

**EXECUTIVE SUMMARY OF
REPORT OF ADVISORY COMMITTEE ON 2010 AMENDMENTS TO
ARTICLE 9
OF THE UNIFORM COMMERCIAL CODE – SECURED TRANSACTIONS**

By
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In 2008 the National Conference of Commissioners on Uniform State Laws and the American Law Institute formed a joint study committee to review the operation of Revised Article 9 in practice. The study committee determined that there were a number of discrete issues to be addressed and a drafting committee was formed late in 2008 that addressed appropriate statutory changes. Also revisions were made to the Official Comments to Article 9 to provide additional guidance to judges and practitioners relating to issues where changes to the statute were not deemed advisable or warranted. The drafting committee's revisions to the statutory text of Revised Article 9 were approved by the American Law Institute and by the National Conference of Commissioners on Uniform State Laws in 2010.

The Connecticut Law Revision Commission at a meeting on October 26, 2010 undertook a review of these revisions. The Commission review was conducted by a Commission Advisory Committee co-chaired by Commission members Neal Ossen and Thomas J. Welsh. The Advisory Committee included a group of advisors selected on the basis of their expertise in commercial law and transactions, real estate law and transactions and consumer matters, as well as a representative of the Connecticut Bankers Association and staff members from the Office of the Secretary of the State.

The Advisory Committee met several times in November and December of 2010 and reviewed all of the proposed revisions and additions to UCC Article 9, as well as Connecticut statutes, common law and practice associated with each of the suggested changes. The Advisory Committee prepared a proposed draft adapted for enactment in Connecticut. The draft includes necessary amendments to conform the uniform text to Connecticut law and practice, including the policy choices made in Connecticut's adoption of the major 2001 revision of Article 9, and to incorporate the concerns raised by the Office of the Secretary of the State.

A number of the more significant issues and revisions that were discussed follow:

- **Alternatives for Names of Individual Debtors – Selection of “Safe Harbor” Approach:** The single most significant decision to be made relating to alternatives set forth in the 2010 Uniform Official Text is to determine which alternative to adopt relating to the name to be specified on a financing statement for a debtor that is an individual (a natural person). Two “Alternatives” were provided in the official draft for the correct name in a financing statement for an individual debtor – Alternative A, making the name shown on the motor vehicle operator's license the *only* permitted name, and Alternative B, adopting a ‘safe harbor’ approach making the name of an individual shown on the individual's

Connecticut motor vehicle operator's license or identity card *one* of the names that would be sufficient on a financing statement, in addition to the names permitted under current law as well as the first personal name and surname of the individual. The Advisory Committee strongly recommended the adoption of Alternative B, the 'safe harbor' approach in Connecticut for a number of reasons, including the following:

- Alternative A is a change in current law that could render ineffective existing financing statements over relatively minor omissions or additions and changes when licenses are reissued or renewed.
 - The Office of the Secretary of the State and Department of Motor Vehicles computer systems are entirely separate systems that could use a different character sets and have different field size limitations. Therefore, "Alternative A" could create instances in which the exact required name could not be entered onto financing statements in, or searched on the records of, the Office of the Secretary of the State.
 - The Advisory Committee and the Office of the Secretary of the State felt that if "Alternative A" was selected it would be very important to harmonize the name conventions, field sizes and other technical aspects of the computer systems of the Department of Motor Vehicles and the Office of the Secretary of the State. The cost to the State to study and revise the computer systems of the Office of the Secretary of the State and the Department of Motor Vehicles to support "Alternative A" could be substantial and they could not recommend allocating resources necessary for this task at this time.
- **Revisions coordinating with the Model Entity Transactions Act that allows redomestication of registered organizations in another state.**
 - **Clarification of rules relating to names of decedent's estates as Debtors on financing statements.**
 - **Providing for an expanded four-month rule for effectiveness of financing statements after a change in location**
 - **Review of 2010 revisions to Official Comments to UCC Article 9 and discussion of continued relevance of Official Comments in Connecticut notwithstanding Conn. Gen. Stat. §1-2z restrictions on court consideration of legislative history.**
 - **Revision of UCC Article 9 forms and allowing adoption of revised forms by the Office of the Secretary of the State.**

The Advisory Committee report and proposed enactment draft of the 2010 revisions to Revised Article 9 were approved by the Law Revision Commission on January 4, 2011 and referred to the General Assembly Joint Judiciary Committee for consideration.