

Legislative Update

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UCC Article 9 Legislation



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Oklahoma House Bill 1773

- ➔ **Adopts Alternative A for § 9-503(a)(4)**
 - » Individual name source limited to driver's license.
 - » Drafting error in § 9-503(g) refers to multiple "driver's licenses or ID cards."
- ➔ **Forms:**
 - » Bill provides the text of form fields in § 9-521.
- ➔ **Effective Date:**
 - » November 1, 2015.
- ➔ **Poison Pill:**
 - » Senate amendment would effectively end Oklahoma's participation in the Uniform Law Commission.
- ➔ **Outlook:**
 - » Senate deleted objectionable amendments and conference committee bill was sent to the governor on 5/21/15. Enactment is expected.



Oklahoma Senate Bill 175

- ➔ **Adopts Alternative A for § 9-503(a)(4)**
 - » Individual name source limited to driver's license.
 - » Drafting error in § 9-503(g) refers to multiple "driver's licenses or ID cards."
- ➔ **Forms:**
 - » Bill provides the text of form fields in § 9-521.
- ➔ **Effective Date:**
 - » July 1, 2016.
- ➔ **Outlook:**
 - » Failed to pass out of committee by deadline.



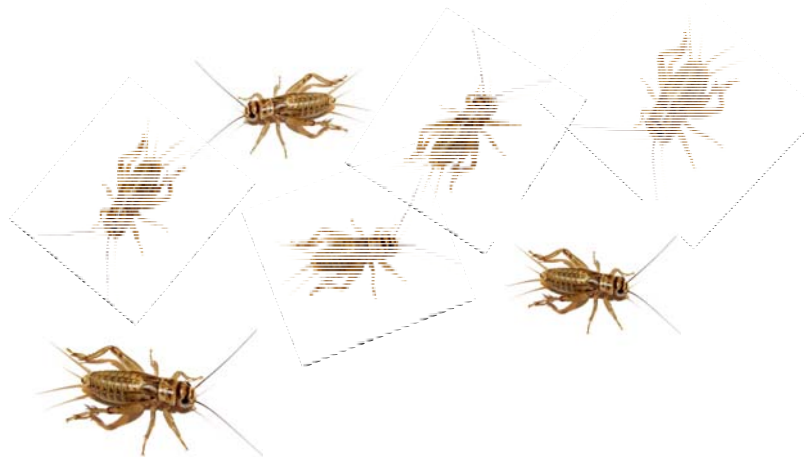
Oklahoma Senate Bill 421

- ➔ **Adopts Alternative A for § 9-503(a)(4)**
 - » Individual name source limited to driver's license.
 - » Drafting error in § 9-503(g) refers to "driver's license or identification card."
- ➔ **Forms:**
 - » Bill provides the text of form fields in § 9-521.
- ➔ **Effective Date:**
 - » November 1, 2015 for 2010 Amendments, November 1, 2017 for Poison Pill.
- ➔ **Poison Pill:**
 - » Moves filing office from Oklahoma County Clerk to Secretary of State.
- ➔ **Outlook:**
 - » Failed to pass out of committee by deadline.



US Virgin Islands Bill Draft 14-1566

- ➔ **Adopts 2010 Amendments to Article 9**



Alabama House Bill 632

→ Purpose of Legislation

- » Authorizes the UCC Fund to be used for administration of the Secretary of State's office.

→ Effect:

- » The Secretary of State may expend the UCC Fund at its own discretion, subject to the budgeting process.

→ Status:

- » Passed House Ways & Means Committee on May 14, 2015.



Indiana House Bill 1361

→ Purpose of Legislation

- » Creates a "photo exempt identification card" and adds the document to § 9-503(a) individual debtor name requirements.

→ Effect:

- » Indiana has a waterfall for § 9-503(a)(4) individual debtor name requirements.
 1. Driver's License
 2. ID Card
 3. Photo Exempt ID Card

→ Status:

- » Enacted May 5, 2015.
- » Takes effect on January 1, 2016.



Nebraska L 464

→ Purpose of Legislation

- » Revises requirements for Effective Financing Statements under the Food Security Act.

→ Effect:

- » Deletes requirement that the record provide a debtor's Social Security Number or other unique identifier.

→ Status:

- » Passed out of committee May 5, 2015 and is pending in the legislature.



New York Senate Bill 5502

→ Purpose of Legislation

- » Technical corrections to Article 9 due to issues with the 2010 Amendments bill enacted last year.

→ Effect:

- » Corrects terminology in § 9-516(b) ("correction statement" & "last name").
- » Deletes § 9-516(b)(5)(C) so organization information is no longer required.
- » Adopts uniform changes to § 9-518 omitted from original bill (Information Statements).
- » Deleted non-uniform fraudulent filing provisions from § 9-518(d).
- » Creates a safe harbor for the national forms in § 9-521.

→ Status:

- » Pending in Senate Judiciary Committee.



North Carolina House Bill 328

→ Purpose of Legislation

- » Create a restricted driver's license and restricted identification card as part of a bill to combat identity theft.

→ Effect:

- » Adds the restricted driver's license and restricted identification card to § 9-503(a)(4), creating a waterfall for Alternative A.

→ Status:

- » Pending in House Committee on Finance.



North Dakota House Bill 1330

→ Purpose of Legislation

- » Push back the deadline for Secretary of State to implement mandatory electronic filing of UCC and other liens.

→ Effect:

- » New deadline is August 1, 2016, unless the Secretary of State certifies that the system is ready at an earlier time.

→ Status:

- » Enacted on March 16, 2015.



Oregon Senate Bill 462

→ Purpose of Legislation

- » Change requirements for sufficiency of an individual debtor name on a financing statement.

→ Effect:

- » Replaces current UCC § 9-503(a)(4) Alternative B with Alternative A.
- » Senate amendment added transition rules.

→ Status:

- » Passed Senate on April 22, 2015.
- » Pending in House Business & Labor Committee, last hearing held on May 6, 2015.



Tennessee House Bill 298

→ Purpose of Legislation

- » Extends time period for perfection of a purchase-money security interest from an already non-uniform 30 days.

→ Effect:

- » Could make searches less reliable because security interests with springing priority could arise for 60 days after search.

→ Status:

- » Failed to pass out of committee by deadline.
- » There were 3 identical companion bills that met the same fate.



Other Lien Legislation



Kansas House Bill 2128

→ Purpose of Legislation

- » Would require that notices of state tax liens be filed electronically in the secretary of state's UCC records in compliance with Part 5 of Article 9.

→ Effect:

- » Provides easier searching for state tax liens.

→ Status:

- » Failed to pass out of committee by crossover deadline.
- » Unlikely to pass this year.



Maine House Bill 231 (LD 337)

→ Purpose of Legislation

- » Requires a lienholder to remove a lien no later than 30 days after a lien has been satisfied and to provide written notice of the lien's discharge to any person provided notice at the time the lien was originally filed.

→ Effect:

- » Arguably applies to UCC financing statements.

→ Status:

- » Has not passed out of committee yet.



Oregon Senate Bill 56

→ Purpose of Legislation

- » Create a statewide lien registry with the Secretary of State.

→ Effect:

- » Requires central filing of tax warrants and other liens with the Secretary of State's office.
- » Filed tax warrant would be equivalent of docketing a judgment lien in all counties of the state.

→ Status:

- » Pending in Senate Rules Committee.



Fraudulent UCC Filing



Indiana House Bill 1371

→ Purpose of Legislation

- » Establishes notice requirements and strict time limits for persons that wish to file common-law liens against the real or personal property of a public official.

→ Effect:

- » Creates a process that makes it much more difficult for a fraudulent lien claimant to file against a public official.
- » Not limited to UCC records.
- » Does not impose any additional responsibilities on filing office.

→ Status:

- » Enacted May 5, 2015.
- » Takes effect on July 1, 2015.



Maine House Bill 859 (LD 1259)

→ Purpose of Legislation

- » Prevent fraudulent filing of UCC records.

→ Effect:

- » Amends UCC § 9-516 to provide that the filing office may reject a record that is fraudulent, appears fraudulent or the record pertains to a matter outside the scope of Article 9.

→ Status:

- » Pending in Joint Committee for Judiciary.



Maryland Senate Bill 77

→ Purpose of Legislation

- » Offer additional tools for the filing office and additional remedies for victims of fraudulent UCC records.

→ Effect:

- » Requires filing office to send notice to debtor and secured party if it believes the record is fraudulent.
- » Allows filing office to file termination with 45 days of notice unless a notice recipient provides an affidavit that sets forth the factual basis for the person's believe that the record is not fraudulent.

→ Status:

- » Enacted April 14, 2015.
- » Takes effect October 1, 2015.



New Jersey Assembly Bill 2481

→ Purpose of Legislation

- » Prevent fraudulent UCC filing and offer additional remedies for victims.

→ Effect:

- » Financing statement must provide a name for secured party or representative that identifies the party.
- » Financing statement must indicate that the collateral is within the scope of Article 9. (amendment to §9-502(a))
- » Additional very specific reasons for rejection.
- » Exception for records filed by a secured party that is a registered organization.

→ Status:

- » Enacted May 10, 2015.
- » Took effect immediately.



Utah Senate Bill 93

→ Purpose of Legislation

- » Address fraudulent UCC financing statements by enacting the Hip-Pocket Amendments to UCC Article 9.

→ Effect:

- » Gives filing office more flexibility for determining who is an "Established Filer."
- » Provides additional reasons for rejection.
- » Protects innocent parties from effect of reinstated record wrongfully rejected as fraudulent.
- » Establishes time limit for challenging filing office termination following receipt of affidavit.

→ Status:

- » Enacted March 26, 2015.
- » Took effect 60 days after adjournment (May 12, 2015?)



Other States with Fraudulent Filing Legislation

- ➔ California
- ➔ Kansas
- ➔ Nevada
- ➔ New York
- ➔ Pennsylvania



Q&A

Thank you:

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