

**GENERAL GOVERNMENT CABINET**  
**Department of State**  
**Office of Business Services**  
**(New Administrative Regulation)**

**30 KAR 5:021. Filing methods and forms.**

RELATES TO: KRS 355.9, 355.9-516, 355.9-521

STATUTORY AUTHORITY: KRS 355.9-526(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 355.9-526(1) requires the Secretary of State to promulgate administrative regulations implementing KRS Chapter 355.9. This administrative regulation establishes the general provisions for 30 KAR Chapter 5 governing delivery, approved forms, payments and public services.

Section 1. UCC records may be communicated to the filing office as follows:

(1) Direct data entry using the online filing system of the filing office. The time of filing for a UCC record communicated by this method shall be when the entry of all required elements of the UCC record in the proper format is accepted by the online filing system.

(2) Email to the email address designated by the filing office website. The time of filing for a UCC record communicated by this method shall be when the email communicating the UCC record is first received by the filing office.

(3) Personal delivery by remitter at the physical address of the filing office. The time of filing for a UCC record delivered by this method shall be when a UCC record is accepted for filing by the filing office.

(4) Delivery of a UCC record other than by remitter at the filing office physical address. The time of filing for a UCC record delivered by this method shall be 4:30 p.m. on the date the record was delivered to the filing office.

Section 2. (1) Information submitted to the filing office shall be provided using only characters that appear on the American standard keyboard. A financing statement or amendment form shall designate separate fields for:

(a) Organization names; and

(b) Individual names. Individual name fields shall include surname, first personal name, additional names, initials, and suffixes for individual names.

(2) (a) The appropriate box on a financing statement shall be marked to indicate when:

1. An initial financing statement is being filed in connection with a manufactured home;

2. An initial financing statement is being filed in connection with a public finance transaction;

or

3. An initial financing statement is being filed against a debtor that is a transmitting utility.

(b) If the requirements of this section are not met, the filing shall not affect the filing office's determination of the lapse date under 30 KAR 5:041, Section 7.

Section 3. Paper-based forms identified in Section 6, or any form that is substantially the same, shall be utilized for the purpose for which the form is designated.

Section 4. Filing fees may be paid by the following methods:

(1) Debit and credit cards issued by approved issuers;

(2) Electronic checks processed under National Automated Clearing House Association ("NACHA") rules and arrangements;

- (3) Prepaid account upon the submission and approval of an Application for Prepaid Account and payment of an amount not less than \$250;
- (4) Personal checks, cashier's checks, certified checks, and money orders made payable to the Kentucky State Treasurer;
- (5) Cash; and
- (6) Interaccount from Kentucky state agencies.

Section 5. (1) The filing fee for a UCC record shall be determined by KRS 355.9-525.

(2) The filing office shall refund the amount of an overpayment.

Section 6. (1) The following forms are incorporated by reference:

- (a) "Application for Prepaid Account" (10/5/11);
- (b) "UCC Financing Statement (Form UCC1), International Association of Commercial Administrators (IACA)" (Rev. 4/20/11);
- (c) "UCC Financing Statement Addendum (Form UCC1Ad), International Association of Commercial Administrators (IACA)" (Rev. 4/20/11);
- (d) "UCC Financing Statement Additional Party (Form UCC1AP Rev. 8/22/11), International Association of Commercial Administrators (IACA)";
- (e) "UCC Financing Statement Amendment (Form UCC3), International Association of Commercial Administrators (IACA)" (Rev. 4/20/11);
- (f) "UCC Financing Statement Amendment Addendum (Form UCC3Ad), International Association of Commercial Administrators (IACA)" (Rev. 4/20/11);
- (g) "UCC Financing Statement Amendment Additional Party (Form UCC3AP), International Association of Commercial Administrators (IACA)" (Rev. 8/22/11);
- (h) "Information Statement (Form UCC5), International Association of Commercial Administrators (IACA)" (Rev. 7/19/12);
- (i) "Information Request (Form UCC11)" (Rev. 7/19/12);
- (j) "Affidavit of Wrongfully Filed Record" (9/16/21); and
- (k) "Request for Secured Party Name Search Form" (6/21).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the Secretary of State, Office of Business Services, Records Section, 700 Capital Avenue, State Capitol, Suite 152, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MICHAEL G. ADAMS, Secretary of State

APPROVED BY AGENCY: October 21, 2021

FILED WITH LRC: October 29, 2021 at 1:32 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 25, 2022 at 9:00 a.m. EST, at Office of the Secretary of State. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until January 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michael R. Wilson, Director, Office of Business, 700 Capital Avenue, State Capitol, Suite 152, Frankfort, Kentucky 40601, phone (502) 782-7422, fax (502) 564-5687, email michael.wilson@ky.gov.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael R. Wilson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes methods for communicating UCC records to the Secretary of State filing office, establishes required forms, the content of those forms, and acceptable forms of payment for required filing fees.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 355.9-526 by establishing filing office rules.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms to the authorizing statutes by establishing filing office rules consistent with KRS Chapter 355, Article 9, and model UCC regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of Article 9 of KRS Chapter 355 by establishing filing office rules.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes: N/A

(d) How the amendment will assist in the effective administration of the statutes: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment affects any individual, business, organization, or governmental entity that files or conducts a search of UCC records.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated individuals or entities identified in question (3) will have to familiarize themselves with the contents of this regulation and incorporated forms.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Individuals identified in question (3) will incur costs in direct correlations to the number of UCC records they file, or search, and in accordance with statutory or regulatory fees. This regulation itself does not establish any new fees.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulation provides uniformity and certainty as to filing methods and forms for UCC filings or UCC record searches made with the Office of the Secretary of State.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no cost to implement this administrative regulation.

(b) On a continuing basis: There is no cost to implement this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: If any costs were to be identified, existing appropriations and fund sources for the Office of the Secretary of State.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: An increase in fees or funding will not be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to similarly situated individuals and entities regulated by it and any potential tiering would be inconsistent with the article it implements and model UCC regulations.

### FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact units, parts or divisions of state or local government to the extent they file or search UCC records.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is required by KRS 355.9-526.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any additional revenue for state or local governments during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any additional revenue for state or local governments during subsequent years of implementation.

(c) How much will it cost to administer this program for the first year? There will be no additional cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional cost to administer this program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. No cost is anticipated beyond what has been historically allocated to this agency to administer the filing, indexing, and retrieval of UCC records.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: