

State of Arkansas  
89th General Assembly  
Regular Session, 2013

# A Bill

SENATE BILL 219

By: Senators R. Thompson, D. Johnson  
By: Representatives Vines, Broadaway, Kizzia, D. Whitaker

## For An Act To Be Entitled

AN ACT TO AMEND ARTICLE 9 OF THE UNIFORM COMMERCIAL  
CODE; TO DECLARE AN EMERGENCY; AND FOR OTHER  
PURPOSES.

### Subtitle

TO AMEND ARTICLE 9 OF THE UNIFORM  
COMMERCIAL CODE AND TO DECLARE AN  
EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 4-9-102(a)(7) concerning the definition of "authenticate", is amended to read as follows:

(7) "Authenticate" means:

(A) to sign; or

(B) ~~to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record~~ with present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process.

SECTION 2. Arkansas Code § 4-9-102(a)(10), concerning the definition of "certificate of title", is amended to read as follows:

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security



interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

SECTION 3. Arkansas Code § 4-9-102(a), concerning definitions applicable to secured transactions, is amended to add an additional subdivision to read as follows:

(68) "Public organic record" means a record that is available to the public for inspection and is:

(A) a record consisting of the record initially filed with or issued by a State or the United States to form or organize an organization and any record filed with or issued by the State or the United States which amends or restates the initial record;

(B) an organic record of a business trust consisting of the record initially filed with a State and any record filed with the State which amends or restates the initial record, if a statute of the State governing business trusts requires that the record be filed with the State; or

(C) a record consisting of legislation enacted by the legislature of a State or the Congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the State or the United States which amends or restates the name of the organization.

SECTION 4. Arkansas Code § 4-9-102(a)(71), concerning the definition of a "registered organization", is amended to read as follows:

(71) "Registered organization" means an organization formed or organized solely under the law of a single State or the United States ~~and as to which the state or the United States must maintain a public record showing the organization to have been organized~~ by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the State or the United States. The term includes a business trust that is formed or organized under the law of a single State if a

statute of the State governing business trusts requires that the business trust's organic record be filed with the State.

SECTION 5. Arkansas Code § 4-9-105 is amended to read as follows:

4-9-105. Control of electronic chattel paper.

(a) A secured party has control of electronic chattel paper if ~~the record or records comprising the chattel paper are created, stored, and assigned in such a manner that~~ a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.

(b) A system satisfies subsection (a) if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the record or records exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the secured party as the assignee of the record or records;

(3) the authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) copies or ~~revisions~~ amendments that add or change an identified assignee of the authoritative copy can be made only with the ~~participation~~ consent of the secured party;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any ~~revision~~ amendment of the authoritative copy is readily identifiable as ~~an~~ authorized or unauthorized ~~revision~~.

SECTION 6. Arkansas Code § 4-9-307(f), concerning the location of a debtor, is amended to read as follows:

(f) Except as otherwise provided in subsection (i), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a ~~state~~ State are located:

(1) in the ~~state~~ State that the law of the United States designates, if the law designates a ~~state~~ State of location;

(2) in the ~~state~~ State that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its ~~state~~ State of location, including by designating its main office, home office, or other comparable office; or

(3) in the District of Columbia, if neither paragraph (1) nor paragraph (2) applies.

SECTION 7. Arkansas Code § 4-9-311(a), concerning the perfection of security interests subject to other laws, is amended to read as follows:

(a) Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) a statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt § 4-9-310(a);

(2) any other laws of this ~~state~~ State which provide for central filing of security interests or which require indication on a certificate of title to property of such interest, including but not limited to §§ 27-14-801 – 27-14-807; or

(3) a ~~certificate of title~~ statute of another jurisdiction which provides for a security interest to be indicated on ~~the~~ a certificate of title as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

SECTION 8. The catchline to § 4-9-316 is amended to read as follows:

§ 4-9-316. ~~Continued perfection of security interest following~~ Effect of change in governing law.

SECTION 9. Arkansas Code § 4-9-316, concerning the effect of a change in the governing law for the continued perfection of a security interest, is amended to add additional subsections to read as follows:

(h) The following rules apply to collateral to which a security interest attaches within four months after the debtor changes its location to another jurisdiction:

(1) A financing statement filed before the change pursuant to

the law of the jurisdiction designated in § 4-9-301(1) or § 4-9-305(c) is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral had the debtor not changed its location.

(2) If a security interest perfected by a financing statement that is effective under paragraph (1) becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in § 4-9-301(1) or § 4-9-305(c) or the expiration of the four-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(i) If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in § 4-9-301(1) or § 4-9-305(c) and the new debtor is located in another jurisdiction, the following rules apply:

(1) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under § 4-9-203(d), if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor.

(2) A security interest perfected by the financing statement and which becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in § 4-9-301(1) or § 4-9-305(c) or the expiration of the four-month period remains perfected thereafter. A security interest that is perfected by the financing statement but which does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

SECTION 10. Arkansas Code § 4-9-317(b), concerning the priority of certain security interests and agricultural liens, is amended to read as follows:

(b) Except as otherwise provided in subsection (e), a buyer, other

than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a ~~security certificate~~ certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

SECTION 11. Arkansas Code § 4-9-317(d), concerning the status of certain collateral if buyers obtain collateral prior to perfection, is amended to read as follows:

(d) A licensee of a general intangible or a buyer, other than a secured party, of ~~accounts, electronic chattel paper, electronic documents, general intangibles, or investment property~~ collateral other than tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

SECTION 12. Arkansas Code § 4-9-326 is amended to read as follows:

4-9-326. Priority of security interests created by new debtor.

(a) Subject to subsection (b), a security interest that is created by a new debtor ~~which is~~ in collateral in which the new debtor has or acquires rights and is perfected solely by a filed financing statement that ~~is~~ effective solely under § 4-9-508 in collateral in which a new debtor has or acquires rights would be ineffective to perfect the security interest but for the application of § 4-9-316(i)(1) or § 4-9-508 is subordinate to a security interest in the same collateral which is perfected other than by such a filed financing statement ~~that is effective solely under § 4-9-508~~.

(b) The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements ~~that are effective solely under § 4-9-508~~ described in subsection (a). However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

SECTION 13. Arkansas Code § 4-9-406(e), concerning the inapplicability of certain terms in an agreement or promissory note between an account debtor

and an assignor, is amended to read as follows:

(e) Subsection (d) does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under § 4-9-610 or an acceptance of collateral under § 4-9-620.

SECTION 14. Arkansas Code § 4-9-408(b), concerning the applicability to a security interest in a payment tangible or promissory note of the ineffectiveness of certain provisions of a promissory note, health-care-insurance receivables, or general intangible, is amended to read as follows:

(b) Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under § 4-9-610 or an acceptance of collateral under § 4-9-620.

SECTION 15. Arkansas Code § 4-9-502(c), concerning the effectiveness of a record of a mortgage as a financing statement, is amended to read as follows:

(c) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) the record indicates the goods or accounts that it covers;

(2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) the record satisfies the requirements for a financing statement in this section, but:

(A) the record need not indicate other than an indication that it is to be filed in the real property records; and

(B) the record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom § 4-9-503(a)(4) applies; and

(4) the record is recorded.

SECTION 16. Arkansas Code § 4-9-503 is amended to read as follows:  
4-9-503. Name of debtor and secured party.

(a) A financing statement sufficiently provides the name of the debtor:

(1) except as otherwise provided in paragraph (3), if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name of the debtor indicated that is stated to be the registered organization's name on the public organic record of most recently filed with or issued or enacted by the debtor's registered organization's jurisdiction of organization which shows the debtor to have been organized purports to state, amend, or restate the registered organization's name;

(2) subject to subsection (f), if the debtor is a decedent's estate collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the debtor is an estate collateral is being administered by a personal representative;

(3) ~~if the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:~~

~~(A) provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one (1) or more of the same settlors; and~~

~~(B) indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; collateral is held in a trust that is not a registered organization, only if the financing statement:~~

(A) provides, as the name of the debtor:

(i) if the organic record of the trust specifies a name for the trust, the name specified; or

(ii) if the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

(B) in a separate part of the financing statement:

(i) if the name is provided in accordance with subparagraph (A)(i), indicates that the collateral is held in a trust; or

(ii) if the name is provided in accordance with subparagraph (A)(ii), provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

(4) subject to subsection (g), if the debtor is an individual to whom this state has issued a driver's license that has not expired, only if the financing statement provides the name of the individual which is indicated on the driver's license;

(5) if the debtor is an individual to whom paragraph (4) does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and

~~(4)~~ (6) in other cases:

(A) if the debtor has a name, only if ~~it~~ the financing statement provides the ~~individual or~~ organizational name of the debtor; and

(B) if the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

(b) A financing statement that provides the name of the debtor in accordance with subsection (a) is not rendered ineffective by the absence of:

(1) a trade name or other name of the debtor; or

(2) unless required under subsection ~~(a)(4)(B)~~ (a)(6)(B), names of partners, members, associates, or other persons comprising the debtor.

(c) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(d) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(e) A financing statement may provide the name of more than one debtor and the name of more than one secured party.

(f) The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the name of the decedent under subsection (a)(2).

(g) If this State has issued to an individual more than one driver's

license of a kind described in subsection (a)(4), the one that was issued most recently is the one to which subsection (a)(4) refers.

(h) In this section, the name of the settlor or testator means:

(1) if the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name; or

(2) in other cases, the name of the settlor or testator indicated in the trust's organic record.

SECTION 17. Arkansas Code § 4-9-507(c), concerning the effectiveness of a financing statement if the debtor changes the debtor's name, is amended to read as follows:

(c) ~~If a debtor so changes its~~ the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under § 4-9-503(a) so that the financing statement becomes seriously misleading under § 4-9-506:

(1) the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four ~~(4)~~ months after, the ~~change~~ filed financing statement becomes seriously misleading; and

(2) the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four ~~(4)~~ months after the ~~change~~ filed financing statement becomes seriously misleading, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four ~~(4)~~ months after ~~the change~~ the financing statement became seriously misleading.

SECTION 18. Arkansas Code § 4-9-515(f), concerning the term of effectiveness of transmitting utility financing statements, is amended to read as follows:

(f) If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

SECTION 19. Arkansas Code § 4-9-516(b), concerning valid reasons for a

filing office to refuse to accept a record, is amended to read as follows:

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) the record is not communicated by a method or medium of communication authorized by the filing office;

(2) an amount equal to or greater than the applicable filing fee is not tendered;

(3) the filing office is unable to index the record because:

(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or ~~correction~~ information statement, the record:

(i) does not identify the initial financing statement as required by § 4-9-512 or § 4-9-518, as applicable; or

(ii) identifies an initial financing statement whose effectiveness has lapsed under § 4-9-515;

(C) 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 ~~last name~~ surname; or

(D) in the case of a record filed in the filing office described in § 4-9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(4) 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;

(5) 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:

(A) provide a mailing address for the debtor; or

(B) indicate whether the name provided as the name of the debtor is the name of an individual or an organization; ~~or~~

~~(C) if the financing statement indicates that the debtor is an organization, provide:~~

~~(i) a type of organization for the debtor;~~

~~(ii) a jurisdiction of organization for the debtor;~~

~~or~~

~~(iii) an organizational identification number for the debtor or indicate that the debtor has none;~~

(6) in the case of an assignment reflected in an initial financing statement under § 4-9-514(a) or an amendment filed under § 4-9-514(b), the record does not provide a name and mailing address for the assignee; or

(7) in the case of a continuation statement, the record is not filed within the six-month period prescribed by § 4-9-515(d).

SECTION 20. Arkansas Code § 4-9-518 is amended to read as follows:  
4-9-518. Claim concerning inaccurate or wrongfully filed record.

(a) A person may file in the filing office ~~a correction~~ an information statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) A ~~correction~~ An information statement under subsection (a) must:

(1) identify the record to which it relates by:

(A) the file number assigned to the initial financing statement to which the record relates; and

(B) if the ~~correction~~ information statement relates to a record filed in a filing office described in § 4-9-501(a)(1), the date that the initial financing statement was filed and the information specified in § 4-9-502(b);

(2) indicate that it is ~~a correction~~ an information statement;

and

(3) provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(c) A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under § 4-9-509(d).

(d) An information statement under subsection (c) must:

(1) identify the record to which it relates by:

(A) the file number assigned to the initial financing statement to which the record relates; and

(B) if the information statement relates to a record filed in a filing office described in § 4-9-501(a)(1), the date that the initial financing statement was filed and the information specified in § 4-9-502(b);

(2) indicate that it is an information statement; and

(3) provide the basis for the person's belief that the person that filed the record was not entitled to do so under § 4-9-509(d).

~~(e)~~(e) The filing of a ~~correction~~ an information statement does not affect the effectiveness of an initial financing statement or other filed record.

SECTION 21. Arkansas Code § 4-9-521 is amended to read as follows:

4-9-521. Uniform form of written financing statement and amendment.

(a) 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 § 4-9-516(b):

UCC FINANCING STATEMENT FOLLOW INSTRUCTIONS ~~(front and back)~~ CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)

\_\_\_\_\_

B. ~~SEND ACKNOWLEDGEMENT TO: (Name and Address)~~ E-MAIL CONTACT AT FILER (optional)

\_\_\_\_\_

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

\_\_\_\_\_ THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S ~~EXACT FULL LEGAL~~ NAME: ~~Insert~~ Provide only one debtor name (1a or 1b) ~~do not abbreviate or combine names~~ (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here [ ] and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME

OR

1b. INDIVIDUAL'S ~~LAST NAME~~ SURNAME FIRST PERSONAL NAME MIDDLE NAME

ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR

SUFFIX

1c. MAILING ADDRESS

CITY STATE POSTAL CODE COUNTRY

1d. ~~TAX ID #: SSN OR EIN~~ ~~ADDT INFO RE~~  
~~ORGANIZATION~~  
~~DEBTOR~~

1e. ~~TYPE OF ORGANIZATION~~

1f. ~~JURISDICTION OF ORGANIZATION~~

1g. ~~ORGANIZATIONAL ID #, if any~~

NONE

2. ~~ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME: Insert~~ Provide only one debtor name (2a or 2b) do not abbreviate or combine names (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here [ ] and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S ~~LAST NAME~~ SURNAME FIRST PERSONAL NAME MIDDLE NAME

ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR

SUFFIX

2c. MAILING ADDRESS

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CITY STATE POSTAL CODE COUNTRY

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~~2d. TAX ID #: SSN OR EIN ADDT INFO RE ORGANIZATION DEBTOR~~

~~2e. TYPE OF ORGANIZATION~~

~~2f. JURISDICTION OF ORGANIZATION~~

~~2g. ORGANIZATIONAL ID #, if any~~

NONE

3. SECURED PARTY'S NAME (or NAME of ~~TOTAL~~ ASSIGNEE of ASSIGNOR ~~S/P~~ SECURED PARTY): ~~Insert~~ Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME

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OR

3b. INDIVIDUAL'S ~~LAST NAME~~ SURNAME FIRST PERSONAL NAME ~~MIDDLE NAME~~ SUFFIX

---

ADDITIONAL NAME(S)/INITIAL(S)

---

3c. MAILING ADDRESS

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CITY STATE POSTAL CODE COUNTRY

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4. COLLATERAL: This financing statement covers the following collateral:

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5. ~~ALTERNATIVE DESIGNATION (If applicable):~~

~~LESSEE/LESSOR CONSIGNEE/CONSIGNOR BAILEE/BAILOR AG LIEN  
NON UCC FILING~~

Check only if applicable and check only one box:

Collateral is [ ] held in a Trust (see UCC1Ad, Item 17 and Instructions)

[ ] being administered by a Decedent's Personal Representative

~~6. This FINANCING STATEMENT is to be filed (or record)(or recorded) in the REAL ESTATE RECORDS. Attach Addendum If applicable~~

6a. Check only if applicable and check only one box:

Public-Finance Transaction  Manufactured-Home Transaction  A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box:

Agricultural Lien  Non-UCC Filing

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s)

~~(ADDITIONAL FEE) (optional)~~

AS DEBTOR Debtor 1 Debtor 2

ALTERNATIVE DESIGNATION (if applicable):  Lessee/Lessor

Consignee/Consignor  Seller/Buyer  Bailee/Bailor

Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

~~NATIONAL UCC FINANCING STATEMENT (FORM UCC1)(REV. 07/29/96)~~ UCC FINANCING STATEMENT (Form UCC1)

UCC FINANCING STATEMENT ADDENDUM FOLLOW INSTRUCTIONS ~~(front and back)~~ CAREFULLY

9. NAME OF FIRST DEBTOR ~~(1a or 1b) ON RELATED FINANCING STATEMENT: Same as item 1a or 1b on Financing Statement; if line 1b was left blank because Individual Debtor name did not fit, check here~~

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S ~~LAST NAME~~ SURNAME FIRST PERSONAL NAME MIDDLE NAME, SUFFIX

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. MISCELLANEOUS: DEBTOR'S NAME: Provide (10a or 10b) only one additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1)(use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c



12. ~~ADDITIONAL SECURED PARTY'S or ASSIGNORS S/P'S NAME~~ ~~insert only one~~  
~~name (12a or 12b)~~ SPACE FOR ITEM 4 (Collateral)

~~12a. ORGANIZATION'S NAME~~

~~OR~~

~~12b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME SUFFIX~~

~~12c. MAILING ADDRESS~~

~~CITY STATE POSTAL CODE COUNTRY~~

13. [ ] This FINANCING STATEMENT ~~covers timber to be cut or as extracted~~  
~~collateral, or is filed as a fixture filing~~ is to be filed for record in the  
REAL ESTATE RECORDS (if applicable)

14. ~~Description of real estate~~ This FINANCING STATEMENT:  
[ ] covers timber to be cut [ ] covers as-extracted collateral [ ] is  
filed as a fixture filing

15. Name and address of a RECORD OWNER of ~~above-described~~ real estate  
described in item 16 (if Debtor does not have a record interest):

~~16. Additional collateral description~~ Description of real estate:

17. ~~Check only if applicable and check only one box~~  
~~Debtor is a Trust Trustee acting with respect to property held in trust~~  
~~or Decedent's Estate~~

MISCELLANEOUS:

~~18. Check only if applicable and check only one box:~~  
~~Debtor is a TRANSMITTING UTILITY~~  
~~Filed in connection with a Manufactured Home Transaction — effective 30~~  
~~years~~  
~~Filed in connection with a Public Finance Transaction — effective 30~~  
~~years~~

~~NATIONAL UCC FINANCING STATEMENT ADDENDUM (FORM UCC1Ad) (REV. 07/29/98)~~ UCC

FINANCING STATEMENT ADDENDUM (Form UCC1Ad)

(b) A filing office that accepts written records may not refuse to accept a written record in the following form and format except for a reason set forth in § 4-9-516(b):

UCC FINANCING STATEMENT AMENDMENT FOLLOW INSTRUCTIONS ~~(front and back)~~  
CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)

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B. ~~SEND ACKNOWLEDGEMENT TO : (Name and Address)~~  
E-MAIL CONTACT AT FILER (optional)

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C. SEND ACKNOWLEDGMENT TO: (Name and Address)

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THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE # NUMBER

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1b. [ ] This FINANCING STATEMENT AMENDMENT is to be filed [for record] in the REAL ESTATE RECORDS

Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13.

2. [ ] TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of the Secured Party authorizing this Termination Statement

3. [ ] ~~CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law~~ ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name of Assignor in item 9 For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8

4. [ ] CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional

period provided by applicable law

5. ~~AMENDMENT~~ [ ] (PARTY INFORMATION): ~~CHANGE~~

~~Check one of these two boxes:~~

This ~~Change Amendment~~ affects [ ] Debtor or [ ] Secured Party of record.

~~AND~~ Check only one of these ~~two~~ three boxes, to:

~~Also check one of the following three boxes and provide appropriate information in item 6 and/or 7. [ ] CHANGE name and/or address: Give current record name in item 6a or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c. Complete item 6a or 6b; and item 7a or 7b and item 7c [ ] DELETE name: Give record name to be deleted in item 6a or 6b ADD name: Complete item 7a or 7b, and item 7c [ ] ADD name: Complete item 7a or 7b, and also item 7c, also complete items 7d-7e (if applicable) DELETE name: Give record name to be deleted in item 6a or 6b~~

6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one name (6a or 6b)

6a. ORGANIZATION'S NAME

\_\_\_\_\_  
OR

6b. INDIVIDUAL'S ~~LAST NAME~~ SURNAME FIRST PERSONAL NAME ~~MIDDLE NAME~~ SUFFIX

\_\_\_\_\_  
ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

7. ~~CHANGED (NEW)~~ OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a or 7b) (use exact full name; do not omit, modify, or abbreviate any part of the Debtor's name)

7a. ORGANIZATION'S NAME

\_\_\_\_\_  
OR

7b. INDIVIDUAL'S ~~LAST NAME~~ SURNAME FIRST PERSONAL NAME ~~MIDDLE NAME~~ SUFFIX

\_\_\_\_\_  
ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR  
SUFFIX

\_\_\_\_\_  
7c. MAILING ADDRESS

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CITY STATE POSTAL CODE COUNTRY

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8. ~~{ }~~ AMENDMENT (COLLATERAL CHANGE): ~~check only one box.~~

~~Describe collateral deleted or added, or give entire restated collateral description, or describe collateral assigned.~~

Also check one of these four boxes:

ADD collateral       DELETE collateral       RESTATE covered collateral  ASSIGN collateral Indicate collateral:

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT ~~(name of assignor, if this is an Assignment).~~ ~~If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here — and enter name of DEBTOR authorizing this amendment.:~~ Provide only one name (9a or 9b) (name of Assignor, if this is an Assignment) If this is an Amendment authorized by a DEBTOR, check here  and provide name of authorizing Debtor

9a. ORGANIZATION'S NAME

---

OR

9b. INDIVIDUAL'S ~~LAST NAME~~ SURNAME      FIRST PERSONAL NAME MIDDLE NAME  
SUFFIX

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ADDITIONAL NAME(S)/INITIAL(S)

---

SUFFIX

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10. OPTIONAL FILER REFERENCE DATA:

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~~NATIONAL UCC FINANCING STATEMENT AMENDMENT (FORM UCC3) (REV. 07/29/98)~~ UCC FINANCING STATEMENT AMENDMENT (Form UCC3)

UCC FINANCING STATEMENT AMENDMENT ADDENDUM FOLLOW INSTRUCTIONS ~~(front and back)~~ CAREFULLY

11. INITIAL FINANCING STATEMENT FILE # NUMBER: ~~(same~~ Same as item 1a on Amendment form)

---

12. NAME OF PARTY AUTHORIZING THIS AMENDMENT: ~~(same~~ Same as item 9 on Amendment form)

12a. ORGANIZATION'S NAME

---

OR

12b. INDIVIDUAL'S ~~LAST NAME~~ SURNAME                      FIRST PERSONAL NAME ~~MIDDLE NAME,~~  
SUFFIX

---

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

---

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

13. ~~Use this space for additional information~~ Name of DEBTOR on related financing statement (Name of a current Debtor of record required for indexing purposes only in some filing offices - see Instruction item 13): Provide only one Debtor name (13a or 13b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); see Instructions if name does not fit

13a. ORGANIZATION'S NAME

---

OR

13b. INDIVIDUAL'S SURNAME                      FIRST PERSONAL NAME

---

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

---

14. ADDITIONAL SPACE FOR ITEM 8 (Collateral):

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15. This FINANCING STATEMENT AMENDMENT: [ ] covers timber to be cut [ ] covers as-extracted collateral [ ] is filed as a fixture filing

16. Name and address of a RECORD OWNER of real estate described in item 17 (if Debtor does not have a record interest):

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17. Description of real estate:

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18. MISCELLANEOUS:

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UCC FINANCING STATEMENT AMENDMENT ADDENDUM (Form UCC3Ad)

SECTION 22. Arkansas Code § 4-9-607(b), concerning the provisions for the nonjudicial enforcement of mortgages, is amended to read as follows:

(b) If necessary to enable a secured party to exercise under subsection (a)(3) the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which a record of the mortgage is recorded:

(1) a copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) the secured party's sworn affidavit in recordable form stating that:

(A) a default has occurred with respect to the obligation secured by the mortgage; and

(B) the secured party is entitled to enforce the mortgage nonjudicially.

SECTION 23. Arkansas Code Title 4, Chapter 9, is amended to add an additional subchapter to read as follows:

Part 8Transition Provisions for 2010 Amendments4-9-801. Effective date.

This act takes effect on July 1, 2013.

4-9-802. Savings clause.

(a) Except as otherwise provided in this part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this act takes effect.

(b) This act does not affect an action, case, or proceeding commenced before this act takes effect.

4-9-803. Security interest perfected before effective date.

(a) A security interest that is a perfected security interest immediately before this act takes effect is a perfected security interest under this chapter as amended by this act if, when this act takes effect, the

applicable requirements for attachment and perfection under this chapter as amended by this act are satisfied without further action.

(b) Except as otherwise provided in § 4-9-805, if, immediately before this act takes effect, a security interest is a perfected security interest, but the applicable requirements for perfection under this chapter as amended by this act are not satisfied when this act takes effect, the security interest remains perfected thereafter only if the applicable requirements for perfection under this chapter as amended by this act are satisfied within one year after this act takes effect.

4-9-804. Security interest unperfected before effective date.

A security interest that is an unperfected security interest immediately before this act takes effect becomes a perfected security interest:

(1) without further action, when this act takes effect, if the applicable requirements for perfection under this chapter as amended by this act are satisfied before or at that time; or

(2) when the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

4-9-805. Effectiveness of action taken before effective date.

(a) The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this chapter as amended by this act.

(b) This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided under the jurisdiction's Article 9 to its Uniform Commercial Code before the jurisdiction's amendments contained in this act. However, except as otherwise provided in subsections (c) and (d) and § 4-9-806, the financing statement ceases to be effective:

(1) if the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had this act not taken effect; or

(2) if the financing statement is filed in another jurisdiction,

at the earlier of:

(A) the time the financing statement would have ceased to be effective under the law of that jurisdiction; or

(B) June 30, 2018.

(c) The filing of a continuation statement after this act takes effect does not continue the effectiveness of a financing statement filed before this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in the jurisdiction's Article 9 to its Uniform Commercial Code before the jurisdiction's amendments contained in this act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.

(d) Subdivision (b)(2)(B) applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in the jurisdiction's Article 9 to its Uniform Commercial Code before the jurisdiction's amendments contained in this act only to the extent that the jurisdiction's Article 9 to its Uniform Commercial Code before the jurisdiction's amendments contained in this act provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(e) A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of part 5 as amended by this act for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of § 4-9-503(a)(2) as amended by this act. A financing statement that indicates that the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the collateral is held in a trust within the meaning of § 4-9-503(a)(3) as amended by this act.

4-9-806. When initial financing statement suffices to continue

effectiveness of financing statement.

(a) The filing of an initial financing statement in the office specified in § 4-9-501 continues the effectiveness of a financing statement filed before this act takes effect if:

(1) the filing of an initial financing statement in that office would be effective to perfect a security interest under this chapter as amended by this act;

(2) the pre-effective-date financing statement was filed in an office in another State; and

(3) the initial financing statement satisfies subsection (c).

(b) The filing of an initial financing statement under subsection (a) continues the effectiveness of the pre-effective-date financing statement:

(1) if the initial financing statement is filed before this act takes effect, for the period provided in § 4-9-515 with respect to an initial financing statement; and

(2) if the initial financing statement is filed after this act takes effect, for the period provided in § 4-9-515 as amended by this act with respect to an initial financing statement.

(c) To be effective for purposes of subsection (a), an initial financing statement must:

(1) satisfy the requirements of part 5 as amended by this act for an initial financing statement;

(2) identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(3) indicate that the pre-effective-date financing statement remains effective.

#### 4-9-807. Amendment of pre-effective-date financing statement.

(a) In this section, "pre-effective-date financing statement" means a financing statement filed before this act takes effect.

(b) After this act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in

accordance with the law of the jurisdiction governing perfection as provided in chapter 9 as amended by this act. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in subsection (d), if the law of this state governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after this act takes effect only if:

(1) the pre-effective-date financing statement and an amendment are filed in the office specified in § 4-9-501;

(2) an amendment is filed in the office specified in § 4-9-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies § 4-9-806(c); or

(3) an initial financing statement that provides the information as amended and satisfies § 4-9-806(c) is filed in the office specified in § 4-9-501.

(d) If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under § 4-9-805(c) and (e) or § 4-9-806.

(e) Whether or not the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this State may be terminated after this act takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies § 4-9-806(c) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in chapter 9 as amended by this act as the office in which to file a financing statement.

4-9-808. Persons entitled to file initial financing statement or continuation statement.

A person may file an initial financing statement or a continuation statement under this part if:

(1) the secured party of record authorizes the filing; and

(2) the filing is necessary under this part:

(A) to continue the effectiveness of a financing statement filed before this act takes effect; or

(B) to perfect or continue the perfection of a security interest.

4-9-809. Priority.

This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this act takes effect, chapter 9 as it existed before its amendment by this act determines priority.

SECTION 24. EMERGENCY CLAUSE. It is hereby found and determined by the General Assembly that the present Article 9 of the Uniform Commercial Code which exists in all fifty states, the District of Columbia, and Puerto Rico is in need of important revisions to better identify debtors and secured collateral, to promote the efficiency of electronic filing, to reduce cost and time related to identifying debtors, and to resolve conflicting case law. The revisions contained in this Act will bring greater certainty to financing transactions, and will reduce both their cost and the cost of credit. Because current Article 9 is uniform throughout the United States, it becomes essential that the effective date for the substantial revisions contemplated by this Act be the same in every state. If Arkansas and all of the other states and territories do not act in concert and enact a common effective date, severe complications will arise. Therefore, the rules for filing must be uniform at all times. Because the several states are proposing that the revised Article 9 become effective on July 1, 2013 an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect on July 1, 2013.

**APPROVED: 02/20/2013**