

DEPARTMENT OF STATE
OFFICE OF BUSINESS AND INTERNAL SERVICES
UNIFORM COMMERCIAL CODE FILING OFFICE

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These rules become effective 7 days after filing with the secretary of state.

(By authority conferred on the department of state by section 9526 of the uniform commercial code, 1962 PA 174, MCL 440.9526)

R 440.102, R 440.103, R 440.104, R 440.106, R 440.201, R 440.203, R 440.204, R 440.207, R 440.302, R 440.303, R 440.311, R 440.312, R 440.402, R 440.403, R 440.406, R 440.407, R 440.408, R 440.412, R 440.502, R 440.503, R 440.504, and R 440.508 of the Michigan Administrative Code are amended, and R 440.105, R 440.202, R 440.413, R 440.505, and R 440.509 are rescinded, as follows:

PART 1. GENERAL PROVISIONS

R 440.102 Definitions.

Rule 102. (1) As used in these rules:

(a) “Amendment” as described in section 9512 of the UCC, MCL 440.9512, includes assignments, continuations, and terminations.

(b) “Assignment” means an amendment that purports to reflect an assignment of all or a part of a secured party's power to authorize an amendment to a financing statement.

(c) “File number” means the unique identification number assigned to an initial financing statement by the filing officer to identify the initial financing statement and permanently associate the initial financing statement with all financing statements related to it in the UCC information management system. The filing number bears no relation to the time of filing and is not an indicator of priority.

(d) “Filing office” and “filing officer” mean the UCC section of the office of secretary of state or its successor.

(e) “Individual” means a human being, or a decedent in the case of a debtor that is the decedent's estate.

(f) “Information statement” means a record that indicates, under section 9518 of the UCC, MCL 440.9518, that a financing statement is inaccurate or wrongfully filed.

(g) “Initial financing statement” means a financing statement containing the information required by section 9502 of the UCC, MCL 440.9502, which, when filed, creates the initial record in the UCC information management system.

(h) “Remitter” means a person that tenders a financing statement to the filing officer for filing, whether the person is a filer or an agent of a filer responsible for tendering the record for filing. Remitter does not include a person responsible merely for the delivery of the financing statement to the filing office, such as the postal service or a

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courier service, but does include a service provider who acts as a filer's representative in the filing process.

(i) "UCC" means the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.9994.

(j) "UCC information management system" means the information management system used by the filing officer to store, index, and retrieve information relating to financing statements.

(k) "Unique identification number" or "identification number" means a number that includes the year of filing expressed as the first 4 digits of a unique number assigned to the financing statement by the filing office and a 1-digit verification number, referred to as a check digit, assigned by the filing office, but mathematically derived from other numbers in the unique number.

(2) A word or term defined in the UCC has the same meaning when used in these rules.

R 440.103 Financing statement delivery.

Rule 103. Financing statements may be tendered for filing at the office as follows:

- (a) By courier delivery at the filing office's street address.
- (b) By postal service delivery to the filing office's mailing address.
- (c) By electronic transmission to the filing office in a manner prescribed by the filing officer using a standard approved by the international association of commercial administrators and adopted by the filing office.
- (d) By direct online or web page data entry transmission to the filing office in a manner prescribed by the filing officer.
- (e) By email delivery to the filing office's email address.

R 440.104 Search request delivery.

Rule 104. UCC search requests may be delivered to the filing office by any of the means by which financing statements may be delivered to the filing office.

R 440.105 Rescinded.

R 440.106 Methods of payment.

Rule 106. Filing fees and fees for public records services may be paid by the following methods:

- (a) Cash.
- (b) Checks. Personal checks, cashier's checks, and money orders must be made payable to the "State of Michigan".
- (c) Billing account.
- (d) The filing office shall accept payment via electronic funds transfer under national automated clearing house association (NACHA) rules from remitters that have entered into appropriate NACHA-approved arrangements for the transfers and that authorize the relevant transfer pursuant to such arrangements and rules.

(e) Debit and credit card. The filing office shall accept payment via Visa, Mastercard, Discover, and American Express credit and debit cards.

PART 2. ACCEPTANCE AND REFUSAL OF DOCUMENTS

R 440.201 Duty to file.

Rule 201. If there is no ground to refuse acceptance of the document under sections 9516(2) or 9520(5) of the UCC, MCL 440.9516 and 440.9520, then a financing statement is filed on its receipt by the filing officer with the filing fee and the filing officer shall promptly assign a file number to the financing statement and index it in the information management system.

R 440.202 Rescinded.

R 440.203 Grounds not warranting refusal.

R 203. (1) The only grounds for the filing officer's refusal to accept a financing statement for filing are enumerated in sections 9516(2) and 9520(5) of the UCC, MCL 440.9516 and 440.9520.

(2) The following are examples of defects that do not constitute grounds for refusal to accept a document:

(a) The financing statement contains or appears to contain a misspelling or other apparently erroneous information.

(b) The financing statement appears to identify a debtor incorrectly.

(c) The financing statement appears to identify a secured party or a secured party of record incorrectly.

(d) The financing statement contains additional or extraneous information of any kind.

(e) The financing statement does not contain all the information required by article 9 of the UCC, MCL 440.9101 to 440.9994, if the document contains the information required in section 9516(2) of the UCC, MCL 440.9516.

(f) The financing statement incorrectly identifies collateral, contains an illegible or unintelligible description of collateral, or does not appear to contain a description of collateral.

(g) The document is accompanied by money in excess of the full filing fee.

(3) The examples enumerated in subrule (2) of this rule are not a comprehensive enumeration of defects outside the scope of grounds for refusal to accept a financing statement for filing.

R 440.204 Procedure on refusal.

R 204. If the filing officer finds grounds under sections 9516(2) or 9520(5) of the UCC, MCL 440.9516 and 440.9520, to refuse acceptance of a financing statement, the filing officer shall return the document, if written, to the remitter and refund the filing fee on request. The filing officer shall send a notice that contains the date and time the document would have been filed had it been accepted for filing, unless the date and

time are stamped on the document, and a brief description of the reason for refusal to accept the document under sections 9516(2) or 9520(5) of the UCC, MCL 440.9516 and 440.9520. The notice must be sent to a secured party or the remitter, as provided in R 440.402(3), not later than the second business day after the filing office receives the document. The refund may be delivered with the notice or under separate cover.

R 440.207 Refusal errors.

Rule 207. If a secured party or a remitter demonstrates to the satisfaction of the filing officer that a financing statement that was refused for filing should not have been refused under sections 9516(2) or 9520(5) of the UCC, MCL 440.9516 and 440.9520, the filing officer shall file the financing statement as provided in these rules, reflecting a filing date and time when filing should have occurred. The filing officer shall also file a filing officer statement stating that the effective date and time of filing is the date and time the financing statement was originally tendered for filing, and set forth the date and time.

PART 3. UCC INFORMATION MANAGEMENT SYSTEM

R 440.302 Names of individuals.

Rule 302. The following provisions apply to the name of an individual who, or whose estate, is a debtor or a secured party on a financing statement:

(a) Separate data entry fields are established for first personal name, additional name or names or initial or initials, and surnames of individuals. The filing officer assumes no responsibility for the accurate designation of the names, but shall accurately enter the data in accordance with the filer's designations, as required by R 440.407(2)(b).

(b) Titles and prefixes, such as "doctor," "reverend," "Mr.," and "Ms.," should not be provided by filers in financing statements. However, as provided in R 440.407, if a financing statement is submitted with designated name fields, the data must be entered in the UCC information management system exactly as it appears.

(c) Titles and suffixes or indications of status, such as "M.D." and "esquire," are not part of an individual's name and should not be provided by filers in financing statements. However, as provided in R 440.407, if a financing statement is submitted with designated name fields, the data must be entered in the UCC information management system exactly as it appears.

(d) Suffixes that indicate which individual is being named, such as "senior," "junior," "I," "II," and "III," are appropriate and must be entered exactly as it appears into the UCC information management system in a field designated for name suffixes.

(e) Name fields for individuals in the UCC information management system are fixed in length. Although filers shall continue to provide full names of individuals on their financing statements, a name that exceeds the fixed length of a name field is entered as presented to the filing officer, up to the maximum length of the field. The maximum lengths of name fields are as follows:

(i) First personal name: 50 characters.

(ii) Additional name or names or initial or initials: 50 characters.

- (iii) Surname: 50 characters.
- (iv) Suffix: 2 characters.

R 440.303 Names of organizations.

Rule 303. Both of the following provisions apply to the name of an organization that is a debtor or a secured party on a financing statement:

- (a) A single field is used to store an organization name.
- (b) The organization name field in the UCC information management system is fixed in length. The maximum length is 255 characters. Although filers shall continue to provide full names of organizations on their financing statements, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the field.

R 440.311 Information statement.

Rule 311. On the filing of an information statement, the status of the parties and the status of the financing statement is as follows:

- (a) The filing of an information statement has no effect on the status of any party to the financing statement.
- (b) The filing of an information statement has no effect on the status of the financing statement.

R 440.312 Procedure on lapse.

Rule 312. (1) If there is no timely filing of a continuation with respect to a financing statement, the financing statement lapses on its lapse date, but remains active in the UCC information management system until the first anniversary of its lapse date.

(2) On the first anniversary of the lapse date of a financing statement, the financing statement is inactive in the UCC information management system and the financing statement is no longer available to a searcher.

PART 4. FILING AND DATA ENTRY PROCEDURES

R 440.402 Document indexing.

Rule 402. (1) The date and time of filing are noted on the document and permanently associated with the record maintained for a financing statement in the UCC information management system at the earliest possible time.

(2) The filing office determines whether grounds exist to refuse the document under sections 9516(2) or 9520(5) of the UCC, MCL 440.9516 and 440.9520. If there is no ground for refusal of the document, then all the following provisions apply:

- (a) The document is filed and a unique identification number and the filing date are stamped on the document or otherwise permanently associated with the record maintained for a financing statement in the UCC information management system.
- (b) An acknowledgment of filing is prepared as provided in R 440.205 and delivered as provided in subrule (3) of this rule.

(c) The sequence of the identification number is not an indication of the order in which the document was received. If there is a ground for refusal of the document, then notification of refusal to accept the document is prepared as provided in R 440.204 and delivered as provided in subrule (3) of this rule.

(3) Acknowledgment of filing or notice of refusal of a financing statement that includes the information required by R 440.204 or R 440.205 tendered by any means is given by delivering the notice or acknowledgment to the secured party, or the first secured party if there are more than 1 named on the financing statement, by first-class mail, or, if the remitter requests, by first-class mail to the remitter, or by overnight courier to the remitter if the remitter provides a prepaid waybill or access to the remitter's account with the courier.

R 440.403 Filing date and time.

Rule 403. (1) Except as provided in subrule (2) of this rule, the filing date and time of a financing statement received with the proper filing fee is determined in the following manner:

(a) Notwithstanding the time of delivery, for a financing statement delivered to the filing office as provided in R 440.103 (a) or (b) or (e) during regular business hours, the earlier of the date and time delivery is receipted or the next close of business following delivery.

(b) For a financing statement transmitted to the filing office as provided in R 440.103(c) the date and time the filing office determines that all required elements of the transmission have been received in the required format.

(c) For a financing statement transmitted to the filing office as provided in R 440.103(d), the date and time the financing statement was accepted for filing by the filing office's direct online entry system.

(2) Except as provided in subrule (1)(b) and (c) of this rule, the filing date and time of a financing statement received after regular business hours or on a day the filing office is not open for business is the earlier of the date and time delivery is receipted by the filing office on the next day the office is open for business or the close of business on the next day the filing office is open for business.

(3) The filing officer may perform any duty relating to a financing statement on the filing date or on a date after the filing date.

R 440.406 Errors other than filing office errors.

Rule 406. An error by a filer is the responsibility of the filer. A filer can correct an error by filing an amendment. A person under whose name a record is indexed can disclose an error by filing an information statement.

R 440.407 Data entry of names; designated fields.

Rule 407. (1) A financing statement must designate whether a name is a name of an individual or an organization and, if an individual, must also designate the first personal name, additional name or names or initial or initials, and surname and any

suffix.

(2) Both of the following provisions apply to the data entry of names into the UCC information management system:

(a) Organization names are entered in the field designated for an organization name exactly as set forth in the financing statement, even if it appears that multiple names are set forth in the document or if it appears that the name of an individual has been included in the field designated for an organization name.

(b) Individual names are entered into the first personal name, additional name or names or initial or initials, and surname and suffix fields exactly as set forth on the financing statement.

R 440.408 Data entry of names; no designated fields.

Rule 408. (1) If an initial financing statement or an amendment that adds a debtor to a financing statement fails to specify whether the debtor is an individual or an organization and is accepted for filing in error, then all the following provisions apply:

(a) If not set forth in a field designated for individual names, a name is treated as an organization name if it contains words or abbreviations that indicate status, such as any of the following and similar words or abbreviations in foreign languages:

- (i) Association.
- (ii) Church.
- (iii) College.
- (iv) Company.
- (v) Co.
- (vi) Corp.
- (vii) Corporation.
- (viii) Inc.
- (ix) Limited.
- (x) Ltd.
- (xi) Club.
- (xii) Foundation.
- (xiii) Fund.
- (xiv) L.L.C.
- (xv) Limited liability company.
- (xvi) Institute.
- (xvii) Society.
- (xviii) Union.
- (xix) Syndicate.
- (xx) GmBH.
- (xxi) S.A. de C.V.
- (xxii) Limited partnership.
- (xxiii) L.P.
- (xxiv) Limited liability partnership.
- (xxv) L.L.P.
- (xxvi) Trust.
- (xxvii) Business trust.

(xxviii) Co-op.

(xxix) Cooperative.

(xxx) Other designations established by statutes to indicate a statutory organization. In cases where organization or individual status is not designated by the filer and is not clear, the filing officer shall enter the name in the organization field.

(b) A name is entered as the name of an individual and not the name of an organization if the name is followed by a title substantially similar to 1 of the following titles or the equivalent of 1 of the following titles in a foreign language:

(i) Proprietor.

(ii) Sole proprietor.

(iii) Proprietorship.

(iv) Sole proprietorship.

(v) Partner.

(vi) General partner.

(vii) President.

(viii) Vice president.

(ix) Secretary.

(x) Treasurer.

(xi) M.D.

(xii) O.D.

(xiii) D.D.S.

(xiv) Attorney at law.

(xv) Esq.

(xvi) Accountant.

(xvii) CPA.

(c) If it is apparent that the name of an individual and the name of an organization are stated on a single line and not in a designated individual name field, the name of the individual and the name of the organization must be entered as 1 debtor.

(2) If an initial financing statement or an amendment that adds a debtor to a financing statement fails to designate the last name of an individual debtor and is accepted for filing in error, or if only the last name of an individual debtor is designated in an initial financing statement or an amendment that adds a debtor to a financing statement, then all the following provisions apply:

(a) An initial in the first position of the name is treated as a first name.

(b) An initial and a name to which the initial apparently corresponds, as indicated by parentheses or similar punctuation, is entered into 1 name field only.

(c) A 1-word name is entered as a last name.

(d) A nickname, as indicated by parentheses or similar punctuation, is entered in the name field together with the name preceding the nickname, or if none, then as the first name.

R 440.412 Information statement record.

Rule 412. (1) A record is created for an information statement that bears the identification number for the information statement and the date and time of filing.

(2) The record of the information statement is associated with the record of the related

initial financing statement in a manner that causes the information statement to be retrievable each time a record of the financing statement is retrieved.

R 440.413 Rescinded.

PART 5. SEARCH REQUESTS AND REPORTS

R 440.502 Search requests; contents and processing.

Rule 502. (1) A search request must be accompanied by the appropriate fee, payable by a method described in R 440.106, and must contain all the following information:

- (a) The full correct name of a debtor or the name variant desired to be searched.
- (b) Specify whether the debtor is an individual or an organization.
- (c) The name and address of the person the search report is sent to.
- (2) A search request must be processed using the name in the exact form it is submitted.
- (3) For purposes of this rule, both of the following provisions apply:

(a) The full name of an individual must consist of a first personal name, a middle name or initial, and a surname followed by any suffix that may apply to the name.

(b) The full name of an organization must consist of the name of the organization as stated on the articles of incorporation or other organic documents in the state or country of organization or the name variant desired to be searched.

R 440.503 Requests for expediting; identification; method; certification date.

Rule 503. (1) A request for expediting must be identified by the requestor.

(2) A request for expediting must state whether the requestor desires current certification. Current certification is certification to the end of the business day preceding the day of the request.

(3) If the requestor does not expressly request current certification, the certification date is the date under R 440.507.

R 440.504 Request for expediting; payment; account.

Rule 504. A request for expediting made by any means provided in R 440.103 must be accompanied by a check, in the correct amount, for the statutory fee, or the requestor shall have a billing account with the filing office and authorize the filing office to make a charge to the account for the search.

R 440.505 Rescinded.

R 440.508 Limited or modified search requests.

Rule 508. (1) A person requesting a UCC search may limit or modify the search by requesting either or both of the following:

- (a) That copies of documents referred to in the report be included with the report.
- (b) To limit the scope of the search and copies by reference to any 1 or more of the following:
 - (i) The initial financing statement identification number.
 - (ii) The city of the debtor.
 - (iii) A range of dates between 2 specified dates.
- (2) A report created by the filing officer in response to a request that a UCC search be limited under this rule must contain the following statement: "A search request limited under R 440.508(1) may not reveal all filings against the debtor searched. The searcher bears the risk of relying on the limited search."

R 440.509 Rescinded.