

CHAPTER 236
SB 204 – FINAL VERSION

03/21/12 1118s
06/06/12 2495EBA

2012 SESSION

12-2938
05/01

SENATE BILL **204**

AN ACT adopting amendments to Article 9 of the Uniform Commercial Code relative to secured transactions.

SPONSORS: Sen. Odell, Dist 8; Rep. Hunt, Ches 7

COMMITTEE: Commerce

ANALYSIS

This bill makes changes to Article 9 of the Uniform Commercial Code, relative to secured transactions, as proposed by the National Conference of Commissioners on Uniform State Laws.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT adopting amendments to Article 9 of the Uniform Commercial Code relative to secured transactions.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 236:1 Secured Transactions; Article 9; Definition of Authenticate. Amend RSA 382-A:9-102(a)(7)
2 to read as follows:

3 (7) “Authenticate” means:

4 (A) to sign; or

5 (B) ~~[to execute or otherwise adopt a symbol, or encrypt or similarly process a~~
6 ~~record in whole or in part, with the present intent of the authenticating person to identify the person~~
7 ~~and adopt or accept a record]~~ ***with present intent to adopt or accept a record, to attach to or***
8 ***logically associate with the record an electronic sound, symbol, or process.***

9 236:2 Secured Transactions; Article 9; Definition of Certificate of Title. Amend RSA 382-A:9-
10 102(a)(10) to read as follows:

11 (10) “Certificate of title” means a certificate of title with respect to which a statute
12 provides for the security interest in question to be indicated on the certificate as a condition or result
13 of the security interest’s obtaining priority over the rights of a lien creditor with respect to the
14 collateral. ***The term includes another record maintained as an alternative to a certificate***
15 ***of title by the governmental unit that issues certificates of title if a statute permits the***
16 ***security interest in question to be indicated on the record as a condition or result of the***
17 ***security interest’s obtaining priority over the rights of a lien creditor with respect to the***
18 ***collateral.***

19 236:3 Secured Transactions; Article 9; Definition of Jurisdiction of Organization. Amend RSA
20 382-A:9-102(a)(50) to read as follows:

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

23 236:4 Secured Transactions; Article 9; Definition of Public Organic Record Added and
24 Subparagraphs Renumbered. Amend RSA 382-A:9-102(a)(68)-(80) to read as follows:

25 (68) ***“Public organic record” means a record that is available to the public***
26 ***for inspection and is:***

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1 (A) *a record consisting of the record initially filed with or issued by a*
2 *State or the United States to form or organize an organization and any record filed with or*
3 *issued by the State or the United States which amends or restates the initial record;*

4 (B) *an organic record of a business trust consisting of the record*
5 *initially filed with a State and any record filed with the State which amends or restates*
6 *the initial record, if a statute of the State governing business trusts requires that the*
7 *record be filed with the State; or*

8 (C) *a record consisting of legislation enacted by the legislature of a State*
9 *or the Congress of the United States which forms or organizes an organization, any record*
10 *amending the legislation, and any record filed with or issued by the State or the*
11 *United States which amends or restates the name of the organization.*

12 [(68)] (69) “Pursuant to commitment”, with respect to an advance made or other
13 value given by a secured party, means pursuant to the secured party’s obligation, whether or not a
14 subsequent event of default or other event not within the secured party’s control has relieved or may
15 relieve the secured party from its obligation.

16 [(69)] (70) “Record”, except as used in “for record”, “of record”, “record or legal title”,
17 and “record owner”, means information that is inscribed on a tangible medium or which is stored in
18 an electronic or other medium and is retrievable in perceivable form.

19 [(70)] (71) “Registered organization” means an organization *formed or* organized
20 solely under the law of a single State or the United States [~~and as to which the State or the United~~
21 ~~States must maintain a public record showing the organization to have been organized]~~ *by the*
22 *filing of a public organic record with, the issuance of a public organic record by, or the*
23 *enactment of legislation by the State or the United States. The term includes a business*
24 *trust that is formed or organized under the law of a single State if a statute of the State*
25 *governing business trusts requires that the business trust’s organic record be filed with the*
26 *State.*

27 [(71)] (72) “Secondary obligor” means an obligor to the extent that:

28 (A) the obligor’s obligation is secondary; or

29 (B) the obligor has a right of recourse with respect to an obligation secured by
30 collateral against the debtor, another obligor, or property of either.

31 [(72)] (73) “Secured party” means:

32 (A) a person in whose favor a security interest is created or provided for under a
33 security agreement, whether or not any obligation to be secured is outstanding;

34 (B) a person that holds an agricultural lien;

35 (C) a consignor;

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1 (D) a person to which accounts, chattel paper, payment intangibles, or
2 promissory notes have been sold;

3 (E) a trustee, indenture trustee, agent, collateral agent, or other representative
4 in whose favor a security interest or agricultural lien is created or provided for; or

5 (F) a person that holds a security interest arising under Section 2-401, 2-505, 2-
6 711(3), 2A-508(5), 4-210, or 5-118.

7 ~~[(73)]~~ **(74)** “Security agreement” means an agreement that creates or provides for a
8 security interest.

9 ~~[(74)]~~ **(75)** “Send”, in connection with a record or notification, means:

10 (A) to deposit in the mail, deliver for transmission, or transmit by any other
11 usual means of communication, with postage or cost of transmission provided for, addressed to any
12 address reasonable under the circumstances; or

13 (B) to cause the record or notification to be received within the time that it would
14 have been received if properly sent under subparagraph (A).

15 ~~[(75)]~~ **(76)** “Software” means a computer program and any supporting information
16 provided in connection with a transaction relating to the program. The term does not include a
17 computer program that is included in the definition of goods.

18 ~~[(76)]~~ **(77)** “State” means a State of the United States, the District of Columbia,
19 Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the
20 jurisdiction of the United States.

21 ~~[(77)]~~ **(78)** “Supporting obligation” means a letter-of-credit right or secondary
22 obligation that supports the payment or performance of an account, chattel paper, a document, a
23 general intangible, an instrument, or investment property.

24 ~~[(78)]~~ **(79)** “Tangible chattel paper” means chattel paper evidenced by a record or
25 records consisting of information that is inscribed on a tangible medium.

26 ~~[(79)]~~ **(80)** “Termination statement” means an amendment of a financing statement
27 which:

28 (A) identifies, by its file number, the initial financing statement to which it
29 relates; and

30 (B) indicates either that it is a termination statement or that the identified
31 financing statement is no longer effective.

32 ~~[(80)]~~ **(81)** “Transmitting utility” means a person primarily engaged in the business
33 of:

34 (A) operating a railroad, subway, street railway, or trolley bus;

35 (B) transmitting communications electrically, electromagnetically, or by light;

36 (C) transmitting goods by pipeline or sewer; or

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1 (D) transmitting or producing and transmitting electricity, steam, gas, or water.
2 236:5 Secured Transactions; Article 9; Control of Electronic Chattel Paper. RSA 382-A:9-105 is
3 repealed and reenacted to read as follows:

4 382-A:9-105 Control Of Electronic Chattel Paper.

5 (a) General rule: control of electronic chattel paper. A secured party has control of
6 electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel
7 paper reliably establishes the secured party as the person to which the chattel paper was assigned.

8 (b) Specific facts giving control. A system satisfies subsection (a) if the record or records
9 comprising the chattel paper are created, stored, and assigned in such a manner that:

10 (1) a single authoritative copy of the record or records exists which is unique,
11 identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;

12 (2) the authoritative copy identifies the secured party as the assignee of the record or
13 records;

14 (3) the authoritative copy is communicated to and maintained by the secured party
15 or its designated custodian;

16 (4) copies or amendments that add or change an identified assignee of the
17 authoritative copy can be made only with the consent of the secured party;

18 (5) each copy of the authoritative copy and any copy of a copy is readily identifiable
19 as a copy that is not the authoritative copy; and

20 (6) any amendment of the authoritative copy is readily identifiable as authorized or
21 unauthorized.

22 236:6 Secured Transactions; Article 9; Perfection and Priority; Location of Debtor. Amend RSA
23 382-A:9-307(f) to read as follows:

24 (f) Location of registered organization organized under federal law; bank branches and
25 agencies. Except as otherwise provided in subsection (i), a registered organization that is organized
26 under the law of the United States and a branch or agency of a bank that is not organized under the
27 law of the United States or a State are located:

28 (1) in the State that the law of the United States designates, if the law designates a
29 State of location;

30 (2) in the State that the registered organization, branch, or agency designates, if the
31 law of the United States authorizes the registered organization, branch, or agency to designate its
32 State of location, ***including by designating its main office, home office, or other comparable***
33 ***office***; or

34 (3) in the District of Columbia, if neither paragraph (1) nor paragraph (2) applies.

35 236:7 Secured Transactions; Security Interest Subject to Other Law. Amend RSA 382-A:9-
36 311(a) to read as follows:

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1 (a) Security interest subject to other law. Except as otherwise provided in subsection (d),
2 the filing of a financing statement is not necessary or effective to perfect a security interest in
3 property subject to:

4 (1) a statute, regulation, or treaty of the United States whose requirements for a
5 security interest's obtaining priority over the rights of a lien creditor with respect to the property
6 preempt Section 9-310(a);

7 (2) RSA 261; or

8 (3) a ~~certificate of title~~ statute of another jurisdiction which provides for a security interest
9 to be indicated on ~~the~~ **a certificate of title** as a condition or result of the security interest's
10 obtaining priority over the rights of a lien creditor with respect to the property.

11 236:8 Secured Transactions; Effect of Change in Governing Law. Amend RSA 382-A:9-316 to
12 read as follows:

13 382-A:9-316 ~~[Continued Perfection of Security Interest Following]~~ **Effect of** Change in
14 Governing Law.

15 (a) General rule: effect on perfection of change in governing law. A security interest
16 perfected pursuant to the law of the jurisdiction designated in Section 9-301(1) or 9-305(c) remains
17 perfected until the earliest of:

18 (1) the time perfection would have ceased under the law of that jurisdiction;

19 (2) the expiration of 4 months after a change of the debtor's location to another
20 jurisdiction; or

21 (3) the expiration of one year after a transfer of collateral to a person that thereby
22 becomes a debtor and is located in another jurisdiction.

23 (b) Security interest perfected or unperfected under law of new jurisdiction. If a security
24 interest described in subsection (a) becomes perfected under the law of the other jurisdiction before
25 the earliest time or event described in that subsection, it remains perfected thereafter. If the
26 security interest does not become perfected under the law of the other jurisdiction before the earliest
27 time or event, it becomes unperfected and is deemed never to have been perfected as against a
28 purchaser of the collateral for value.

29 (c) Possessory security interest in collateral moved to new jurisdiction. A possessory
30 security interest in collateral, other than goods covered by a certificate of title and as-extracted
31 collateral consisting of goods, remains continuously perfected if:

32 (1) the collateral is located in one jurisdiction and subject to a security interest
33 perfected under the law of that jurisdiction;

34 (2) thereafter the collateral is brought into another jurisdiction; and

35 (3) upon entry into the other jurisdiction, the security interest is perfected under the
36 law of the other jurisdiction.

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1 (d) Goods covered by certificate of title from this state. Except as otherwise provided in
2 subsection (e), a security interest in goods covered by a certificate of title which is perfected by any
3 method under the law of another jurisdiction when the goods become covered by a certificate of title
4 from this State remains perfected until the security interest would have become unperfected under
5 the law of the other jurisdiction had the goods not become so covered.

6 (e) When subsection (d) security interest becomes unperfected against purchasers. A
7 security interest described in subsection (d) becomes unperfected as against a purchaser of the goods
8 for value and is deemed never to have been perfected as against a purchaser of the goods for value if
9 the applicable requirements for perfection under Section 9-311(b) or 9-313 are not satisfied before
10 the earlier of:

11 (1) the time the security interest would have become unperfected under the law of
12 the other jurisdiction had the goods not become covered by a certificate of title from this State; or

13 (2) the expiration of 4 months after the goods had become so covered.

14 (f) Change in jurisdiction of bank, issuer, nominated person, securities intermediary, or
15 commodity intermediary. A security interest in deposit accounts, letter-of-credit rights, or
16 investment property which is perfected under the law of the bank's jurisdiction, the issuer's
17 jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the
18 commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

19 (1) the time the security interest would have become unperfected under the law of
20 that jurisdiction; or

21 (2) the expiration of 4 months after a change of the applicable jurisdiction to another
22 jurisdiction.

23 (g) Subsection (f) security interest perfected or unperfected under law of new
24 jurisdiction. If a security interest described in subsection (f) becomes perfected under the law of the
25 other jurisdiction before the earlier of the time or the end of the period described in that subsection,
26 it remains perfected thereafter. If the security interest does not become perfected under the law of
27 the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected
28 and is deemed never to have been perfected as against a purchaser of the collateral for value.

29 ***(h) Effect on filed financing statement of change in governing law. The***
30 ***following rules apply to collateral to which a security interest attaches within 4 months***
31 ***after the debtor changes its location to another jurisdiction:***

32 ***(1) A financing statement filed before the change pursuant to the law of the***
33 ***jurisdiction designated in Section 9-301(1) or 9-305(c) is effective to perfect a security***
34 ***interest in the collateral if the financing statement would have been effective to perfect a***
35 ***security interest in the collateral had the debtor not changed its location.***

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1 (2) *If a security interest perfected by a financing statement that is effective*
2 *under paragraph (1) becomes perfected under the law of the other jurisdiction before the*
3 *earlier of the time the financing statement would have become ineffective under the law of*
4 *the jurisdiction designated in Section 9-301(1) or 9-305(c) or the expiration of the 4-month*
5 *period, it remains perfected thereafter. If the security interest does not become perfected*
6 *under the law of the other jurisdiction before the earlier time or event, it becomes*
7 *unperfected and is deemed never to have been perfected as against a purchaser of the*
8 *collateral for value.*

9 (i) *Effect of change in governing law on financing statement filed against*
10 *original debtor. If a financing statement naming an original debtor is filed pursuant to*
11 *the law of the jurisdiction designated in Section 9-301(1) or 9-305(c) and the new debtor is*
12 *located in another jurisdiction, the following rules apply:*

13 (1) *The financing statement is effective to perfect a security interest in*
14 *collateral acquired by the new debtor before, and within 4 months after, the new debtor*
15 *becomes bound under Section 9-203(d), if the financing statement would have been effective*
16 *to perfect a security interest in the collateral had the collateral been acquired by the*
17 *original debtor.*

18 (2) *A security interest perfected by the financing statement and which*
19 *becomes perfected under the law of the other jurisdiction before the earlier of the time the*
20 *financing statement would have become ineffective under the law of the jurisdiction*
21 *designated in Section 9-301(1) or 9-305(c) or the expiration of the 4-month period remains*
22 *perfected thereafter. A security interest that is perfected by the financing statement but*
23 *which does not become perfected under the law of the other jurisdiction before the earlier*
24 *time or event becomes unperfected and is deemed never to have been perfected as against a*
25 *purchaser of the collateral for value.*

26 236:9 Secured Transactions; Priority Interests. Amend RSA 382-A:9-317(a)-(d) to read as
27 follows:

28 382-A:9-317 Interests That Take Priority Over or Take Free of Security Interest or Agricultural
29 Lien.

30 (a) Conflicting security interests and rights of lien creditors. A security interest or
31 agricultural lien is subordinate to the rights of:

32 (1) a person entitled to priority under Section 9-322; and

33 (2) except as otherwise provided in subsection (e), a person that becomes a lien
34 creditor before the earlier of the time:

35 (A) the security interest or agricultural lien is perfected; or

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1 (B) one of the conditions specified in Section 9-203(b)(3) is met and a financing
2 statement covering the collateral is filed.

3 (b) Buyers that receive delivery. Except as otherwise provided in subsection (e), a buyer,
4 other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a
5 ~~[security certificate]~~ **certificated security** takes free of a security interest or agricultural lien if the
6 buyer gives value and receives delivery of the collateral without knowledge of the security interest or
7 agricultural lien and before it is perfected.

8 (c) Lessees that receive delivery. Except as otherwise provided in subsection (e), a lessee
9 of goods takes free of a security interest or agricultural lien if the lessee gives value and receives
10 delivery of the collateral without knowledge of the security interest or agricultural lien and before it
11 is perfected.

12 (d) Licensees and buyers of certain collateral. A licensee of a general intangible or a
13 buyer, other than a secured party, of ~~[accounts, electronic chattel paper, electronic documents,~~
14 ~~general intangibles, or investment property]~~ **collateral** other than **tangible chattel paper,**
15 **tangible documents, goods, instruments, or** a certificated security takes free of a security
16 interest if the licensee or buyer gives value without knowledge of the security interest and before it is
17 perfected.

18 236:10 Secured Transactions; Priority of Interests Created by New Debtor. Amend RSA 382-
19 A:9-326 to read as follows:

20 382-A:9-326 Priority of Security Interests Created by New Debtor.

21 (a) Subordination of security interest created by new debtor. Subject to subsection (b), a
22 security interest **that is** created by a new debtor ~~[which is]~~ **in collateral in which the new debtor**
23 **has or acquires rights and is** perfected **solely** by a filed financing statement that ~~[is effective~~
24 ~~solely under Section 9-508 in collateral in which a new debtor has or acquires rights]~~ **would be**
25 **ineffective to perfect the security interest but for the application of Section 9-316(i)(1) or 9-**
26 **508** is subordinate to a security interest in the same collateral which is perfected other than by **such**
27 a filed financing statement ~~[that is effective solely under Section 9-508].~~

28 (b) Priority under other provisions; multiple original debtors. The other provisions of
29 this part determine the priority among conflicting security interests in the same collateral perfected
30 by filed financing statements ~~[that are effective solely under Section 9-508]~~ **described in**
31 **subsection (a)**. However, if the security agreements to which a new debtor became bound as debtor
32 were not entered into by the same original debtor, the conflicting security interests rank according to
33 priority in time of the new debtor's having become bound.

34 236:11 Discharge of Account Debtor; Restrictions on Assignment. Amend RSA 382-A:9-406(e) to
35 read as follows:

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1 (e) Inapplicability of subsection (d) to certain sales. Subsection (d) does not apply to the
2 sale of a payment intangible or promissory note, ***other than a sale pursuant to a disposition***
3 ***under Section 9-610 or an acceptance of collateral under Section 9-620.***

4 236:12 Restrictions on Assignment. Amend RSA 382-A:9-408(b) to read as follows:

5 (b) Applicability of subsection (a) to sales of certain rights to payment. Subsection (a)
6 applies to a security interest in a payment intangible or promissory note only if the security interest
7 arises out of a sale of the payment intangible or promissory note, ***other than a sale pursuant to a***
8 ***disposition under Section 9-610 or an acceptance of collateral under Section 9-620.***

9 236:13 Name of Debtor and Secured Party. Amend RSA 382-A:9-503 to read as follows:

10 382-A:9-503 Name of Debtor and Secured Party.

11 (a) Sufficiency of debtor's name. A financing statement sufficiently provides the name of
12 the debtor:

13 (1) ***except as otherwise provided in paragraph (3),*** if the debtor is a registered
14 organization ***or the collateral is held in a trust that is a registered organization,*** only if the
15 financing statement provides the name [~~of the debtor indicated~~] ***that is stated to be the registered***
16 ***organization's name*** on the public ***organic*** record [~~of~~] ***most recently filed with or issued or***
17 ***enacted by*** the [~~debtor's~~] ***registered organization's*** jurisdiction of organization which [~~shows the~~
18 ~~debtor to have been organized~~] ***purports to state, amend, or restate the registered***
19 ***organization's name;***

20 (2) ***subject to subsection (f),*** if the [~~debtor is a decedent's estate~~] ***collateral is***
21 ***being administered by the personal representative of a decedent,*** only if the financing
22 statement provides, ***as the name of the debtor,*** the name of the decedent and, ***in a separate part***
23 ***of the financing statement,*** indicates that the [~~debtor is an estate~~] ***collateral is being***
24 ***administered by a personal representative;***

25 (3) if the [~~debtor is a trust or a trustee acting with respect to property held in trust,~~
26 ~~only if the financing statement:~~

27 (A) [~~provides the name specified for the trust in its organic documents or, if no~~
28 ~~name is specified, provides the name of the settlor and additional information sufficient to~~
29 ~~distinguish the debtor from other trusts having one or more of the same settlors; and~~

30 (B) [~~indicates, in the debtor's name or otherwise, that the debtor is a trust or is a~~
31 ~~trustee acting with respect to property held in trust;]~~ ***collateral is held in a trust that is not a***
32 ***registered organization, only if the financing statement:***

33 (A) ***provides, as the name of the debtor:***

34 (i) ***if the organic record of the trust specifies a name for the trust, the***
35 ***name specified; or***

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1 (ii) *if the organic record of the trust does not specify a name for the*
2 *trust, the name of the settlor or testator; and*

3 **(B) in a separate part of the financing statement:**

4 (i) *if the name is provided in accordance with subparagraph (A)(i),*
5 *indicates that the collateral is held in a trust; or*

6 (ii) *if the name is provided in accordance with subparagraph (A)(ii),*
7 *provides additional information sufficient to distinguish the trust from other trusts having*
8 *one or more of the same settlors or the same testator and indicates that the collateral is*
9 *held in a trust, unless the additional information so indicates;*

10 **(4) if the debtor is an individual, only if the financing statement:**

11 **(A) provides the individual name of the debtor;**

12 **(B) provides the surname and first personal name of the debtor; or**

13 **(C) subject to subsection (g), provides the name of the individual which**
14 *is indicated on a driver's license or a nondriver's picture identification card that this State*
15 *has issued to the individual and which has not expired; and*

16 ~~[(4)]~~ **(5) in other cases:**

17 (A) if the debtor has a name, only if ~~[(4)]~~ **the financing statement** provides the
18 ~~[individual or]~~ organizational name of the debtor; and

19 (B) if the debtor does not have a name, only if ~~[(4)]~~ **the financing statement**
20 provides the names of the partners, members, associates, or other persons comprising the debtor, **in**
21 **a manner that each name provided would be sufficient if the person named were the**
22 **debtor.**

23 (b) Additional debtor-related information. A financing statement that provides the name
24 of the debtor in accordance with subsection (a) is not rendered ineffective by the absence of:

25 (1) a trade name or other name of the debtor; or

26 (2) unless required under subsection ~~[(a)(4)(B)]~~ **(a)(5)(B)**, names of partners,
27 members, associates, or other persons comprising the debtor.

28 (c) Debtor's trade name insufficient. A financing statement that provides only the
29 debtor's trade name does not sufficiently provide the name of the debtor.

30 (d) Representative capacity. Failure to indicate the representative capacity of a secured
31 party or representative of a secured party does not affect the sufficiency of a financing statement.

32 (e) Multiple debtors and secured parties. A financing statement may provide the name
33 of more than one debtor and the name of more than one secured party.

34 **(f) Name of decedent. The name of the decedent indicated on the order**
35 **appointing the personal representative of the decedent issued by the court having**

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1 *jurisdiction over the collateral is sufficient as the “name of the decedent” under subsection*
2 *(a)(2).*

3 *(g) Multiple driver’s licenses. If this State has issued to an individual more*
4 *than one driver’s license or nondriver’s picture identification card of a kind described in*
5 *subsection (a)(4)(C), the one that was issued most recently is the one to which subsection*
6 *(a)(4)(C) refers.*

7 *(h) Definition. In this section, the “name of the settlor or testator” means:*

8 *(1) if the settlor is a registered organization, the name that is stated to be*
9 *the settlor’s name on the public organic record most recently filed with or issued or enacted*
10 *by the settlor’s jurisdiction of organization which purports to state, amend, or restate the*
11 *settlor’s name; or*

12 *(2) in other cases, the name of the settlor or testator indicated in the trust’s*
13 *organic record.*

14 236:14 Effect of Certain Events on Effectiveness of Financing Statement. Amend RSA 382-A:9-
15 507 to read as follows:

16 382-A:9-507 Effect of Certain Events on Effectiveness of Financing Statement.

17 (a) Disposition. A filed financing statement remains effective with respect to collateral
18 that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or
19 agricultural lien continues, even if the secured party knows of or consents to the disposition.

20 (b) Information becoming seriously misleading. Except as otherwise provided in
21 subsection (c) and Section 9-508, a financing statement is not rendered ineffective if, after the
22 financing statement is filed, the information provided in the financing statement becomes seriously
23 misleading under Section 9-506.

24 (c) Change in debtor’s name. If [~~a debtor so changes its~~] *the* name that a filed financing
25 statement *provides for a debtor* becomes *insufficient as the name of the debtor under Section*
26 *9-503(a) so that the financing statement becomes* seriously misleading under Section 9-506:

27 (1) the financing statement is effective to perfect a security interest in collateral
28 acquired by the debtor before, or within 4 months after, the [~~change~~] *filed financing statement*
29 *becomes seriously misleading;* and

30 (2) the financing statement is not effective to perfect a security interest in collateral
31 acquired by the debtor more than 4 months after the [~~change~~] *filed financing statement becomes*
32 *seriously misleading,* unless an amendment to the financing statement which renders the
33 financing statement not seriously misleading is filed within 4 months after [~~the change~~] *the*
34 *financing statement became seriously misleading.*

35 236:15 Duration and Effectiveness of Financing Statement; Transmitting Utility Financing
36 Statement. Amend RSA 382-A:9-515(f) to read as follows:

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1 (f) Transmitting utility financing statement. If a debtor is a transmitting utility and a
2 filed *initial* financing statement so indicates, the financing statement is effective until a
3 termination statement is filed.

4 236:16 What Constitutes Filing; Effectiveness of Filing. Amend RSA 382-A:9-516(b) to read as
5 follows:

6 (b) Refusal to accept record; filing does not occur. Filing does not occur with respect to a
7 record that a filing office refuses to accept because:

8 (1) the record is not communicated by a method or medium of communication
9 authorized by the filing office;

10 (2) an amount equal to or greater than the applicable filing fee is not tendered;

11 (3) the filing office is unable to index the record because:

12 (A) in the case of an initial financing statement, the record does not provide a
13 name for the debtor;

14 (B) in the case of an amendment or [~~correction~~] *information* statement, the
15 record:

16 (i) does not identify the initial financing statement as required by Section 9-
17 512 or 9-518, as applicable; or

18 (ii) identifies an initial financing statement whose effectiveness has lapsed
19 under Section 9-515;

20 (C) in the case of an initial financing statement that provides the name of a
21 debtor identified as an individual or an amendment that provides a name of a debtor identified as an
22 individual which was not previously provided in the financing statement to which the record relates,
23 the record does not identify the debtor's [~~last name~~] *surname*; or

24 (D) in the case of a record filed in the filing office described in Section 9-
25 501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

26 (4) in the case of an initial financing statement or an amendment that adds a
27 secured party of record, the record does not provide a name and mailing address for the secured
28 party of record;

29 (5) in the case of an initial financing statement or an amendment that provides a
30 name of a debtor which was not previously provided in the financing statement to which the
31 amendment relates, the record does not:

32 (A) provide a mailing address for the debtor; *or*

33 (B) indicate whether the *name provided as the name of the* debtor is *the*
34 *name of* an individual or an organization; [~~or~~]

35 (~~C) if the financing statement indicates that the debtor is an organization,~~
36 ~~provide:~~

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1 (i) ~~a type of organization for the debtor;~~
2 (ii) ~~a jurisdiction of organization for the debtor; or~~
3 (iii) ~~an organizational identification number for the debtor or indicate that~~
4 ~~the debtor has none;~~]

5 (6) in the case of an assignment reflected in an initial financing statement under
6 Section 9-514(a) or an amendment filed under Section 9-514(b), the record does not provide a name
7 and mailing address for the assignee; or

8 (7) in the case of a continuation statement, the record is not filed within the six-
9 month period prescribed by Section 9-515(d).

10 236:17 Claim Concerning Inaccurate or Wrongfully Filed Record. Amend RSA 382-A:9-518 to
11 read as follows:

12 382-A:9-518 Claim Concerning Inaccurate or Wrongfully Filed Record.

13 (a) [~~Correction statement~~] **Statement with respect to record indexed under person's**
14 **name.** A person may file in the filing office [~~a correction~~] **an information** statement with respect to
15 a record indexed there under the person's name if the person believes that the record is inaccurate or
16 was wrongfully filed.

17 (b) [~~Sufficiency~~] **Contents** of [~~correction~~] statement **under subsection (a).** [~~A~~
18 ~~correction~~] **An information** statement **under subsection (a)** must:

19 (1) identify the record to which it relates by:

20 (A) the file number assigned to the initial financing statement to which the
21 record relates; and

22 (B) if the [~~correction~~] **information** statement relates to a record filed in a filing
23 office described in Section 9-501(a)(1):

24 (i) the book and page number of the initial financing statement, or if a book
25 and page number has not yet been assigned to the initial financing statement, the instrument
26 number of the initial financing statement and the date on which the initial financing statement was
27 filed;

28 (ii) the information specified in Section 9-502(b)(4); and

29 (iii) the name of the debtor;

30 (2) indicate that it is [~~a correction~~] **an information** statement; and

31 (3) provide the basis for the person's belief that the record is inaccurate and indicate
32 the manner in which the person believes the record should be amended to cure any inaccuracy or
33 provide the basis for the person's belief that the record was wrongfully filed.

34 (c) **Statement by secured party of record.** **A person may file in the filing office**
35 **an information statement with respect to a record filed there if the person is a secured**
36 **party of record with respect to the financing statement to which the record relates and**

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1 *believes that the person that filed the record was not entitled to do so under Section 9-*
2 *509(d).*

3 *(d) Contents of statement under subsection (c). An information statement under*
4 *subsection (c) must:*

5 *(1) identify the record to which it relates by:*

6 *(A) the file number assigned to the initial financing statement to which*
7 *the record relates; and*

8 *(B) if the information statement relates to a record filed in a filing office*
9 *described in Section 9-501(a)(1), the date that the initial financing statement was filed and*
10 *the information specified in Section 9-502(b);*

11 *(2) indicate that it is an information statement; and*

12 *(3) provide the basis for the person's belief that the person that filed the*
13 *record was not entitled to do so under Section 9-509(d).*

14 ~~[(e)]~~ (e) Record not affected by ~~[correction]~~ *information* statement. The filing of ~~[(a~~
15 ~~correction)]~~ *an information* statement does not affect the effectiveness of an initial financing
16 statement or other filed record.

17 236:18 Uniform Form of Written Financing Statement and Amendment. RSA 382-A:9-521 is
18 repealed and reenacted to read as follows:

19 382-A:9-521 Uniform Form of Written Financing Statement and Amendment. A filing office
20 that accepts written records shall not refuse to accept a written initial financing statement,
21 addendum, or amendment in the form and format set forth in the official text of the 2010
22 amendments to Article 9 of the Uniform Commercial Code promulgated by the American Law
23 Institute and the Uniform Law Commission, or in such form and format as may be subsequently
24 adopted by the American Law Institute, the Uniform Law Commission, or the International
25 Association of Commercial Administrators, except for a reason set forth in Section 9-516(b).

26 236:19 Collection and Enforcement by Secured Party. Amend RSA 382-A:9-607(b) to read as
27 follows:

28 (b) Nonjudicial enforcement of mortgage. If necessary to enable a secured party to
29 exercise under subsection (a)(3) the right of a debtor to enforce a mortgage nonjudicially, the secured
30 party may record in the office in which a record of the mortgage is recorded:

31 (1) a copy of the security agreement that creates or provides for a security interest in
32 the obligation secured by the mortgage; and

33 (2) the secured party's sworn affidavit in recordable form stating that:

34 (A) a default has occurred *with respect to the obligation secured by the*
35 *mortgage*; and

36 (B) the secured party is entitled to enforce the mortgage nonjudicially.

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1 236:20 Remedies for Secured Party’s Failure to Comply With Article. Amend RSA 382-A:9-
2 625(c) to read as follows:

3 (c) Persons entitled to recover damages; statutory damages [~~in consumer goods~~
4 ~~transaction~~] **if collateral is consumer goods**. Except as otherwise provided in Section 9-628:

5 (1) a person that, at the time of the failure, was a debtor, was an obligor, or held a
6 security interest in or other lien on the collateral may recover damages under subsection (b) for its
7 loss; and

8 (2) if the collateral is consumer goods, a person that was a debtor or a secondary
9 obligor at the time a secured party failed to comply with this part may recover for that failure in any
10 event an amount not less than the credit service charge plus 10 percent of the principal amount of
11 the obligation or the time-price differential plus 10 percent of the cash price.

12 236:21 New Subdivision; Transition Period for 2010 Amendments. Amend RSA 382-A by
13 inserting after section 9-710 the following new subdivision:

Part 8

Transition Provisions for 2010 Amendments

16 382-A:9-801 Effective Date. This act takes effect on July 1, 2013. As used in this part, “act”
17 means the legislation enacting the 2010 amendments to Article 9.

18 382-A:9-802 Savings Clause.

19 (a) Pre-effective-date transactions or liens. Except as otherwise provided in this part,
20 this act applies to a transaction or lien within its scope, even if the transaction or lien was entered
21 into or created before this act takes effect.

22 (b) Pre-effective-date proceedings. This act does not affect an action, case, or proceeding
23 commenced before this act takes effect.

24 382-A:9-803 Security Interest Perfected Before Effective Date.

25 (a) Continuing perfection: perfection requirements satisfied. A security interest that is
26 a perfected security interest immediately before this act takes effect is a perfected security interest
27 under Article 9 as amended by this act if, when this act takes effect, the applicable requirements for
28 attachment and perfection under Article 9 as amended by this act are satisfied without further
29 action.

30 (b) Continuing perfection: perfection requirements not satisfied. Except as otherwise
31 provided in Section 9-805, if, immediately before this act takes effect, a security interest is a
32 perfected security interest, but the applicable requirements for perfection under Article 9 as
33 amended by this act are not satisfied when this act takes effect, the security interest remains
34 perfected thereafter only if the applicable requirements for perfection under Article 9 as amended by
35 this act are satisfied within one year after this act takes effect.

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1 382-A:9-804. Security Interest Unperfected Before Effective Date. A security interest that is an
2 unperfected security interest immediately before this act takes effect becomes a perfected security
3 interest:

4 (1) without further action, when this act takes effect if the applicable requirements
5 for perfection under Article 9 as amended by this act are satisfied before or at that time; or

6 (2) when the applicable requirements for perfection are satisfied if the requirements
7 are satisfied after that time.

8 382-A:9-805 Effectiveness of Action Taken Before Effective Date.

9 (a) Pre-effective-date filing effective. The filing of a financing statement before this act
10 takes effect is effective to perfect a security interest to the extent the filing would satisfy the
11 applicable requirements for perfection under Article 9 as amended by this act.

12 (b) When pre-effective-date filing becomes ineffective. This act does not render
13 ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the
14 applicable requirements for perfection under the law of the jurisdiction governing perfection as
15 provided in Article 9 as it existed before amendment. However, except as otherwise provided in
16 subsections (c) and (d) and Section 9-806, the financing statement ceases to be effective:

17 (1) if the financing statement is filed in this State, at the time the financing
18 statement would have ceased to be effective had this act not taken effect; or

19 (2) if the financing statement is filed in another jurisdiction, at the earlier of:

20 (A) the time the financing statement would have ceased to be effective under the
21 law of that jurisdiction; or

22 (B) June 30, 2018.

23 (c) Continuation statement. The filing of a continuation statement after this act takes
24 effect does not continue the effectiveness of a financing statement filed before this act takes effect.
25 However, upon the timely filing of a continuation statement after this act takes effect and in
26 accordance with the law of the jurisdiction governing perfection as provided in Article 9 as amended
27 by this act, the effectiveness of a financing statement filed in the same office in that jurisdiction
28 before this act takes effect continues for the period provided by the law of that jurisdiction.

29 (d) Application of subsection (b)(2)(B) to transmitting utility financing statement.
30 Subsection (b)(2)(B) applies to a financing statement that, before this act takes effect, is filed against
31 a transmitting utility and satisfies the applicable requirements for perfection under the law of the
32 jurisdiction governing perfection as provided in Article 9 as it existed before amendment, only to the
33 extent that Article 9 as amended by this act provides that the law of a jurisdiction other than the
34 jurisdiction in which the financing statement is filed governs perfection of a security interest in
35 collateral covered by the financing statement.

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1 (e) Application of Part 5. A financing statement that includes a financing statement
2 filed before this act takes effect and a continuation statement filed after this act takes effect is
3 effective only to the extent that it satisfies the requirements of Part 5 as amended by this act for an
4 initial financing statement. A financing statement that indicates that the debtor is a decedent's
5 estate indicates that the collateral is being administered by a personal representative within the
6 meaning of Section 9-503(a)(2) as amended by this act. A financing statement that indicates that the
7 debtor is a trust or is a trustee acting with respect to property held in trust indicates that the
8 collateral is held in a trust within the meaning of Section 9-503(a)(3) as amended by this act.

9 382-A:9-806 When Initial Financing Statement Suffices to Continue Effectiveness of Financing
10 Statement.

11 (a) Initial financing statement in lieu of continuation statement. The filing of an initial
12 financing statement in the office specified in Section 9-501 continues the effectiveness of a financing
13 statement filed before this act takes effect if:

14 (1) the filing of an initial financing statement in that office would be effective to
15 perfect a security interest under Article 9 as amended by this act;

16 (2) the pre-effective-date financing statement was filed in an office in another State;
17 and

18 (3) the initial financing statement satisfies subsection (c).

19 (b) Period of continued effectiveness. The filing of an initial financing statement under
20 subsection (a) continues the effectiveness of the pre-effective-date financing statement:

21 (1) if the initial financing statement is filed before this act takes effect, for the period
22 provided in unamended Section 9-515 with respect to an initial financing statement; and

23 (2) if the initial financing statement is filed after this act takes effect, for the period
24 provided in Section 9-515 as amended by this act with respect to an initial financing statement.

25 (c) Requirements for initial financing statement under subsection (a). To be effective for
26 purposes of subsection (a), an initial financing statement must:

27 (1) satisfy the requirements of Part 5 as amended by this act for an initial financing
28 statement;

29 (2) identify the pre-effective-date financing statement by indicating the office in
30 which the financing statement was filed and providing the dates of filing and file numbers, if any, of
31 the financing statement and of the most recent continuation statement filed with respect to the
32 financing statement; and

33 (3) indicate that the pre-effective-date financing statement remains effective.

34 382-A:9-807 Amendment of Pre-Effective-Date Financing Statement.

35 (a) "Pre-effective-date financing statement." In this section, "pre-effective-date financing
36 statement" means a financing statement filed before this act takes effect.

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1 (b) Applicable law. After this act takes effect, a person may add or delete collateral
2 covered by, continue or terminate the effectiveness of, or otherwise amend the information provided
3 in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction
4 governing perfection as provided in Article 9 as amended by this act. However, the effectiveness of a
5 pre-effective-date financing statement also may be terminated in accordance with the law of the
6 jurisdiction in which the financing statement is filed.

7 (c) Method of amending: general rule. Except as otherwise provided in subsection (d), if
8 the law of this State governs perfection of a security interest, the information in a pre-effective-date
9 financing statement may be amended after this act takes effect only if:

10 (1) the pre-effective-date financing statement and an amendment are filed in the
11 office specified in Section 9-501;

12 (2) an amendment is filed in the office specified in Section 9-501 concurrently with,
13 or after the filing in that office of, an initial financing statement that satisfies Section 9-806(c); or

14 (3) an initial financing statement that provides the information as amended and
15 satisfies Section 9-806(c) is filed in the office specified in Section 9-501.

16 (d) Method of amending: continuation. If the law of this State governs perfection of a
17 security interest, the effectiveness of a pre-effective-date financing statement may be continued only
18 under Section 9-805(c) and (e) or 9-806.

19 (e) Method of amending: additional termination rule. Whether or not the law of this
20 State governs perfection of a security interest, the effectiveness of a pre-effective-date financing
21 statement filed in this State may be terminated after this act takes effect by filing a termination
22 statement in the office in which the pre-effective-date financing statement is filed, unless an initial
23 financing statement that satisfies Section 9-806(c) has been filed in the office specified by the law of
24 the jurisdiction governing perfection as provided in Article 9 as amended by this act as the office in
25 which to file a financing statement.

26 382-A:9-808 Person Entitled to File Initial Financing Statement or Continuation Statement. A
27 person may file an initial financing statement or a continuation statement under this part if:

28 (1) the secured party of record authorizes the filing; and

29 (2) the filing is necessary under this part:

30 (A) to continue the effectiveness of a financing statement filed before this act
31 takes effect; or

32 (B) to perfect or continue the perfection of a security interest.

33 382-A:9-809 Priority. This act determines the priority of conflicting claims to collateral.
34 However, if the relative priorities of the claims were established before this act takes effect, Article 9
35 as it existed before amendment determines priority.

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1 236:22 Leases; Definitions and Index of Definitions; Reference Change. Amend RSA 382-A:2A-
2 103(3) to read as follows:

3 (3) The following definitions in other Articles apply to this Article:

4	“Account”.	Section 9-102(a)(2).
5	“Between merchants”.	Section 2-104(3).
6	“Buyer”.	Section 2-103(1)(a).
7	“Chattel paper”.	Section 9-102(a)(11).
8	“Consumer goods”.	Section 9-102(a)(23).
9	“Document”.	Section 9-102(a)(30).
10	“Entrusting”.	Section 2-403(3).
11	“General intangible”.	Section 9-102(a)(42).
12	“Instrument”.	Section 9-102(a)(47).
13	“Merchant”.	Section 2-104(1).
14	“Mortgage”.	Section 9-102(a)(55).
15	“Pursuant to commitment”.	Section 9-102(a)(68) 9-102(a)(69) .
16	“Receipt”.	Section 2-103(1)(c).
17	“Sale”.	Section 2-106(1).
18	“Sale on approval”.	Section 2-326.
19	“Sale or return”.	Section 2-326.
20	“Seller”.	Section 2-103(1)(d).

21 236:23 Effective Date. This act shall take effect July 1, 2013.

22 Approved: June 18, 2012

23 Effective Date: July 1, 2013