




Legislative Update
2013 IACA Conference

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UCC Article 9 Legislation



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Wyoming HB 3: Duration & Effectiveness

- **Amends § 9-515(a)**
 - *Financing statements filed after July 1, 2013 are effective for ten (10) years.*
- **Amends § 9-515(c)**
 - *A continuation filed after July 1, 2013 will extend the effectiveness of a financing statement for ten (10) years.*
- **Status**
 - *Takes effect on July 1, 2013.*



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North Dakota HB 1136: Various Article 9

- **Mandates Electronic Filing of UCC**
 - *Secretary of state must establish central electronic filing system for UCC, EFS and other liens.*
 - *Requires filing office to reject paper UCC records.*
- **Restores the SSN Requirement to § 9-516(b)**
 - *North Dakota repealed the requirement that a financing statement provide the debtor's SSN or EIN effective January 1, 2012.*
- **Status**
 - *Signed by the governor on April 29, 2013.*
 - *Contingent effective date of August 1, 2015.*
 - *Target effective date is July 1, 2014.*



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North Dakota HB 1340: Redaction

- **Provides SSN or EIN is Confidential**
 - Provides that the secretary of state shall delete or obscure the SSN or FEIN before a copy of any record is released to the public.
 - Provides that a filing office not be held civilly or criminally liable for the inadvertent disclosure of a social security or federal tax identification number if the filer has placed the number in an improper field on the form.
- **Status**
 - Signed by the governor on April 12, 2013.
 - Takes effect on ?

UCC Article 9 2010 Amendments

Issue: Forms Provisions

- **Limiting Language**
 - “Most recent forms approved by IACA.”
- **Examples:**
 - Maine HB 985
 - West Virginia SB 426
- **Effect**
 - Any change to IACA forms **will** create non-uniformity!



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Issue: Delayed Effective Dates

- **Arizona**
 - September 1, 2013
- **California**
 - Amended to delay effective date until July 1, 2014
- **Missouri**
 - Potential conflict between bill and state effective rules could delay effective date until August 28, 2013.
- **Oklahoma**
 - Not likely to pass this year.
- **Vermont**
 - Not likely to pass this year.



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2010 Amendments – Enacted (Alt A)

Arkansas	Maryland	Puerto Rico
Florida	Michigan	Rhode Island
Georgia	Minnesota	South Dakota
Hawaii	Mississippi	Tennessee
Idaho	Montana	Texas
Illinois	Nebraska	Utah
Indiana	Nevada	Virginia
Iowa	New Mexico	Washington
Kansas	North Carolina	West Virginia
Kentucky	North Dakota	Wisconsin
Louisiana	Ohio	



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2010 Amendments – Enacted (Alt B)

Colorado
Connecticut
Delaware
New Hampshire
Oregon
~~Washington~~
Wyoming



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2010 Amendments – Pending Bills

Alabama: A

Alaska: B

Arizona: A

California: A

District of Columbia: A

Maine: ~~X~~

Massachusetts: A

Missouri: A

New Jersey: A

~~Oklahoma:~~ A

Pennsylvania: A

South Carolina: A

~~Vermont:~~ A

2010 Amendments – Failed/No Action

New York

U.S. Virgin Islands

Washington HB 1115: § 9-503(a)(4)

- **Individual Debtor Name Sufficiency**
 - *Change Alternative B to Alternative A.*
- **Status**
 - *Enacted: Signed by governor on May 3, 2013*
 - *Takes effect on July 1, 2013.*

Oregon HB 2600: § 9-503(a)(4)

- **Individual Debtor Name Sufficiency**
 - *Change Alternative B to Alternative A.*
- **Status**
 - *Introduced January 14, 2013.*
 - *No significant developments since introduction.*

Colorado HB 1284: § 9-503(a)(4)

- **Driver's License Bracketed Language**
 - Added “or state issued identification card” to bracketed language.
- **Status**
 - Passed on May 3, 2013.
 - Awaiting governor's signature.
 - Takes effect on July 1, 2013.

Texas: § 9-516(b)(5)(C)

- **SB 474 & HB 1978**
 - Delete § 9-516(b)(5)(C) to correct drafting error in original bill to enact the Amendments in 2011.
- **Status**
 - SB 474: passed Senate. In House committee.
 - HB 1978: passed House. In Senate committee.

Fraudulent Filing

Alabama HB 17: Fraudulent Filing

- **Recording a False Instrument Against a Public Servant**
 - *Makes it a class C Felony for any person who knowingly offers for recording a written instrument which relates to or affects an interest in real or personal property that the person knows is false and is intended to defraud, intimidate or harass.*
 - *Allows filing officer to nullify or expunge the record.*
 - *Same as SB 255.*
- **Status**
 - *Enacted: Signed by governor on April 19, 2012*
 - *Took effect immediately.*

Indiana HB 1054: Fraudulent Filing

- **Adds Non-Uniform UCC Article 9 Part 9**
 - *Allows filing office to reject a UCC record if:*
 - the financing statement is not required or authorized to be filed or recorded with the secretary of state; or
 - the secretary of state has reasonable cause to believe the financing statement is materially false or fraudulent.
 - *Lists factors that may indicate a record is fraudulent.*
 - *Allows rejection of records that contain blood or other bodily fluids.*
- **Status**
 - *Signed by the governor on April 24, 2013*
 - *Takes effect on July 1, 2013.*



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West Virginia SB 426: Fraudulent Filing

- **Adds Non-Uniform § 9-516a**
 - *Allows filing office to reject a UCC record if:*
 - the financing statement is not authorized or permitted be filed under Article 9; or
 - Is filed with the intent to harass or defraud the person identified as debtor in the record or any other person.
- **Amends § 9-516(b)**
 - *Adds list of reasons for rejection common to fraudulent UCC records.*
- **Status**
 - *Signed by the governor on May 2, 2013*
 - *Takes effect on July 1, 2013.*



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Florida SB 112: Fraudulent Filing

- **False Claims**
 - Prohibits filing of false instruments affecting real or personal property.
 - Expressly includes “financing statement” within definition of “instrument.”
 - Provides civil and criminal penalties.
- **Status**
 - Passed Senate & House.
 - Awaiting governor’s signature as of 5/14/13.



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Maine HB 167: Fraudulent Filing

- **Claims Against Public Employees**
 - Permits a civil action by a public employee against a person who files a lien or encumbrance against the public employee knowing it to be false or without legal authority.
- **Status**
 - Introduced February 1, 2013.
 - Still pending in committee.



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Minnesota SB 1360: Fraudulent Filing

- **Criminal Penalties**
 - *Extends criminal penalties for filing a false financing statement to retaliation against a police officer or police chief for performing their official duties.*
 - *Does not amend Article 9.*
- **Status**
 - *Introduced March 13, 2013.*
 - *Pending in committee.*



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Mississippi SB 1008: Fraudulent Filing

- **Adds § 9-501.1, Amends § 9-510 & § 9-516**
 - *Prohibits filing of a financing statement that*
 - *Is filed with the intent to harass or defraud the debtor or any other person;*
 - *Is not authorized or permitted under Article 9; or*
 - *Is not related to a valid existing or potential commercial or financial transaction, an existing agricultural or other lien, or a judgment of a court of competent jurisdiction.*
 - *Allows filing office to reject or terminate records.*
- **Status**
 - *Signed by governor on March 20, 2013.*
 - *Takes effect on July 1, 2013.*
 - *Similar bill, SB 2645, died in committee.*



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Nebraska LB 3: Fraudulent Filing

- **Amends Nonconsensual Lien Statute**
 - Adds UCC financing statements to the statute that prohibits the filing of nonconsensual common-law liens.
 - Provides civil and criminal penalties.
 - Does not amend Article 9.
- **Status**
 - Introduced on January 14, 2013.
 - Passed legislature on May 10, 2013.

Nebraska LB 210: Fraudulent Filing

- **Enacts § 9-513A**
 - Modified version of the ULC “Hip Pocket Amendment.”
 - Provides civil and criminal penalties.
 - Not limited to public officials.
- **Status**
 - Signed by governor on March 7, 2013.

New York SB 4042: Fraudulent Filing

- **Authorizes Rules for § 9-518 Proceedings**
 - Adds non-uniform § 9-518(d).
 - Allows proceeding to redact or expunge wrongfully filed or amended financing statement.
 - Applies only to public officials.
- **Status**
 - Introduced on March 5, 2013.
 - Passed Senate Judiciary Committee in April. Pending in Codes Committee.

Virginia HB 2102: Fraudulent Filing

- **Amends § 9-516(b)**
 - *Permits rejection of record that:*
 - Is not created pursuant to this title;
 - Is filed for an improper purpose;
 - Is materially false or fraudulent; or
 - Indicates that the debtor and the secured party are substantially the same person or that an individual debtor is a transmitting utility.
 - *Allows filing office to remove fraudulently filed records.*
- **Status**
 - *Enacted on March 16, 2013.*
 - *Takes effect on July 1, 2013.*

Virginia SB 811: Fraudulent Filing

- **Addresses False Lien or Encumbrance**
 - Any person who maliciously files a lien or encumbrance in a public record against the real or personal property of another knowing that such lien or encumbrance is false is guilty of a Class 5 felony.
 - Allows a court to direct the clerk to release from record such lien or encumbrance.
 - The lien or encumbrance shall be deemed invalid and shall be treated as if it was never filed.
- **Status**
 - Enacted on April 3, 2013.
 - Takes effect on July 1, 2013.

Other Legislation

Mississippi HB 85: Publish Article 9

- **Requires SOS to Publish UCC Article 9**
 - Secretary of state must make the text of Article 9 available either in printed form or on the secretary of state's web site.
- **Status**
 - Signed by governor on March 18, 2013.
 - Takes effect on July 1, 2013.

Mississippi HB 518: Article 9 Penalties

- **Increase Penalties in § 9-625**
 - Failure of secured party to file a termination statement within the statutory time frame established by § 9-513 would expose the secured party to statutory penalties of **\$200 per day** of noncompliance.
 - Applied similar rules when mortgagee failed to record satisfaction following payment of the obligation and demand by the mortgagor.
- **Status**
 - Died in committee.

United States Senate Bill 268

- **Creates National Tax Lien Registry**
 - *To be maintained by the Secretary of the Treasury.*
 - *Must be accessible to the public over the Internet.*
 - *There will be no charge to search the registry.*
 - *Similar to bill introduced in 2006, 2008 and 2010.*



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The End

Questions?

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