

Effective 5/12/2015

70A-9a-516 What constitutes filing -- Effectiveness of filing.

- (1) Except as otherwise provided in Subsection (2) or (5), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.
- (2) Filing does not occur with respect to a record that a filing office refuses to accept because:
 - (a) the record is not communicated by a method or medium of communication authorized by the filing office;
 - (b) an amount equal to or greater than the applicable filing fee is not tendered;
 - (c) the filing office is unable to index the record because:
 - (i) in the case of an initial financing statement, the record does not provide a name for the debtor;
 - (ii) in the case of an amendment or information statement, the record:
 - (A) does not identify the initial financing statement as required by Section 70A-9a-512 or 70A-9a-518, as applicable; or
 - (B) identifies an initial financing statement whose effectiveness has lapsed under Section 70A-9a-515;
 - (iii) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's surname; or
 - (iv) in the case of a record filed or recorded in the filing office described in Subsection 70A-9a-501(1)(a), the record does not provide a sufficient description of the real property to which it relates;
 - (d) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
 - (e) in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
 - (i) provide a mailing address for the debtor; or
 - (ii) indicate whether the name provided as the name of the debtor is the name of an individual or an organization;
 - (f) in the case of an assignment reflected in an initial financing statement under Subsection 70A-9a-514(1) or an amendment filed under Subsection 70A-9a-514(2), the record does not provide a name and mailing address for the assignee;
 - (g) in the case of a continuation statement, the record is not filed within the six-month period prescribed by Subsection 70A-9a-515(4); or
 - (h) in the case of an initial financing statement or an amendment that provides a name of a debtor that was not previously provided in the financing statement to which the amendment relates, the record was not communicated to the filing office, as defined in Section 70A-9a-513.5, by an established filer, as defined in Section 70A-9a-513.5, and the filing office reasonably believes that the record was caused to be communicated to the filing office with the intent to harass or defraud the person identified as debtor or for another unlawful purpose.
- (3) Except as provided in Section 70A-9a-513.5, the filing office has no duty to form a belief as to whether a record was caused to be communicated with the intent to harass or defraud the person identified as debtor or for another unlawful purpose and has no duty to investigate or ascertain facts relevant to whether the intent or purpose was present.

- (4) For purposes of Subsection (2):
 - (a) a record does not provide information if the filing office is unable to read or decipher the information; and
 - (b) a record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by Section 70A-9a-512, 70A-9a-514, or 70A-9a-518, is an initial financing statement.
- (5) A filing office may refuse to accept a record for filing, and if it does so, filing does not occur with respect to the record, because:
 - (a) the debtor is an individual and the debtor's name contains unusually placed and apparently unnecessary punctuation, symbols, or other nonalphabetic characters;
 - (b) the record, in the collateral description or elsewhere, including an attachment, discloses personally identifying information such as a Social Security number, driver license number, identification card number, bank account number, credit or debit card account number, date of birth, or place of birth; or
 - (c) the debtor is an individual and the record indicates that the debtor is a transmitting utility.
- (6) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in Subsection (2) or (5), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.
- (7) A record that the filing office, as defined in Section 70A-9a-513.5, initially refuses to accept under Subsection (2)(h) but that it later accepts after it receives additional information is effective as if the filing office had not initially refused to accept the record except as against a purchaser of the collateral that gives value in reasonable reliance upon the absence of the record from the files.

Amended by Chapter 228, 2015 General Session