

Interim Draft—March 23, 2009

Reporter's Prefatory Note

This draft was prepared for a telephonic meeting of the Joint Review Committee for Uniform Commercial Code Article 9. It comprises some of the proposed amendments addressing the name of a debtor under Section 9-503(a). The proposals for the name of an individual debtor appear first, followed by the proposals for the name of a debtor that is a registered organization.

Name of individual debtor

*[Sections 9-503, 9-507 & 9-506
Alternative A: Exclusive Name for Individual Debtor]*

SECTION 9-503. NAME OF DEBTOR AND SECURED PARTY.

(a) **[Sufficiency of debtor's name.]** A financing statement sufficiently provides the name of the debtor:

* * *

(3) * * *

* * *

(B) indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; ~~and~~

(4) subject to subsection (g), if the debtor is an individual:

(A) to whom this State has issued a [driver's license] that, at the time the financing statement is filed, appears on its face not to have expired, only if it provides the name of the individual which is indicated on the [driver's license];

(B) as to whom paragraph (A) does not apply, and to whom this State has issued an [identification card] that, at the time the financing statement is filed, appears on its face not to have expired, only if it provides the name of the individual which is indicated on the

1 [identification card];

2 (C) as to whom neither paragraph (A) nor paragraph (B) applies, and to
3 whom the United States has issued a passport that, at the time the financing statement is filed,
4 appears on its face not to have expired, only if it provides the name of the individual which is
5 indicated on the passport; and

6 (D) as to whom none of the preceding paragraphs applies, only if it
7 provides the surname, first given name, and first initial of the second given name, if any, of the
8 individual; and

9 ~~(4)~~(5) in other cases:

10 (A) if the debtor has a name, only if it provides the ~~individual or~~
11 organizational name of the debtor; and

12 (B) if the debtor does not have a name, only if it provides the names of the
13 partners, members, associates, or other persons comprising the debtor.

14 * * *

15 (g) [Multiple licenses or cards.] If this State or the United States has issued to
16 an individual more than one [driver's license], [identification card], or passport of a kind
17 described in the applicable paragraph of subsection (a)(4), the one that was issued most recently
18 is the one to which the paragraph refers.

19 **SECTION 9-507. EFFECT OF CERTAIN EVENTS ON EFFECTIVENESS OF**
20 **FINANCING STATEMENT.**

21 * * *

22 (c) **[Change in debtor's name.]** If a debtor so changes its name that a filed financing
23 statement becomes seriously misleading under Section 9-506:

1 (1) the financing statement is effective to perfect a security interest in collateral
2 acquired by the debtor before, or within four months after, the change; and

3 (2) the financing statement is not effective to perfect a security interest in
4 collateral acquired by the debtor more than four months after the change, unless an amendment to
5 the financing statement which renders the financing statement not seriously misleading is filed
6 within four months after the change.

7 (d) [Name sufficient under Section 9-503(a)(4).] An individual debtor changes the
8 debtor's name for purposes of subsection (c) if:

9 (1) after the filing of a financing statement that provides a name that is sufficient
10 under Section 9-503(a)(4)(A):

11 (A) the [driver's license] that indicates the name appears on its face to
12 expire and the name that, immediately upon the expiration, would be sufficient under Section 9-
13 503(a)(4) is different from the name provided; or

14 (B) this State issues to the debtor a [driver's license] that indicates a name
15 different from the name provided;

16 (2) after the filing of a financing statement that provides a name that is sufficient
17 under Section 9-503(a)(4)(B):

18 (A) the [identification card] that indicates the name appears on its face to
19 expire and the name that, immediately upon the expiration, would be sufficient under Section 9-
20 503(a)(4) is different from the name provided; or

21 (B) this State issues to the debtor a [driver's license] or [identification
22 card] that indicates a name different from the name provided; or

23 (3) after the filing of a financing statement that provides a name that is sufficient

1 under Section 9-503(a)(4)(C):

2 (A) the passport that indicates the name appears on its face to expire and
3 the name that, immediately upon the expiration, would be sufficient under Section 9-503(a)(4) is
4 different from the name provided; or

5 (B) this State issues to the debtor a [driver's license] or [identification
6 card], or the United States issues to the debtor a passport, that indicates a name different from the
7 name provided.

8 **SECTION 9-506. EFFECT OF ERRORS OR OMISSIONS.**

9 * * *

10 (c) [**Financing statement not seriously misleading.**] If a search of the records of the
11 filing office under the debtor's correct name, using the filing office's standard search logic, if
12 any, would disclose a financing statement that fails sufficiently to provide the name of the debtor
13 in accordance with Section 9-503(a), the name provided does not make the financing statement
14 seriously misleading.

15 (d) [**"Debtor's correct name."**] For purposes of Section 9-508(b), the "debtor's correct
16 name" in subsection (c) means the correct name of the new debtor.

17 (e) [**Individual "debtor's correct name."**] If a debtor who is an individual changes the
18 debtor's name by virtue of Section 9-507(d), the "debtor's correct name" in subsection (c)
19 means:

20 (1) in the case of a change under Section 9-507(d)(1)(A), 9-507(d)(2)(A), or 9-
21 507(d)(3)(C), the name of the debtor that would be sufficient under Section 9-504(a)(4)
22 immediately after the apparent expiration; and

23 (2) in the case of a change under Section 9-507(d)(1)(B), 9-507(d)(2)(B), or 9-

1 507(d)(3)(B), the name of the debtor indicated on the [driver's license], [identification card], or
2 passport, as the case may be, that indicates a name different from the name provided on the
3 financing statement.

4 *[Sections 9-503 & 9-506*
5 *Alternative B: Optional Name for Individual Debtor]*

6 **SECTION 9-503. NAME OF DEBTOR AND SECURED PARTY.**

7 (a) **[Sufficiency of debtor's name.]** A financing statement sufficiently provides the
8 name of the debtor:

9 * * *

10 (4) in other cases:

11 (A) except as provided in subsection (g), if the debtor has a name, only if it
12 provides the individual or organizational name of the debtor; and

13 (B) if the debtor does not have a name, only if it provides the names of the
14 partners, members, associates, or other persons comprising the debtor.

15 * * *

16 (g) **[Exception for individual debtor's name.]** Subject to subsection (h), a financing
17 statement that does not provide the individual name of the debtor nevertheless sufficiently
18 provides the name of a debtor who is an individual if it provides the name of the individual
19 which is indicated on a [driver's license] or [identification card] that was issued to the individual
20 by this State, if at the time the financing statement is filed the [driver's license] or [identification
21 card] appears on its face not to have expired.

22 (h) **[Multiple licenses or cards.]** If this State has issued to an individual more than one
23 [driver's license] or [identification card] of a kind described in subsection (g), the one that was

1 issued most recently is the one to which the subsection refers.

2 **SECTION 9-507. EFFECT OF CERTAIN EVENTS ON EFFECTIVENESS OF**
3 **FINANCING STATEMENT.**

4 * * *

5 **(c) [Change in debtor's name.]** If a debtor so changes its name that a filed financing
6 statement becomes seriously misleading under Section 9-506:

7 (1) the financing statement is effective to perfect a security interest in collateral
8 acquired by the debtor before, or within four months after, the change; and

9 (2) the financing statement is not effective to perfect a security interest in
10 collateral acquired by the debtor more than four months after the change, unless an amendment to
11 the financing statement which renders the financing statement not seriously misleading is filed
12 within four months after the change.

13 **(d) [Name sufficient solely under Section 9-503(g).]** An individual debtor changes the
14 debtor's name for purposes of subsection (c) if, after the filing of a financing statement that
15 provides a name that is sufficient solely under Section 9-503(g):

16 (1) the [driver's license] or [identification card] that indicates the name appears on
17 its face to expire and the name that, immediately upon the expiration, would be sufficient under
18 Section 9-503(a)(4) is different from the name provided; or

19 (2) this State issues to the debtor a [driver's license] or [identification card] that
20 indicates a name different from the name provided and from the name that, immediately upon the
21 issuance, would be sufficient under Section 9-503(a)(4).

22 **SECTION 9-506. EFFECT OF ERRORS OR OMISSIONS.**

23 * * *

1 (b) **[Financing statement seriously misleading.]** Except as otherwise provided in
2 subsection (c), a financing statement that fails sufficiently to provide the name of the debtor in
3 accordance with Section 9-503(a) or (g) is seriously misleading.

4 (c) **[Financing statement not seriously misleading.]** If a search of the records of the
5 filing office under the debtor’s correct name, using the filing office’s standard search logic, if
6 any, would disclose a financing statement that fails sufficiently to provide the name of the debtor
7 in accordance with Section 9-503(a) or (g), the name provided does not make the financing
8 statement seriously misleading.

9 (d) **[“Debtor’s correct name.”]** For purposes of Section 9-508(b), the “debtor’s correct
10 name” in subsection (c) means the correct name of the new debtor.

11 (e) **[Individual “debtor’s correct name.”]** If a debtor who is an individual changes the
12 debtor’s name by virtue of Section 9-507(d), the “debtor’s correct name” in subsection (c) means
13 the name of the debtor which, immediately after the change, would be sufficient under Section 9-
14 504(a)(4) or (g).

15 Reporter’s Note

16 1. Alternative A would provide an exclusive means for determining the name of an
17 individual debtor which is sufficient for a financing statement. It adopts the cascading approach
18 suggested by the Committee at its March, 2009, meeting. The first three steps of the cascade are
19 the debtor’s driver’s license, identification card, and U.S. passport, in that order. Because States
20 use different terms for the driver’s licenses and identification cards they issue, the words
21 “driver’s license” and “identification card” appear in brackets. If a debtor has been issued more
22 than one identity document (i.e., license, identification card, or passport) described in the
23 applicable paragraph of Section 9-503(a)(4), the document that was issued most recently would
24 be the one that indicates the debtor’s name for purposes of that paragraph.

25 The last step in the cascade (draft Section 9-503(a)(4)(D)) is based upon the approach
26 taken by the filing-office regulations of some Canadian provinces. It is independent from the
27 remainder of Alternative A and can be deleted or revised without affecting the remaining
28 provisions. If the Joint Review Committee wishes to retain this approach, it may wish to
29 consider whether paragraph (D) is too limiting. For example, should it be expanded to include
30 debtors whose names do not include both a surname and a first given name?

1 Draft Section 9-507(d) specifies two events that would constitute a change of the debtor's
2 name. First, an individual debtor would change his name upon the apparent expiration of the
3 identity document indicating the name provided in the financing statement, if, immediately
4 following the apparent expiration, the debtor's name under Section 9-503(a)(4) is different from
5 the name provided. Second, an individual debtor would change his name when a new identity
6 document is issued that is on a higher step than, or superseding, the one indicating the name
7 provided in the financing statement, if the new document indicates a name different from the one
8 provided on the financing statement. An individual whose name is determined under Section 9-
9 503(a)(4)(D) would change his name as under current law.

10 Even if the debtor's name changes, the filed financing statement does not become
11 seriously misleading if it can be found by searching under the debtor's "correct" name, using the
12 filing office's standard search logic. Draft Section 9-506(e) explains what is meant by the
13 debtor's "correct name" when the debtor's name changes under Section 9-507(d). If the name
14 change results from the expiration of the identity document, the correct name is the name that
15 Section 9-503(a)(4) would yield after the expiration. If the name change results from the
16 issuance of a new identity document, the correct name is the name that is indicated on the new
17 document (which, of course, is the name that Section 9-503(a)(4) would yield after the issuance
18 of the new document).

19 2. Under Alternative B, a financing statement providing the name on the debtor's
20 debtor's driver's license or identification card would be sufficient, if the license or card appears
21 on its face not to have expired. However, a financing statement that provides the debtor's actual
22 name would also be sufficient, even if that name does not appear on the license or card. If the
23 State of the debtor's principal residence ("this State") has issued more than one such document,
24 the name that is sufficient is the one indicated on the most recent document.

25 Draft Section 9-507(d) specifies two events that would constitute a change of the debtor's
26 name. First, an individual debtor would change his name upon the apparent expiration of the
27 identity document indicating the name provided in the financing statement, if, immediately
28 following the apparent expiration, the debtor's name under Section 9-503(a)(4) is different from
29 the name provided. Second, an individual debtor would change his name when the State of the
30 debtor's principal residence issues a license or card that indicates a name different from the one
31 provided on the financing statement. An individual whose name is determined under Section 9-
32 503(a)(4) would change his name as under current law.

33 Even if the debtor's name changes, the filed financing statement does not become
34 seriously misleading if it can be found by searching under the debtor's "correct" name, using the
35 filing office's standard search logic. Draft Section 9-506(e) explains what is meant by the
36 debtor's "correct name" when the debtor's name changes under Section 9-507(d): The name that
37 Section 9-503(a)(4) or (g) would yield immediately after the debtor's name changes.

38 3. Still to be decided by the Joint Review Committee are whether, and, if so, how to deal
39 with the situations in which the filing office refuses to accept a financing statement because it
40 cannot index the name specified by Section 9-503(a)(4) (e.g., because its character set does not
41 include a character appearing in the identity document and provided in the name), refuses to

1 allow searches under the name specified by Section 9-503(a)(4), or indexes the financing
2 statement providing the name specified by Section 9-503(a)(4) under a name other than the name
3 provided (e.g., by truncating the name) so that the financing statement cannot be found by a
4 search under the name specified.

5 Name of registered-organization debtor

6 **SECTION 9-503. NAME OF DEBTOR AND SECURED PARTY.**

7 (a) **[Sufficiency of debtor’s name.]** A financing statement sufficiently provides the
8 name of the debtor:

9 (1) subject to subsection (f), if the debtor is a registered organization, only if the
10 financing statement provides the name of the debtor indicated on the public organic record ~~of~~
11 filed with or issued or enacted by the debtor’s jurisdiction of organization ~~which shows the~~
12 debtor to have been organized;

13 * * *

14 (f) **[Name of registered organization.]** If the public organic record indicates more than
15 one name of the debtor, then, for purposes of subsection (a)(1), “the name of the debtor indicated
16 on the public organic record” means:

17 (1) if the public organic record is composed of a single record that states the name
18 of the debtor, the name the name of the debtor which that record states to be the debtor’s name;

19 (2) if the public organic record is composed of more than one record, the name of
20 the debtor which is indicated on the most recently filed, issued, or enacted record that is intended
21 to amend or restate the debtor’s name; and

22 (3) if the most recently filed or issued record of a kind specified in paragraph (2)
23 indicates more than one name of the debtor, the name of the debtor which that record states to be
24 the debtor’s name.

1 **SECTION 9-102. DEFINITIONS AND INDEX OF DEFINITIONS.**

2 (a) [Article 9 definitions.] In this article:

3 * * *

4 (50) “Jurisdiction of organization”, with respect to a registered organization,
5 means the jurisdiction under whose law the organization is formed or organized.

6 * * *

7 (67A) “Public organic record” means:

8 (A) a record or records composed of the record initially filed with a State
9 or the United States to form or organize an organization and any record filed with the State or the
10 United States which effects an amendment or restatement of the initial record, if the record or
11 records are available to the public for inspection;

12 (B) an organic record or records of a business trust composed of the record
13 initially filed with a State and any record filed with the State which effects an amendment or
14 restatement of the initial record, if a statute of the State governing business trusts requires that
15 the record or records be filed with the State and the record or records are available to the public
16 for inspection;

17 (C) a record or records composed of a charter, organizational certificate, or
18 similar record that is initially issued by a State or the United States and authorizes the
19 organization to commence business and any record [filed with or] issued by the State or United
20 States which effects an amendment or restatement of the initial record, if the record or records
21 are available to the public for inspection; and

22 (D) a record or records composed of legislation enacted by the legislature
23 of a State or the Congress of the United States which forms or organizes an organization, any

1 record amending the enactment, and any record filed with or issued by the State or United States
2 which states the name of the organization, if the record or records are available to the public for
3 inspection.

4 * * *

5 (70) “Registered organization” means an organization formed or organized solely
6 under the law of a single State or the United States and as to which the State or the United States
7 must maintain a public record showing the organization to have been organized by the filing of a
8 public organic record with, the issuance of a public organic record by, or the enactment of
9 legislation by the State or United States. The term includes a business trust that is formed or
10 organized under the law of a single State if a statute of the State governing business trusts
11 requires that the business trust’s organic record be filed with the State.

12 * * *

13 * * *

14 **Reporter’s Note**

15 This draft reflects the Joint Review Committee’s discussion at its March, 2009, meeting.
16 The principal substantive change is the expansion of the definition of “public organic record” to
17 include State or federal legislation that forms or organizes an organization. See Section 9-
18 102(a)(67A)(D).