

STATEMENT OF EMERGENCY

30 KAR 5:021E.

This emergency administrative regulation is being promulgated in order to meet an imminent threat to public health, safety, or welfare. This regulation is necessary pursuant to KRS 355.9-526 to ensure continued compliance with state law, to protect the public welfare by maintaining Uniform Commercial Code secured transaction filing procedures that are congruent with the actual filing practices of the Office of the Secretary of State, and are in harmony with the rules and practices of filing offices in other jurisdictions that enacted Article 9 of the Uniform Commercial Code and the International Association of Commercial Administrators (IACA) Model Administrative Rules for filing under that article. This emergency administrative regulation will be replaced by an ordinary administrative regulation once the ordinary regulation becomes effective. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor

MICHAEL G. ADAMS, Secretary of State

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

30 KAR 5:021E. 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 5:041E, 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 COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 28, 2021, 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 December 31, 2021. 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

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