

For: State and County Offices

Revised Uniform Commercial Code (UCC) Provisions

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

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Background

Revisions to UCC, Article 9, regarding secured transactions were approved by the National Conference of Commissioners on Uniform State Laws and the American Law Institute in 1998. The revised Article 9 has been adopted in many States, and legislative proposals to adopt the revisions have been initiated in many others. The effective date of the new law, where currently adopted, was July 1, 2001.

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Purpose

This notice:

- provides information about the key changes made by the revisions of Article 9
- provides guidance about actions necessary to implement the revisions for marketing assistance loans
- provides further clarification and corrections
- obsoletes Notice LP-1801.

Disposal Date June 1, 2002	Distribution State Offices; State Offices relay to County Offices
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2 Revised UCC, Article 9

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Key Provisions

The revised Article 9 will affect the manner in which CCC perfects and liquidates its security interest in commodities securing CCC marketing assistance loans. Some of the key changes include the following:

- for those States without a pre-existing centralized filing system, centralizing the filing of most security interests
- providing for electronic filing of the financing statements
- abolishing the need to have the debtor or the secured party sign the financing statements
- establishing a new mandatory financing statement form
- expanding the scope of Article 9 to include statutory agricultural liens that could have the same status as a security interest in farm products
- changing the protection given to most purchase money creditors
- requiring liquidation notice be given to the debtor and all other lienholders
- imposing warranties on liquidation sales, unless waived
- easing the ability to correct erroneous financing statements
- changing some filing sites.

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2 Revised UCC, Article 9 (Continued)

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Additional Sources of Information

Information about the Article 9 revisions is available from the Uniform Law Commissioners at:

- <http://www.nccusl.org>
- http://www.law.upenn.edu/bll/ulc/ulc_frame.htm.

Additional information may be obtained at a State's Secretary of State website and at:

- <http://www.intercountyclearance.com>
- <http://www.iaca.org>.

Note: These websites contain general UCC information that may or may not be applicable in your State. Consult with the Regional Attorney before relying upon information from these Internet websites.

C

Loan Applicant Representations and Authorization to File a Financing Statement

The revision to Article 9 requires that FSA gather certain data elements from loan applicants that may not be on file with the County Office, such as:

- an individual's legal name, that is, first, middle, last name, and suffix
- the location of an applicant's organization or entity that is registered with a particular State, which may not be the State where the collateral is located.

Note: Although a State's Office of General Counsel (OGC) may have created a form to gather the information required from loan applicants, the collection of this information is not currently authorized by the Office of Management and Budget (OMB) according to the Paperwork Reduction Act of 1995.

An information collection request, using a national level form, "Representations for CCC or FSA Loans and Authorization to File a Financing Statement and Related Documents":

- is in agency clearance
 - will be submitted to OMB for emergency approval.
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Notice LP-1812

3 Action

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State Office Action

State Offices shall:

- contact their Regional Attorney to determine whether the Article 9 revisions have been adopted by their State
 - modify State amendments to instructions and handbooks as necessary according to 1-AS, paragraph 218
 - participate in training if offered by the Regional Attorney
 - conduct training of County Office staff.
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County Office Action

County Offices in States that have adopted the Article 9 revisions shall:

- ensure that liens are filed for marketing assistance loans according to any revised State policy beginning July 1, 2001
- until a national authorization form is approved by OMB and distributed, enter the following statement in the remarks section of CCC-666 and CCC-677-1:

“Because (Insert State name here) has adopted the 1998 revisions to its Uniform Commercial Code, you no longer have to sign the financing statement which allows CCC to obtain a security interest in the collateral used to secure a marketing assistance loan. If your loan is approved, CCC will file a financing statement at the earliest possible date, before you enter into a security agreement. I give CCC permission to file a financing statement.”

- when the applicant requests measurement service by telephone, read the statement above to the applicant

Note: Document whether the applicant concurs with the statement in the remarks section of CCC-677-1. The employee taking the application shall initial and date the applicant’s concurrence.

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Notice LP-1812

3 Action (Continued)

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**County Office
Action
(Continued)**

- if the following information is not already on file at the County Office and until a national authorization form is approved by OMB and distributed, make entries in the remarks section of CCC-666 or CCC-677-1 as follows.

IF the loan applicant conducts their farming operation as an...	THEN enter the...
individual	<ul style="list-style-type: none">• loan applicant's full legal name• State and county of primary residence.
organization or entity Note: Members of an informal joint operation or venture are treated as individuals.	<ul style="list-style-type: none">• type of organization or entity• State in which a registered organization or entity was created• State in which an unregistered organization or entity conducts its affairs.

Notice LP-1812

4 New UCC Forms

A Forms Availability

The following new forms, for use by States that have adopted the Article 9 revisions, are available on the FFAS-Employee Forms website, which can be accessed from <http://intranet.fsa.usda.gov/fsa>:

- UCC-1, UCC Financing Statement, dated 7/29/98
- UCC-3, UCC Financing Statement Amendment, dated 7/29/98
- UCC-11, UCC Information Request, dated 5/9/01
- UCC-1 (TRANS), dated 12/18/95
- UCC-1AD (TRANS), UCC Financing Statement Addendum, dated 12/18/95
- UCC-3 (TRANS), dated 11/19/98
- UCC-3AD (TRANS), UCC Financing Statement Amendment Addendum, dated 11/19/98
- UCC-11 (TRANS), dated 5/15/98.

Note: These forms shall be used unless the Secretary of State requires the use of a different form. Contact OGC for the use of the transition UCC forms.
