

CLIENT ALERT

FINANCIAL SERVICES



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Recent Developments Affecting UCC Filings in New Jersey

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NEW LAWS AND REGULATIONS AFFECT THE INFORMATION THAT MUST BE LISTED ON A FINANCING STATEMENT AND REQUIRE ELECTRONIC FILING OF ALL FINANCING STATEMENTS.

There have been two recent developments affecting Uniform Commercial Code (UCC) filings in New Jersey. First, a new law was passed that affects the information that must be listed on a financing statement. Second, the New Jersey Division of Revenue and En-

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terprise Services (DORES) has revised the UCC administrative code rules to require that all financing statements filed on or after July 1, 2015 be filed electronically.

On May 11, Governor Chris Christie signed into law New Jersey Assembly Bill 2481, which, in relevant part, amends N.J.S.A. 12A:9-502(a). The new law took effect immediately and was intended to provide tools to combat the fraudulent filing of UCC records.

As amended, N.J.S.A. 12A:9-502(a) provides that a financing statement will be sufficient **only if** it (1) provides the name of the secured party or a representative of the secured party, which discloses the identity of the secured party or representative, and (2) indicates the collateral covered by the financing statement and that the collateral is within the scope of the New Jersey UCC, pursuant to N.J.S.A. 12A:9-102 and 12A:9-109. With respect to subpart one, a secured party's actual legal name should be used as the secured party name when filing financing statements and the use of trade names on financing statements should be avoided. The second subpart requires that the description of the collateral in the collateral box of the financing statement (item 4) include a provision substantially similar to the following: "The collateral covered by this financing statement is within the scope of the New Jersey Uniform Commercial Code pursuant to N.J.S.A. 12A:9-102 and N.J.S.A. 12A:9-109." Failure by a secured party to include the above information may result in DORES rejecting the filing. Even if DORES accepts a financing statement for indexing, failure to include this language could jeopardize the effectiveness of the filing.

In December 2014, the New Jersey State Treasurer published proposed changes to the UCC administrative code rules in the *New Jersey Register*. After receiving no comments, the rules were officially adopted. Effective July 1, 2015, N.J.A.C. 17:33-2.9 will require electronic filing of all UCC records. Absent the granting of a hardship exemption to a particular party, the electronic filing system, which has been available in New Jersey for some time, will now be the only available method of filing. DORES will reject all paper UCC filings submitted on or after July 1, 2015 from nonexempt filers.