

CHAPTER 336

UNIFORM COMMERCIAL CODE

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336.9-407 INFORMATION FROM FILING OFFICER.

(1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall conduct a search of a file for any effective financing statements naming a particular debtor and any statement of assignment thereof. The filing officer shall report the findings as of that date and hour by issuing:

- (a) a certificate listing the file number, date, and hour of each filing and the names and addresses of each secured party therein;
- (b) photocopies of the original documents on file; or,
- (c) upon request, both the certificate and photocopies of the statements.

The uniform fee for conducting the search and for preparing a certificate showing up to five listed filings or for preparing up to five photocopies of original documents, or any combination of up to five listed filings and photocopies, shall be \$5 if the request is in the standard form prescribed by the secretary of state and otherwise shall be \$10. Another fee, at the same rate, shall also be charged for conducting a search and preparing a certificate showing federal and state tax liens on file with the filing officer naming a particular debtor. There shall be an additional fee of 50 cents for each financing statement and each statement of assignment or tax lien listed on the certificate and for each photocopy prepared in excess of the first five. Notwithstanding the fees set in this section, a natural person who is the subject of data must, upon the person's request, be shown the data without charge, and upon request be provided with photocopies of the data upon payment of no more than the actual cost of making the copies.

History: 1987 c 356 s 1

336.9-411 COMPUTERIZED FILING SYSTEM.

(a) The secretary of state shall develop and implement a statewide computerized filing system to accumulate and disseminate information relative to lien statements, financing statements, and other uniform commercial code documents. The computerized filing system must allow information to be entered and retrieved from the computerized filing system by county recorders.

(b) County recorders shall enter information relative to lien statements, financing statements, and other uniform commercial code documents filed in their offices into a central data base maintained by the secretary of state. The information must be entered under the rules of the secretary of state.

(c) The secretary of state may allow private parties to have electronic-view-only access to the computerized filing system on a fee basis. If the computerized filing system allows a form of electronic access to information regarding the obligations of debtors, the access must be available 24 hours a day, every day of the year.

(d) The secretary of state shall adopt rules to implement the computerized filing system. The secretary of state may adopt permanent and emergency rules. The rules must:

- (1) allow filings to be made at the offices of all county recorders and the secretary of state's office as required by section 336.9-401;
- (2) establish a central data base for all information relating to liens and security interests that are filed at the offices of county recorders and the secretary of state;
- (3) provide procedures for entering data into a central data base;
- (4) allow the offices of all county recorders and the secretary of state's office to add, modify, and delete information in the central data base as required by the uniform commercial code;
- (5) allow the offices of all county recorders and the secretary of state's office to have access to the central data base for review and search capabilities;
- (6) require the secretary of state to maintain the central data base;
- (7) provide security and protection of all information in the central data base and monitor the central data base to ensure that unauthorized entry is not allowed;
- (8) require standardized information for entry into the central data base;
- (9) prescribe an identification procedure for debtors and secured parties that will enhance lien and financing statement searches;
- (10) provide a system for coding information on collateral; and
- (11) prescribe a procedure for phasing-in or converting from the existing filing system to a computerized filing system.

History: 1987 c 356 s 2

NOTE: The computerized filing system under this section, as added by Laws 1987, chapter 356, section 2, must be implemented by the secretary of state and operational by November 1, 1988. The provisions relating to the computerized filing system are effective on the date that the secretary of state notifies the public and the filing officers that the computerized filing system is operational. The secretary of state must give notice of the system being operational at least 30 days before the operational date. See Laws 1987, chapter 356, section 6.

336.9-412 LIABILITY FOR INFORMATION ERRORS.

The state, the secretary of state, counties, county recorders, and their employees and agents are immune from liability that occurs as a result of errors in or omissions from information provided from the computerized filing system.

History: 1987 c 356 s 3

336.9-413 UNIFORM COMMERCIAL CODE ACCOUNT.

(a) The uniform commercial code account is established as an account in the state treasury.

(b) The filing officer with whom a financing statement, amendment, or continuation statement is filed, or to whom a request for search is made, shall collect a \$2 surcharge on each filing or search. By June 1 and December 1 of each year, each county recorder shall forward the accumulated receipts from the surcharge to the secretary of state. The surcharge does not apply to a search request made by a natural person who is the subject of the data to be searched except when a certificate is requested as a part of the search.

(c) The surcharge amounts received from county recorders and the surcharge amounts collected by the secretary of state's office must be deposited in the state treasury and credited to the uniform commercial code account.

(d) Fees that are not expressly set by statute but are charged by the secretary of state to offset the costs of providing a service under sections 336.9-411 to 336.9-413 must be deposited in the state treasury and credited to the uniform commercial code account.

(e) Money in the uniform commercial code account is continuously appropriated to the secretary of state to implement and maintain the computerized uniform commercial code filing system under section 336.9-411.

History: 1987 c 356 s 4

336.9-501 DEFAULT; PROCEDURE WHEN SECURITY AGREEMENT COVERS BOTH REAL AND PERSONAL PROPERTY.

(1) When a debtor is in default under a security agreement, a secured party has the rights and remedies provided in this part and except as limited by subsection (3) those provided in the security agreement. The secured party may reduce a claim to judgment, foreclose, or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A secured party in possession has the rights, remedies, and duties provided in section 336.9-207. The rights and remedies referred to in this subsection are cumulative.

(2) After default, the debtor has the rights and remedies provided in this part, those provided in the security agreement, and those provided in section 336.9-207.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subsections referred to below may not be waived or varied except as provided with respect to compulsory disposition of collateral (subsection (3) of section 336.9-504 and section 336.9-505) and with respect to redemption of collateral (section 336.9-506) but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

(a) Subsection (2) of section 336.9-502 and subsection (2) of section 336.9-504 insofar as they require accounting for surplus proceeds of collateral;

(b) Subsection (3) of section 336.9-504 and subsection (1) of section 336.9-505 which deal with disposition of collateral;

(c) Subsection (2) of section 336.9-505 which deals with acceptance of collateral as discharge of obligation;

(d) Section 336.9-506 which deals with redemption of collateral; and

(e) Subsection (1) of section 336.9-507 which deals with the secured party's liability for failure to comply with this part.

(4) If the security agreement covers both real and personal property, the secured party may proceed under this part as to the personal property or may proceed as to both the real and the personal property in accordance with the secured party's rights and remedies in respect of the real property in which case the provisions of this part do not apply.

(5) When a secured party has reduced a claim to judgment the lien of any levy which may be made upon collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in such collateral. A judicial sale, pursuant to such execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.

(6) A person may not begin to enforce a security interest in collateral that is agricultural property subject to sections 583.20 to 583.32 that has secured a debt of more than \$5,000 unless: a mediation notice under subsection (7) is served on the debtor after a condition of default has occurred in the security agreement and a copy served on the director; and the debtor and creditor have completed mediation under sections 583.20 to 583.32; or as otherwise allowed under sections 583.20 to 583.32.

(7) A mediation notice under subsection (6) must contain the following notice with the blanks properly filled in.

"TO:(Name of Debtor)....

YOU HAVE DEFAULTED ON THE(Debt in Default).... SECURED BY AGRICULTURAL PROPERTY DESCRIBED AS(Reasonable Description of Agricultural Property Collateral)....

AS A SECURED PARTY,(Name of Secured Party).... INTENDS TO ENFORCE THE SECURITY AGREEMENT AGAINST THE AGRICULTURAL PROPERTY

DESCRIBED ABOVE BY REPOSSESSING, FORECLOSING ON, OR OBTAINING A COURT JUDGMENT AGAINST THE PROPERTY.

YOU HAVE THE RIGHT TO HAVE THE DEBT REVIEWED FOR MEDIATION. IF YOU REQUEST MEDIATION, A DEBT THAT IS IN DEFAULT WILL BE MEDIATED ONLY ONCE. IF YOU DO NOT REQUEST MEDIATION, THIS DEBT WILL NOT BE SUBJECT TO FUTURE MEDIATION IF THE SECURED PARTY ENFORCES THE DEBT.

IF YOU PARTICIPATE IN MEDIATION, THE DIRECTOR OF THE AGRICULTURAL EXTENSION SERVICE WILL PROVIDE AN ORIENTATION MEETING AND A FINANCIAL ANALYST TO HELP YOU TO PREPARE FINANCIAL INFORMATION. IF YOU DECIDE TO PARTICIPATE IN MEDIATION, IT WILL BE TO YOUR ADVANTAGE TO ASSEMBLE YOUR FARM FINANCE AND OPERATION RECORDS AND TO CONTACT A COUNTY EXTENSION OFFICE AS SOON AS POSSIBLE. MEDIATION WILL ATTEMPT TO ARRIVE AT AN AGREEMENT FOR HANDLING FUTURE FINANCIAL RELATIONS.

TO HAVE THE DEBT REVIEWED FOR MEDIATION YOU MUST FILE A MEDIATION REQUEST WITH THE DIRECTOR WITHIN 14 DAYS AFTER YOU RECEIVE THIS NOTICE. THE MEDIATION REQUEST FORM IS AVAILABLE AT ANY COUNTY RECORDER'S OR COUNTY EXTENSION OFFICE.

FROM:(Name and Address of Secured Party)...."

History: 1987 c 292 s 2