

MAKE SURE YOUR NEW JERSEY UCC COLLATERAL DESCRIPTION COMPLIES WITH 9-502!



“I filed my UCC-1 financing statement, the filing office accepted it and gave it a file number and file date, and the filing is showing up when a UCC search is conducted against the correct debtor name. Now you are telling me none of that matters, and that my filing isn’t valid? That doesn’t make sense.”

- It is true! In general, when a filing office accepts and indexes a UCC financing statement, it is considered “filed”. (9-520). However, this rule only applies to “a filed financing statement satisfying Section 9-502(a) and (b)”.

Section 9-502 relates to the contents of a financing statement and provides the minimum requirements for a financing statement to be “sufficient”. To put it simply, a financing statement requires a minimal amount of information to serve its essential function of providing public notice. In all states, Section 9-502 of the UCC requires a financing statement to provide a debtor name, a secured party name, and an indication of the collateral covered by the financing statement to be considered legally sufficient.

If you are filing in the State of New Jersey, you need to add additional information to your financing statement to comply with New Jersey’s non-uniform version of section 9-502 (see underlined text below). It provides:

12A:9-502(a): Sufficiency of financing statement. Subject to subsection (b), a financing statement is sufficient only if it:

1. provides the name of the debtor;
2. 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
3. indicates the collateral covered by the financing statement and that the collateral is within the scope of this chapter, pursuant to 12A:9-102 and 12A:9-109.

As a result of this non-uniform provision, filers in New Jersey are required to add certain language to the collateral description provided on a financing statement. Specifically, the words “This collateral is within the scope of the New Jersey Uniform Commercial Code, pursuant to Section 12A:9-102 and 12A:9-109” must be included on the financing statement. This applies to filings made at the Secretary of State’s office and to fixture filings made in the local filing offices.

Since the inclusion of the language is a matter of sufficiency under 9-502, rather than a being a reason for rejection under 9-516, the fact that a filing office accepts and indexes the filing will not save the filing if the language is not included. It is important to remember that failure to comply with this requirement could render your filing legally insufficient, and therefore unenforceable.



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