

UNIFORM COMMERCIAL CODE (EXCERPT)
Act 174 of 1962

SUBPART 2.

DUTIES AND OPERATION OF FILING OFFICE

440.9519 Numbering, maintaining, and indexing records; communicating information provided in records.

Sec. 9519. (1) For each record filed in a filing office, the filing office shall do all of the following:

- (a) Assign a unique number to the filed record.
- (b) Create a record that bears the number assigned to the filed record and the date and time of filing.
- (c) Maintain the filed record for public inspection.
- (d) Index the filed record in accordance with subsections (3), (4), and (5).

(2) A file number assigned after January 1, 2002 must include a digit that is mathematically derived from or related to the other digits of the file number, and aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

(3) Except as otherwise provided in subsections (4) and (5), the filing office shall do both of the following:

(a) Index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement.

(b) Index a record that provides a name of a debtor that was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(4) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, it must be filed for record and the filing office shall index it under both of the following:

(a) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described.

(b) To the extent that the law of this state provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(5) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under section 9514(1) or an amendment filed under section 9514(2) under both of the following:

(a) Under the name of the assignor as grantor.

(b) To the extent that the law of this state provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(6) The filing office shall maintain a capability to do both of the following:

(a) To retrieve a record by the name of the debtor and by 1 of the following:

(i) If the filing office is described in section 9501(1)(a), by the file number assigned to the initial financing statement to which the record relates and the date that the record was filed or recorded.

(ii) If the filing office is described in section 9501(1)(b), by the file number assigned to the initial financing statement to which the record relates.

(b) To associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

(7) The filing office shall not remove a debtor's name from the index until 1 year after the effectiveness of a financing statement naming the debtor lapses under section 9515 with respect to all secured parties of record.

(8) The filing office shall perform the acts required by subsections (1) through (5) at the time and in the manner prescribed by filing-office rule, but not later than 2 business days after the filing office receives the record in question.

(9) Subsections (2) and (8) do not apply to a filing office described in section 9501(1)(a).

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9520 Acceptance and refusal to accept record; wrongful filing; action to require secretary of state to accept record; personal liability; filing by regulated financial institution.

Sec. 9520. (1) A filing office shall refuse to accept a record for filing for a reason set forth in section 9516(2) or, if the filing office is the secretary of state, subsection (5) and may refuse to accept a record for

filing only for a reason set forth in section 9516(2) or, if the filing office is the secretary of state, subsection (5).

(2) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule but, in the case of a filing office described in section 9501(1)(b), in no event more than 2 business days after the filing office receives the record.

(3) A filed financing statement satisfying section 9502(1) and (2) is effective, even if the filing office is required to refuse to accept it for filing under subsection (1). However, section 9338 applies to a filed financing statement providing information described in section 9516(2)(e) that is incorrect at the time the financing statement is filed.

(4) If a record communicated to a filing office provides information that relates to more than 1 debtor, this part applies as to each debtor separately.

(5) Notwithstanding any other provision of this act, if a person presents a record to the secretary of state for filing or recording, the secretary of state may refuse to accept the record for filing or recording if 1 or more of the following circumstances exist:

(a) The record is not required or authorized to be filed or recorded with the secretary of state.

(b) The record is being filed or recorded for a purpose outside the scope of this article.

(c) The secretary of state has reasonable cause to believe the record is materially false or fraudulent.

(d) The record asserts a claim against a current or former employee or officer of a federal, state, county, or other local governmental unit that relates to the performance of the officer's or employee's public duties, and for which the filer does not hold a properly executed security agreement or judgment from a court of competent jurisdiction.

(e) The record indicates that the debtor and the secured party are substantially the same or that an individual debtor is a transmitting utility.

(6) If an information statement filed with the secretary of state under section 9518 alleges that a previously filed record was wrongfully filed, the secretary of state shall, without undue delay, determine whether the contested record was wrongfully filed. To determine whether the record was wrongfully filed, the secretary of state may require the person who filed the information statement or the secured party to provide any additional relevant information requested by the secretary of state, including an original or copy of a security agreement that is related to the record. If the secretary of state finds that the record was wrongfully filed, the secretary of state shall terminate the record and the record is void and ineffective. The secretary of state shall notify the secured party named in the contested record of the termination.

(7) If the secretary of state refuses to accept a record for filing or recording under subsection (5), the person who presented the record to the secretary of state may commence an action under section 9501a to require the secretary of state to accept the record for filing or recording. A record ordered by the court to be accepted is effective as a filed record from the initial filing date except as against a purchaser of the collateral that gives value in reasonable reliance on the absence of the record from the files.

(8) A filing officer who, acting in a manner that does not subject the filing officer to personal liability under the statutes of this state, improperly refuses to accept a record for filing or recording under subsection (5) is not personally liable for the improper refusal or determination.

(9) Subsection (5) does not apply to a financing statement filed by a regulated financial institution or a representative of a regulated financial institution. If a regulated financial institution that is attempting to file a financing statement is organized under the law of a governmental unit other than this state, the secretary of state may request the regulated financial institution or its representative to provide verification of regulation or licensure in the jurisdiction under whose law the institution is organized. As used in this subsection, "regulated financial institution" means that term as defined in section 9501a.

History: Add. 2000, Act 348, Eff. July 1, 2001;—Am. 2008, Act 383, Eff. Mar. 29, 2009;—Am. 2021, Act 115, Imd. Eff. Nov. 22, 2021.

440.9521 Form and format of written initial financing statement and amendment.

Sec. 9521. (1) Except for a reason set forth in section 9516(2) or 9520(5), a filing office that accepts written records for filing shall not refuse to accept a written initial financing statement that conforms to the form and format of UCC financing statement (Form UCC1) or UCC financing statement addendum (Form UCC1Ad) as promulgated by the American Law Institute and the Uniform Law Commission and adopted by the secretary of state, or as approved by the International Association of Commercial Administrators and adopted by the secretary of state, or any other form adopted by the secretary of state.

(2) Except for a reason set forth in section 9516(2) or 9520(5), a filing office that accepts written records

for filing shall not refuse to accept a written financing statement amendment that conforms to the form and format of the UCC financing statement amendment (Form UCC3) or the UCC financing statement amendment addendum (Form UCC3Ad) as promulgated by the American Law Institute and the Uniform Law Commission, or to the form and format of any other revision to or version of either of those forms that are promulgated by the American Law Institute and the Uniform Law Commission, or as approved by the International Association of Commercial Administrators, and adopted by the secretary of state.

History: Add. 2000, Act 348, Eff. July 1, 2001;—Am. 2008, Act 383, Eff. Mar. 29, 2009;—Am. 2012, Act 88, Eff. July 1, 2013;—Am. 2021, Act 115, Imd. Eff. Nov. 22, 2021.

440.9522 Maintenance and destruction of records.

Sec. 9522. (1) The filing office shall maintain a record of the information provided in a filed financing statement for at least 1 year after the effectiveness of the financing statement has lapsed under section 9515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and 1 of the following:

(a) If the record was filed or recorded in the filing office described in section 9501(1)(a), by using the file number assigned to the initial financing statement to which the record relates and the date that the record was filed or recorded.

(b) If record was filed in the filing office described in section 9501(1)(b), by using the file number assigned to the initial financing statement to which the record relates.

(2) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement that complies with subsection (1).

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9523 Request for acknowledgment of filing; duties of filing office; communication; medium; subscription; fee.

Sec. 9523. (1) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to section 9519(1)(a) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead do both of the following:

(a) Note upon the copy the number assigned to the record pursuant to section 9519(1)(a) and the date and time of the filing of the record.

(b) Send the copy to the person.

(2) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides all of the following:

(a) The information in the record.

(b) The number assigned to the record pursuant to section 9519(1)(a).

(c) The date and time of the filing of the record.

(3) The filing office shall communicate or otherwise make available in a record 1 or more of the following information to any person that requests it:

(a) Whether there is on file on a date and time specified by the filing office, but not a date earlier than 3 business days before the filing office receives the request, any financing statement that meets all of the following:

(i) Designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request.

(ii) Has not lapsed under section 9515 with respect to all secured parties of record.

(iii) If the request so states, has lapsed under section 9515 and a record of which is maintained by the filing office under section 9522(1).

(b) The date and time of filing of each financing statement.

(c) The information provided in each financing statement.

(4) In complying with its duty under subsection (3), the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate or another record that can be admitted into evidence in the courts of this state without extrinsic evidence of its authenticity.

(5) The filing office shall perform the acts required by subsections (1) through (4) at the time and in the manner prescribed by filing-office rule, but, in the case of a filing office described in section 9501(1)(b), not later than 2 business days after the filing office receives the request.

(6) Not later than January 1, 2018, the secretary of state shall sell or license to the public on a nonexclusive basis, in bulk, by subscription, images of all records filed in it under this part each month, or bulk data from the filed records, in a format established by the secretary of state and in 1 or more mediums available to the secretary of state. The secretary of state shall charge a subscription fee of \$500.00 per month to a person that subscribes to receive images or data under this subsection.

History: Add. 2000, Act 348, Eff. July 1, 2001;—Am. 2017, Act 175, Imd. Eff. Nov. 21, 2017.

440.9524 Delay by filing office.

Sec. 9524. Delay by the filing office beyond a time limit prescribed by this part is excused if both of the following apply:

(a) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office.

(b) The filing office exercises reasonable diligence under the circumstances.

History: Add. 2000, Act 348, Eff. July 1, 2001.

440.9525 Fee for filing and indexing record; other fees.

Sec. 9525. (1) Except as otherwise provided in subsection (3) or (4), the fee for filing and indexing a record under this part is \$15.00.

(2) A filing office shall charge a person a fee for responding to a request for a search of the records filed with a filing office concerning a debtor, including issuance of a certificate describing each presently effective record filed concerning the debtor if requested. The fee is \$6.00, plus 1 or more of the following, if applicable:

(a) If the person requests expediting of the regular search process, an additional fee of \$25.00.

(b) If the person requests copies of the presently effective records disclosed by the search, an additional fee of \$2.00 per page.

(c) If the filing office is the secretary of state and the person requests that the secretary of state include an impression of the official seal of the secretary of state on the certificate, an additional fee of \$6.00.

(3) This section does not require a fee with respect to a record of a mortgage that is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under section 9502(3). However, the recording fees that otherwise would be applicable to the record of the mortgage under section 2567 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567, apply.

(4) There is no fee for filing and indexing an information statement filed with the office of the secretary of state under section 9518, filed by an individual named as a debtor on a record indexed by the secretary of state.

History: Add. 2000, Act 348, Eff. July 1, 2001;—Am. 2004, Act 212, Eff. Jan. 1, 2005;—Am. 2016, Act 229, Eff. Oct. 1, 2016;—Am. 2021, Act 115, Imd. Eff. Nov. 22, 2021.

440.9526 Filing-office rules.

Sec. 9526. (1) The secretary of state shall adopt and publish rules to implement this article. The filing-office rules must be consistent with this article and adopted and published in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) To keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part, the secretary of state, so far as is consistent with the purposes, policies, and provisions of this article, in adopting, amending, and repealing filing-office rules, shall do all of the following:

(a) Consult with filing offices in other jurisdictions that enact substantially this part.

(b) Consult the most recent version of the model rules promulgated by the international association of corporate administrators or any successor organization.

(c) Take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part.

History: Add. 2000, Act 348, Eff. July 1, 2001.

Administrative rules: R 440.101 et seq. of the Michigan Administrative Code.

440.9527 Repealed. 2008, Act 383, Eff. Mar. 29, 2009.

Compiler's note: The repealed section pertained to submission of report by secretary of state on the operation of the filing office.