
BERNSTEIN

LAW FIRM, P.C.

TRADITION • TECHNOLOGY • TALENT

CLIENT ADVISORY

(May 2002)

FILING DEADLINE FOR UCC LIENS LOOMS

Don't risk forfeiting your priority interests

The end of the one-year grace period to preserve some security interests in personal property is right around the corner. Effective July 1, 2002, all security interests that were filed prior to July 1, 2001, are governed by revised Article 9 of the Uniform Commercial Code (UCC). The failure to correct many non-compliant security interests could result in a loss of perfection and priority.

Article 9, which sets forth the requirements for creating and retaining security interests in personal property, was revised effective July 1, 2001 in most states. [A few states delayed the effective date of the law for up to six months, so the transition dates may change slightly – but the issue remains the same.] The law, which is followed in all 50 states, makes major changes, including one that requires financing statements – the document that secures the lienholder's interest in the property – to be filed *in the state where the debtor is located (meaning "registered" for registered entities like corporations)*. This is a major change from the previous version of Article 9, which allowed most liens to be filed *where the property was located*. Lienholders are, therefore, required to research where each debtor company is actually incorporated, since the state of incorporation (location of the debtor) may differ from the state where its offices or property are located. While the statute provides for "grandfathering" these "old location" filings until the earlier of the normal lapse or June 30, 2006; many other statutory changes must be observed by July 1, 2002, or lien priority can be lost.

Importantly, with regard to liens which were perfected prior to July 1, 2001, *other than by filing financing statements*, lienholders have until July 1, 2002, to "re-perfect" any security interests that may have complied with the prior law, but do not comply with the new law. Security interests that were properly perfected under the prior law and which would, coincidentally, meet the requirements for perfection under the new law are just fine and will continue to be perfected until the earlier of their natural lapse or July 1, 2006. Security interests that would not be perfected under the new law need immediate attention. Some filings made defective by the change in law may be re-filed prior to July 1, 2002 to retain their priority status.

Lienholders are encouraged to undertake a thorough review of their lien portfolios to ensure that their interests are protected under the new law. The Bernstein Law Firm has created a lien portfolio review protocol to assist lienholders in preserving their rights under the new law. For more information on how you can protect your interests, please contact Bob Bernstein at 412-456-8101 or toll free at 1-800-927-3197; email: Bob@BernsteinLaw.com.

NOTE: Information contained herein is a summary of complicated matters. It is not intended to convey legal advice. Before you act on any information provided in this document, you should seek professional advice regarding its applicability to your specific circumstances ©2002, All rights reserved.

Bernstein Law Firm, P.C. is a full service creditors' rights and bankruptcy law firm, providing a comprehensive range of services in all aspects of creditor and bankruptcy representation.

1133 Penn Avenue, Pittsburgh, Pennsylvania 15222 Telephone 412-456-8100 Fax 412-456-8135
www.bernsteinlaw.com mail@bernsteinlaw.com