
27 either a driver’s license or an identification card but not both. As Legislative Note 3 suggests,  
28 those States should replace each use of the term “driver’s license” with a phrase meaning  
29 “driver’s license or identification card” but containing the analogous terms used in the enacting  
30 State, e.g., “Operator’s License and Identity Card.”  
31

32           *Alternative B.* This alternative provides three ways in which a financing statement may  
33 sufficiently provide the name of an individual who is a debtor: As under current law, the  
34 “individual name of the debtor would be sufficient. See Section 9-503(a)(4)(A). In addition, the  
35 debtor’s-name requirement would be satisfied by providing the debtor’s surname and first  
36 personal name. See Section 9-503(a)(4)(B). If the individual holds a current driver’s license  
37 issued by the principal residence, the name on the driver’s license also would be sufficient. See  
38 Section 9-503(a)(4)(C). Subparagraphs (B) and (C) are explained in connection with Alternative  
39 A.  
40

41           *Choosing Between the Alternatives.* Legislative Note 2, above, explains some of the  
42 considerations that a legislature should consider when deciding which alternative to enact.  
43

44           3. Subsection (a)(2) deals with collateral that is being administered by an executor,  
45 administrator, or other personal representative of a decedent. Comment 2.c explains this  
46 subsection.  
47



1 statement becomes seriously misleading, unless an amendment to the financing statement which  
2 renders the financing statement not seriously misleading is filed within four months after the  
3 change that event.

#### 4 **Official Comment**

5 \* \* \*

6  
7  
8 4. **Other Post-Filing Changes.** Subsection (b) provides that, as a general matter, post-  
9 filing changes that render a financing statement inaccurate and seriously misleading have no  
10 effect on a financing statement. The financing statement remains effective. It is subject to two  
11 exceptions: Section 9-508 and Section 9-507(c). Section 9-508 addresses the effectiveness of a  
12 financing statement filed against an original debtor when a new debtor becomes bound by the  
13 original debtor's security agreement. It is discussed in the Comments to that section. Section 9-  
14 507(c) addresses a "pure" change of the debtor's name, i.e., cases in which a filed financing  
15 statement provides a name that, at the time of filing, satisfies the requirements of Section 9-  
16 503(a) with respect to the named debtor but, at a later time, no longer does so. It does not apply  
17 when collateral has been transferred and the transferee thereby becomes a debtor. Nor does it  
18 apply to a change that does not implicate implicates a new debtor. ~~It clarifies former Section 9-~~  
19 ~~402(7).~~

20  
21 **Example 1:** Debtor, an individual whose principal residence is in California, grants a  
22 security interest to SP in certain business equipment. SP files a financing statement with  
23 the California filing office. Alternative A is in effect in California. The financing  
24 statement provides the name appearing on Debtor's California driver's license, "James  
25 McGinty." Debtor obtains a court order changing his name to "Roger McGuinn" but  
26 does not change his driver's license. Even after the court order issues, the name provided  
27 for the debtor in the financing statement is sufficient under Section 9-503(a).  
28 Accordingly, Section 9-507(c) does not apply.

29  
30 The same result would follow if Alternative B is in effect in California.

31  
32 Under Section 9-503(a)(4) (Alternative A), if the debtor holds a current (i.e., unexpired)  
33 driver's license issued by the State where the financing statement is filed, the name required for  
34 the financing statement is the name indicated on the license that was issued most recently by that  
35 State. If the debtor does not have a current driver's license issued by that State, then the debtor's  
36 name is determined under subsection (a)(5). It follows that a debtor's name may change, and a  
37 financing statement providing the name on the debtor's then-current driver's license may  
38 become seriously misleading, if the license expires and the debtor's name under subsection  
39 (a)(5) is different. The same consequences may follow if a debtor's driver's license is renewed  
40 and the names on the licenses differ.

41  
42 **Example 2:** The facts are as in Example 1. Debtor's driver's license expires one year  
43 after the entry of the court order changing Debtor's name. Debtor does not renew the  
44 license. Upon expiration of the license, the name required for sufficiency by Section 9-

1 503(a) is the individual name of the debtor or the debtor’s surname and first personal  
2 name. The name “James McGinty” has become insufficient.

3  
4 **Example 3:** The facts are as in Example 1. Before the license expires, Debtor renews  
5 the license. The name indicated on the new license is “Roger McGuinn.” Upon issuance  
6 of the new license, “James McGinty” becomes insufficient as the debtor’s name under  
7 Section 9-503(a).

8  
9 The same results would follow if Alternative B is in effect in California (assuming in Example 2  
10 that, following the issuance of the court order, “James McGinty” is neither the individual name  
11 of the debtor nor the debtor’s surname and first given name).

12  
13 Even if the name provided as the name of the debtor becomes insufficient under Section  
14 9-503(a), the filed financing statement does not become seriously misleading, and Section 9-  
15 507(c) does not apply, if the financing statement can be found by searching under the debtor’s  
16 “correct” name, using the filing office’s standard search logic. See Section 9-506. Any name  
17 that satisfies Section 9-503(a) at the time of the search is a “correct name” for these purposes.  
18 Thus, assuming that a search of the records of the California filing office under “Roger  
19 McGuinn,” using the filing office’s standard search logic, would not disclose a financing  
20 statement naming “James McGinty,” the financing statement in Examples 2 and 3 has become  
21 seriously misleading and Section 9-507(c) applies.

22  
23 If a name change renders a filed financing statement becomes seriously misleading  
24 because the name it provides for a debtor becomes insufficient, the financing statement, unless  
25 amended to provide the debtor’s new correct a sufficient name for the debtor, is effective only to  
26 perfect a security interest in collateral acquired by the debtor before, or within four months after,  
27 the change. If an amendment that provides the new correct a sufficient name is filed within four  
28 months after the change, the financing statement as amended would be effective also with  
29 respect to collateral acquired more than four months after the change. If an amendment that  
30 provides the new correct a sufficient name is filed more than four months after the change, the  
31 financing statement as amended would be effective also with respect to collateral acquired more  
32 than four months after the change, but only from the time of the filing of the amendment.

### 33 34 **Reporter’s Note**

35  
36 Section 9-507(c) is designed to limit the search burden for secured parties. It addresses  
37 cases where a filed financing statement provides a name that, at the time of filing, satisfies the  
38 requirements of Section 9-503 but, at a later time, no longer does so.

39  
40 The existing emphasis on the debtor’s behavior (“If a debtor so changes its name”) might  
41 lead a court to read the statute, erroneously, as applying only to cases where the debtor actively  
42 changes his name and not to cases where the debtor passively permits an event to occur that  
43 results in a change of the debtor’s name for purposes of Article 9. Accordingly, an amendment  
44 changes the emphasis of the chapeau to Section 9-507(c) from the debtor’s having made a name  
45 change (“a debtor so changes its name”) to the fact that a name required for an effective  
46 financing statement has changed (“the name it provides for a debtor becomes insufficient as the  
47 name of the debtor under Section 9-503(a)”).

4 **SECTION 9-515. DURATION AND EFFECTIVENESS OF FINANCING**

5 **STATEMENT; EFFECT OF LAPSED FINANCING STATEMENT.**

6 (a) **[Five-year effectiveness.]** Except as otherwise provided in subsections (b), (e), (f),  
7 and (g), a filed financing statement is effective for a period of five years after the date of filing.

8 (b) **[Public-finance or manufactured-home transaction.]** Except as otherwise  
9 provided in subsections (e), (f), and (g), an initial financing statement filed in connection with a  
10 public-finance transaction or manufactured-home transaction is effective for a period of 30 years  
11 after the date of filing if it indicates that it is filed in connection with a public-finance transaction  
12 or manufactured-home transaction.

13 (c) **[Lapse and continuation of financing statement.]** The effectiveness of a filed  
14 financing statement lapses on the expiration of the period of its effectiveness unless before the  
15 lapse a continuation statement is filed pursuant to subsection (d). Upon lapse, a financing  
16 statement ceases to be effective and any security interest or agricultural lien that was perfected  
17 by the financing statement becomes unperfected, unless the security interest is perfected  
18 otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is  
19 deemed never to have been perfected as against a purchaser of the collateral for value.

20 (d) **[When continuation statement may be filed.]** A continuation statement may be  
21 filed only within six months before the expiration of the five-year period specified in subsection  
22 (a) or the 30-year period specified in subsection (b), whichever is applicable.

23 (e) **[Effect of filing continuation statement.]** Except as otherwise provided in Section  
24 9-510, upon timely filing of a continuation statement, the effectiveness of the initial financing  
25 statement continues for a period of five years commencing on the day on which the financing

1 statement would have become ineffective in the absence of the filing. Upon the expiration of the  
2 five-year period, the financing statement lapses in the same manner as provided in subsection  
3 (c), unless, before the lapse, another continuation statement is filed pursuant to subsection (d).  
4 Succeeding continuation statements may be filed in the same manner to continue the  
5 effectiveness of the initial financing statement.

6 (f) **[Transmitting utility financing statement.]** If a debtor is a transmitting utility and  
7 a filed initial financing statement so indicates, the financing statement is effective until a  
8 termination statement is filed.

9 (g) **[Record of mortgage as financing statement.]** A record of a mortgage that is  
10 effective as a financing statement filed as a fixture filing under Section 9-502(c) remains  
11 effective as a financing statement filed as a fixture filing until the mortgage is released or  
12 satisfied of record or its effectiveness otherwise terminates as to the real property.

#### 13 **Reporter's Note**

14 The amendment conforms subsection (f) to subsection (b).  
15  
16  
17

### 18 **SECTION 9-516. WHAT CONSTITUTES FILING; EFFECTIVENESS OF** 19 **FILING.**

20 (a) **[What constitutes filing.]** Except as otherwise provided in subsection (b),  
21 communication of a record to a filing office and tender of the filing fee or acceptance of the  
22 record by the filing office constitutes filing.

23 (b) **[Refusal to accept record; filing does not occur.]** Filing does not occur with  
24 respect to a record that a filing office refuses to accept because:

25 (1) the record is not communicated by a method or medium of communication  
26 authorized by the filing office;

1 (2) an amount equal to or greater than the applicable filing fee is not tendered;

2 (3) the filing office is unable to index the record because:

3 (A) in the case of an initial financing statement, the record does not  
4 provide a name for the debtor;

5 (B) in the case of an amendment or ~~correction~~ information statement, the  
6 record:

7 (i) does not identify the initial financing statement as required by  
8 Section 9-512 or 9-518, as applicable; or

9 (ii) identifies an initial financing statement whose effectiveness  
10 has lapsed under Section 9-515;

11 (C) in the case of an initial financing statement that provides the name of a  
12 debtor identified as an individual or an amendment that provides a name of a debtor identified as  
13 an individual which was not previously provided in the financing statement to which the record  
14 relates, the record does not identify the debtor's ~~last name~~ surname; or

15 (D) in the case of a record filed [or recorded] in the filing office described  
16 in Section 9-501(a)(1), the record does not provide a sufficient description of the real property to  
17 which it relates;

18 (4) in the case of an initial financing statement or an amendment that adds a  
19 secured party of record, the record does not provide a name and mailing address for the secured  
20 party of record;

21 (5) in the case of an initial financing statement or an amendment that provides a  
22 name of a debtor which was not previously provided in the financing statement to which the  
23 amendment relates, the record does not:

24 (A) provide a mailing address for the debtor; or

1 (B) indicate whether the name provided as the name of the debtor is the  
2 name of an individual or an organization; or

3 ~~(C) if the financing statement indicates that the debtor is an organization,~~  
4 ~~provide:~~

5 ~~(i) a type of organization for the debtor;~~

6 ~~(ii) a jurisdiction of organization for the debtor; or~~

7 ~~(iii) an organizational identification number for the debtor or~~  
8 ~~indicate that the debtor has none;~~

9 (6) in the case of an assignment reflected in an initial financing statement under  
10 Section 9-514(a) or an amendment filed under Section 9-514(b), the record does not provide a  
11 name and mailing address for the assignee; or

12 (7) in the case of a continuation statement, the record is not filed within the six-  
13 month period prescribed by Section 9-515(d).

14 (c) **[Rules applicable to subsection (b).]** For purposes of subsection (b):

15 (1) a record does not provide information if the filing office is unable to read or  
16 decipher the information; and

17 (2) a record that does not indicate that it is an amendment or identify an initial  
18 financing statement to which it relates, as required by Section 9-512, 9-514, or 9-518, is an  
19 initial financing statement.

20 (d) **[Refusal to accept record; record effective as filed record.]** A record that is  
21 communicated to the filing office with tender of the filing fee, but which the filing office refuses  
22 to accept for a reason other than one set forth in subsection (b), is effective as a filed record  
23 except as against a purchaser of the collateral which gives value in reasonable reliance upon the  
24 absence of the record from the files.

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## Official Comment

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3. **Effectiveness of Rejected Record.** Subsection (b) provides an exclusive list of grounds upon which the filing office may reject a record. See Section 9-520(a). Although some of these grounds would also be grounds for rendering a filed record ineffective (e.g., an initial financing statement does not provide a name for the debtor), many others would not be (e.g., an initial financing statement does not provide a mailing address for the debtor or secured party of record). Neither this section nor Section 9-520 requires or authorizes the filing office to determine, or even consider, the accuracy of information provided in a record. ~~For example, the State A filing office may not reject under subsection (b)(5)(C) an initial financing statement indicating that the debtor is a State A corporation and providing a three-digit organizational identification number, even if all State A organizational identification numbers contain at least five digits and two letters. Some organizations that are not registered organizations (such as foreign corporations) have a readily determinable jurisdiction of organization. When that is not the case, for purposes of this section, the jurisdiction of organization for a debtor that is an organization but not a registered organization is any jurisdiction that bears a reasonable relation to the debtor. For example, the jurisdiction of organization may be the jurisdiction in which the debtor is located under the Section 9-307(b) (i.e., its place of business or chief executive office) or the jurisdiction stated in any organizational document or agreement for the debtor as the jurisdiction under whose law the organization is formed or as the jurisdiction whose law is the governing law. Thus, for purposes of this section, more than one jurisdiction may qualify as the debtor's jurisdiction of organization. See Comment 9.~~

\* \* \*

6. **Uncertainty Concerning Individual Debtor's Last Name Surname.** Subsection (b)(3)(C) requires the filing office to reject an initial financing statement or amendment adding an individual debtor if the office cannot index the record because it does not identify the debtor's last name surname (e.g., it is unclear whether the debtor's name is Elton John or John Elton).

## Reporter's Note

1. Subsection (b)(3)(B) has been conformed to the amendments to Section 9-518.
2. Subsections (b)(3)(C) and (b)(5)(B) have been conformed to the amendments to Section 9-503.
3. A financing statement is legally sufficient if it provides the information required by Section 9-502(a), even if it does not provide the additional information specified in Section 9-516(b)(5). However, the filing office is required to reject a financing statement that does not provide this additional information. The additional information is meant to assist searchers in weeding out "false positives," i.e., records that a search reveals but which do not pertain to the debtor in question, and to assist filers by helping to ensure that the financing statement is filed in the proper jurisdiction. Experience has shown, however, that the benefits afforded by requiring

1 the filer to provide the information specified in subparagraph (C) are less than the costs that the  
2 subparagraph imposes.

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4 \* \* \*

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7 **SECTION 9-518. CLAIM CONCERNING INACCURATE OR WRONGFULLY**  
8 **FILED RECORD.**

9 (a) ~~[Who may file~~ **Statement with respect to record indexed under person's name.**]

10 A person may file in the filing office a ~~correction~~ an information statement with respect to a  
11 record indexed there under the person's name if the person believes that the record is inaccurate  
12 or was wrongfully filed.

13 **[Alternative A]**

14 (b) ~~[Sufficiency~~ **Contents of correction statement under subsection (a).**]  ~~A~~

15 ~~correction~~ An information statement under subsection (a) must:

16 (1) identify the record to which it relates by the file number assigned to the initial  
17 financing statement to which the record relates;

18 (2) indicate that it is a ~~correction~~ an information statement; and

19 (3) provide the basis for the person's belief that the record is inaccurate and  
20 indicate the manner in which the person believes the record should be amended to cure any  
21 inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

22 **[Alternative B]**

23 (b) ~~[Sufficiency~~ **Contents of correction statement under subsection (a).**]  ~~A~~

24 ~~correction~~ An information statement under subsection (a) must:

25 (1) identify the record to which it relates by:

26 (A) the file number assigned to the initial financing statement to which the  
27 record relates; and

1 (B) if the ~~correction~~information statement relates to a record filed [or  
2 recorded] in a filing office described in Section 9-501(a)(1), the date [and time] that the initial  
3 financing statement was filed [or recorded] and the information specified in Section 9-502(b);

4 (2) indicate that it is a ~~correction~~an information statement; and

5 (3) provide the basis for the person's belief that the record is inaccurate and  
6 indicate the manner in which the person believes the record should be amended to cure any  
7 inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

8 **[End of Alternatives]**

9 (c) [Statement by secured party of record.] A person may file in the filing office an  
10 information statement with respect to a record filed there if the person is a secured party of  
11 record with respect to the financing statement to which the record relates and believes that the  
12 person that filed the record was not entitled to do so under Section 9-509(d).

13 **[Alternative A]**

14 (d) [Contents of statement under subsection (c).] An information statement under  
15 subsection (c) must:

16 (1) identify the record to which it relates by the file number assigned to the initial  
17 financing statement to which the record relates;

18 (2) indicate that it is an information statement; and

19 (3) provide the basis for the person's belief that the person that filed the record  
20 was not entitled to do so under Section 9-509(d).

21 **[Alternative B]**

22 (d) [Contents of statement under subsection (c).] An information statement under  
23 subsection (c) must:

24 (1) identify the record to which it relates by:

1                    (A) the file number assigned to the initial financing statement to which the  
2 record relates; and

3                    (B) if the statement relates to a record filed [or recorded] in a filing office  
4 described in Section 9-501(a)(1), the date [and time] that the initial financing statement was filed  
5 [or recorded] and the information specified in Section 9-502(b);

6                    (2) indicate that it is an information statement; and

7                    (3) provide the basis for the person’s belief that the person that filed the record  
8 was not entitled to do so under Section 9-509(d).

9                    **[End of Alternatives]**

10                  ~~(c)~~ (e) **[Record not affected by ~~correction~~-information statement.]** The filing of a  
11 ~~correction~~-an information statement does not affect the effectiveness of an initial financing  
12 statement or other filed record.

13 ***Legislative Note:*** *States whose real-estate filing offices require additional information in*  
14 *amendments and cannot search their records by both the name of the debtor and the file number*  
15 *should enact Alternative B to Sections 9-512(a), 9-518(b), 9-518(d), 9-519(f) and 9-522(a).*  
16

17                    **Official Comment**

18                    \* \* \*

19  
20  
21                  2. **~~Correction-Information~~ Statements.** Former Article 9 did not afford a nonjudicial  
22 means for a debtor to ~~correct~~-indicate that a financing statement or other record ~~that~~ was  
23 inaccurate or wrongfully filed. Subsection (a) affords the debtor the right to file a ~~correction~~-an  
24 information statement. Among other requirements, the ~~correction~~-information statement must  
25 provide the basis for the debtor’s belief that the public record should be corrected. See  
26 subsection (b). These provisions, which resemble the analogous remedy in the Fair Credit  
27 Reporting Act, 15 U.S.C. § 1681i, afford an aggrieved person the opportunity to state its position  
28 on the public record. They do not permit an aggrieved person to change the legal effect of the  
29 public record. Thus, although a filed ~~correction~~-information statement becomes part of the  
30 “financing statement,” as defined in Section 9-102, the filing does not affect the effectiveness of  
31 the initial financing statement or any other filed record. See subsection ~~(c)~~(e).  
32

33                  Sometimes a person files a termination statement or other record relating to a filed  
34 financing statement without being entitled to do so. A secured party of record with respect to the

1 financing statement who believes that such a record has been filed may, but need not, file an  
2 information statement indicating that the person that filed the record was not entitled to do so.  
3 See subsection (c). An information statement has no legal effect. Its sole purpose is to provide  
4 some limited public notice that the efficacy of a filed record is disputed. If the person that filed  
5 the record was not entitled to do so, the filed record is ineffective, regardless of whether the  
6 secured party of record files an information statement. Likewise, if the person that filed the  
7 record was entitled to do so, the filed record is effective, even if the secured party of record files  
8 an information statement. See Section 9-510(a), 9-518(e). Because an information statement  
9 filed under subsection (c) has no legal effect, a secured party of record—even one who is aware  
10 of the unauthorized filing of a record—has no duty to file one. Just as searchers bear the burden  
11 of determining whether the filing of initial financing statement was authorized, searchers bear  
12 the burden of determining whether the filing of every subsequent record was authorized.  
13

14 Inasmuch as the filing of an information statement has no legal effect, this section does  
15 not provide a mechanism by which a secured party can correct an error that it discovers in its  
16 own financing statement.  
17

18 This section does not displace other provisions of this Article that impose liability for  
19 making unauthorized filings or failing to file or send a termination statement (see Section 9-  
20 625(e)), nor does it displace any available judicial remedies.  
21

22 **3. Resort to Other Law.** This Article cannot provide a satisfactory or complete solution  
23 to problems caused by misuse of the public records. The problem of “bogus” filings is not  
24 limited to the UCC filing system but extends to the real-property records, as well. A summary  
25 judicial procedure for correcting the public record and criminal penalties for those who misuse  
26 the filing and recording systems are likely to be more effective and put less strain on the filing  
27 system than provisions authorizing or requiring action by filing and recording offices.  
28

### 29 **Reporter’s Note**

30  
31 1. Current Section 9-518 provides a mechanism whereby an aggrieved debtor may use  
32 the filing office to make a public declaration concerning the debtor’s belief that a filed financing  
33 statement naming the debtor is inaccurate or was wrongfully filed. New subsections (c) and (d)  
34 would provide a similar mechanism to a secured party of record with respect to a financing  
35 statement to express its belief that a person who filed a record relating to the financing statement  
36 was not entitled to do so. As the current text does with respect to subsection (b), the  
37 amendments would provide alternative versions of subsection (d). Each State would choose the  
38 alternative that is better suited to the method by which searches are conducted in the real-estate  
39 records maintained in the State.  
40

41 2. Because this section currently refers to the statement as a “correction statement,”  
42 some debtors have filed one under the misapprehension that the filing has legal effect. It does  
43 not. See subsection (e). To prevent future confusion, the amendment would refer to the  
44 statement as an “information statement.” The comments throughout Article 9 will be amended  
45 to reflect this change in terminology.  
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3 [SUBPART 2. DUTIES AND OPERATION OF FILING OFFICE]  
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7 **SECTION 9-521. UNIFORM FORM OF WRITTEN FINANCING STATEMENT**  
8 **AND AMENDMENT.**

9 (a) **[Initial financing statement form.]** A filing office that accepts written records may  
10 not refuse to accept a written initial financing statement in the following form and format except  
11 for a reason set forth in Section 9-516(b):

12 *[ULC office to insert forms]*

13 (b) **[Amendment form.]** A filing office that accepts written records may not refuse to  
14 accept a written record in the following form and format except for a reason set forth in Section  
15 9-516(b):

16 *[ULC office to insert forms]*

17 **Reporter's Note**

18  
19 This section provides sample written forms that must be accepted in every filing office in  
20 the country, as long as the filing office's rules permit it to accept written communications. By  
21 completing one of the forms in this section, a secured party can be certain that the filing office is  
22 obligated to accept it. The forms have been revised to reflect the experience of filing offices  
23 with the existing forms and because the amendments to Section 9-503 would change some of the  
24 requirements for an effective financing statement. The details of the forms appearing here are  
25 still under consideration.

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30 **PART 6**

31 **DEFAULT**

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34 [SUBPART 1. DEFAULT AND ENFORCEMENT OF SECURITY INTEREST]  
35

36 \* \* \*

1           **SECTION 9-607. COLLECTION AND ENFORCEMENT BY SECURED PARTY.**

2           **(a) [Collection and enforcement generally.]** If so agreed, and in any event after  
3 default, a secured party:

4                   (1) may notify an account debtor or other person obligated on collateral to make  
5 payment or otherwise render performance to or for the benefit of the secured party;

6                   (2) may take any proceeds to which the secured party is entitled under Section  
7 9-315;

8                   (3) may enforce the obligations of an account debtor or other person obligated on  
9 collateral and exercise the rights of the debtor with respect to the obligation of the account  
10 debtor or other person obligated on collateral to make payment or otherwise render performance  
11 to the debtor, and with respect to any property that secures the obligations of the account debtor  
12 or other person obligated on the collateral;

13                   (4) if it holds a security interest in a deposit account perfected by control under  
14 Section 9-104(a)(1), may apply the balance of the deposit account to the obligation secured by  
15 the deposit account; and

16                   (5) if it holds a security interest in a deposit account perfected by control under  
17 Section 9-104(a)(2) or (3), may instruct the bank to pay the balance of the deposit account to or  
18 for the benefit of the secured party.

19           **(b) [Nonjudicial enforcement of mortgage.]** If necessary to enable a secured party to  
20 exercise under subsection (a)(3) the right of a debtor to enforce a mortgage nonjudicially, the  
21 secured party may record in the office in which a record of the mortgage is recorded:

22                   (1) a copy of the security agreement that creates or provides for a security interest  
23 in the obligation secured by the mortgage; and

24                   (2) the secured party's sworn affidavit in recordable form stating that:

1 (A) a default has occurred with respect to the obligation secured by the  
2 mortgage; and

3 (B) the secured party is entitled to enforce the mortgage nonjudicially.

4 (c) [**Commercially reasonable collection and enforcement.**] A secured party shall  
5 proceed in a commercially reasonable manner if the secured party:

6 (1) undertakes to collect from or enforce an obligation of an account debtor or  
7 other person obligated on collateral; and

8 (2) is entitled to charge back uncollected collateral or otherwise to full or limited  
9 recourse against the debtor or a secondary obligor.

10 (d) [**Expenses of collection and enforcement.**] A secured party may deduct from the  
11 collections made pursuant to subsection (c) reasonable expenses of collection and enforcement,  
12 including reasonable attorney's fees and legal expenses incurred by the secured party.

13 (e) [**Duties to secured party not affected.**] This section does not determine whether an  
14 account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

### 15 **Reporter's Note**

16  
17 The amendment to subsection (b)(2)(A) is for clarification only; it does not reflect a  
18 change in meaning. Accordingly, the amendment should apply to all transactions governed by  
19 Article 9, including those that were entered into before the effective date of the amendment.

20 \* \* \*

## 21 **PART 8**

### 22 **TRANSITION PROVISIONS FOR 2010 AMENDMENTS**

23 **SECTION 9-801. EFFECTIVE DATE.** This [Act] takes effect on July 1, 2013.

24 **SECTION 9-802. SAVINGS CLAUSE.**

25 (a) [**Pre-effective-date transactions or liens.**] Except as otherwise provided in this

1 part, this [Act] applies to a transaction or lien within its scope, even if the transaction or lien was  
2 entered into or created before this [Act] takes effect.

3 (b) [Pre-effective-date proceedings.] This [Act] does not affect an action, case, or  
4 proceeding commenced before this [Act] takes effect.

5 **SECTION 9-803. SECURITY INTEREST PERFECTED BEFORE EFFECTIVE**  
6 **DATE.**

7 (a) [Continuing perfection: perfection requirements satisfied.] A security interest  
8 that is a perfected security interest immediately before this [Act] takes effect is a perfected  
9 security interest under [Article 9 as amended by this [Act]] if, when this [Act] takes effect, the  
10 applicable requirements for attachment and perfection under [Article 9 as amended by this [Act]]  
11 are satisfied without further action.

12 (b) [Continuing perfection: perfection requirements not satisfied.] Except as  
13 otherwise provided in Section 9-805, if, immediately before this [Act] takes effect, a security  
14 interest is a perfected security interest, but the applicable requirements for perfection under  
15 [Article 9 as amended by this [Act]] are not satisfied when this [Act] takes effect, the security  
16 interest remains perfected thereafter only if the applicable requirements for perfection under  
17 [Article 9 as amended by this [Act]] are satisfied within one year after this [Act] takes effect.]

18 **SECTION 9-804. SECURITY INTEREST UNPERFECTED BEFORE**  
19 **EFFECTIVE DATE. A security interest that is an unperfected security interest immediately**  
20 **before this [Act] takes effect becomes a perfected security interest:**

21 (1) without further action, when this [Act] takes effect if the applicable requirements for  
22 perfection under [Article 9 as amended by this [Act]] are satisfied before or at that time; or

23 (2) when the applicable requirements for perfection are satisfied if the requirements are  
24 satisfied after that time.

1            **SECTION 9-805. EFFECTIVENESS OF ACTION TAKEN BEFORE**

2            **EFFECTIVE DATE.**

3            **(a) [Pre-effective-date filing effective.]** The filing of a financing statement before this  
4            [Act] takes effect is effective to perfect a security interest to the extent the filing would satisfy  
5            the applicable requirements for perfection under [Article 9 as amended by this [Act]].

6            **(b) [When pre-effective-date filing becomes ineffective.]** This [Act] does not render  
7            ineffective an effective financing statement that, before this [Act] takes effect, is filed and  
8            satisfies the applicable requirements for perfection under the law of the jurisdiction governing  
9            perfection as provided in [Article 9 as it existed before amendment]. However, except as  
10           otherwise provided in subsections (c) and (d) and Section 9-806, the financing statement ceases  
11           to be effective:

12                    (1) if the financing statement is filed in this State, at the time the financing  
13                    statement would have ceased to be effective had this [Act] not taken effect; or

14                    (2) if the financing statement is filed in another jurisdiction, at the earlier of:

15                            (A) the time the financing statement would have ceased to be effective  
16                    under the law of that jurisdiction; or

17                            (B) June 30, 2018.

18            **(c) [Continuation statement.]** The filing of a continuation statement after this [Act]  
19            takes effect does not continue the effectiveness of the financing statement filed before this [Act]  
20            takes effect. However, upon the timely filing of a continuation statement after this [Act] takes  
21            effect and in accordance with the law of the jurisdiction governing perfection as provided in  
22            [Article 9 as amended by this [Act]], the effectiveness of a financing statement filed in the same  
23            office in that jurisdiction before this [Act] takes effect continues for the period provided by the  
24            law of that jurisdiction.

1 (d) [Application of subsection (b)(2)(B) to transmitting utility financing statement.]

2 Subsection (b)(2)(B) applies to a financing statement that, before this [Act] takes effect, is filed  
3 against a transmitting utility and satisfies the applicable requirements for perfection under the  
4 law of the jurisdiction governing perfection as provided in [Article 9 as it existed before  
5 amendment], only to the extent that [Article 9 as amended by this [Act]] provides that the law of  
6 a jurisdiction other than the jurisdiction in which the financing statement is filed governs  
7 perfection of a security interest in collateral covered by the financing statement.

8 (e) [Application of Part 5.] A financing statement that includes a financing statement  
9 filed before this [Act] takes effect and a continuation statement filed after this [Act] takes effect  
10 is effective only to the extent that it satisfies the requirements of [Part 5 as amended by this  
11 [Act]] for an initial financing statement. A financing statement that indicates that the debtor is a  
12 decendent's estate indicates that the collateral is being administered by a personal representative  
13 within the meaning of Section 9-503(a)(2) as amended by this [Act]. A financing statement that  
14 indicates that the debtor is a trust or is a trustee acting with respect to property held in trust  
15 indicates that the collateral is held in a trust within the meaning of Section 9-503(a)(3) as  
16 amended by this [Act].

17 **SECTION 9-806. WHEN INITIAL FINANCING STATEMENT SUFFICES TO**  
18 **CONTINUE EFFECTIVENESS OF FINANCING STATEMENT.**

19 (a) [Initial financing statement in lieu of continuation statement.] The filing of an  
20 initial financing statement in the office specified in Section 9-501 continues the effectiveness of  
21 a financing statement filed before this [Act] takes effect if:

22 (1) the filing of an initial financing statement in that office would be effective to  
23 perfect a security interest under [Article 9 as amended by this [Act]];

24 (2) the pre-effective-date financing statement was filed in an office in another

1 State; and

2 (3) the initial financing statement satisfies subsection (c).

3 (b) [Period of continued effectiveness.] The filing of an initial financing statement  
4 under subsection (a) continues the effectiveness of the pre-effective-date financing  
5 statement:

6 (1) if the initial financing statement is filed before this [Act] takes effect, for the  
7 period provided in [unamended Section 9-515] with respect to an initial financing statement; and

8 (2) if the initial financing statement is filed after this [Act] takes effect, for the  
9 period provided in Section 9-515 as amended by this [Act] with respect to an initial financing  
10 statement.

11 (c) [Requirements for initial financing statement under subsection (a).] To be  
12 effective for purposes of subsection (a), an initial financing statement must:

13 (1) satisfy the requirements of [Part 5 as amended by this [Act]] for an initial  
14 financing statement;

15 (2) identify the pre-effective-date financing statement by indicating the office in  
16 which the financing statement was filed and providing the dates of filing and file numbers, if  
17 any, of the financing statement and of the most recent continuation statement filed with respect  
18 to the financing statement; and

19 (3) indicate that the pre-effective-date financing statement remains effective.

20 **SECTION 9-807. AMENDMENT OF PRE-EFFECTIVE-DATE FINANCING**  
21 **STATEMENT.**

22 (a) [“Pre-effective-date financing statement”.] In this section, “pre-effective-date  
23 financing statement” means a financing statement filed before this [Act] takes effect.

24 (b) [Applicable law.] After this [Act] takes effect, a person may add or delete collateral

1 covered by, continue or terminate the effectiveness of, or otherwise amend the information  
2 provided in, a pre-effective-date financing statement only in accordance with the law of the  
3 jurisdiction governing perfection as provided in [Article 9 as amended by this [Act]]. However,  
4 the effectiveness of a pre-effective-date financing statement also may be terminated in  
5 accordance with the law of the jurisdiction in which the financing statement is filed.

6 (c) [Method of amending: general rule.] Except as otherwise provided in subsection  
7 (d), if the law of this State governs perfection of a security interest, the information in a pre-  
8 effective-date financing statement may be amended after this [Act] takes effect only if:

9 (1) the pre-effective-date financing statement and an amendment are filed in the  
10 office specified in Section 9-501;

11 (2) an amendment is filed in the office specified in Section 9-501 concurrently  
12 with, or after the filing in that office of, an initial financing statement that satisfies Section 9-  
13 806(c); or

14 (3) an initial financing statement that provides the information as amended and  
15 satisfies Section 9-806(c) is filed in the office specified in Section 9-501.

16 (d) [Method of amending: continuation.] If the law of this State governs perfection of  
17 a security interest, the effectiveness of a pre-effective-date financing statement may be continued  
18 only under Section 9-805(c) and (e) or 9-806.

19 (e) [Method of amending: additional termination rule.] Whether or not the law of  
20 this State governs perfection of a security interest, the effectiveness of a pre-effective-date  
21 financing statement filed in this State may be terminated after this [Act] takes effect by filing a  
22 termination statement in the office in which the pre-effective-date financing statement is filed,  
23 unless an initial financing statement that satisfies Section 9-806(c) has been filed in the office  
24 specified by the law of the jurisdiction governing perfection as provided in [Article 9 as

1 amended by this [Act]] as the office in which to file a financing statement.

2 **SECTION 9-808. PERSON ENTITLED TO FILE INITIAL FINANCING**

3 **STATEMENT OR CONTINUATION STATEMENT.** A person may file an initial financing  
4 statement or a continuation statement under this part if:

5 (1) the secured party of record authorizes the filing; and

6 (2) the filing is necessary under this part:

7 (A) to continue the effectiveness of a financing statement filed before this [Act]  
8 takes effect; or

9 (B) to perfect or continue the perfection of a security interest.

10 **SECTION 9-809. PRIORITY.** This [Act] determines the priority of conflicting claims  
11 to collateral. However, if the relative priorities of the claims were established before this [Act]  
12 takes effect, [Article 9 as it existed before amendment] determines priority.

13 **Reporter's Note**

14  
15 These transition provisions are based on the provisions of Article 9, Part 7, which govern  
16 the transition to Revised Article 9. As under Part 7, these provisions contemplate a uniform  
17 effective date that is roughly three years after the anticipated approval of the amendments by the  
18 sponsors and a five-year transition period after the Act takes effect, during which filings made  
19 before the effective date must be conformed to the amendments to remain effective.

20  
21 Because the current amendments will change fewer aspects of Article than the complete  
22 revision did, not all of the provisions of Part 7 are relevant to the current amendments. For  
23 example, unlike Revised Article 9, these amendments do not change the scope of the Article.  
24 The Joint Review Committee decided not to include Part 7 provisions that clearly would have no  
25 application to the amendments. When in doubt, the Joint Review Committee decided to retain a  
26 transition provision rather than delete it.

27  
28 The most significant transition problem raised by the current amendments arises from  
29 changes to Section 9-503(a), concerning the name of the debtor that must be provided for a  
30 financing statement to be sufficient. In contrast, the most significant transition problem  
31 addressed by the complete revision arose from the change in the choice-of-law rules governing  
32 where to file a financing statement. The current amendments do not change the choice-of-law  
33 rules. Even so, the amendments will change the place to file in a few cases, because certain  
34 entities that are not currently classified as "registered organizations" would fall within that  
35 category under the amendments. (A filing against a registered organization must be made in the

1 jurisdiction of organization, whereas a filing against a nonregistered organization must be made  
2 where the organization's chief executive office is located, which may not be the jurisdiction of  
3 organization.)

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**APPENDIX I**

**MODIFICATIONS TO THE COMMENTS UNACCOMPANIED BY AMENDMENTS  
TO THE OFFICIAL TEXT**

**SECTION 9-102. DEFINITIONS AND INDEX OF DEFINITIONS.**

\* \* \*

**Official Comment**

\* \* \*

**5. Receivables-related Definitions.**

a. **“Account”; “Health-Care-Insurance Receivable”; “As-Extracted Collateral.”** The definition of “account” has been expanded and reformulated. It is no longer limited to rights to payment relating to goods or services. Many categories of rights to payment that were classified as general intangibles under former Article 9 are accounts under this Article. Thus, if they are sold, a financing statement must be filed to perfect the buyer’s interest in them. Among the types of property that are expressly excluded from the definition is “a right to payment for money or funds advanced or sold.” As defined in Section 1-201, “money” is limited essentially to currency. As used in the exclusion from the definition of “account,” however, “funds” is a broader concept (although the term is not defined). For example, when a bank-lender credits a borrower’s deposit account for the amount of a loan, the bank’s advance of funds is not a transaction giving rise to an account.

The definition of “health-care-insurance receivable” is new. It is a subset of the definition of “account.” However, the rules generally applicable to account debtors on accounts do not apply to insurers obligated on health-care-insurance receivables. See Sections 9-404(e), 9-405(d), 9-406(i).

Note that certain accounts also are “as-extracted collateral.” See Comment 4.c., Examples 6 and 7.

b. **“Chattel Paper”; “Electronic Chattel Paper”; “Tangible Chattel Paper.”** “Chattel paper” consists of a monetary obligation together with a security interest in or a lease of specific goods if the obligation and security interest or lease are evidenced by “a record or records.” The definition has been expanded from that found in former Article 9 to include records that evidence a monetary obligation and a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, or a lease of specific goods and license of software used in the goods. The expanded definition covers transactions in which the debtor’s or lessee’s monetary obligation includes amounts owed with respect to software used in the goods. The monetary obligation with respect to the software need not be owed under a license from the secured party or lessor, and the secured party or lessor need not be a party to the license transaction itself. Among the types of monetary obligations that are included in “chattel paper” are amounts that have been advanced

1 by the secured party or lessor to enable the debtor or lessee to acquire or obtain financing for a  
2 license of the software used in the goods. The definition also makes clear that rights to payment  
3 arising out of credit-card transactions are not chattel paper.  
4

5 Charters of vessels are expressly excluded from the definition of chattel paper; they are  
6 accounts. The term “charter” as used in this section includes bareboat charters, time charters,  
7 successive voyage charters, contracts of affreightment, contracts of carriage, and all other  
8 arrangements for the use of vessels.  
9

10 Under former Section 9-105, only if the evidence of an obligation consisted of “a writing  
11 or writings” could an obligation qualify as chattel paper. In this Article, traditional, written  
12 chattel paper is included in the definition of “tangible chattel paper.” “Electronic chattel paper”  
13 is chattel paper that is stored in an electronic medium instead of in tangible form. The concept  
14 of an electronic medium should be construed liberally to include electrical, digital, magnetic,  
15 optical, electromagnetic, or any other current or similar emerging technologies.  
16

17 The definition of electronic chattel paper does not dictate that it be created in any  
18 particular fashion. For example, a record consisting of a tangible writing may be converted to  
19 electronic form (e.g., by creating electronic images of a signed writing). Or, records may be  
20 initially created and executed in electronic form (e.g., a lessee might authenticate an electronic  
21 record of a lease that is then stored in electronic form). In either case the resulting records are  
22 electronic chattel paper. Likewise, tangible chattel paper results when chattel paper in electronic  
23 form is converted to tangible form.  
24

25 \* \* \*  
26

27 d. **“General Intangible”;** **“Payment Intangible.”** “General intangible” is the  
28 residual category of personal property, including things in action, that is not included in the other  
29 defined types of collateral. Examples are various categories of intellectual property and the right  
30 to payment of a loan of funds that is not evidenced by chattel paper or an instrument. As used in  
31 the definition of “general intangible,” “things in action” includes rights that arise under a license  
32 of intellectual property, including the right to exploit the intellectual property without liability  
33 for infringement. The definition has been revised to exclude commercial tort claims, deposit  
34 accounts, and letter-of-credit rights. Each of the three is a separate type of collateral. One  
35 important consequence of this exclusion is that tortfeasors (commercial tort claims), banks  
36 (deposit accounts), and persons obligated on letters of credit (letter-of-credit rights) are not  
37 “account debtors” having the rights and obligations set forth in Sections 9-404, 9-405, and  
38 9-406. In particular, tortfeasors, banks, and persons obligated on letters of credit are not  
39 obligated to pay an assignee (secured party) upon receipt of the notification described in Section  
40 9-404(a). See Comment 5.h. Another important consequence relates to the adequacy of the  
41 description in the security agreement. See Section 9-108.  
42

43 “Payment intangible” is a subset of the definition of “general intangible.” The sale of a  
44 payment intangible is subject to this Article. See Section 9-109(a)(3). Virtually any intangible  
45 right could give rise to a right to payment of money once one hypothesizes, for example, that the  
46 account debtor is in breach of its obligation. The term “payment intangible,” however, embraces  
47 only those general intangibles “under which the account debtor’s *principal* obligation is a

1 monetary obligation.” (Emphasis added.)

2  
3 In classifying intangible collateral, a court should begin by identifying the particular  
4 rights that have been assigned. The account debtor (promisor) under a particular contract may  
5 owe several types of monetary obligations as well as other, nonmonetary obligations. If the  
6 promisee’s right to payment of money is assigned separately, the right is an account or payment  
7 intangible, depending on how the account debtor’s obligation arose. When all the promisee’s  
8 rights are assigned together, an account, a payment intangible, and a general intangible all may  
9 be involved, depending on the nature of the rights.

10  
11 A right to the payment of money is frequently buttressed by ancillary ~~covenants~~ rights,  
12 such as covenants in a purchase agreement, note, or mortgage requiring insurance on the  
13 collateral or forbidding removal of the collateral, ~~or~~ covenants to preserve the creditworthiness  
14 of the promisor, such as covenants restricting dividends and the like, and the lessor’s rights with  
15 respect to leased goods that arise upon the lessee’s default (see Section 2A-523). This Article  
16 does not treat these ancillary rights separately from the rights to payment to which they relate.  
17 For example, attachment and perfection of an assignment of a right to payment of a monetary  
18 obligation, whether it be an account or payment intangible, also carries these ancillary rights.  
19 Contrary to the opinion in *In re Commercial Money Center, Inc.*, 350 B.R. 465 (B.A.P. 9th Cir.  
20 2006), if the lessor’s rights under a lease constitute chattel paper, an assignment of the lessor’s  
21 right to payment under the lease also would be an assignment of chattel paper, even if the  
22 assignment excludes other rights.

23  
24 Every “payment intangible” is also a “general intangible.” Likewise, “software” is a  
25 “general intangible” for purposes of this Article. See Comment 25. Accordingly, except as  
26 otherwise provided, statutory provisions applicable to general intangibles apply to payment  
27 intangibles and software.

28 \* \* \*

### 30 **Reporter’s Note**

31  
32  
33 1. An additional sentence or two will explain that a right to payment “arising out of the  
34 use of a credit or charge card” is the right of a card issuer to receive payment from its  
35 cardholder, and that rights to payment arising out of the collection of a credit-card slip, such as  
36 the contractual obligation of a merchant’s bank to pay the merchant for settlement of the card  
37 transaction, are not within the quoted phrase.

38  
39 2. The point made in the sentence added to paragraph 5.b. may be further amplified.

40  
41 3. The addition to paragraph 5.d. illustrates the correct application of the Article 9  
42 classification system in the context of an assignment of the lessor’s right to payment under a  
43 lease that is chattel paper.  
44  
45

1           **SECTION 9-104. CONTROL OF DEPOSIT ACCOUNT.**

2           (a) **[Requirements for control.]** A secured party has control of a deposit account if:

3                     (1) the secured party is the bank with which the deposit account is maintained;

4                     (2) the debtor, secured party, and bank have agreed in an authenticated record that  
5 the bank will comply with instructions originated by the secured party directing disposition of  
6 the funds in the deposit account without further consent by the debtor;~~or~~

7                     (3) the secured party becomes the bank’s customer with respect to the deposit  
8 account.

9           \* \* \*

10   **Official Comment**

11           \* \* \*

12           3. **Requirements for “Control.”** This section derives from Section 8-106 of Revised  
13 Article 8, which defines “control” of securities and certain other investment property. Under  
14 subsection (a)(1), the bank with which the deposit account is maintained has control. The effect  
15 of this provision is to afford the bank automatic perfection. No other form of public notice is  
16 necessary; all actual and potential creditors of the debtor are always on notice that the bank with  
17 which the debtor’s deposit account is maintained may assert a claim against the deposit account.  
18

19           **Example:** D maintains a deposit account with Bank A. To secure a loan from Banks X,  
20 Y, and Z, D creates a security interest in the deposit account in favor of Bank A, as agent  
21 for Banks X, Y, and Z. Because Bank A is a “secured party” as defined in Section 9-102,  
22 the security interest is perfected by control under subsection (a)(1).  
23

24           Under subsection (a)(2), a secured party may obtain control by obtaining the bank’s  
25 authenticated agreement that it will comply with the secured party’s instructions without further  
26 consent by the debtor. The analogous provision in Section 8-106 does not require that the  
27 agreement be authenticated. An agreement to comply with the secured party’s instructions  
28 suffices for “control” of a deposit account under this section even if the bank’s agreement is  
29 subject to specified conditions, e.g., that the secured party’s instructions are accompanied by a  
30 certification that the debtor is in default. (Of course, if the condition is the *debtor’s* further  
31 consent, the statute explicitly provides that the agreement would *not* confer control.) See revised  
32 Section 8-106, Comment 7.  
33

34           Under subsection (a)(3), a secured party may obtain control by becoming the bank’s  
35 “customer,” as defined in Section 4-104. As the customer, the secured party would enjoy the  
36 right (but not necessarily the exclusive right) to withdraw funds from, or close, the deposit  
37  
38

1 account. See Sections 4-401(a), 4-403(a).

2  
3 \* \* \*

4  
5 **Reporter’s Note**

6  
7 A brief explanation of control by an agent or other representative may be added.

8  
9  
10 **SECTION 9-109. SCOPE.**

11 (a) **[General scope of article.]** Except as otherwise provided in subsections (c) and (d),  
12 this article applies to:

13 (1) a transaction, regardless of its form, that creates a security interest in personal  
14 property or fixtures by contract;

15 \* \* \*

16 \* \* \*

17 **Official Comment**

18 \* \* \*

19  
20 **2. Basic Scope Provision.** Subsection (a)(1) derives from former Section 9-102(1) and  
21 (2). These subsections have been combined and shortened. No change in meaning is intended.  
22 Under subsection (a)(1), all consensual security interests in personal property and fixtures are  
23 covered by this Article, except for transactions excluded by subsections (c) and (d). As to which  
24 transactions give rise to a “security interest,” the definition of that term in Section 1-201 must be  
25 consulted. When a security interest is created, this Article applies regardless of the form of the  
26 transaction or the name that parties have given to it. Likewise, the subjective intention of the  
27 parties with respect to the legal characterization of their transaction is irrelevant to whether this  
28 Article applies, as it was to the application of former Article 9 under the proper interpretation of  
29 former Section 9-102.

30  
31 \* \* \*

32  
33 **Reporter’s Note**

34  
35 Section 9-102(a)(1) provides that Article 9 applies to a transaction that creates a security  
36 interest. The addition to the comment emphasizes that this is the case, regardless of the  
37 subjective intention of the parties with respect to the legal characterization of their transaction.

1           **SECTION 9-301. LAW GOVERNING PERFECTION AND PRIORITY OF**  
2 **SECURITY INTERESTS.**

3           \* \* \*

4           (3) Except as otherwise provided in paragraph (4), while negotiable documents, goods,  
5 instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that  
6 jurisdiction governs:

7                   (A) perfection of a security interest in the goods by filing a fixture filing;

8           \* \* \*

9           \* \* \*

10   **Official Comment**

11           \* \* \*

12   \* \* \*

13

14           **5. Law Governing Perfection: Exceptions.** The general rule is subject to several  
15 exceptions. It does not apply to goods covered by a certificate of title (see Section 9-303),  
16 deposit accounts (see Section 9-304), investment property (see Section 9-305), or letter-of-credit  
17 rights (see Section 9-306). Nor does it apply to possessory security interests, i.e., security  
18 interests that the secured party has perfected by taking possession of the collateral (see paragraph  
19 (2)), security interests perfected by filing a fixture filing (see subparagraph (3)(A)), security  
20 interests in timber to be cut (subparagraph (3)(B)), or security interests in as-extracted collateral  
21 (see paragraph (4)).

22   \* \* \*

23   \* \* \*

24

25           **b. ~~Fixtures~~ Fixture Filings.** ~~Application of~~ Under the general rule in paragraph  
26 (1), a security interest in fixtures may be perfected by filing in the office specified by Section 9-  
27 501(a) as enacted in the jurisdiction in which the debtor is located. However, application of this  
28 rule to perfection of a security interest in fixtures by filing a fixture filing would yield strange  
29 results. For example, perfection of a security interest in fixtures located in Arizona and owned  
30 by a Delaware corporation would be governed by the law of Delaware. Although Delaware law  
31 would send one to a filing office in Arizona for the place to file a financing statement as a fixture  
32 filing, see Section 9-501, Delaware law would not take account of local, nonuniform, real-  
33 property filing and recording requirements that Arizona law might impose. For this reason,  
34 paragraph (3)(A) contains a special rule for security interests perfected by a fixture filing; the  
35 law of the jurisdiction in which the fixtures are located governs perfection, including the formal  
36 requisites of a fixture filing. Under paragraph (3)(C), the same law governs priority. Fixtures  
37 are “goods” as defined in Section 9-102.

38

1           The filing of a financing statement to perfect a security interest in collateral of a  
2 transmitting utility constitutes a fixture filing with respect to goods that are or become fixtures.  
3 See Section 9-501(b). Accordingly, to perfect a security interest in goods of this kind by a  
4 fixture filing, a financing statement must be filed in the office specified by Section 9-501(b) as  
5 enacted in the jurisdiction in which the goods are located. If the fixtures collateral is located in  
6 more than one State, filing in all of those States will be necessary to perfect a security interest in  
7 all the fixtures collateral by a fixture filing. Of course, a security interest in nearly all types of  
8 collateral (including fixtures) of a transmitting utility may be perfected by filing in the office  
9 specified by Section 9-501(a) as enacted in the jurisdiction in which the transmitting utility is  
10 located. However, such a filing will not be effective as a fixture filing except with respect to  
11 goods that are located in that jurisdiction.

12                           \* \* \*

13  
14  
15  
16           **SECTION 9-501. FILING OFFICE.**

17                           \* \* \*

18           **(b) [Filing office for transmitting utilities.]** The office in which to file a financing  
19 statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is  
20 the office of [ ]. The financing statement also constitutes a fixture filing as to the collateral  
21 indicated in the financing statement which is or is to become fixtures.

22                           \* \* \*

23   **Official Comment**

24                           \* \* \*

25  
26  
27           **5. Transmitting Utilities.** The usual filing rules do not apply well for a transmitting  
28 utility (defined in Section 9-102). Many pre-UCC statutes provided special filing rules for  
29 railroads and in some cases for other public utilities, to avoid the requirements for filing with  
30 legal descriptions in every county in which such debtors had property. Former Section 9-401(5)  
31 recreated and broadened these provisions, and subsection (b) follows this approach. The nature  
32 of the debtor will inform persons searching the record as to where to make a search.

33  
34           A given State's subsection (b) applies only if the local law of that State governs  
35 perfection. As to most collateral, perfection by filing is governed by the law of the jurisdiction  
36 in which the debtor is located. See Section 9-301(1). However, the law of the jurisdiction in  
37 which goods that are or become fixtures are located governs perfection by filing a fixture filing.  
38 See Section 9-301(3)(A). As a consequence, filing in the filing office of more than one State  
39 may be necessary to perfect a security interest in fixtures collateral of a transmitting utility by  
40 filing a fixture filing. See Section 9-301, Comment 5.b.

1 **Reporter’s Note**

2  
3 The modifications to the comments to Sections 9-301 and 9-502 provide a fuller  
4 explanation of where a financing statement should be filed when the debtor is a transmitting  
5 utility.

6  
7  
8 **SECTION 9-307. LOCATION OF DEBTOR.**

9 (a) [**“Place of business.”**] In this section, “place of business” means a place where a  
10 debtor conducts its affairs.

11 (b) [**Debtor’s location: general rules.**] Except as otherwise provided in this section,  
12 the following rules determine a debtor’s location:

13 (1) A debtor who is an individual is located at the individual’s principal  
14 residence.

15 (2) A debtor that is an organization and has only one place of business is located  
16 at its place of business.

17 (3) A debtor that is an organization and has more than one place of business is  
18 located at its chief executive office.

19 (c) [**Limitation of applicability of subsection (b).**] Subsection (b) applies only if a  
20 debtor’s residence, place of business, or chief executive office, as applicable, is located in a  
21 jurisdiction whose law generally requires information concerning the existence of a  
22 nonpossessory security interest to be made generally available in a filing, recording, or  
23 registration system as a condition or result of the security interest’s obtaining priority over the  
24 rights of a lien creditor with respect to the collateral. If subsection (b) does not apply, the debtor  
25 is located in the District of Columbia.

26 **Official Comment**

27 \* \* \*



1 **Official Comment**

2  
3 \* \* \*

4  
5 **4. Competing Perfected Security Interests.** When there is more than one perfected  
6 security interest, the security interests rank according to priority in time of filing or perfection.  
7 “Filing,” of course, refers to the filing of an effective financing statement. “Perfection” refers to  
8 the acquisition of a perfected security interest, i.e., one that has attached and as to which any  
9 required perfection step has been taken. See Sections 9-308 and 9-309.

10  
11 **Example 1:** On February 1, A files a financing statement covering a certain item of  
12 Debtor’s equipment. On March 1, B files a financing statement covering the same  
13 equipment. On April 1, B makes a loan to Debtor and obtains a security interest in the  
14 equipment. On May 1, A makes a loan to Debtor and obtains a security interest in the  
15 same collateral. A has priority even though B’s loan was made earlier and was perfected  
16 when made. It makes no difference whether A knew of B’s security interest when A  
17 made its advance.

18  
19 The problem stated in Example 1 is peculiar to a notice-filing system under which filing  
20 may occur before the security interest attaches (see Section 9-502). The justification for  
21 determining priority by order of filing lies in the necessity of protecting the filing system—that is,  
22 of allowing the first secured party who has filed to make subsequent advances without each time  
23 having to check for subsequent filings as a condition of protection. Note, however, that this  
24 first-to-file protection is not absolute. For example, Section 9-324 affords priority to certain  
25 purchase-money security interests, even if a competing secured party was the first to file or  
26 perfect.

27  
28 Under a notice-filing system, a filed financing statement indicates to third parties that a  
29 person may have a security interest in the collateral indicated. With further inquiry, they may  
30 discover the complete state of affairs. When a financing statement that is ineffective when filed  
31 becomes effective thereafter, the policy underlying the notice-filing system determines the “time  
32 of filing” for purposes of subsection (a)(1). For example, the unauthorized filing of an otherwise  
33 sufficient initial financing statement becomes authorized, and the financing statement becomes  
34 effective, upon the debtor’s post-filing authorization or ratification of the filing. See Section 9-  
35 509, Comment 3. Because the authorization or ratification does not increase the notice value of  
36 the financing statement, the time of the unauthorized filing is the “time of filing” for purposes of  
37 subsection (a)(1). The same policy applies to the other priority rules in this part.

38  
39 **Example 2:** A and B make non-purchase-money advances secured by the same  
40 collateral. The collateral is in Debtor’s possession, and neither security interest is  
41 perfected when the second advance is made. Whichever secured party first perfects its  
42 security interest (by taking possession of the collateral or by filing) takes priority. It  
43 makes no difference whether that secured party knows of the other security interest at the  
44 time it perfects its own.

45  
46 The rule of subsection (a)(1), affording priority to the first to file or perfect, applies to  
47 security interests that are perfected by any method, including temporarily (Section 9-312) or

1 upon attachment (Section 9-309), even though there may be no notice to creditors or subsequent  
2 purchasers and notwithstanding any common-law rule to the contrary. The form of the claim to  
3 priority, i.e., filing or perfection, may shift from time to time, and the rank will be based on the  
4 first filing or perfection as long as there is no intervening period without filing or perfection.  
5 See Section 9-308(c).

6  
7 **Example 3:** On October 1, A acquires a temporarily perfected (20-day) security interest,  
8 unfiled, in a negotiable document in the debtor’s possession under Section 9-312(e). On  
9 October 5, B files and thereby perfects a security interest that previously had attached to  
10 the same document. On October 10, A files. A has priority, even after the 20-day period  
11 expires, regardless of whether A knows of B’s security interest when A files. A was the  
12 first to perfect and maintained continuous perfection or filing since the start of the 20-day  
13 period. However, the perfection of A’s security interest extends only “to the extent it  
14 arises for new value given.” To the extent A’s security interest secures advances made  
15 by A beyond the 20-day period, its security interest would be subordinate to B’s,  
16 inasmuch as B was the first to file.

17  
18 In general, the rule in subsection (a)(1) does not distinguish among various advances  
19 made by a secured party. The priority of every advance dates from the earlier of filing or  
20 perfection. However, in rare instances, the priority of an advance dates from the time the  
21 advance is made. See Example 3 and Section 9-323.

22  
23  
24 **SECTION 9-509. PERSONS ENTITLED TO FILE A RECORD.**

25 \* \* \*

26  
27  
28 **Official Comment**

29 \* \* \*

30  
31  
32 **3. Unauthorized Filings.** Records filed in the filing office do not require signatures for  
33 their effectiveness. Subsection (a)(1) substitutes for the debtor’s signature on a financing  
34 statement the requirement that the debtor authorize in an authenticated record the filing of an  
35 initial financing statement or an amendment that adds collateral. Also, under subsection (a)(1),  
36 if an amendment adds a debtor, the debtor who is added must authorize the amendment. A  
37 person who files an unauthorized record in violation of subsection (a)(1) is liable under Section  
38 9-625(b) and (e) for actual and statutory damages. Of course, a filed financing statement is  
39 ineffective to perfect a security interest if the filing is not authorized. See Section 9-510(a).  
40 Law other than this Article, including the law with respect to ratification of past acts, generally  
41 determines whether a person has the requisite authority to file a record under this section. See  
42 Sections 1-103, 9-502, Comment 3. This Article applies to other issues, such as the priority of a  
43 security interest perfected by the filing of a financing statement. See Section 9-322, Comment 4.

44  
45 **Reporter’s Note**

46  
47 A record that is filed without the required authorization is ineffective. In some cases the

1 filing of a record is authorized after the record is filed or an unauthorized filing is ratified. The  
2 modifications to the comments to Sections 9-322 and 9-509 illustrate the effect of such post-  
3 filing authorizations and ratifications.  
4

5  
6 **SECTION 9-322. PRIORITIES AMONG CONFLICTING SECURITY**

7 **INTERESTS IN AND AGRICULTURAL LIENS ON SAME COLLATERAL.**

8 \* \* \*

9 (c) [**Special priority rules: proceeds and supporting obligations.**] Except as  
10 otherwise provided in subsection (f), a security interest in collateral which qualifies for priority  
11 over a conflicting security interest under Section 9-327, 9-328, 9-329, 9-330, or 9-331 also has  
12 priority over a conflicting security interest in:

13 (1) any supporting obligation for the collateral; and

14 (2) proceeds of the collateral if:

15 (A) the security interest in proceeds is perfected;

16 (B) the proceeds are cash proceeds or of the same type as the collateral;

17 and

18 (C) in the case of proceeds that are proceeds of proceeds, all intervening  
19 proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to  
20 the collateral.

21 \* \* \*

22 **Official Comment**

23 \* \* \*

24  
25  
26 **8. Proceeds of Non-Filing Collateral: Non-Temporal Priority.** Subsection (c)(2)  
27 provides a baseline priority rule for proceeds of non-filing collateral which applies if the secured  
28 party has taken the steps required for non-temporal priority over a conflicting security interest in  
29 non-filing collateral (e.g., control, in the case of deposit accounts, letter-of-credit rights,  
30 investment property, and in some cases, electronic negotiable documents, section 9-331). This  
31 rule determines priority in proceeds of non-filing collateral whether or not there exists an actual

1 conflicting security interest in the original non-filing collateral. Under subsection (c)(2), the  
2 priority in the original collateral continues in proceeds if the security interest in proceeds is  
3 perfected and the proceeds are cash proceeds or non-filing proceeds “of the same type” as the  
4 original collateral. As used in subsection (c)(2), “type” means a type of collateral defined in the  
5 Uniform Commercial Code and should be read broadly. For example, a security is “of the same  
6 type” as a security entitlement (i.e., investment property), and a promissory note is “of the same  
7 type” as a draft (i.e., an instrument).

8  
9 \* \* \*

10  
11 The proceeds of proceeds are themselves proceeds. See Section 9-102 (defining  
12 “proceeds” and “collateral”). Sometimes competing security interests arise in proceeds that are  
13 several generations removed from the original collateral. As the following example explains, the  
14 applicability of subsection (c) may turn on the nature of the intervening proceeds.

15  
16 **Example 11:** SP-1 perfects its security interest in Debtor’s deposit account by obtaining  
17 control. Thereafter, SP-2 files against inventory, (presumably) searches, finds no  
18 indication of a conflicting security interest, and advances against Debtor’s existing and  
19 after-acquired inventory. Debtor uses funds from the deposit account to purchase  
20 inventory, which SP-1 can trace as identifiable proceeds of its security interest in  
21 Debtor’s deposit account, and which SP-2 claims as original collateral. The inventory is  
22 sold and the proceeds deposited into *another* deposit account, as to which SP-1 has not  
23 obtained control. Subsection (c) does not govern priority in this other deposit account.  
24 This deposit account is cash proceeds and is also the same type of collateral as SP-1's  
25 original collateral, as required by subsections (c)(2)(A) and (B). However, SP-1's  
26 security interest does not satisfy subsection (c)(2)(C) because the inventory proceeds,  
27 which intervened between the original deposit account and the deposit account  
28 constituting the proceeds at issue, are not cash proceeds, proceeds of the same type as the  
29 collateral (original deposit account), or an account relating to the collateral. Stated  
30 otherwise, once proceeds other than cash proceeds, proceeds of the same type as the  
31 original collateral, or an account relating to the original collateral intervene in the chain  
32 of proceeds, priority under subsection (c) is thereafter unavailable. The special priority  
33 rule in subsection (d) also is inapplicable to this case. See Comment 9, Example 13,  
34 below. Instead, the general first-to-file-or-perfect rule of subsections (a) and (b) apply.  
35 Under that rule, SP-1 has priority unless its security interest in the inventory proceeds  
36 became unperfected under Section 9-315(d). Had SP-2 filed against inventory before SP-  
37 1 obtained control of the original deposit account, the SP-2 would have had priority even  
38 if SP-1's security interest in the inventory proceeds remained perfected.

39  
40 If two security interests in the same original collateral are entitled to priority in an item of  
41 proceeds under subsection (c)(2), the security interest having priority in the original collateral  
42 has priority in the proceeds.

#### 43 44 **Reporter’s Note**

45  
46 The added language would complete the explanation of the complicated priority rules  
47 applicable to proceeds.



1 (1) in good faith and in the ordinary course of the purchaser’s business, the  
2 purchaser gives new value and takes possession of the chattel paper or obtains control of the  
3 chattel paper under Section 9-105; and

4 (2) the chattel paper does not indicate that it has been assigned to an identified  
5 assignee other than the purchaser.

6 (b) [**Purchaser’s priority: other security interests.**] A purchaser of chattel paper has  
7 priority over a security interest in the chattel paper which is claimed other than merely as  
8 proceeds of inventory subject to a security interest if the purchaser gives new value and takes  
9 possession of the chattel paper or obtains control of the chattel paper under Section 9-105 in  
10 good faith, in the ordinary course of the purchaser’s business, and without knowledge that the  
11 purchase violates the rights of the secured party.

12 \* \* \*

13 **Official Comment**

14 \* \* \*

15  
16  
17 3. **Chattel Paper.** Subsections (a) and (b) follow former Section 9-308 in distinguishing  
18 between earlier-perfected security interests in chattel paper that is claimed merely as proceeds of  
19 inventory subject to a security interest and chattel paper that is claimed other than merely as  
20 proceeds. Like former Section 9-308, this section does not elaborate upon the phrase “merely as  
21 proceeds.” For an elaboration, see PEB Commentary No. 8.

22  
23 For a security interest to qualify for priority under subsection (a) or (b), the secured party  
24 must “take[] possession of the chattel paper or obtain[] control of the chattel paper under Section  
25 9-105.” When chattel paper comprises one or more tangible records and one or more electronic  
26 records, a secured party may satisfy this requirement by taking possession of the tangible records  
27 under Section 9-313 and having control of the electronic records under Section 9-105.

28  
29 This section makes explicit the “good faith” requirement and retains the requirements of  
30 “the ordinary course of the purchaser’s business” and the giving of “new value” as conditions for  
31 priority. Concerning the last, this Article deletes former Section 9-108 and adds to Section 9-  
32 102 a completely different definition of the term “new value.” Under subsection (e), the holder  
33 of a purchase-money security interest in inventory is deemed to give “new value” for chattel  
34 paper constituting the proceeds of the inventory. Accordingly, the purchase-money secured  
35 party may qualify for priority in the chattel paper under subsection (a) or (b), whichever is

1 applicable, even if it does not make an additional advance against the chattel paper.  
2

3 If a possessory security interest in tangible chattel paper or a perfected-by-control  
4 security interest in electronic chattel paper does not qualify for priority under this section, it may  
5 be subordinate to a perfected-by-filing security interest under Section 9-322(a)(1).  
6

### 7 **Reporter’s Note**

8

9 1. There are occasions when “hybrid” chattel paper may arise, e.g., when an amendment  
10 to electronic chattel paper is evidenced by a tangible record. The new paragraph in the comment  
11 would emphasize what is implicit in the statute, i.e., that a secured party may achieve priority  
12 with respect to the “hybrid” chattel paper under Section 9-330(a) or (b).  
13

14 2. An additional comment will explain how a secured party can retain its priority under  
15 this section when tangible chattel paper is converted to electronic chattel paper and vice versa.  
16

### 17 **SECTION 9-506. EFFECT OF ERRORS OR OMISSIONS.**

18

19 (a) [**Minor errors and omissions.**] A financing statement substantially satisfying the  
20 requirements of this part is effective, even if it has minor errors or omissions, unless the errors or  
21 omissions make the financing statement seriously misleading.

22 (b) [**Financing statement seriously misleading.**] Except as otherwise provided in  
23 subsection (c), a financing statement that fails sufficiently to provide the name of the debtor in  
24 accordance with Section 9-503(a) is seriously misleading.

25 (c) [**Financing statement not seriously misleading.**] If a search of the records of the  
26 filing office under the debtor’s correct name, using the filing office’s standard search logic, if  
27 any, would disclose a financing statement that fails sufficiently to provide the name of the debtor  
28 in accordance with Section 9-503(a), the name provided does not make the financing statement  
29 seriously misleading.

30 (d) [**“Debtor’s correct name.”**] For purposes of Section 9-508(b), the “debtor’s correct  
31 name” in subsection (c) means the correct name of the new debtor.

### 32 **Official Comment**

33

1                   \* \* \*

2  
3                   **2. Errors and Omissions.** Like former Section 9-402(8), subsection (a) is in line with  
4 the policy of this Article to simplify formal requisites and filing requirements. It is designed to  
5 discourage the fanatical and impossibly refined reading of statutory requirements in which courts  
6 occasionally have indulged themselves. Subsection (a) provides the standard applicable to  
7 indications of collateral. Subsections (b) and (c), which are new, concern the effectiveness of  
8 financing statements in which the debtor's name is incorrect. Subsection (b) contains the general  
9 rule: a financing statement that fails sufficiently to provide the debtor's name in accordance  
10 with Section 9-503(a) is seriously misleading as a matter of law. Subsection (c) provides an  
11 exception: If the financing statement nevertheless would be discovered in a search under the  
12 debtor's correct name, using the filing office's standard search logic, if any, then as a matter of  
13 law the incorrect name does not make the financing statement seriously misleading. A financing  
14 statement that is seriously misleading under this section is ineffective even if it is disclosed by (i)  
15 using a search logic other than that of the filing office to search the official records, or (ii) using  
16 the filing office's standard search logic to search a data base other than that of the filing office.  
17 For purposes of subsection (c), any name that satisfies Section 9-503(a) at the time of the search  
18 is a "correct name."

19  
20                   This section and Section 9-503 balance the interests of filers and searchers. Searchers are  
21 not expected to ascertain nicknames, trade names, and the like by which the debtor may be  
22 known and then search under each of them. Rather, it is the secured party's responsibility to  
23 provide the name of the debtor sufficiently in a filed financing statement. Subsection (c)  
24 provides the only situation in which a financing statement that fails sufficiently to provide the  
25 name of the debtor is not seriously misleading. As stated in subsection (b), if the name of the  
26 debtor provided on a financing statement is insufficient and subsection (c) is not satisfied, the  
27 financing statement is seriously misleading. Such a financing statement is ineffective even if the  
28 debtor is known in some contexts by the name provided on the financing statement and even if  
29 searchers know or have reason to know that the name provided on the financing statement refers  
30 to the debtor. Any suggestion to the contrary in a judicial opinion is incorrect.

31  
32                   To satisfy the requirements of Section 9-503(a)(2), a financing statement must indicate  
33 that the collateral is being administered by a personal representative. To satisfy the requirements  
34 of Section 9-503(a)(3), a financing statement must indicate that the collateral is held in a trust  
35 and provide additional information that distinguishes the trust from certain other trusts. The  
36 indications and additional information are not part of the debtor's name. Nevertheless, a  
37 financing statement that fails to provide an indication or the additional information when  
38 required does not sufficiently provide the name of the debtor under Sections 9-502(a) and 9-  
39 503(a), does not "substantially satisfy" the requirements" of Part 5 within the meaning of this  
40 section and so is ineffective.

41  
42                   In addition to requiring the debtor's name and an indication of the collateral, Section 9-  
43 502(a) requires a financing statement to provide the name of the secured party or a representative  
44 of the secured party. Inasmuch as searches are not conducted under the secured party's name,  
45 and no filing is needed to continue the perfected status of security interest after it is assigned, an  
46 error in the name of the secured party or its representative will not be seriously misleading.  
47 However, in an appropriate case, an error of this kind may give rise to an estoppel in favor of a

1 particular holder of a conflicting claim to the collateral. See Section 1-103.

2  
3 \* \* \*

4  
5 **Reporter's Note**

6  
7 The first new paragraph explains the policy underlying the statutory test for sufficiency  
8 of the name provided for the debtor in a financing statement. The second new paragraph  
9 explains the application of this section to financing statements covering collateral held by a  
10 decedent's personal representative or collateral held in a trust.

11  
12  
13 **SECTION 9-509. PERSONS ENTITLED TO FILE A RECORD.**

14 (a) **[Person entitled to file record.]** A person may file an initial financing statement,  
15 amendment that adds collateral covered by a financing statement, or amendment that adds a  
16 debtor to a financing statement only if:

17 (1) the debtor authorizes the filing in an authenticated record or pursuant to  
18 subsection (b) or (c); or

19 (2) the person holds an agricultural lien that has become effective at the time of  
20 filing and the financing statement covers only collateral in which the person holds an agricultural  
21 lien.

22 \* \* \*

23 (d) **[Person entitled to file certain amendments.]** A person may file an amendment  
24 other than an amendment that adds collateral covered by a financing statement or an amendment  
25 that adds a debtor to a financing statement only if:

26 (1) the secured party of record authorizes the filing; or

27 (2) the amendment is a termination statement for a financing statement as to  
28 which the secured party of record has failed to file or send a termination statement as required by  
29 Section 9-513(a) or (c), the debtor authorizes the filing, and the termination statement indicates  
30 that the debtor authorized it to be filed.

1 \* \* \*

2 **Official Comment**

3 \* \* \*

4  
5  
6 **6. Amendments; Termination Statements Authorized by Debtor.** Most amendments  
7 may not be filed unless the secured party of record, as determined under Section 9-511,  
8 authorizes the filing. See subsection (d)(1). However, under subsection (d)(2), the authorization  
9 of the secured party of record is not required for the filing of a termination statement if the  
10 secured party of record failed to send or file a termination statement as required by Section 9-  
11 513, the debtor authorizes it to be filed, and the termination statement so indicates. An  
12 authorization to file a record under subsection (d) is effective even if the authorization is not in  
13 an authenticated record. Compare subsection (a)(1). However, both the person filing the record  
14 and the person giving the authorization may wish to obtain and retain a record indicating that the  
15 filing was authorized.

16 \* \* \*

17  
18 **Reporter's Note**

19  
20 The additional sentences emphasize when an authorization to file must appear in an  
21 authenticated record and when an authorization is effective even if not authenticated.

22  
23  
24 **SECTION 9-512. AMENDMENT OF FINANCING STATEMENT.**

25 **[Alternative A]**

26 (a) **[Amendment of information in financing statement.]** Subject to Section 9-509, a  
27 person may add or delete collateral covered by, continue or terminate the effectiveness of, or,  
28 subject to subsection (e), otherwise amend the information provided in, a financing statement by  
29 filing an amendment that:

30 (1) identifies, by its file number, the initial financing statement to which the  
31 amendment relates; and

32 (2) if the amendment relates to an initial financing statement filed [or recorded] in  
33 a filing office described in Section 9-501(a)(1), provides the information specified in Section 9-  
34 502(b).

1 [Alternative B]

2 (a) [Amendment of information in financing statement.] Subject to Section 9-509, a  
3 person may add or delete collateral covered by, continue or terminate the effectiveness of, or,  
4 subject to subsection (e), otherwise amend the information provided in, a financing statement by  
5 filing an amendment that:

6 (1) identifies, by its file number, the initial financing statement to which the  
7 amendment relates; and

8 (2) if the amendment relates to an initial financing statement filed [or recorded] in  
9 a filing office described in Section 9-501(a)(1), provides the date [and time] that the initial  
10 financing statement was filed [or recorded] and the information specified in Section 9-502(b).

11 [End of Alternatives]

12 \* \* \*

13 Official Comment

14 \* \* \*

15  
16  
17  
18 4. **Amendment Adding Debtor.** An amendment that adds a debtor is effective,  
19 provided that the added debtor authorizes the filing. See Section 9-509(a). However, filing an  
20 amendment adding a debtor to a previously filed financing statement affords no advantage over  
21 filing an initial financing statement against that debtor and may be disadvantageous. With  
22 respect to the added debtor, for purposes of determining the priority of the security interest, the  
23 time of filing is the time of the filing of the amendment, not the time of the filing of the initial  
24 financing statement. See subsection (d). However, the effectiveness of the financing statement  
25 lapses with respect to added debtor at the time it lapses with respect to the original debtor. See  
26 subsection (b).  
27

28 5. **Amendment Adding Debtor Name.** Many states have enacted statutes governing  
29 the “conversion” of one organization, e.g., a corporation, into another, e.g., a limited liability  
30 company. This Article defers to those statutes to determine whether the resulting organization is  
31 the same legal person as the initial, converting organization (albeit with a different name) or  
32 whether the resulting organization is a different legal person. When the governing statute does  
33 not clearly resolve the question, a secured party whose debtor is the converting organization may  
34 wish to proceed as if the statute provides for both results. In these circumstances, an amendment  
35 adding to the initial financing statement the name of the resulting organization may be preferable  
36 to an amendment substituting that name for the name of the debtor provided on the initial

1 financing statement. In the event the governing statute is construed as providing that the  
2 resulting organization is the same person as the converting organization, but with a different  
3 name, the timely filing of such an amendment would satisfy the requirement of Section 9-  
4 507(c)(2). If, however, the governing statute is construed as providing that the resulting  
5 organization is a different legal person, the financing statement (which continues to provide the  
6 name of the original debtor) would be effective as to collateral acquired by the resulting  
7 organization (“new debtor”) debtor before, and within four months after, the conversion. See  
8 Section 9-508(b)(1). Inasmuch as it is the first financing statement filed against the resulting  
9 organization by the secured party, the record adding the name of the resulting organization as a  
10 debtor would constitute “an initial financing statement providing the name of the new debtor ”  
11 under Section 9-508(b)(2). The secured party also may wish to file another financing statement  
12 naming the resulting organization as debtor. See Comment 4.

13  
14 **5 6. Deletion of All Debtors or Secured Parties of Record.** Subsection (e) assures that  
15 there will be a debtor and secured party of record for every financing statement.

16 \* \* \*

17  
18  
19  
20 **SECTION 9-508. EFFECTIVENESS OF FINANCING STATEMENT IF NEW**  
21 **DEBTOR BECOMES BOUND BY SECURITY AGREEMENT.**

22 \* \* \*

23 (c) [**When section not applicable.**] This section does not apply to collateral as to which  
24 a filed financing statement remains effective against the new debtor under Section 9-507(a).

25 **Official Comment**

26 \* \* \*

27  
28  
29 **4. When Financing Statement Effective Against New Debtor.** Subsection (a)  
30 provides that a filing against the original debtor generally is effective to perfect a security  
31 interest in collateral that a new debtor has at the time it becomes bound by the original debtor’s  
32 security agreement and collateral that it acquires after the new debtor becomes bound. Under  
33 subsection (b), however, if the filing against the original debtor is seriously misleading as to the  
34 new debtor’s name, the filing is effective as to collateral acquired by the new debtor more than  
35 four months after the new debtor becomes bound only if a person files during the four-month  
36 period an initial financing statement providing the name of the new debtor. Compare Section 9-  
37 507(c) (four-month period of effectiveness with respect to collateral acquired by a debtor after  
38 the debtor changes its name). As to the meaning of “initial financing statement” in this context,  
39 see Section 9-512, Comment 5. Moreover, if the original debtor and the new debtor are located  
40 in different jurisdictions, a filing against the original debtor would not be effective to perfect a  
41 security interest in collateral that the new debtor acquires or has acquired from a person other  
42 than the original debtor. See Example 5, Section 9-316, Comment 2.



1 restricting the ability to waive or modify additional specified rights and duties: (i) duties under  
2 Section 9-207(b)(4)(C), which deals with the use and operation of consumer goods, (ii) the right  
3 to a response to a request for an accounting, concerning a list of collateral, or concerning a  
4 statement of account (Section 9-210), (iii) the duty to collect collateral in a commercially  
5 reasonable manner (Section 9-607), (iv) the implicit duty to refrain from a breach of the peace in  
6 taking possession of collateral under Section 9-609, (v) the duty to apply noncash proceeds of  
7 collection or disposition in a commercially reasonable manner (Sections 9-608 and 9-615), (vi)  
8 the right to a special method of calculating a surplus or deficiency in certain dispositions to a  
9 secured party, a person related to secured party, or a secondary obligor (Section 9-615), (vii) the  
10 duty to give an explanation of the calculation of a surplus or deficiency (Section 9-616), (viii)  
11 the right to limitations on the effectiveness of certain waivers (Section 9-624), and (ix) the right  
12 to hold a secured party liable for failure to comply with this Article (Sections 9-625 and 9-626).  
13 For clarity and consistency, this Article uses the term “waive or vary” instead of “renounc[e] or  
14 modify[,]” which appeared in former Section 9-504(3).  
15

16 This section provides generally that the specified rights and duties “may not be waived or  
17 varied.” However, it does not restrict the ability of parties to agree to settle, compromise, or  
18 renounce claims for past conduct that may have constituted a violation or breach of those rights  
19 and duties, even if the settlement involves an express “waiver.”  
20

21 Section 9-610(c) limits the circumstances under which a secured party may purchase at  
22 its own private disposition. Transactions of this kind are equivalent to “strict foreclosures” and  
23 are governed by Sections 9-620, 9-621, and 9-622. The provisions of these sections can be  
24 waived only as provided in Section 9-624(b).  
25

26 **4. Waiver by Debtors and Obligors.** The restrictions on waiver contained in this  
27 section apply to obligors as well as debtors. This resolves a question under former Article 9 as  
28 to whether secondary obligors, assuming that they were “debtors” for purposes of former Part 5,  
29 were permitted to waive, under the law of suretyship, rights and duties under that Part.  
30

31 **5. Certain Post-Default Waivers.** Section 9-624 permits post-default waivers in  
32 limited circumstances. These waivers must be made in agreements that are authenticated.  
33 Under Section 1-201, an “‘agreement’ means the bargain of the parties in fact.” In considering  
34 waivers under Section 9-624 and analogous agreements in other contexts, courts should carefully  
35 scrutinize putative agreements that appear in records that also address many additional or  
36 unrelated matters.  
37

## 38 **SECTION 9-610. DISPOSITION OF COLLATERAL AFTER DEFAULT.**

39 \* \* \*

40 (c) **[Purchase by secured party.]** A secured party may purchase collateral:

41 (1) at a public disposition; or

42 (2) at a private disposition only if the collateral is of a kind that is customarily  
43

1 sold on a recognized market or the subject of widely distributed standard price quotations.

2 **Official Comment**

3  
4 \* \* \*

5  
6 **7. Public vs. Private Dispositions.** This Part maintains two distinctions between  
7 “public” and other dispositions: (i) the secured party may buy at the former, but normally not at  
8 the latter (Section 9-610(c)), and (ii) the debtor is entitled to notification of “the time and place  
9 of a public disposition” and notification of “the time after which” a private disposition or other  
10 intended disposition is to be made (Section 9-613(1)(E)). It does not retain the distinction under  
11 former Section 9-504(4), under which transferees in a noncomplying public disposition could  
12 lose protection more easily than transferees in other noncomplying dispositions. Instead, Section  
13 9-617(b) adopts a unitary standard. Although the term is not defined, as used in this Article, a  
14 “public disposition” is one at which the price is determined after the public has had a meaningful  
15 opportunity for competitive bidding. “Meaningful opportunity” is meant to imply that some  
16 form of advertisement or public notice must precede the sale (or other disposition) and that the  
17 public must have access to the sale (disposition).

18  
19 A secured party’s purchase of collateral at its own private disposition is equivalent to a  
20 “strict foreclosure” and is governed by Sections 9-620, 9-621, and 9-622. The provisions of  
21 these sections can be waived only as provided in Section 9-624(b).

22  
23 \* \* \*

24  
25  
26 **SECTION 9-624. WAIVER.**

27  
28 (a) **[Waiver of disposition notification.]** A debtor or secondary obligor may waive the  
29 right to notification of disposition of collateral under Section 9-611 only by an agreement to that  
30 effect entered into and authenticated after default.

31 (b) **[Waiver of mandatory disposition.]** A debtor may waive the right to require  
32 disposition of collateral under Section 9-620(e) only by an agreement to that effect entered into  
33 and authenticated after default.

34 (c) **[Waiver of redemption right.]** Except in a consumer-goods transaction, a debtor or  
35 secondary obligor may waive the right to redeem collateral under Section 9-623 only by an  
36 agreement to that effect entered into and authenticated after default.

1 **Official Comment**

2  
3 1. **Source.** Former Sections 9-504(3), 9-505, 9-506.

4  
5 2. **Waiver.** This section is a limited exception to Section 9-602, which generally  
6 prohibits waiver by debtors and obligors. It makes no provision for waiver of the rule  
7 prohibiting a secured party from buying at its own private disposition. Transactions of this kind  
8 are equivalent to “strict foreclosures” and are governed by Sections 9-620, 9-621, and 9-622.

9 **Reporter’s Note**

10  
11 The principle that currently appears in the comment to Section 9-624 would be added to  
12 the comments to Sections 9-602 and 9-610, where it may be more likely to be discovered.

13  
14 **SECTION 9-610. DISPOSITION OF COLLATERAL AFTER DEFAULT.**

15  
16 \* \* \*

17 (b) [**Commercially reasonable disposition.**] Every aspect of a disposition of collateral,  
18 including the method, manner, time, place, and other terms, must be commercially reasonable.  
19 If commercially reasonable, a secured party may dispose of collateral by public or private  
20 proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on  
21 any terms.

22 \* \* \*

23 **Official Comment**

24  
25 \* \* \*

26  
27 2. **Commercially Reasonable Dispositions.** Subsection (a) follows former Section 9-  
28 504 by permitting a secured party to dispose of collateral in a commercially reasonable manner  
29 following a default. Although subsection (b) permits both public and private dispositions,  
30 including public and private dispositions conducted over the Internet, “every aspect of a  
31 disposition . . . must be commercially reasonable.” This section encourages private dispositions  
32 on the assumption that they frequently will result in higher realization on collateral for the  
33 benefit of all concerned. Subsection (a) does not restrict dispositions to sales; collateral may be  
34 sold, leased, licensed, or otherwise disposed. Section 9-627 provides guidance for determining  
35 the circumstances under which a disposition is “commercially reasonable.”

36  
37 \* \* \*

1 **Reporter’s Note**

2 The additions to this comment indicate that this section applies to electronic dispositions.

3  
4  
5  
6 **SECTION 9-611. NOTIFICATION BEFORE DISPOSITION OF COLLATERAL.**

7 \* \* \*

8 **Official Comment**

9  
10 \* \* \*

11  
12 10. Other Law. Other State or federal law may contain requirements concerning  
13 notification of a disposition of property by a secured party. For example, federal law imposes  
14 notification requirements with respect to the enforcement of mortgages on federally documented  
15 vessels. Principles of statutory interpretation and, in the context of federal law, supremacy and  
16 preemption determine whether and to what extent law other than this Article supplements,  
17 displaces, or is displaced by this Article. See Sections 1-103, 1-104, 9-109(c)(1).

18  
19 **Reporter’s Note**

20  
21 The additions reminds lawyers that the enforcement of an Article 9 security interest may  
22 implicate other law.

23  
24  
25 **SECTION 9-613. CONTENTS AND FORM OF NOTIFICATION BEFORE**  
26 **DISPOSITION OF COLLATERAL: GENERAL.** Except in a consumer-goods transaction,  
27 the following rules apply:

28 (1) The contents of a notification of disposition are sufficient if the notification:

29 (A) describes the debtor and the secured party;

30 (B) describes the collateral that is the subject of the intended disposition;

31 (C) states the method of intended disposition;

32 (D) states that the debtor is entitled to an accounting of the unpaid indebtedness  
33 and states the charge, if any, for an accounting; and

34 (E) states the time and place of a public disposition or the time after which any  
35 other disposition is to be made.



1 (A) before or when the secured party accounts to the debtor and pays any  
2 surplus or first makes written demand on the consumer obligor after the disposition for payment  
3 of the deficiency; and

4 (B) within 14 days after receipt of a request; or

5 (2) in the case of a consumer obligor who is liable for a deficiency, within 14  
6 days after receipt of a request, send to the consumer obligor a record waiving the secured party's  
7 right to a deficiency.

8 **Official Comment**

9  
10 \* \* \*

11  
12 **2. Duty to Send Information Concerning Surplus or Deficiency. \* \* \***

13  
14 A debtor or secondary obligor need not wait until the secured party commences written  
15 collection efforts in order to receive an explanation of how a deficiency or surplus was  
16 calculated. Subsection ~~(b)(2)~~(b)(1)(B) obliges the secured party to send an explanation within  
17 14 days after it receives a "request" (defined in subsection (a)(2)).

18  
19 **Reporter's Note**

20  
21 This change would correct an erroneous cross-reference.

22  
23  
24 **SECTION 9-621. NOTIFICATION OF PROPOSAL TO ACCEPT**

25 **COLLATERAL.**

26 (a) **[Persons to which proposal to be sent.]** A secured party that desires to accept  
27 collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

28 \* \* \*

29 \* \* \*

30 **Official Comment**

31 \* \* \*

32  
33  
34 **2. Notification Requirement.** Subsection (a) specifies three classes of competing  
35 claimants to whom the secured party must send notification of its proposal: (i) those who notify

1 the secured party that they claim an interest in the collateral, (ii) holders of certain security  
2 interests and liens who have filed against the debtor, and (iii) holders of certain security interests  
3 who have perfected by compliance with a statute (including a certificate-of-title statute),  
4 regulation, or treaty described in Section 9-311(a). With regard to (ii), see Section 9-611,  
5 Comment 4. Subsection (b) also requires notification to any secondary obligor if the proposal is  
6 for acceptance in partial satisfaction.  
7

8 Unlike Section 9-611, this section contains no “safe harbor,” which excuses an enforcing  
9 secured party from notifying certain secured parties and other lienholders. This is because,  
10 unlike Section 9-610, which requires that a disposition of collateral be commercially reasonable,  
11 Section 9-620 permits the debtor and secured party to set the amount of credit the debtor will  
12 receive for the collateral subject only to the requirement of good faith. An effective acceptance  
13 discharges subordinate security interests and other subordinate liens. See Section 9-622. If  
14 collateral is subject to several liens securing debts much larger than the value of the collateral,  
15 the debtor may be disinclined to refrain from consenting to an acceptance by the holder of the  
16 senior security interest, even though, had the debtor objected and the senior disposed of the  
17 collateral under Section 9-610, the collateral may have yielded more than enough to satisfy the  
18 senior security interest (but not enough to satisfy all the liens). Accordingly, this section  
19 imposes upon the enforcing secured party the risk of the filing office’s errors and delay. The  
20 holder of a security interest who is entitled to notification under this section but ~~does not receive~~  
21 it to whom the enforcing secured party does not send notification has the right to recover under  
22 Section 9-625(b) any loss resulting from the ~~enforcing~~ secured party’s noncompliance with this  
23 section.  
24

#### 25 **Reporter’s Note**

26 The modification would correct an error in the official comment.  
27  
28  
29

#### 30 **SECTION 9-625. REMEDIES FOR SECURED PARTY’S FAILURE TO** 31 **COMPLY WITH ARTICLE.**

32 \* \* \*

33 (c) [**Persons entitled to recover damages; statutory damages ~~in consumer-goods~~**  
34 **~~transaction if collateral is consumer goods.~~**] Except as otherwise provided in Section 9-628:

35 (1) a person that, at the time of the failure, was a debtor, was an obligor, or held a  
36 security interest in or other lien on the collateral may recover damages under subsection (b) for  
37 its loss; and

38 (2) if the collateral is consumer goods, a person that was a debtor or a secondary

1 obligor at the time a secured party failed to comply with this part may recover for that failure in  
2 any event an amount not less than the credit service charge plus 10 percent of the principal  
3 amount of the obligation or the time-price differential plus 10 percent of the cash price.

4 \* \* \*

#### 5 **Reporter's Note**

6  
7 The heading for subsection (c) would be conformed to the text. Article 9 includes  
8 headings for the subsections as an aid to readers. Unlike section captions, which are part of the  
9 UCC, see Section 1-107, subsection headings are not a part of the official text itself.

#### 10 11 12 **SECTION 9-706. WHEN INITIAL FINANCING STATEMENT SUFFICES TO** 13 **CONTINUE EFFECTIVENESS OF FINANCING STATEMENT.**

14 (a) **[Initial financing statement in lieu of continuation statement.]** The filing of an  
15 initial financing statement in the office specified in Section 9-501 continues the effectiveness of  
16 a financing statement filed before this [Act] takes effect if:

17 (1) the filing of an initial financing statement in that office would be effective to  
18 perfect a security interest under this [Act];

19 (2) the pre-effective-date financing statement was filed in an office in another  
20 State or another office in this State; and

21 (3) the initial financing statement satisfies subsection (c).

22 \* \* \*

23 (c) **[Requirements for initial financing statement under subsection (a).]** To be  
24 effective for purposes of subsection (a), an initial financing statement must:

25 (1) satisfy the requirements of Part 5 for an initial financing statement;

26 (2) identify the pre-effective-date financing statement by indicating the office in  
27 which the financing statement was filed and providing the dates of filing and file numbers, if

1 any, of the financing statement and of the most recent continuation statement filed with respect  
2 to the financing statement; and

3 (3) indicate that the pre-effective-date financing statement remains effective.

4 **Official Comment**

5  
6 \* \* \*

7  
8 **2. Requirements of Initial Financing Statement Filed in Lieu of Continuation**

9 **Statement.** Subsection (c) sets forth the requirements for the initial financing statement under  
10 subsection (a). These requirements are needed to inform searchers that the initial financing  
11 statement operates to continue a financing statement filed elsewhere and to enable searchers to  
12 locate and discover the attributes of the other financing statement. The notice-filing policy of  
13 this Article applies to the initial financing statements described in this section. Accordingly, an  
14 initial financing statement that substantially satisfies the requirements of subsection (c) is  
15 effective, even if it has minor errors or omissions, unless the errors or omissions make the  
16 financing statement seriously misleading. See Section 9-506.

17  
18 A single initial financing statement may continue the effectiveness of more than one  
19 financing statement filed before this Article's effective date. See Section 1-102(5)(a) (words in  
20 the singular include the plural). If a financing statement has been filed in more than one office in  
21 a given jurisdiction, as may be the case if the jurisdiction had adopted former Section 9-401(1),  
22 third alternative, then an identification of the filing in the central filing office suffices for  
23 purposes of subsection (c)(2). If under this Article the collateral is of a type different from its  
24 type under former Article 9—as would be the case, e.g., with a right to payment of lottery  
25 winnings (a “general intangible” under former Article 9 and an “account” under this Article),  
26 then subsection (c) requires that the initial financing statement indicate the type under this  
27 Article.

28  
29 **Reporter’s Note**

30  
31 The additional sentences would remove any doubt that the “minor error” rule in Section  
32 9-506(a) applies to an initial financing statement, including one that is filed to continue the  
33 effectiveness of a financing statement that was filed before revised Article 9 took effect.

34  
35  
36 **SECTION 8-102. DEFINITIONS.**

37 **Official Comment**

38  
39 \* \* \*

40  
41 13. “Registered form.” The definition of “registered form” is substantially the same as in  
42 the prior version of Article 8. Like the definition of bearer form, it serves primarily to distinguish  
43 Article 8 securities from instruments governed by other law, such as Article 3.



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**APPENDIX II**

**CONFORMING AMENDMENT TO ARTICLE 2A**

**SECTION 2A-103. DEFINITIONS AND INDEX OF DEFINITIONS.**

\* \* \*

(3) The following definitions in other Articles apply to this Article:

“Account”.	Section 9-102(a)(2).
“Between merchants”.	Section 2-104(3).
“Buyer”.	Section 2-103(1)(a).
“Chattel paper”.	Section 9-102(a)(11).
“Consumer goods”.	Section 9-102(a)(23).
“Document”.	Section 9-102(a)(30).
“Entrusting”.	Section 2-403(3).
“General intangible”.	Section 9-102(a)(42).
“Instrument”.	Section 9-102(a)(47).
“Merchant”.	Section 2-104(1).
“Mortgage”.	Section 9-102(a)(55).
“Pursuant to commitment”.	Section <del>9-102(a)(68)</del> <u>9-102(a)(69)</u> .
“Receipt”.	Section 2-103(1)(c).
“Sale”.	Section 2-106(1).
“Sale on approval”.	Section 2-326.
“Sale or return”.	Section 2-326.
“Seller”.	Section 2-103(1)(d).