

**UNIFORM COMMERCIAL CODE ARTICLE 9**

**MODIFICATIONS TO OFFICIAL TEXT AND COMMENTS**

Approved by:

Executive Committee of  
National Conference of Commissioners  
on Uniform State Laws

Permanent Editorial Board  
for the  
Uniform Commercial Code

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# UCC Article 9 – Modifications to Official Text and Comments

## (with explanations)\*

#	§	Modified Text or Comment	Explanation
1	9-101  Comment 4	<p>4. <b>Summary of Revisions.</b></p> <p style="text-align: center;">* * *</p> <p>1. <b>Transition Provisions.</b> Part 7 (Sections 9-701 through 9-707 <del>9-709</del> 9-709) contains transition provisions. Transition from former Article 9 to this Article will be particularly challenging in view of its expanded scope, its modification of choice-of-law rules for perfection and priority, and its expansion of the methods of perfection.</p>	Correction
2	9-102(a)(5)	(5) “Agricultural lien” means an interest, <del>other than a security interest,</del> in farm products:	Correction
3	9-102(a)(46)	(46) “Health-care-insurance receivable” means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided <u>or to be provided</u> .	Correction

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\*Marked to show changes from Official Text as modified through January 2000.

#	§	Modified Text or Comment	Explanation
4	9-205 Comment 3	3. <b>Possessory Security Interests.</b> Subsection (b) makes clear that this section does not relax the requirements for perfection by possession under Section <del>9-315</del> <u>9-313</u> . If a secured party allows the debtor access to and control over collateral its security interest may be or become unperfected.	Correction
5	9-301 Comment 8	8. <b>Non-U.S. Debtors.</b> This Article applies the same choice-of-law rules to all debtors, foreign and domestic. For example, it adopts the bifurcated approach for determining the law applicable to security interests in goods and other tangible collateral. See Comment 5.a., above. The Article contains a new rule specifying the location of non-U.S. debtors for purposes of this Part. The rule appears in Section 9-307 and is explained in the <del>Reporters' Comments</del> <u>following to</u> that section. Former Section 9-103(3)(c), which contained a special choice-of-law rule governing security interests created by debtors located in a non-U.S. jurisdiction, proved unsatisfactory and was deleted.	Correction
6	9-304(b)(1)	(b) <b>[Bank's jurisdiction.]</b> The following rules determine a bank's jurisdiction for purposes of this part:  (1) If an agreement between the bank and <del>the debtor</del> <u>its customer</u> governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this article, or [the Uniform Commercial Code], that jurisdiction is the bank's jurisdiction.	Correction

#	§	Modified Text or Comment	Explanation
7	9-307(f)(2)  Comment 5	<p data-bbox="499 240 1667 716"> <b>5. Registered Organizations Organized Under Law of United States; Branches and Agencies of Banks Not Organized Under Law of United States.</b>            Subsection (f) specifies the location of a debtor that is a registered organization organized under the law of the United States. It defers to <u>the</u> law of the United States, to the extent that that law determines, or authorizes the debtor to determine, the debtor’s location. Thus, if the law of the United States designates a particular State as the debtor’s location, that State is the debtor’s location for purposes of this Article’s choice-of-law rules. Similarly, if the law of the United States authorizes the registered organization to designate its State of location, the State that the registered organization designates is the State in which it is located for purposes of this Article’s choice-of-law rules. In other cases, the debtor is located in the District of Columbia.         </p> <p data-bbox="499 748 1667 906"> <u>In some cases, the law of the United States authorizes the registered organization to designate a main office, home office, or other comparable office. See, e.g., 12 U.S.C. §§ 22 and 1464(a); 12 C.F.R. § 552.3. Designation of such an office constitutes the designation of the State of location for purposes of Section 9-307(f)(2).</u> </p> <p data-bbox="499 927 1667 1284"> <u>Subsection (f) also specifies the location of a branch or agency in the United States of a foreign bank that has one or more branches or agencies in the United States. The law of the United States authorizes a foreign bank (or, on behalf of the bank, a federal regulatory agency) to designate a single home state for all of the foreign bank’s branches and agencies in the United States. See 12 U.S.C. § 3103(c) and 12 C.F.R. § 211.22. The designated State constitutes the State of location for the branch or agency for purposes of Section 9-307(f); however, if all of the foreign bank’s branches or agencies that are in the United States are licensed in only one State, the branches and agencies are located in that State. See subsection (i).</u> </p> <p data-bbox="499 1312 1667 1393"> <u>In cases not governed by subsection (f) or (i), the location of a foreign bank is determined by subsections (b) and (c).</u> </p>	Clarification

#	§	Modified Text or Comment	Explanation
8	9-309(14)	<p>The following security interests are perfected when they attach:</p> <p style="text-align: center;">* * *</p> <p>(12) an assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; <del>and</del></p> <p>(13) a security interest created by an assignment of a beneficial interest in a decedent's estate; <u>and</u></p> <p>(14) a sale by an individual of an account that is a right to payment of <u>winnings in a lottery or other game of chance.</u></p>	<p>Persons who finance this type of collateral will have significant difficulty keeping track of an individual debtor for the full life of the payment of lottery winnings, which commonly extend for 20 or more years.</p>
9	Legislative note	<p><u>The Act that makes the changes to 9-102(a)(5), 9-102(a)(46), and 9-304(b)(1) [made as sections 1, 2, and 3 of the Act] and 9-309(14) [made as section 4 of the Act] should contain the following language:</u></p> <p><u>This Act takes effect _____, 200 .</u></p> <p><u>The sections of Article 9 amended by Sections [1, 2, and 3] of this Act, shall be construed as declaring the law as it existed prior to the enactment of this amendment and not as modifying it.</u></p> <p><u>Section [4] of this Act applies to a sale of an account described in paragraph (14) of Section 9-309 of Article 9, even if the sale was entered into before the paragraph took effect. However, if the relative priorities of conflicting claims to the account were established before the paragraph took effect, Article 9 as in effect immediately prior to the date the paragraph took effect determines priority.</u></p>	<p>Transition rules for changes to Official Text</p>

#	§	Modified Text or Comment	Explanation
10	9-309	[add at end of existing Comment]	Explains change to text.
	Comment 4	<u>Paragraph (14), which is new, affords automatic perfection to sales by individuals of an “account” (as defined in Section 9-102) consisting of the right to winnings in a lottery or other game of chance. Payments on these accounts typically extend for periods of twenty years or more. It would be unduly burdensome for the secured party, who would have no other reason to maintain contact with the seller, to monitor the seller’s whereabouts for such a length of time. This paragraph was added in 2001. It applies to a sale of an account described in it, even if the sale was entered into before the effective date of the paragraph. However, if the relative priorities of conflicting claims to the account were established before the paragraph took effect, Article 9 as in effect immediately prior to the date the paragraph took effect determines priority.</u>	
11	9-313	<b>6. Certificated Securities.</b> * * *	Correction
	Comment 6	<del>Subsections (e), (f), and (g), which are</del> <u>Subsection (e), (f), and (g), which are is new, apply applies to a person a secured party in possession of security certificates or holding another person who has taken delivery of security certificates and holds them for the secured party’s benefit under Section 8-301. For delivery to occur when a person other than a secured party holds possession for the secured party the person may not be a securities intermediary. See Comment 8.</u>	

#	§	Modified Text or Comment	Explanation
12	9-318	<p>4. <b>Effect of Perfection.</b> If the security interest of a buyer of accounts or chattel paper is perfected the usual result would take effect: transferees from and creditors of the seller could not acquire an interest in the sold accounts or chattel paper. The same result <u>generally</u> would occur if payment intangibles or promissory notes were sold, inasmuch as the buyer's security interest is automatically perfected under Section 9-309. <u>However, in certain circumstances, a purchaser who takes possession of a promissory note will achieve priority, under Sections 9-330 or 9-331, over the security interest of an earlier buyer of the promissory note. It necessarily follows that the seller in those circumstances retains the power to transfer the promissory note, as if it had not been sold, to a purchaser who obtains priority under either of those sections. See Section 9-203(b)(3), Comment 6.</u></p>	Clarification

#	§	Modified Text or Comment	Explanation
13	9-336	4. Priority of Perfected Security Interests That Attach Under This Section	Correction.
	Comment 4	<p data-bbox="499 310 558 342">* * *</p> <p data-bbox="594 375 1402 764"><b>Example 1:</b> SP-1 has a perfected security interest in Debtor's eggs, which have a value of \$300 and secure a debt of \$400, and SP-2 has a perfected security interest in Debtor's flour, which has a value of \$500 and secures a debt of <del>\$600</del> \$700. Debtor uses the flour and eggs to make cakes, which have a value of \$1000. The two security interests rank equally and share in the ratio of 3:5. Applying this ratio to the entire value of the product, SP-1 would be entitled to \$375 (i.e., <math>3/8 \times \\$1000</math>), and SP-2 would be entitled to \$625 (i.e., <math>5/8 \times \\$1000</math>).</p> <p data-bbox="594 797 1402 1114"><b>Example 2:</b> Assume the facts of Example 1, except that SP-1's collateral, worth \$300, secures a debt of \$200. Recall that, if the cake is worth \$1000, then applying the ratio of 3:5 would entitle SP-1 to \$375 and SP-2 to \$625. However, SP-1 is not entitled to collect from the product more than it is owed. Accordingly, SP-1's share would be only \$200, SP-2 would receive the remaining value, up to the amount it is owed (<del>\$600</del> \$700).</p> <p data-bbox="594 1146 1402 1414"><b>Example 3:</b> Assume that the cakes in the previous examples have a value of only \$600. Again, the parties share in the ratio of 3:5. If, as in Example 1, SP-1 is owed \$400, then SP-1 is entitled to \$225 (i.e., <math>3/8 \times \\$600</math>), and SP-2 is entitled to \$375 (i.e., <math>5/8 \times \\$600</math>). Debtor receives nothing. If, however, as in Example 2, SP-1 is owed only \$200, then SP-2 receives \$400.</p>	

#	§	Modified Text or Comment	Explanation
14	9-502	3. <b>Debtor's Signature; Required Authorization.</b>	Clarification
	Comment 3	<p style="text-align: center;">* * *</p> <p>Law other than this Article, including the law with respect to ratification of past acts, generally determines whether a person has the requisite authority to file a record under this Article. See <del>Section</del> <u>Sections 1-103 and 9-509, Comment 3.</u> However, under Section 9-509(b), the debtor's authentication of (or becoming bound by) a security agreement <i>ipso facto</i> constitutes the debtor's authorization of the filing of a financing statement covering the collateral described in the security agreement. The secured party need not obtain a separate authorization.</p>	

#	§	Modified Text or Comment	Explanation
15	9-507(c)(2)  Comment 4	<p><b>4. Other Post-Filing Changes.</b> Subsection (b) provides that, as a general matter, post-filing changes that render a financing statement inaccurate and seriously misleading have no effect on a financing statement. The financing statement remains effective. It is subject to two exceptions: Section 9-508 and Section 9-507(c). Section 9-508 addresses the effectiveness of a financing statement filed against an original debtor when a new debtor becomes bound by the original debtor’s security agreement. It is discussed in the Comments to that section. Section 9-507(c) addresses a “pure” change of the debtor’s name, i.e., a change that does not implicate a new debtor. It clarifies former Section 9-402(7). If a name change renders a filed financing statement seriously misleading, the financing statement, <u>unless amended to provide the debtor’s new correct name, is not effective as only to perfect a security interest in collateral acquired by the debtor before, or within more than four months after, the change, unless before the expiration of the four months. If an amendment that provides the new correct name is filed that specifies the debtor’s new correct name (or provides an incorrect name that renders the financing statement not seriously misleading under Section 9-506). As under former Section 9-402(7), within four months after the change, the original financing statement as amended would continue to be effective also with respect to collateral acquired before more than four months after the name change as well as collateral acquired within the four month period. If an amendment that provides the new correct name is filed more than four months after the change, the financing statement as amended would be effective also with respect to collateral acquired more than four months after the change, but only from the time of the filing of the amendment.</u></p>	Clarification

#	§	Modified Text or Comment	Explanation
16	9-509	<p>3. <b>Unauthorized Filings.</b> Records filed in the filing office do not require signatures for their effectiveness. Subsection (a)(1) substitutes for the debtor’s signature on a financing statement the requirement that the debtor authorize in an authenticated record the filing of an initial financing statement or an amendment that adds collateral. Also, under subsection (a)(1), if an amendment adds a debtor, the debtor who is added must authorize the amendment. A person who files an unauthorized record in violation of subsection (a)(1) is liable under Section 9-625(b) and (e) for actual and statutory damages. Of course, a filed financing statement is ineffective to perfect a security interest if the filing is not authorized. See Section 9-510(a). Law other than this Article, including the law with respect to ratification of past acts, generally determines whether a person has the requisite authority to file a record under this section. See Sections 1-103, 9-502, Comment 3. <u>This Article applies to other issues, such as the priority of a security interest perfected by the filing of a financing statement.</u></p>	Clarification
	Comment 3		

#	§	Modified Text or Comment	Explanation
17	9-516(b)(5)(C)(ii)  Comment 3	<p><b>3. Effectiveness of Rejected Record.</b> Subsection (b) provides an exclusive list of grounds upon which the filing office may reject a record. See Section 9-520(a). Although some of these grounds would also be grounds for rendering a filed record ineffective (e.g., an initial financing statement does not provide a name for the debtor), many others would not be (e.g., an initial financing statement does not provide a mailing address for the debtor or secured party of record). Neither this section nor Section 9-520 requires or authorizes the filing office to determine, or even consider, the accuracy of information provided in a record. For example, the State A filing office may not reject under subsection (b)(5)(C) an initial financing statement indicating that the debtor is a State A corporation and providing a three-digit organizational identification number, even if all State A organizational identification numbers contain at least five digits and two letters. <u>Some organizations that are not registered organizations (such as foreign corporations) have a readily determinable jurisdiction of organization. When that is not the case, for purposes of this section, the jurisdiction of organization for a debtor that is an organization but not a registered organization is any jurisdiction that bears a reasonable relation to the debtor. For example, the jurisdiction of organization may be the jurisdiction in which the debtor is located under Section 9-307(b) (i.e., its place of business or chief executive office) or the jurisdiction stated in any organizational document or agreement for the debtor as the jurisdiction under whose law the organization is formed or as the jurisdiction whose law is the governing law. Thus, for purposes of this section, more than one jurisdiction may qualify as the debtor’s jurisdiction of organization. See Comment 9.</u></p>	Clarification

#	§	Modified Text or Comment	Explanation
18	9-706	<p data-bbox="499 245 1625 321"><b>1. Continuation of Financing Statements Not Filed in Proper Filing Office Under This Article.</b></p> <p data-bbox="590 354 653 375">* * *</p> <p data-bbox="499 418 1625 613">Although it has the effect of continuing the effectiveness of a pre-effective-date financing statement, an initial financing statement described in this section is not a continuation statement. Rather, it is governed by the rules applicable to initial financing statements. (However, the debtor need not authorize the filing. See Section <del>9-707</del> <u>9-708</u>.) * * *</p>	Correction