

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

**30 KAR 5:031. Acceptance and refusal of records.**

RELATES TO: KRS. KRS 355.9-513A, 355.9-515, 355.9-516, 355.9-516A, 355.9-520, 446.030

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 relating to the acceptance and refusal of records.

Section 1. The filing office shall refuse to accept a UCC record for any reason, or multiple reasons pursuant to KRS 355.9-516. The filing office may refuse to accept a UCC record pursuant to KRS 355.9-516A.

Section 2. Except for UCC records rejected under KRS 355.9-516A of this administrative regulation, the duties and responsibilities of the filing office with respect to the administration of the UCC shall be ministerial. In accepting for filing or refusing to file a UCC record the filing office shall not:

- (1) Determine the legal effect of the UCC record;
- (2) Determine that information in the record is correct or incorrect, in whole or in part; or
- (3) Create a presumption that information in the record is correct or incorrect, in whole or in part.

Section 3.

- (1) A continuation statement may be filed six (6) months preceding the month in which the financing statement would lapse and on the date that corresponds with the date the financing statement would lapse or if there is no corresponding date, on the last day of that month.
- (2) The last day on which a continuation statement may be filed shall be the date upon which the related financing statement lapses, or the next business day the filing office is open for business.

Section 4.

- (1) If the filing office finds grounds to refuse a UCC record, the filing office shall refund the filing fee and return the record or a copy of the record in accordance with KRS 355.9-520(2).
- (2) The reason or reasons for the refusal and other related information shall be made to the filer as soon as practicable, but no later than two (2) business days after the refused UCC record was received by the filing office. This information shall be provided by the same method by which the UCC record was communicated to the filing office, by mail, or by a more expeditious means.
- (3) Records of refusal, including a copy of the refused UCC record and the grounds for refusal, shall be maintained until the first anniversary of the lapse date that applies or would have applied to the related financing statement, assuming that the refused record had been accepted and filed.

Section 5. The filing office may communicate to a filer that the filing office noticed potential defects in a UCC record, whether or not it was filed or refused for filing.

Section 6. If a filer believes that a UCC record that was refused for filing should not have been refused, the filer may contact the filing office to request a review of the refusal decision. The filer shall provide a copy of the refused record and a statement of the basis for the belief that the filing office wrongfully refused to file the record. Upon receipt of a request for review, the filing office shall investigate the claim. If the filing office confirms that the record should have been refused, the filing office shall provide a written explanation of the grounds for refusal. If it is determined that the filing office refused to accept the record in error, the filing office shall file the UCC record with the filing date and time the UCC record was originally communicated for filing. A filing office statement relating to the relevant financing statement shall be placed in the UCC information management system on the date that the corrective action was taken. The filing office statement shall provide the date of the correction and explain the nature of the corrective action taken. The record shall be preserved for so long as the record of the financing statement maintained in the UCC information management system.

*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 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](mailto:michael.wilson@ky.gov).