



**DEPARTMENT OF STATE  
PUBLIC MEETING**

**NOTICE OF INTENT**

**TITLE 10**

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,  
INVESTMENT SECURITIES AND UCC**

**PART XIX. UNIFORM COMMERCIAL CODE**

**State Archives Building  
Auditorium  
3851 Essen Lane  
Baton Rouge, Louisiana**

**MAY 27, 2014  
10:00 AM**

- I. Introduction**
- II. Discussion of legislation and the legislative requirement for the adoption of rules and regulations**
- III. Presentation of Notice of Intent**
- IV. Presentation of the Fiscal and Economic Impact Statement for Administrative Rules**
- V. Receive oral comments from interested parties**
- VI. Acknowledge the receipt of comments received as of May 26, 2014**
- VII. Announcement of the deadline for written comments**
- VIII. Open discussion**
- IX. Timetable for the adoption of the rule**
- X. Closing Comments**

**NOTICE OF INTENT**  
**Department of State**  
**Commercial Division**  
**Office of Uniform Commercial Code**

Uniform Commercial Code  
(LAC 10:XIX.Chapters 1-3)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and under the authority of Louisiana's Uniform Commercial Code (R.S. 10:9-101 et seq.), R.S. 10:9-526, Public Law 99-198 (Food Security Act of 1985), and R.S. 36:742, the Secretary of State is proposing to amend various sections of the Rule for the Uniform Commercial Code (LAC 10:XIX.Chapters 1-3) to comply with legislation enacted.

**Title 10**

**FINANCIAL INSTITUTIONS, CONSUMER CREDIT,  
INVESTMENT SECURITIES AND UCC**

**Part XIX. Uniform Commercial Code**

**Chapter 1. Secured Transactions**

**§103. Place of Filing—When Filing Is Required in Louisiana**

A. The proper place to file in order to perfect a security interest is with the clerk of court of any parish.

B-C. \* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3651 et seq., R.S. 10:9-501, R.S. 10:9-526, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, Office of Uniform Commercial Code, LR 39:2789 (October 2013), amended LR 40:.

**§105. Formal Requisites of Financing Statement**

A. To be effective, a financing statement must:

1. give the debtor's name and mailing address:

a. a financing statement sufficiently shows the name of the debtor if it gives the individual (if the debtor is an individual to whom Louisiana has issued a driver's license that is not expired, the name of the debtor must be shown as indicated on his driver's license), partnership, or corporate name of the debtor (if the debtor is a registered organization such as a corporation or a limited liability company, the name of the debtor must be the registered organization's name on the public organic record with Louisiana's secretary of state or other jurisdiction of organization) (as applicable); and

b. the trade names of the debtor (providing only the debtor's trade name does not sufficiently provide the name of the debtor), and the names of the partners, members, associates, or other persons comprising the debtor may also be set forth in the financing statement at the option of the secured party;

2-3. . . .

B. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-501 et seq., R.S. 10:9-502, R.S. 10:9-526, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, Office of Uniform Commercial Code, LR 39:2789 (October 2013), amended LR 40:

§107-125. . . .

### §127. Schedule of Fees for Filing and Information Requests

A. . . .

B. An additional fee of \$2 per filing will be charged on bulk UCC filings submitted electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-501 et seq., R.S. 10:9-519 et seq., R.S. 10:9-525, R.S. 10:9-526, R.S. 36:742, and R.S. 49:222(A).

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, Office of Uniform Commercial Code, LR 39:2793 (October 2013), amended LR 40:

## Chapter 2. Internal Revenue Service Tax Liens

### §201. Place of Filing

A. The proper place to file notices of federal tax liens affecting movable property (corporeal and incorporeal) is with the clerk of court of any parish (the "filing officer").

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-501 et seq., R.S. 10:9-526, R.S. 36:742, and R.S. 52:52.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, Office of Uniform Commercial Code, LR 39:2793 (October 2013), amended LR 40:

§203-205. . . .

## Chapter 3. Central Registry

### §301. Definitions

*Buyer in the Ordinary Course of Business*—a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations and is in the business of selling farm products.

*Central Registry*—the master index maintained by the secretary of state reflecting information contained in all effective financing statements, and statements evidencing assignments, amendments, continuations, and terminations thereof.

*Commission Merchant*—any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person.

*Creditor*—any person who holds a security interest in a farm product.

*Crop Year*—

1. for a crop grown in soil, the calendar year in which it is harvested or to be harvested;
2. for animals, the calendar year in which they are born or acquired; or

3. for poultry or eggs, the calendar year in which they are sold or to be sold.

*Cumulative Addendum*—a document listing all information transmitted by the filing officers to the central registry as of the date of issuance that was not included on the most recent master list.

*Debtor*—any person who owns or has an ownership interest in farm products which are subject to a security interest of creditors.

*Effective Financing Statement*—a written instrument which is an abstract of a security device and which complies with the provisions of R.S. 3:3654(E). An effective financing statement may also contain additional information sufficient to constitute a financing statement or other statement under Chapter 9 of Title 10 of the Louisiana Revised Statutes.

*EFS*—an effective financing statement.

*Encumbrance Certificate*—a written document which lists all effective financing statements affecting a person which have been filed with the filing officer and containing the information required by this Chapter to be transmitted to the secretary of state for inclusion in the central registry on the date and at the time the certificate is issued and which complies with the provisions of R.S. 3:3654(F).

*Farm Product*—any type of crop whether growing or to be grown, and whether harvested or unharvested, or any species of livestock, or any type of agricultural commodity or product raised or cultivated of every type and description, including but not limited to cattle, hogs, sheep, horses, bees, rabbits, or poultry, and oysters, crabs, prawns, shrimp, alligators, turtles, and fish raised, produced, cultivated, harvested, or gathered on any beds or bodies of water, whether owned, leased, or licensed by the debtor, grains, beans, vegetables, grasses, legumes, melons, tobacco, cotton, flowers, shrubberies, plants and fruits, nuts and berries, and other similar products whether of trees or other sources, or if they are a product of such crop or livestock in its unmanufactured state, such as seed, ginned cotton, wool-clip, honey, syrup, meat, milk, eggs, and cut, harvested, or standing timber, or supplies used or produced in farming operations, and if they are in the possession, including civil possession as defined in Civil Code Articles 3421 and 3431, of a debtor engaged in planting, producing, raising, cultivating, harvesting, gathering, fattening, grazing, or other farming operations.

*Filing*—the receipt of an EFS, amendment, assignment, continuation, release, or termination of an EFS by the filing officer stamped with the date and time received and assigned a file number.

*Filing Officer*—the clerk of court of any parish.

*Knows or Knowledge*—actual knowledge.

*Master List*—a document listing all effective financing statements, amendments, assignments, and continuations of effective financing statements which:

1. is organized according to farm products; and
2. is arranged within each such product:

a. in alphabetical order according to the last name of the individual debtors, or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors;

b. in numerical order according to the Social Security number of the individual debtors, or, in the case of debtors doing business other than as individuals, the Social Security number or employer identification number of such debtors;

c. geographically by parish; and

d. by crop year.

*Office*—the office of the secretary of state of the State of Louisiana.

*Person*—any individual, partnership, corporation, trust or any other business entity.

*Portion*—portion of the master list distributed to registrants regularly that cover the farm products in which such registrant has indicated an interest.

*Registrant*—any person, who has made application with the office of the secretary of state, has paid the required registration fee, and received written notice that his application has been accepted.

*Regular Business Day*—any day that the office of the secretary of state and filing officers are open for routine business.

*Secretary*—the *secretary* of state of the State of Louisiana, or his duly authorized agent.

*Secured Party*—a creditor with a security interest in farm products.

*Security Device*—a written instrument that establishes a creditor's security interest in farm products or any pledge or privilege described in R.S. 9:4521, whether or not evidenced by a written instrument.

*Security Interest*—an interest in or encumbrance upon farm products that secures payment or performance of an obligation.

*Selling Agent*—a person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm product on behalf of a person engaged in farm operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3652, R.S. 3:3654, R.S. 3:3655, R.S. 10:9-526, R.S. 36:742, Civil Code Articles 3421 and 3431, and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, Office of Uniform Commercial Code, LR 39:2794 (October 2013); amended LR 40:

§303-305. . . .

### §307. Filing Procedures

A. The proper place to file in order to perfect a security interest in farm products is with the clerk of court of any parish (the “filing officer”).

B-L. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3651 et seq., R.S. 10:9-526, R.S. 36:742, and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, Office of Uniform Commercial Code, LR 39:2795 (October 2013), amended LR 40:

§309-323. . . .

### Family Impact Statement

The proposed amendments to various sections of Rule LAC 10:XIX.Chapters 1-3 regarding the Uniform Commercial Code should not have any known or foreseeable impact on any family as defined by R.S. 49:927 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;

2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed amendments to the Rule.

### **Poverty Impact Statement**

The proposed amendments to various sections of Rule LAC 10:XIX regarding the Uniform Commercial Code should not have any known or foreseeable impact on poverty as defined by R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

### **Small Business Statement**

The impact of the proposed amendments to various sections of the Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on Small Business.

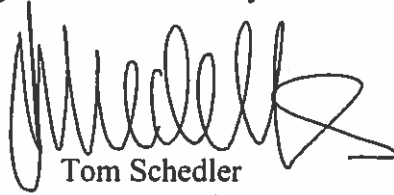
### **Public Comments**

Interested persons may submit written comments to Steve Hawkland, Deputy General Counsel, Legal Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. He will be responsible for responding to inquiries regarding the proposed amendments to various sections of the Rule. All comments must be submitted in writing. The deadline for the Department of State to receive written comments is 4:30 p.m. on Wednesday, May 29, 2014 after the public hearing.

### **Public Hearing**

A public hearing on the proposed amendments to various sections of the Rule is scheduled for Tuesday, May 27, 2014 at 10:00 am in the Auditorium at State Archives Building,

3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views, or arguments either orally or in writing.

A handwritten signature in black ink, appearing to read 'Tom Schedler', written in a cursive style.

Tom Schedler  
Secretary of State

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person  
Preparing  
Statement: Carol H. Guidry Dept.: Department of State  
Phone: (225) 362-5142 Office: Commercial Division  
Return  
Address: P.O. Box 94125 Rule  
Baton Rouge, LA 70804-9125 Title: Uniform Commercial Code  
Date Rule  
Takes Effect: July 20, 2014

SUMMARY  
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule change to the Uniform Commercial Code (UCC).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will increase self-generated revenue by an indeterminable amount. The proposed amendments are being made to comply with existing legislation and in response to comments received by the Department during the rule-making process for the UCC Rules that were published in October 2013.

The Department recently upgraded its UCC software for the Commercial Online Registration Application (CORA) system. Included in the upgrade, the Department will allow UCC filers to transmit bulk filings electronically. The Department is proposing a fee of \$2 for each electronic bulk filing. Since the Department's past computer system did not allow for electronic bulk filings, it is not known how many filers would take advantage of this provision. Any revenue generated by the fee is expected to be minimal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Currently, UCC filers are not allowed to submit electronic bulk filings. If a filer takes advantage of the new electronic bulk filing provision, the proposed fee would be \$2 for each electronic bulk filing.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

  
Signature of Agency Head or Designee  
Joe R. Salter, Undersecretary of M&F

  
Legislative Fiscal Officer or Designee

Typed Name & Title of Agency Head or Designee  
03/19 /2014

4/8/14

Date of Signature

Date of Signature



**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule change will increase self-generated revenue by an indeterminable amount. The proposed amendments are being made to comply with existing legislation and in response to comments received by the Department during the rule-making process for the UCC Rules that were published in October 2013.

The Department recently upgraded its UCC software for the Commercial Online Registration Application (CORA) system. Included in the upgrade, the Department will allow UCC filers to transmit bulk filings electronically. Since the Department's past computer system did not allow for electronic bulk filings, we do not know how many filers would take advantage of this provision. Any revenue generated by the fee is expected to be minimal.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

See A above.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed policy will have minimum impact on the expenditure of funds for the Department of State.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) \_\_\_\_\_ Yes. If yes, attach documentation.

(b) \_\_\_\_\_ NO. If no, provide justification as to why this rule change should be published at this time

N/A

**FISCAL AND ECONOMIC IMPACT STATEMENT**

**WORKSHEET**

**I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

<b>COSTS</b>	<b>FY 14-15</b>	<b>FY 15-16</b>	<b>FY 16-17</b>
Personal Services	0	0	0
Operating Expenses			
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>POSITIONS (#)</b>			

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

There is a no effect on costs to implement the proposed action.

3. Sources of funding for implementing the proposed rule or rule change.

<b>SOURCE</b>	<b>FY 14-15</b>	<b>FY 15-16</b>	<b>FY 16-17</b>
State General Fund			
Agency Self-Generated			
Dedicated			
Federal Funds			
Other (Specify)			
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

N/A

**B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no estimated effect on revenue collections of local governmental units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

N/A

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 14-15	FY 15-16	FY 16-17
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds			
Local Funds			
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>

\*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The Department recently upgraded its software for the UCC. Included in the upgrade, the Department will allow UCC filers to transmit bulk filings electronically. The Department is proposing a fee of \$2 for each electronic bulk filing. Since the Department's past computer system did not allow for electronic bulk filings, it is not known how many filers would take advantage of this provision. Any revenue generated by the fee is expected to be minimal.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Currently, UCC filers are not allowed to file electronic bulk filings. If a filer takes advantage of the new electronic bulk filing the proposed fee would be \$2 for each electronic bulk filing.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

See A above.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There will be no impact of the proposed policy on competition and employment.