

Topic: New Form Transition – recommended grace period for old forms

Question By: Katie Zvolanek

Jurisdiction: Ohio

Date: 21 September 2012

Jurisdiction	Question(s)
Alabama	
Alaska	Alaska is in the same boat as Georgia. While we are currently working toward legislation, we are unsure whether the adoption of the new changes will take place in FY13 or FY14. We are hoping that the Amendments will pass in FY13. If so, then we would give proper notice (60 days) to our users prior to replacing the forms that we currently have online on July 1, 2013. Once the new forms are in place, we would accept the old forms along with the new forms for an additional 60 day grace period.
Arizona	
Arkansas	
California	
Colorado	
Connecticut	
Delaware	
District of Columbia	
Florida	
Georgia	I am unsure of Georgia's plan at this point since the 2010 Amendments have not been addressed by the legislature. Hopefully, that happens in January with the 2013 session. There have been informal discussions that are leaning towards a longer "grace" period than what I have seen from some other states here. For example, Georgia adopted a six-month transition (July 1-Dec 31) in 2001 with the enactment of RA9.
Hawaii	
Idaho	Idaho believes that a 30 day grace period is sufficient.
Illinois	Illinois has already begun public notification regarding the provisions of SB 3764, and will continue public notification through July 01, 2013. It is Illinois' desire to have all electronic applications compliant on the effective date of July 01, 2013. Paper filings – since the file clerks extract the information to be indexed from the document we have no difficulty with offering a 30 day grace period.
Indiana	

Iowa	
Kansas	.
Kentucky	
Louisiana	Louisiana will post a notice January 1st, 2013 informing the public of the new national forms. This notification will state that as of a certain date (we were thinking Sept. 1st, 2013) any old national form submitted for filing will be assessed the non-standard form fee. If we place a notification 6 months prior I do not see the need to give more than a month or two transition.
Maine	We are still waiting to see the legislation....
Maryland	
Massachusetts	
Michigan	Michigan will offer customers a 30-day grace period for transition to the new UCC forms. Most submitters use UCC Online and the new forms will be created by the web wizards beginning July 1, 2013. During the transition period, paper submitters will not be rejected for using the old (current) form and links to the new forms will be provided. The UCC Michigan office will begin announcements of upcoming changes to forms and statute in December 2012.
Minnesota	Minnesota is wondering if there is or if there is going to be a formal announcement from NCCUSL stating their approval for withdrawing the old forms, as that will dictate whether or not Minnesota can stop accepting the old forms?
Mississippi	
Missouri	
Montana	Montana is in the same boat as Georgia. We will see what transpires in 2013.
Nebraska	
Nevada	
New Hampshire	New Hampshire is thinking that 60 days is a reasonable grace period.
New Jersey	While we will move our electronic forms to the new version I do not see a need to reject forms that contain the statutorily required information but are not on the updated form. Our statute N.J.S.A. 12A:9521 states in part "A filing office that accepts written records may not refuse to accept a written initial financing statement in the following form and format except for a reason set forth in 12A:9-516 (b)" This is followed by a picture of the IACA form.
New Mexico	
New York	
North Carolina	
North Dakota	
Ohio	Ohio believes that with sufficient notice that a 30 or 60 day grace period is acceptable.
Oklahoma	
Oregon	Oregon's planning on 60 days.
Pennsylvania	Pennsylvania is in a similar boat as Georgia in that we have not passed the legislation yet. As long as we can get the legislation passed and post a notice with the new forms to our website by the end of the year I would prefer a 60 day grace period, but we have no problem changing that to conform with the majority.
Rhode Island	

South Carolina	
South Dakota	
Tennessee	
Texas	
Utah	Utah has discussed it and we will start notifying folks in January and then give a 60 or 90 day grace period.
Vermont	
Virginia	I'm of the opinion that 30 days would be sufficient time. We have ample time to notify our customers of the upcoming changes to the forms. Our goal is to ensure that forms are not crossing in the mail and we end up rejecting a form that was actually completed prior to July 1 but received after July 1. I think it is important for all of us to be on the same page or very close in regards to a grace period. If a jurisdiction keeps the old forms in place and allows them to be filed ongoing then that form ultimately gets submitted in other jurisdictions in which it will be rejected. Therefore allowing obsolete forms to be a viable method to file becomes more of a disservice rather than a service to our customers.
Washington	Washington State will agree to a 30 day grace period.
West Virginia	
Wisconsin	
Wyoming	

Additional Comments:

From Robert Mathers, Delaware:

I'm not sure I understand, but think the concern mentioned by Robert [Virginia] relates to the possible continued use of paper forms as featured in 9-521 *before* giving effect to the pending revisions, which of course differ in certain ways (e.g., specification of debtor's type of organization, jurisdiction of formation, and organization ID number) from the comparable forms featured in 9-521, *after* giving effect to the pending revisions. This is really something of a non-issue, as some folks have suggested.

9-521 has never said, nor was it ever intended to say, that a filing office can accept a paper filing *only* on the form specified in such section. Rather, it was intended as a safe harbor in facilitation of (at least partial) national uniformity. It provides that any filing office that accepts paper filings must accept a paper filing on the specified form. Implicit, but admittedly not explicit, is that such filing offices are free to accept paper filings on any and all other forms as they may wish. But the hapless filing clerk with a multistate deal has the peace of mind of knowing at least one paper form that'll be accepted in all relevant jurisdictions. So, and ignoring for a moment the other changes to the safe-harbor forms of filings and the law with which they're intended to comply, if a filer tenders a filing on an old form that seems to require information that's no longer required by law (or, more precisely, whose absence is no longer grounds for rightful rejection), regardless of whether such surplusage is or isn't provided, the filing office shouldn't care.

From Robert Lindsey, Virginia:

Without rehashing the UCC Forms conversations, email thread as far back as the transition forms I would like to just bullet a few things to consider:

- Forms that currently reside in statute were almost outdated from the start and have been revised multiple times over the years. The exception was UCC3 addendum which is basically a clean sheet of paper
- To maintain uniformity across jurisdictions has been a goal for IACA and form usage is a big part of that (I believe our MAR's should reflect what forms we will accept and there should be harmony across jurisdictions based on these rules. 9-527)
- Jurisdictions that use form based systems will need to have one form in place so that their systems perform as designed
- Jurisdiction's that force submitters to stop using the old forms will see benefits
 - Banks will stop inserting SSN in financing statements (At the very least they will not have predetermined box for it)
 - The need for redacting filings should be substantially reduced
 - No longer will the filing office need to receive two forms for a Public-Finance, Manufactured-Home and or Transmitting Utility filing
 - Data entry will be faster (The forms have changed enough that it will slow our data entry operators down if they are constantly switching between new and old forms)
- XML schema will change (Why not eliminate the paper form that represented the old schema)
- The UCC 3 form that currently resides in statute has directions on its face that contradict statute and that has always been a problem. See filing chart

A lot of thought and hard work went into creating the new forms and I would like to encourage all jurisdictions to move forward with the new forms and phase out the old forms. I'm sure I did not capture all the benefits of using the new forms but my hope is that everyone will join the discussion and that IACA based on the membership feedback will propose a grace period for accepting old forms. As it stands today I see not benefit or advantage of keeping the old forms alive and in use.

Full Text of Original Email:

Before IACA makes a recommendation for a grace period on the acceptance of the old forms after July 1, 2013, I would like to have everyone's input on what each jurisdiction is currently thinking. Please respond to this email with your jurisdiction's wishes concerning grace periods and anything that you would like to add that might help with this process.

