

### **30 KAR 5:040. 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 of KRS Chapter 355.9. This administrative regulation establishes the requirements for the UCC Information Management System.

Section 1. General. The filing officer shall use an information management system to store, index, and retrieve information relating to financing statements. The information management system shall include an index of the names of debtors included on financing statements that are active records.

Section 2. Primary Data Elements. The primary data elements used in the UCC Information Management System shall be the following:

(1) Identification numbers.

(a) Each initial financing statement shall be identified by its file number. Identification of the initial financing statement shall be stamped on written UCC records or otherwise permanently associated with the record maintained for UCC records in the UCC Information Management System. A record shall be created in the Information Management System for each initial financing statement, and all information comprising the record shall be maintained in the system. The record shall be identified by the same information assigned to the initial financing statement.

(b) A UCC record other than an initial financing statement shall be identified by a unique file number assigned by the filing officer. In the UCC Information Management System, records of all UCC records other than initial financing statements shall be linked to the record of their related initial financing statement.

(2) Type of record. The type of UCC record from which data is transferred shall be identified in the UCC Information Management System from information supplied by the remitter.

(3) Filing date and filing time. The filing date and filing time of UCC records shall be stored in the UCC Information Management System. Calculation of the lapse date of an initial financing statement shall be based upon the filing date and in accordance with KRS 355.9-515.

(4) Identification of parties. The names and addresses of debtors and secured parties shall be transferred from UCC records to the UCC Information Management System.

(5) Page count. The total number of pages in a UCC record shall be maintained in the UCC Information Management System.

(6) Lapse indicator. An indicator shall be maintained by which the Information Management System identifies whether or not a financing statement will lapse and, if it does, when it will lapse.

(7) Indexes of names. The filing office shall maintain in the UCC Information Management System a searchable index of organization debtor names and a searchable index of individual debtor names.

(8) Status of financing statement. In the UCC Information Management System, each financing statement shall list a status of active or inactive.

Section 3. Individual Debtor Names. For purposes of this administrative regulation, an "individual debtor name" shall be any name provided as a debtor name in a UCC record in a format that identifies the name as that of a debtor who is an individual, without regard to the nature or character of the name or to the nature or character of the actual debtor.

(1) Individual name fields. Individual debtor names shall be stored in files that include only the individual debtor names, and not organization debtor names. Separate data entry fields shall be established for surnames (last or family names), first personal names (given), and additional names and initials of individuals. The name of a debtor with a single name (e.g., Cher) shall be treated as a surname and shall be entered in the individual surname field. The filing officer assumes no responsibility for the accurate designation of the components of a name but shall accurately enter the data in accordance with the filer's designations.

(2) Titles, prefixes, and suffixes. Titles, prefixes (e.g. "Ms."), and suffixes or indications of status (e.g. "M.D.") shall not be part of a debtor's name. Suffixes used to distinguish between family members with identical names (e.g. "JR.") shall be provided in the suffix field. However, when entering a "name" into the UCC Information Management System, the data shall be entered exactly as it appears.

(3) Extended debtor name field. The financing statement form has limited space for individual debtor names. If any portion of the individual debtor name is too long for the corresponding field, the filer is instructed to check the box that indicates the name was too long and enter the name in item ten (10) of the Addendum. A filing officer shall not refuse to accept a financing statement that lacks debtor information in item one (1) or item two (2) if the record includes an Addendum that provides a debtor name in item ten (10).

(4) Truncation of individual names. Personal name fields in the UCC Information Management System shall be fixed in length. Although filers shall continue to provide full names on their UCC records, a name that exceeds the fixed length shall be entered as presented to the filing officer, up to the maximum length of the data entry field. The lengths of data entry name fields shall be as follows:

- (a) Surname: fifty (50) characters.
- (b) First personal name: fifty (50) characters.
- (c) Additional name(s) or initial(s): fifty (50) characters.
- (d) Suffix: fifty (50) characters.

Section 4. Organization Debtor Names. For purposes of this administrative regulation, an "organization debtor name" shall be any name provided as a debtor name in a UCC record in a format that identifies the name as that of a debtor who is an organization, without regard to the nature or character of the name or to the nature or character of the actual debtor.

(1) Single field. Organization debtor names shall be stored in files that include only organization debtor names and not individual debtor names. A single field shall be used to store an organization debtor name.

(2) Truncation of organization names. The organization debtor name field in the UCC Information Management System shall be fixed in length. The maximum length shall be 300 characters. Although filers shall continue to provide full names on their UCC records, a name that exceeds the fixed length shall be entered as presented to the filing officer, up to the maximum length of the organization debtor name field.

Section 5. Collateral Being Administered by a Decedent's Personal Representative. The debtor name to be provided on a financing statement if the collateral is being administered by a decedent's personal representative shall be the name of the relevant decedent. In order for the UCC Information Management System to function in accordance with the usual expectations of filers and searchers, the filer shall provide the debtor name as an individual debtor name. However, the filing office shall enter data submitted by a filer in the fields designated by the filer exactly as it appears in the fields.

Section 6. Collateral Held in a Trust.

(1) The debtor name to be provided if the collateral is held in a trust that is not a registered organization shall be:

(a) The name of the trust as set forth in its organic record, if the trust has a name in its organic record; or

(b) If the trust is not so named, the name of the trust's settlor.

(2) In order for the UCC Information Management System to function in accordance with the usual expectations of filers and searchers, the name of a trust or of a settlor that is an organization shall be provided as an organization debtor name, and the name of a settlor who is an individual shall be provided as an individual debtor name, in each case without regard to the nature or character of the debtor. However, the filing office shall enter data submitted by a filer in the fields designated by the filer exactly as it appears in the fields.

Section 7. Initial Financing Statement. Upon the filing of an initial financing statement, the status of the parties, and the status of the financing statement shall be as follows.

(1) Status of secured party. Each secured party named on an initial financing statement shall be a secured party of record, except that if the UCC record names an assignee, the secured party or assignor shall not be a secured party of record and the secured party or assignee shall be a secured party of record.

(2) Status of debtor. Each debtor name provided by the initial financing statement shall be indexed in the UCC Information Management System if the financing statement is an active record.

(3) Status of financing statement. The financing statement shall be an active record as provided in KRS 355.9-519(7). A lapse date shall be calculated in accordance with KRS 355.9-515.

Section 8. Amendments Generally.

(1) Upon the filing of an amendment, the status of the parties shall be as follows:

(a) Unchanged, except that in the case of an amendment that adds a debtor or a secured party, the new debtor or secured party shall be added to the appropriate index and associated with the record of the financing statement in the UCC Information Management System, and 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.

(b) Notwithstanding the filing of an amendment that deletes a debtor or a secured party from a financing statement, a debtor or secured party of record shall not be deleted from the UCC Information Management System.

(c) A deleted secured party shall be treated by the filing office as a secured party of record as the filing office cannot verify the effectiveness of an amendment.

(2) The filing of an amendment shall not affect the status of the financing statement. An amendment that indicates that the debtor is a transmitting utility shall cause the filing office to reflect in the UCC Information Management System that the amended financing statement has no lapse date.

Section 9. Assignment of Powers of Secured Party.

(1) Status of the parties. An assignment shall have no effect on the status of the parties to the financing statement, except that each assignee named in the assignment shall become a secured party.

(2) Status of financing statement. An assignment shall have no effect upon the status of the financing statement.

Section 10. Continuation Statement.

(1) Continuation of lapse date. Upon the timely filing of one (1) or more continuation statements by a secured party, the lapse date of the financing statement shall be postponed for five (5) years. The lapse date shall be postponed once, even if more than

one (1) continuation statement is filed within a given six (6) month period prior to a lapse date. If the lapse date is postponed due to one (1) or more lawfully filed continuation statements, the original lapse date shall continue to be used solely for purposes of determining the timeliness of any additional continuation statement filings.

(2) Status. The filing of a continuation shall have no effect upon the status of any party to the financing statement or upon the status of the financing statement.

Section 11. Termination. The filing of a termination statement shall have no effect upon the status of any party to the financing statement or upon the status of the financing statement.

Section 12. Information statement. The filing of an information statement shall have no effect upon the status of any party to the financing statement, the status of the financing statement, or to the information maintained in the UCC Information Management System.

Section 13. Filing Officer Statement. A filing officer statement shall affect the status of parties and of the relevant financing statement as provided in the corrective action described as having been taken in the filing officer statement.

Section 14. Procedure upon Lapse. If there is no timely filing of a continuation with respect to a financing statement, the financing statement shall lapse on its lapse date but action shall not be taken by the filing office.

Section 15. Removal of Record. A financing statement shall remain as an active record until at least one (1) year after it lapses, or if it is indicated to be filed against a transmitting utility, until at least one (1) year after it is terminated with respect to all secured parties of record. On or after the first anniversary of the lapse or termination date, the filing office or the UCC Information Management System shall remove the financing statement and all related UCC records from the searchable indexes or from the UCC Information Management System. Upon the removal, the removed UCC records shall cease to be active records.

Section 16. XML Documents. The XML format as adopted by the International Association of Corporation Administrators shall be used for electronic transmission of UCC records, except correction statements. At the request of an authorized XML remitter, the filing officer shall identify which versions and releases of the XML format are acceptable to the filing office.

Section 17. Direct On-line (Non-XML) Data Entry Procedures. A UCC record, except correction statements, may be filed electronically by accessing the Secretary of State's Web site.

Section 18. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Addendum", Secretary of State, Uniform Commercial Code Branch, 04/20/11; and

(b) "Financing Form", 04/20/11.

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

(28 Ky.R. 998; Am. 1346; eff. 12-19-2001; 40 Ky.R. Am; 348; 777; eff. 11-1-2013.)