

**SECURED TRANSACTION - SALES OF ACCOUNTS,
CONTRACT RIGHTS, AND CHATTEL PAPER**

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Blake D. Chard

AN ACT RELATING TO UNIFORM COMMERCIAL CODE; AMENDING THE FORMAL REQUIREMENTS OF FINANCING STATEMENTS; AND MAKING TECHNICAL CORRECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

70A-9-402, as last amended by Chapter 172, Laws of Utah 1996

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **70A-9-402** is amended to read:

70A-9-402. Formal requisites of financing statement -- Amendments -- Mortgage as financing statement -- Form of financing statement.

(1) (a) A financing statement is sufficient if it:

(i) is prepared in typewritten or machine printed form;

[(†)] (ii) gives the names of the debtor and the secured party;

[(††)] (iii) is signed by the debtor;

[(†††)] (iv) gives an address of the secured party from which information concerning the security interest may be obtained;

[(††††)] (v) gives a mailing address of the debtor; and

[(†††††)] (vi) contains a statement indicating the types, or describing the items, of collateral.

(b) To facilitate the indexing of financing statements, persons filing financing statements are urged to supply either separately or as a part of the financing statement the Social Security number of the debtor or the federal income tax employer's identification number if the debtor is not an individual.

(c) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

(d) When the financing statement covers crops growing or to be grown, the statement must also contain a legal description of the real estate concerned and the name of the record owner.

(e) When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to Subsection 70A-9-103(5), or when the financing statement is filed as a fixture filing (Section 70A-9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with Subsection (5).

(f) A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic, or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

(g) A financing statement meeting the requirements of this section may be:

(i) filed electronically; and

(ii) signed electronically in the form provided by rule made by the Division of Corporations and Commercial Code in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(2) A financing statement which otherwise complies with Subsection (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in:

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances;

(b) proceeds under Section 70A-9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral;

(c) collateral as to which the filing has lapsed; or

(d) collateral acquired after a change of name, identity, or corporate structure of the debtor (Subsection (7)).

(3) A form substantially as follows is sufficient to comply with Subsection (1):

Name of debtor (or assignor) _____

Address _____

Debtors Social Security number or employers identification number

Name of secured party (or assignee) _____

Address _____

1. This financing statement covers the following types (or items) of property:
(Describe) _____
2. (If collateral is crops) The above-described crops are growing or are to be grown on:
(Describe real estate and specify name of record owner) _____
3. (If applicable) The above goods are to become fixtures on (Provide legal description of real estate) and this financing statement is to be recorded in the real estate records of the county recorder. (If the debtor does not have an interest of record.) The name of the record owner is _____

4. (If products of collateral are claimed) Products of the collateral are also covered.

(Use _____

whichever

Signature of Debtor (or Assignor)

is

applicable)

Signature of Secured Party (or Assignee)

(4) (a) Except as provided in Subsection (4)(b), a financing statement may be amended by filing a writing signed by both the debtor and the secured party.

(b) A secured party may amend the secured party's name or address on a financing statement by filing a writing signed by the secured party.

(c) An amendment does not extend the period of effectiveness of a financing statement.

(d) If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment.

(e) In this chapter, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to Subsection 70A-9-103(5), or a financing statement filed as a fixture filing (Section 70A-9-313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be recorded in the real estate records of the county recorder, and the financing statement (and any amendments of financing statements, continuation statements, termination statements, statements of assignment, or statements of release covering the same collateral) must contain a legal description of the real estate and must specify the name of the record owner.

(6) (a) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if:

- (i) the goods are described in the mortgage by item or type;
- (ii) the goods are or are to become fixtures related to the real estate described in the mortgage;
- (iii) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records; and
- (iv) the mortgage is duly recorded.

(b) No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership, or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes the debtor's name or in the case of an organization its name, identity, or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

