

Chapter DFI-CCS 1

UNIFORM COMMERCIAL CODE SECTION

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Note: Chapter DFI-CCS 1 was created as an emergency rule effective 10-24-01. Chapters DFI-CCS 1 to 7 replace rules of the Secretary of State in ch. SS 3.

DFI-CCS 1.01 Definitions. In chs. DFI-CCS 1 to 7:

(1) “Active filing” means a UCC document that has not reached the one-year anniversary of its lapse date.

(2) “Amendment” means a UCC document that amends the information contained in a financing statement. Amendment includes an assignment, continuation and termination.

(3) “Assignment” means an amendment that assigns all or part of a secured party’s power to authorize an amendment to a financing statement.

(4) “Continuation statement” has the meaning set forth in s. 409.102 (1) (gm), Stats.

(5) “Correction statement” filed under s. 409.518, Stats., means a UCC document that indicates that a financing statement is inaccurate or wrongfully filed.

(6) “Department” means the department of financial institutions.

(7) “File number” has the meaning set forth in ss. 409.102 (1) (is) and 409.519 (2), Stats.

(8) “Filing agent of the department” means any office duly authorized by the department to receive documents under ch. 409, Stats.

(9) “Filing office” means the department or a filing agent of the department.

(10) “Filing officer” means the UCC section of the department.

(11) “Filing officer statement” means a statement of correction entered into the filing office’s information management system to correct an error by the filing officer.

(12) “Financing statement” has the meaning set forth in s. 409.102 (1) (jm), Stats.

(13) “Inactive filing” means a UCC record that has reached the first anniversary of its lapse date.

(14) “Index” means information that is entered into the filing office’s information management system to create a means by which to retrieve filing information.

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

(16) “Initial financing statement” means a UCC document containing the information required to be in an initial financing statement and that causes the filing office to establish the initial record of existence of a financing statement that does not identify itself as an amendment or identify an initial financing statement.

(17) “Lapse date” means the expiration date for an initial financing statement set forth in s. 409.515, Stats.

(18) “Lapsed filing” means a UCC document that has reached its expiration date.

(19) “Land recording office” means an office as set forth in s. 409.501 (1) (a), Stats.

(20) “Nonstandard UCC filing” means any of the following:

(a) The standard initial financing statement (“UCC1”) which includes more than two UCC financing statement addendums

(“UCC1ad”), or the standard amendment (“UCC3”) which includes more than 2 UCC amendment addendums (“UCC3ad”) as set forth in s. 409.521, Stats.

(b) The standard form to which is attached writings which are not set forth in s. 409.521, Stats.

(c) Any other writings, which do not conform to the standard forms, set forth in s. 409.521, Stats.

(21) “Organization” means a legal person that is not an individual.

(22) “Remitter” means a person who tenders a UCC document to the filing officer for filing, whether the person is a filer or an agent of a filer responsible for tendering the document for filing. “Remitter” shall not include a person responsible merely for the delivery of the document to the filing office, but may include a service provider who acts as a filer’s representative in the filing process.

Note: The postal service and a courier service are merely responsible for the delivery of the document to the filing office.

(23) “Secretary” means the secretary of the department.

(24) “Secured party of record” has the meaning set forth in s. 409.511, Stats.

(25) “Standard UCC filing” means any writing presented to a filing officer for filing, presented on an 8 1/2 x 11 inch standard UCC form as set forth in s. 409.521, Stats., which may include the following:

(a) On UCC1, this may include the attachment of one UCC1Ad.

(b) On UCC3, this may include the attachment of UCC3Ad.

(26) “Standard UCC form” means the forms set forth in s. 409.521, Stats.

(27) “Termination statement” has the meaning set forth in s. 409.102 (1) (tm), Stats.

(28) “UCC” means the uniform commercial code, chs. 401 to 411, Stats.

(29) “UCC document” means an initial financing statement, an amendment, an assignment, a continuation, a termination or a correction statement. The word “document” in the term “UCC document” shall not be deemed to refer exclusively to paper or paper-based writings.

Note: This definition is used for the purpose of chs. DFI-CCS 1 to 7 only. The use of the term “UCC document” in these chapters shall have no relation to the definition of the term “document” in s. 409.102 (1)(hg), Stats. UCC documents may be expressed or transmitted electronically or through media other than these writings.

(30) “UCC index” means a compilation of all index information as set forth in s. 409.519, Stats.

(31) “XML” means eXtensible Markup Language. XML is a language for storing data and metadata.

(32) “XML document” means a UCC document transmitted from a remitter to the filing officer in XML format and via techniques authorized under this rule.

History: CR 01-122: cr. Register February 2002 No. 554, eff. 3-1-02.

DFI-CCS 1.02 Place to file. The filing office shall be the office for filing UCC documents relating to all types of collateral except for timber to be cut, as-extracted collateral as set forth in

s. 409.102 (1) (bg), Stats., and, when the relevant financing statement is filed as a fixture filing, goods which are or are to become fixtures. Regardless of the nature of the collateral, the filing office shall be the office for filing all UCC documents where the debtor is a transmitting utility.

History: CR 01-122: cr. Register February 2002 No. 554, eff. 3-1-02.

DFI-CCS 1.03 Filing office identification. The filing office shall disseminate information of its location, mailing address, telephone numbers, and its Internet and other electronic addresses.

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DFI-CCS 1.04 Electronic mail and facsimile. (1) Except as authorized by the department, electronic mail shall not be used for filing UCC documents or for requesting searches of the records of financing statements.

(2) Facsimile shall not be used for filing UCC documents or for requesting searches of the records of financing statements.

History: CR 01-122: cr. Register February 2002 No. 554, eff. 3-1-02.

DFI-CCS 1.05 Office hours. Office hours shall be from 7:45 a.m. until 4:30 p.m. There shall be no office hours on state legal holidays. The office shall receive transmissions electronically 24 hours every day of the year, except for scheduled maintenance and unscheduled interruptions of service. Electronic communications may be retrieved and processed periodically, but not less often than once each day the filing office is open for business, on a batch basis.

History: CR 01-122: cr. Register February 2002 No. 554, eff. 3-1-02.

DFI-CCS 1.06 UCC document delivery. UCC documents shall be tendered for filing at the filing office by any of the following:

(1) When filed by personal delivery at the filing office's street address, the file time shall be the time that the UCC document is accepted for review by the filing office even though the UCC document may not yet have been accepted for filing and may subsequently be rejected. A UCC document delivered after regular business hours or on a day the filing office is not open for business shall have a filing time of the start of business on the next day the filing office is open for business.

(2) When filed by courier delivery at the filing office's street address, the file time shall be the time of delivery, even though the UCC document may not yet have been accepted for filing and may subsequently be rejected. A UCC document delivered after regular business hours or on a day the filing office is not open for business shall have a filing time of the start of business on the next day the filing office is open for business.

(3) When filed by postal service delivery, the file time shall be the date and time of actual arrival in the filing office, even though the UCC document may not yet have been accepted for filing and may subsequently be rejected. A UCC document delivered after regular business hours or on a day the filing office is not open for business shall have a filing time of the start of business on the next day the filing office is open for business.

(4) ELECTRONIC FILING. (a) When available, UCC documents may be transmitted electronically by any of the following:

1. Using the XML standard approved by the International Association of Corporation Administrators as described in ss. DFI-CCS 3.14 to 3.20.

2. Transmitting a UCC document through data entry on the filing officer's Internet web page.

(b) The file time for a UCC document delivered by these methods shall be the time that the filing office's system analyzes the relevant transmission and determines that the required elements of the transmission have been received in the required format and are machine readable.

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DFI-CCS 1.07 Search request delivery. UCC search requests shall be delivered to the filing office by any of the means set forth in s. DFI-CCS 1.06. UCC search requests upon a debtor named on an initial financing statement shall be made by an appropriate indication on the face of the initial financing statement form if the form is entitled to be filed with the standard form fee and the relevant search fee is also tendered with the initial financing statement.

Note: Requirements concerning search requests are set forth in s. DFI-CCS—CCS 5.02.

History: CR 01-122: cr. Register February 2002 No. 554, eff. 3-1-02.

DFI-CCS 1.08 Approved forms. The forms prescribed by s. 409.521, Stats. shall be accepted by the filing office. Forms approved by the International Association of Corporate Administrators and forms approved by the department shall be accepted. When filing a correction statement, the "UCC correction statement" form, UCC—5, shall be used. Other forms shall not be accepted by the filing office.

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DFI-CCS 1.09 Form – UCC search. A form that meets the requirements regarding dimensions and location of information on the search form approved by the department or that is transmitted electronically in accordance with chs. DFI-CCS 1 to 6 shall be acceptable. Other forms shall not be accepted by the filing office.

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DFI-CCS 1.10 Fees. (1) FILING FEES. The following fees shall be paid for UCC filings:

(a) For filing and indexing a UCC standard filing communicated on paper or in a paper-based format on the standard form, \$20.00.

(b) For filing and indexing a UCC non-standard filing communicated on paper or in a paper based format as defined in s. DFI-CCS 1.01 (20) (a), \$40.00.

(c) For filing and indexing a UCC non-standard filing communicated on paper or in a paper based format as defined in s. DFI-CCS 1.01 (20) (b), \$60.00.

(d) For filing and indexing a UCC non-standard filing communicated on paper or in a paper based format as defined in s. DFI-CCS 1.01 (20) (c), \$80.00.

(e) For filing and indexing a UCC document communicated by an authorized medium which is other than on paper or in a paper-based format, \$10.00.

(f) For filing and indexing federal tax liens under s. 779.97, Stats., \$10.00.

(g) This section shall not apply to fees charged by a filing office described in s. 409.501 (1) (a), Stats. A filing office described in s. 409.501 (1) (a), Stats., shall charge fees in accordance with s. 59.43 (2) (e), Stats., unless the filing office is described in s. 190.11, Stats., in which case the fees charged shall be in accordance with pars. (a) through (f).

(2) ADDITIONAL FEES. In addition to fees set forth in sub. (1), the following fees shall be paid for statements that indicate that the statement is filed in connection with any of the following:

(a) For filing an initial financing statement that indicates that it is filed in connection with a public finance transaction, \$20.00.

(b) For filing an initial financing statement that indicates that it is filed in connection with a manufactured home transaction, \$20.00.

(c) For filing an initial financing statement that indicates that it is filed as a transmitting utility, \$150.00.

(d) The fee for filing and indexing all UCC amendments or corrections shall be as stated in sub. (1).

(e) There shall be no fee for filing termination statements.

(3) UCC SEARCH AND OTHER FEES. The following fees shall be paid for UCC searches and other services:

(a) For UCC search request communicated on paper or in a paper-based format, \$15.00.

(b) For filing and indexing a UCC search request communicated by an authorized medium which is other than on paper or in a paper-based format, \$7.00.

(c) The fee for copies of individual documents are as follows:

1. For each page communicated by regular delivery method, \$2.00 per page.

2. For each page transmitted by facsimile, \$2.00.

3. For UCC copies for electronically transmitted search responses, \$1.00 per page or page equivalent.

(d) The fee for direct access to the information management system is as follows:

1. For searches, \$3.00 per debtor name.

2. For accessing images of filings, \$1.00 per page image.

(e) Fees for other services are as follows:

1. Images of UCC documents on CD-ROM filed for any calendar month, \$200.00 per month.

2. Monthly updates of the index of filings on CD-ROM, \$250.00 per month

(4) FILING AGENTS OF THE DEPARTMENT. With the exception of termination statements, filing agents of the department who have completed the training and met the requirements established by the filing officer shall retain \$10.00 from each paper filing processed by the filing agent's office. The remainder of the filing fee shall be sent to the department, not less than once each month. The filing agent shall receive no reimbursement for processing termination statements.

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DFI-CCS 1.11 Methods of payment. Filing fees and fees for public records services shall be paid by any of the following methods:

(1) CASH. Payment in cash shall be accepted.

(2) CHECKS. Checks made payable to the filing office, including checks in an amount to be filled in by a filing officer but not to exceed a particular amount, shall be accepted for payment if they are cashier's checks, certified checks and other negotiable instruments made payable to the filing office through a depository institution located in the United States.

(3) ELECTRONIC FUNDS TRANSFER. The filing office may accept payment via electronic funds transfer under National Automated ClearingHouse Association ("NACHA") rules from remitters who have entered into appropriate NACHA-approved arrangements for these transfers and who authorize the relevant transfer pursuant to these arrangements.

(4) DEBIT CARDS OR CREDIT CARDS, OR BOTH. The department may accept payment by debit or credit cards, or both, from a major

card company approved by the department. Remitters shall provide the filing officer with the card number, the expiration date of the card, the name of the approved card issuer, the name of the person or entity to whom the card was issued, and the billing address for the card. Payment shall not be deemed tendered until the issuer or its agent has confirmed to the filing office that payment shall be forthcoming.

(5) OTHER. Additional forms of payment may be approved by the department.

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DFI-CCS 1.12 Underpayment. Upon receipt of a document with an insufficient fee, the filing officer shall return the document with a notice of deficiency as provided in s. DFI-CCS 2.05.

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DFI-CCS 1.13 Public records services. The following methods shall be available for obtaining copies of UCC documents and copies of data from the UCC information management system:

(1) INDIVIDUALLY IDENTIFIED DOCUMENTS. Copies of individually identified UCC documents shall be available in paper or portable document format ("pdf"). Requests for individual documents shall be delivered to the filing office by any of the means which UCC documents may be delivered.

(2) BULK COPIES OF DOCUMENTS. Bulk copies of UCC documents shall be available. Information on the media in which bulk copies shall be made available can be obtained from the filing officer.

(3) DATA FROM THE INFORMATION MANAGEMENT SYSTEM. (a) *Availability.* A list of available data elements from the UCC information management system and the file layout of the data elements shall be available from the filing officer upon request.

(b) *Full extract.* A bulk data extract of information from the UCC information management system, or a bulk data extract and updates since the last full extract shall be available weekly.

(c) *Update extracts.* Updates to the UCC information management system shall be available weekly.

(d) *Format.* Information on the format of extracts from the UCC information management system shall be available from the filing officer.

(4) DIRECT ON-LINE SERVICES. A description of on-line services shall be available from the filing officer regarding UCC data and images.

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DFI-CCS 1.14 Fees for public records services. Fees for public records services are those fees set forth in s. DFI-CCS 1.10.

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