

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

4 1999 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Blake D. Chard**

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

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

11 AMENDS:

12 **70A-9-402**, as last amended by Chapter 172, Laws of Utah 1996

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

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

15 **70A-9-402. Formal requisites of financing statement -- Amendments -- Mortgage as**
16 **financing statement -- Form of financing statement.**

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

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

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

20 [(ii)] (iii) is signed by the debtor;

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

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

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

25 (b) To facilitate the indexing of financing statements, persons filing financing statements
26 are urged to supply either separately or as a part of the financing statement the Social Security
27 number of the debtor or the federal income tax employer's identification number if the debtor is

28 not an individual.

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

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

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

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

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

42 (i) filed electronically; and

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

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

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

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

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

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

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

58 Name of debtor (or assignor) _____

59 Address _____

60 Debtors Social Security number or employers identification number

61 _____

62 Name of secured party (or assignee) _____

63 Address _____

64 1. This financing statement covers the following types (or items) of property:

65 (Describe) _____

66 2. (If collateral is crops) The above-described crops are growing or are to be grown

67 on:

68 (Describe real estate and specify name of record owner) _____

69 3. (If applicable) The above goods are to become fixtures on (Provide legal

70 description of real estate) and this financing statement is to be recorded in the real

71 estate records of the county recorder. (If the debtor does not have an interest of

72 record.) The name of the record owner is

73 _____

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

75 (Use _____

76 whichever

Signature of Debtor (or Assignor)

77 is

78 applicable)

Signature of Secured Party (or Assignee)

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

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

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

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

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

88 (5) A financing statement covering timber to be cut or covering minerals or the like
89 (including oil and gas) or accounts subject to Subsection 70A-9-103(5), or a financing statement

90 filed as a fixture filing (Section 70A-9-313) where the debtor is not a transmitting utility, must
91 show that it covers this type of collateral, must recite that it is to be recorded in the real estate
92 records of the county recorder, and the financing statement (and any amendments of financing
93 statements, continuation statements, termination statements, statements of assignment, or
94 statements of release covering the same collateral) must contain a legal description of the real
95 estate and must specify the name of the record owner.

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

98 (i) the goods are described in the mortgage by item or type;

99 (ii) the goods are or are to become fixtures related to the real estate described in the
100 mortgage;

101 (iii) the mortgage complies with the requirements for a financing statement in this section
102 other than a recital that it is to be filed in the real estate records; and

103 (iv) the mortgage is duly recorded.

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

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

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

Legislative Review Note

as of 1-19-99 1:22 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel