

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

30 KAR 5:041. UCC Information management system.

RELATES TO: KRS Chapter 355.9-515, 355.9-519, 355.9-526

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 requirements for the UCC information management system.

Section 1. The filing office shall use an information management system to store, index, and retrieve information relating to financing statements.

Section 2. (1) Individual debtor names shall be stored in data files that include only the individual debtor names, and not organization debtor names. Separate data entry fields shall be established for surnames, first personal names, and additional names or initials and suffixes.

(2) The filing office shall enter a name into the corresponding data entry field of the UCC information management system exactly as it appears on a UCC record.

(3) Individual name fields in the UCC information management system shall be fixed to fifty (50) characters in length by the filing office. A name that exceeds the fixed length shall be truncated after it exceeds the maximum length of the data entry field.

Section 3. (1) Upon the filing of an amendment, the names of the parties indexed in the UCC information management system remain unchanged, except that in the case of an amendment that adds a debtor or a secured party, the new debtor or new secured party shall be added to the appropriate index and associated with the record of the financing statement in the UCC information management system. An amendment that designates an assignee shall cause the assignee to be added as a secured party of record with respect to the affected financing statement in the UCC information management system. The filing of an amendment that deletes a debtor or a secured party from a financing statement shall not delete data from the UCC information management system.

(2) Except in the case of a continuation statement, the filing of an amendment shall not affect the period of effectiveness of the financing statement.

Section 4. The filing of a termination statement shall not cause an active record to be removed from the searchable index.

Section 5. An information statement may be filed prior to the lapse of the financing statement to which it relates but shall have no effect upon the information indexed in the UCC information management system.

Section 6. A filing office statement shall affect the indexing of parties and of the relevant financing statement as provided in the corrective action described in the filing office statement.

Section 7. If no timely filing of a continuation statement is filed, a financing statement lapses on its lapse date but shall remain indexed as an active record for one (1) year, after which the filing office shall remove the financing statement and all related UCC records from the searchable index. Upon the removal from the searchable index, the removed UCC records shall cease to be active records.

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 procedures governing the establishment of a UCC information management system and the procedures for managing data entered into that system.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 355.9-526 by establishing filing office rules and to comply with KRS 355.9-519, relating to numbering, maintaining, and indexing of UCC records.

(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, model UCC regulations, and KRS 355.9-519

(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 and providing uniformity and certainty with regard to the maintenance and retrievability of UCC records.

(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 if they are a party to a UCC financing statement or need to search or retrieve UCC records.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This regulation 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 with regard to the storage, indexing, and retrieval of UCC records on file 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. The UCC information management is currently established.

(b) On a continuing basis: There will be minimal to no costs 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 would be utilized.

(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 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 those entities are a party to a UCC record.

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 and KRS 355.9-519.

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 processing and approval or refusal of UCC filings under Article 9 or to other state and local agencies to file those records.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: