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# A BILL FOR AN ACT

RELATING TO UNIFORM COMMERCIAL CODE ARTICLE 9.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. Chapter 490, Hawaii Revised Statutes, is  
2 amended by adding to article 9 a new part to be designated and  
3 to read as follows:

4                               **"PART 8**

5                               **TRANSITION PROVISIONS FOR 2010 AMENDMENTS**

6       **§490:9-801 Effective date.** This Act takes effect on  
7 July 1, 2013.

8       **§490:9-802 Savings clause.** (a) Except as otherwise  
9 provided in this part, this Act applies to a transaction or lien  
10 within its scope, even if the transaction or lien was entered  
11 into or created before this Act takes effect.

12       (b) This Act does not affect an action, case, or  
13 proceeding commenced before this Act takes effect.

14       **§490:9-803 Security interest perfected before effective**  
15 **date.** (a) A security interest that is a perfected security  
16 interest immediately before this Act takes effect is a perfected  
17 security interest under article 9 as amended by this Act if,  
18 when this Act takes effect, the applicable requirements for



1 attachment and perfection under article 9 as amended by this Act  
2 are satisfied without further action.

3 (b) Except as otherwise provided in section 490:9-805, if,  
4 immediately before this Act takes effect, a security interest is  
5 a perfected security interest, but the applicable requirements  
6 for perfection under article 9 as amended by this Act are not  
7 satisfied when this Act takes effect, the security interest  
8 remains perfected thereafter only if the applicable requirements  
9 for perfection under article 9 as amended by this Act are  
10 satisfied within one year after this Act takes effect.

11 **§490:9-804 Security interest unperfected before effective**  
12 **date.** A security interest that is an unperfected security  
13 interest immediately before this Act takes effect becomes a  
14 perfected security interest:

15 (1) Without further action, when this Act takes effect if  
16 the applicable requirements for perfection under  
17 article 9 as amended by this Act are satisfied before  
18 or at that time; or

19 (2) When the applicable requirements for perfection are  
20 satisfied if the requirements are satisfied after that  
21 time.



1       **§490:9-805 Effectiveness of action taken before effective**

2 **date.** (a) The filing of a financing statement before this Act  
3 takes effect is effective to perfect a security interest to the  
4 extent the filing would satisfy the applicable requirements for  
5 perfection under article 9 as amended by this Act.

6 (b) This Act does not render ineffective an effective  
7 financing statement that, before this Act takes effect, is filed  
8 and satisfies the applicable requirements for perfection under  
9 the law of the jurisdiction governing perfection as provided in  
10 article 9 as it existed before amendment. However, except as  
11 otherwise provided in subsections (c) and (d) and section 490:9-  
12 806, the financing statement ceases to be effective:

13       (1) If the financing statement is filed in this State, at  
14           the time the financing statement would have ceased to  
15           be effective had this Act not taken effect; or

16       (2) If the financing statement is filed in another  
17           jurisdiction, at the earlier of:

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

21           (B) June 30, 2018.



1           (c) The filing of a continuation statement after this Act  
2 takes effect does not continue the effectiveness of a financing  
3 statement filed before this Act takes effect. However, upon the  
4 timely filing of a continuation statement after this Act takes  
5 effect and in accordance with the law of the jurisdiction  
6 governing perfection as provided in article 9 as amended by this  
7 Act, the effectiveness of a financing statement filed in the  
8 same office in that jurisdiction before this Act takes effect  
9 continues for the period provided by the law of that  
10 jurisdiction.

11           (d) Subsection (b)(2)(B) applies to a financing statement  
12 that, before this Act takes effect, is filed against a  
13 transmitting utility and satisfies the applicable requirements  
14 for perfection under the law of the jurisdiction governing  
15 perfection as provided in article 9 as it existed before  
16 amendment, only to the extent that article 9 as amended by this  
17 Act provides that the law of a jurisdiction other than the  
18 jurisdiction in which the financing statement is filed governs  
19 perfection of a security interest in collateral covered by the  
20 financing statement.

21           (e) A financing statement that includes a financing  
22 statement filed before this Act takes effect and a continuation



1 statement filed after this Act takes effect is effective only to  
2 the extent that it satisfies the requirements of part 5 as  
3 amended by this Act for an initial financing statement. A  
4 financing statement that indicates that the debtor is a  
5 decedent's estate indicates that the collateral is being  
6 administered by a personal representative within the meaning of  
7 section 490:9-503(a)(2) as amended by this Act. A financing  
8 statement that indicates that the debtor is a trust or is a  
9 trustee acting with respect to property held in trust indicates  
10 that the collateral is held in a trust within the meaning of  
11 section 490:9-503(a)(3) as amended by this Act.

12 **§490:9-806 When initial financing statement suffices to**  
13 **continue effectiveness of financing statement.** (a) The filing  
14 of an initial financing statement in the office specified in  
15 section 490:9-501 continues the effectiveness of a financing  
16 statement filed before this Act takes effect if:

- 17 (1) The filing of an initial financing statement in that  
18 office would be effective to perfect a security  
19 interest under article 9 as amended by this Act;  
20 (2) The pre-effective-date financing statement was filed  
21 in an office in another state; and



1 (3) The initial financing statement satisfies subsection  
2 (c).

3 (b) The filing of an initial financing statement under  
4 subsection (a) continues the effectiveness of the pre-effective-  
5 date financing statement:

6 (1) If the initial financing statement is filed before  
7 this Act takes effect, for the period provided in  
8 unamended section 490:9-515 with respect to an initial  
9 financing statement; and

10 (2) If the initial financing statement is filed after this  
11 Act takes effect, for the period provided in section  
12 490:9-515 as amended by this Act with respect to an  
13 initial financing statement.

14 (c) To be effective for purposes of subsection (a), an  
15 initial financing statement must:

16 (1) Satisfy the requirements of part 5 as amended by this  
17 Act for an initial financing statement;

18 (2) Identify the pre-effective-date financing statement by  
19 indicating the office in which the financing statement  
20 was filed and providing the dates of filing and file  
21 numbers, if any, of the financing statement and of the



1 most recent continuation statement filed with respect  
2 to the financing statement; and

3 (3) Indicate that the pre-effective-date financing  
4 statement remains effective.

5 **§490:9-807 Amendment of pre-effective-date financing**

6 **statement.** (a) In this section, "pre-effective-date financing  
7 statement" means a financing statement filed before this Act  
8 takes effect.

9 (b) After this Act takes effect, a person may add or  
10 delete collateral covered by, continue or terminate the  
11 effectiveness of, or otherwise amend the information provided  
12 in, a pre-effective-date financing statement only in accordance  
13 with the law of the jurisdiction governing perfection as  
14 provided in article 9 as amended by this Act. However, the  
15 effectiveness of a pre-effective-date financing statement also  
16 may be terminated in accordance with the law of the jurisdiction  
17 in which the financing statement is filed.

18 (c) Except as otherwise provided in subsection (d), if the  
19 law of this State governs perfection of a security interest, the  
20 information in a pre-effective-date financing statement may be  
21 amended after this Act takes effect only if:



1 (1) The pre-effective-date financing statement and an  
2 amendment are filed in the office specified in section  
3 490:9-501;

4 (2) An amendment is filed in the office specified in  
5 section 490:9-501 concurrently with, or after the  
6 filing in that office of, an initial financing  
7 statement that satisfies section 490:9-806(c); or

8 (3) An initial financing statement that provides the  
9 information as amended and satisfies section  
10 490:9-806(c) is filed in the office specified in  
11 section 490:9-501.

12 (d) If the law of this State governs perfection of a  
13 security interest, the effectiveness of a pre-effective-date  
14 financing statement may be continued only under section  
15 490:9-805(c) and (e) or 490:9-806.

16 (e) Whether or not the law of this State governs  
17 perfection of a security interest, the effectiveness of a pre-  
18 effective-date financing statement filed in this State may be  
19 terminated after this Act takes effect by filing a termination  
20 statement in the office in which the pre-effective-date  
21 financing statement is filed, unless an initial financing  
22 statement that satisfies section 490:9-806(c) has been filed in





1 the office specified by the law of the jurisdiction governing  
2 perfection as provided in article 9 as amended by this Act as  
3 the office in which to file a financing statement.

4       **§490:9-808 Person entitled to file initial financing**  
5 **statement or continuation statement.** A person may file an  
6 initial financing statement or a continuation statement under  
7 this part if:

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

9       (2) The filing is necessary under this part:

10           (A) To continue the effectiveness of a financing  
11               statement filed before this Act takes effect; or

12           (B) To perfect or continue the perfection of a  
13               security interest.

14       **§490:9-809 Priority.** This Act determines the priority of  
15 conflicting claims to collateral. However, if the relative  
16 priorities of the claims were established before this Act takes  
17 effect, article 9 as it existed before amendment determines  
18 priority."

19       SECTION 2. Section 490:9-102, Hawaii Revised Statutes, is  
20 amended as follows:

21       1. By adding a new definition to be appropriately inserted  
22 and to read:



1       "Public organic record" means a record that is available  
2 to the public for inspection and is:

3       (1) A record consisting of the record initially filed with  
4 or issued by a state or the United States to form or  
5 organize an organization and any record filed with or  
6 issued by the state or the United States that amends  
7 or restates the initial record;

8       (2) An organic record of a business trust consisting of  
9 the record initially filed with a state and any record  
10 filed with the state that amends or restates the  
11 initial record, if a statute of the state governing  
12 business trusts requires that the record be filed with  
13 the state; or

14       (3) A record consisting of legislation enacted by the  
15 legislature of a state or the Congress of the United  
16 States that forms or organizes an organization, any  
17 record amending the legislation, and any record filed  
18 with or issued by the state or the United States that  
19 amends or restates the name of the organization."

20       2. By amending the definitions of "authenticate",  
21 "certificate of title", "jurisdiction of organization", and  
22 "registered organization" to read:



1        "Authenticate" means:

2        (1) To sign; or

3        (2) ~~[To execute or otherwise adopt a symbol, or encrypt or~~  
4        ~~similarly process a record in whole or in part, with~~  
5        ~~the present intent of the authenticating person to~~  
6        ~~identify the person and adopt or accept a record.]~~

7        With present intent to adopt or accept a record, to  
8        attach or to logically associate with the record an  
9        electronic sound, symbol, or process.

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



1 "Jurisdiction of organization", with respect to a  
2 registered organization, means the jurisdiction under whose law  
3 the organization is formed or organized.

4 "Registered organization" means an organization formed or  
5 organized solely under the law of a single state or the United  
6 States [and as to which the state or the United States must  
7 maintain a public record showing the organization to have been  
8 organized.] by the filing of a public organic record with, the  
9 issuance of a public organic record by, or the enactment of  
10 legislation by the state or the United States. The term  
11 includes a business trust that is formed or organized under the  
12 law of a single state if a statute of the state governing  
13 business trusts requires that the business trust's organic  
14 record be filed with the state."

15 SECTION 3. Section 490:9-105, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§490:9-105 Control of electronic chattel paper.** (a) A  
18 secured party has control of electronic chattel paper if a  
19 system employed for evidencing the transfer of interests in the  
20 chattel paper reliably establishes the secured party as the  
21 person to which the chattel paper was assigned.



1        (b) A system satisfies subsection (a) if the record or  
2 records comprising the chattel paper are created, stored, and  
3 assigned in such a manner that:

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

8        (2) The authoritative copy identifies the secured party as  
9 the assignee of the record or records;

10       (3) The authoritative copy is communicated to and  
11 maintained by the secured party or its designated  
12 custodian;

13       (4) Copies or [~~revisions~~] amendments that add or change an  
14 identified assignee of the authoritative copy can be  
15 made only with the [~~participation~~] consent of the  
16 secured party;

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

20       (6) Any [~~revision~~] amendment of the authoritative copy is  
21 readily identifiable as [~~an~~] authorized or  
22 unauthorized [~~revision~~]."



SECTION 4. Section 490:9-307, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) Except as otherwise provided in subsection (i), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) In the state that the law of the United States designates, if the law designates a state of location;

(2) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location~~[7]~~,  
including by designating its main office, home office,  
or other comparable office; or

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

SECTION 5. Section 490:9-311, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:



- 1 (1) A statute, regulation, or treaty of the United States  
2 whose requirements for a security interest's obtaining  
3 priority over the rights of a lien creditor with  
4 respect to the property preempt section 490:9-310(a);  
5 (2) Chapter 286; or  
6 (3) A [~~certificate of title~~] statute of another  
7 jurisdiction which provides for a security interest to  
8 be indicated on [~~the~~] a certificate of title as a  
9 condition or result of the security interest's  
10 obtaining priority over the rights of a lien creditor  
11 with respect to the property."

12 SECTION 6. Section 490:9-316, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "~~§490:9-316 [Continued perfection of security interest~~  
15 ~~following]~~ Effect of change in governing law. (a) A security  
16 interest perfected pursuant to the law of the jurisdiction  
17 designated in section 490:9-301(1) or 490:9-305(c) remains  
18 perfected until the earliest of:

- 19 (1) The time perfection would have ceased under the law of  
20 that jurisdiction;  
21 (2) The expiration of four months after a change of the  
22 debtor's location to another jurisdiction; or



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

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

(c) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

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

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





1           (3) Upon entry into the other jurisdiction, the security  
2           interest is perfected under the law of the other  
3           jurisdiction.

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

11          (e) A security interest described in subsection (d)  
12          becomes unperfected as against a purchaser of the goods for  
13          value and is deemed never to have been perfected as against a  
14          purchaser of the goods for value if the applicable requirements  
15          for perfection under section 490:9-311(b) or 490:9-313 are not  
16          satisfied before the earlier of:

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

21          (2) The expiration of four months after the goods had  
22               become so covered.



1 (f) A security interest in deposit accounts, letter-of-  
2 credit rights, or investment property which is perfected under  
3 the law of the bank's jurisdiction, the issuer's jurisdiction, a  
4 nominated person's jurisdiction, the securities intermediary's  
5 jurisdiction, or the commodity intermediary's jurisdiction, as  
6 applicable, remains perfected until the earlier of:

7 (1) The time the security interest would have become  
8 unperfected under the law of that jurisdiction; or

9 (2) The expiration of four months after a change of the  
10 applicable jurisdiction to another jurisdiction.

11 (g) If a security interest described in subsection (f)  
12 becomes perfected under the law of the other jurisdiction before  
13 the earlier of the time or the end of the period described in  
14 that subsection, it remains perfected thereafter. If the  
15 security interest does not become perfected under the law of the  
16 other jurisdiction before the earlier of that time or the end of  
17 that period, it becomes unperfected and is deemed never to have  
18 been perfected as against a purchaser of the collateral for  
19 value.

20 (h) The following rules apply to collateral to which a  
21 security interest attaches within four months after the debtor  
22 changes its location to another jurisdiction:



1       (1) A financing statement filed before the change pursuant  
2       to the law of the jurisdiction designated in section  
3       490:9-301(1) or 490:9-305(c) is effective to perfect a  
4       security interest in the collateral if the financing  
5       statement would have been effective to perfect a  
6       security interest in the collateral had the debtor not  
7       changed its location; and

8       (2) If a security interest perfected by a financing  
9       statement that is effective under paragraph (1)  
10       becomes perfected under the law of the other  
11       jurisdiction before the earlier of the time the  
12       financing statement would have become ineffective  
13       under the law of the jurisdiction designated in  
14       section 490:9-301(1) or 490:9-305(c) or the expiration  
15       of the four-month period, it remains perfected  
16       thereafter. If the security interest does not become  
17       perfected under the law of the other jurisdiction  
18       before the earlier time or event, it becomes  
19       unperfected and is deemed never to have been perfected  
20       as against a purchaser of the collateral for value.

21       (i) If a financing statement naming an original debtor is  
22       filed pursuant to the law of the jurisdiction designated in



1 section 490:9-301(1) or 490:9-305(c) and the new debtor is  
2 located in another jurisdiction, the following rules apply:

3 (1) The financing statement is effective to perfect a  
4 security interest in collateral acquired by the new  
5 debtor before, and within four months after, the new  
6 debtor becomes bound under section 490:9-203(d), if  
7 the financing statement would have been effective to  
8 perfect a security interest in the collateral had the  
9 collateral been acquired by the original debtor; and

10 (2) A security interest perfected by the financing  
11 statement and that becomes perfected under the law of  
12 the other jurisdiction before the earlier of the time  
13 the financing statement would have become ineffective  
14 under the law of the jurisdiction designated in  
15 section 490:9-301(1) or 490:9-305(c) or the expiration  
16 of the four-month period remains perfected thereafter.  
17 A security interest that is perfected by the financing  
18 statement but that does not become perfected under the  
19 law of the other jurisdiction before the earlier time  
20 or event becomes unperfected and is deemed never to  
21 have been perfected as against a purchaser of the  
22 collateral for value."



1       SECTION 7. Section 490:9-317, Hawaii Revised Statutes, is  
2 amended as follows:

3       1. By amending subsection (b) to read:

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

12       2. By amending subsection (d) to read:

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

21       SECTION 8. Section 490:9-326, Hawaii Revised Statutes, is  
22 amended to read as follows:



1       "§490:9-326 Priority of security interests created by new  
2 debtor. (a) Subject to subsection (b), a security interest  
3 that is created by a new debtor [which is] in collateral in  
4 which the new debtor has or acquires rights and is perfected  
5 solely by a filed financing statement that [is effective solely  
6 under section 490:9-508 in collateral in which a new debtor has  
7 or acquires rights] would be ineffective to perfect the security  
8 interest but for the application of section 490:9-316(i)(1) or  
9 490:9-508 is subordinate to a security interest in the same  
10 collateral which is perfected other than by such a filed  
11 financing statement [~~that is effective solely under section~~  
12 ~~490:9-508~~].

13       (b) The other provisions of this part determine the  
14 priority among conflicting security interests in the same  
15 collateral perfected by filed financing statements [~~that are~~  
16 ~~effective solely under section 490:9-508.~~] described in  
17 subsection (a). However, if the security agreements to which a  
18 new debtor became bound as debtor were not entered into by the  
19 same original debtor, the conflicting security interests rank  
20 according to priority in time of the new debtor's having become  
21 bound. "



1 SECTION 9. Section 490:9-406, Hawaii Revised Statutes, is  
2 amended by amending subsection (e) to read as follows:

3 "(e) Subsection (d) does not apply to the sale of a  
4 payment intangible or promissory note[-], other than a sale  
5 pursuant to a disposition under section 490:9-610 or an  
6 acceptance of collateral under section 490:9-620."

7 SECTION 10. Section 490:9-408, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

9 "(b) Subsection (a) applies to a security interest in a  
10 payment intangible or promissory note only if the security  
11 interest arises out of a sale of the payment intangible or  
12 promissory note[-], other than a sale pursuant to a disposition  
13 under section 490:9-610 or an acceptance of collateral under  
14 section 490:9-620."

15 SECTION 11. Section 490:9-502, Hawaii Revised Statutes, is  
16 amended by amending subsection (c) to read as follows:

17 "(c) A record of a mortgage is effective, from the date of  
18 recording, as a financing statement filed as a fixture filing or  
19 as a financing statement covering as-extracted collateral or  
20 timber to be cut only if:

21 (1) The record indicates the goods or accounts that it  
22 covers;



1 (2) The goods are or are to become fixtures related to the  
2 real property described in the record or the  
3 collateral is related to the real property described  
4 in the record and is as-extracted collateral or timber  
5 to be cut;

6 (3) The record satisfies with the requirements for a  
7 financing statement in this section [~~other than an~~  
8 indication], but:

9 (A) The record need not indicate that it is to be  
10 filed in the real property records; and

11 (B) The record sufficiently provides the name of a  
12 debtor who is an individual if it provides the  
13 individual name of the debtor or the surname and  
14 first personal name of the debtor, even if the  
15 debtor is an individual to whom section 490:9-  
16 503(a)(4) applies; and

17 (4) The record is duly recorded."

18 SECTION 12. Section 490:9-503, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**\$490:9-503 Name of debtor and secured party.** (a) A  
21 financing statement sufficiently provides the name of the  
22 debtor:





- (1) ~~[If]~~ Except as otherwise provided in paragraph (3), if  
the debtor is a registered organization or the  
collateral is held in a trust that is a registered  
organization, only if the financing statement provides  
the name ~~[of the debtor indicated]~~ that is stated to  
be the registered organization's name on the public  
organic record ~~[of]~~ most recently filed with or issued  
or enacted by the ~~[debtor's]~~ registered organization's  
jurisdiction of organization which ~~[shows the debtor~~  
~~to have been organized,]~~ purports to state, amend, or  
restate the registered organization's name;
- (2) ~~[If]~~ Subject to subsection (f), if the ~~[debtor is a~~  
~~decedent's estate,]~~ collateral is being administered  
by the personal representative of a decedent, only if  
the financing statement provides, as the name of the  
debtor, the name of the decedent and, in a separate  
part of the financing statement, indicates that the  
~~[debtor is an estate,]~~ collateral is being  
administered by a personal representative;
- (3) ~~If the~~ ~~[debtor is a trust or a trustee acting with~~  
~~respect to property held in trust, only if the~~  
~~financing statement:~~



1       ~~(A) Provides the name specified for the trust in its~~  
2       ~~organic documents or, if no name is specified,~~  
3       ~~provides the name of the settlor and additional~~  
4       ~~information sufficient to distinguish the debtor~~  
5       ~~from other trusts having one or more of the same~~  
6       ~~settlers; and~~

7       ~~(B) Indicates, in the debtor's name or otherwise,~~  
8       ~~that the debtor is a trust or is a trustee acting~~  
9       ~~with respect to property held in trust; and]~~

10       collateral is held in a trust that is not a registered  
11       organization, only if the financing statement:

12       (A) Provides, as the name of the debtor:

13           (i) If the organic record of the trust specifies  
14           a name for the trust, the name specified; or

15           (ii) If the organic record of the trust does not  
16           specify a name for the trust, the name of  
17           the settlor or testator; and

18       (B) In a separate part of the financing statement:

19           (i) If the name is provided in accordance with  
20           subparagraph (A)(i), indicates that the  
21           collateral is held in a trust; or



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

9       (4) Subject to subsection (g), if the debtor is an  
10       individual to whom this State has issued a driver's  
11       license or non-driver identification card that has not  
12       expired, only if the financing statement provides the  
13       name of the individual that is indicated on the  
14       driver's license or non-driver identification card;

15       (5) If the debtor is an individual to whom paragraph (4)  
16       does not apply, only if the financing statement  
17       provides the individual name of the debtor or the  
18       surname and first personal name of the debtor; and

19       ~~[(4)]~~ (6) In other cases:

20           (A) If the debtor has a name, only if [it] the  
21           financing statement provides the [individual or]  
22           organizational name of the debtor; and



1 (B) If the debtor does not have a name, only if it  
2 provides the names of the partners, members,  
3 associates, or other persons comprising the  
4 debtor~~[-]~~, in a manner that each name provided  
5 would be sufficient if the person named were the  
6 debtor.

7 (b) A financing statement that provides the name of the  
8 debtor in accordance with subsection (a) is not rendered  
9 ineffective by the absence of:

10 (1) A trade name or other name of the debtor; or

11 (2) Unless required under subsection ~~[(a)(4)(B)]~~,

12 (a)(6)(B), names of partners, members, associates, or  
13 other persons comprising the debtor.

14 (c) A financing statement that provides only the debtor's  
15 trade name does not sufficiently provide the name of the debtor.

16 (d) Failure to indicate the representative capacity of a  
17 secured party or representative of a secured party does not  
18 affect the sufficiency of a financing statement.

19 (e) A financing statement may provide the name of more  
20 than one debtor and the name of more than one secured party.

21 (f) The name of the decedent indicated on the order  
22 appointing the personal representative of the decedent issued by



1 the court having jurisdiction over the collateral is sufficient  
2 as the "name of the decedent" under subsection (a)(2).

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

7 (h) In this section, the "name of the settlor or testator"  
8 means:

9 (1) If the settlor is a registered organization, the name  
10 that is stated to be the settlor's name on the public  
11 organic record filed most recently with or issued or  
12 enacted by the settlor's jurisdiction of organization  
13 that purports to state, amend, or restate the  
14 settlor's name; or

15 (2) In other cases, the name of the settlor or testator  
16 indicated in the trust's organic record."

17 SECTION 13. Section 490:9-507, Hawaii Revised Statutes, is  
18 amended by amending subsection (c) to read as follows:

19 "(c) If [~~a debtor so changes its~~] the name that a filed  
20 financing statement provides for a debtor becomes insufficient  
21 as the name of the debtor under section 490:9-503(a) so that the



1 financing statement becomes seriously misleading under section  
2 490:9-506:

3 (1) The financing statement is effective to perfect a  
4 security interest in collateral acquired by the debtor  
5 before, or within four months after, the [~~change,~~]  
6 filed financing statement becomes seriously  
7 misleading; and

8 (2) The financing statement is not effective to perfect a  
9 security interest in collateral acquired by the debtor  
10 more than four months after the [~~change,~~] filed  
11 financing statement becomes seriously misleading,  
12 unless an amendment to the financing statement which  
13 renders the financing statement not seriously  
14 misleading is filed within four months after [~~the~~  
15 ~~change.~~] the financing statement became seriously  
16 misleading."

17 SECTION 14. Section 490:9-515, Hawaii Revised Statutes, is  
18 amended by amending subsection (f) to read as follows:

19 "(f) If a debtor is a transmitting utility and a filed  
20 initial financing statement so indicates, the financing  
21 statement is effective until a termination statement is filed."



1       SECTION 15. Section 490:9-516, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3       "(b) Filing does not occur with respect to a record that a  
4 filing office refuses to accept because:

5       (1) The record is not communicated by a method or medium  
6 of communication authorized by the filing office;

7       (2) An amount equal to or greater than the applicable  
8 filing fee is not tendered;

9       (3) The filing office is unable to index the record  
10 because:

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

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

16       (i) Does not identify the initial financing  
17 statement as required by section 490:9-512  
18 or 490:9-518, as applicable; or

19       (ii) Identifies an initial financing statement  
20 whose effectiveness has lapsed under section  
21 490:9-515;



1 (C) In the case of an initial financing statement  
2 that provides the name of a debtor identified as  
3 an individual or an amendment that provides a  
4 name of a debtor identified as an individual  
5 which was not previously provided in the  
6 financing statement to which the record relates,  
7 the record does not identify the debtor's [~~last~~  
8 ~~name,~~] surname; or

9 (D) In the case of a record filed in the filing  
10 office described in section 490:9-501(a)(1), the  
11 record does not provide a sufficient description  
12 of the real property to which it relates;

13 (4) In the case of an initial financing statement or an  
14 amendment that adds a secured party of record, the  
15 record does not provide a name and mailing address for  
16 the secured party of record;

17 (5) In the case of an initial financing statement or an  
18 amendment that provides a name of a debtor which was  
19 not previously provided in the financing statement to  
20 which the amendment relates, the record does not:

21 (A) Provide a mailing address for the debtor; or





(B) Indicate whether the name provided as the name of the debtor is the name of an individual or an organization; [or

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

~~(i) A type of organization for the debtor;~~

~~(ii) A jurisdiction of organization for the debtor; or~~

~~(iii) An organizational identification number for the debtor or indicate that the debtor has none;]~~

(6) In the case of an assignment reflected in an initial financing statement under section 490:9-514(a) or an amendment filed under section 490:9-514(b), the record does not provide a name and mailing address for the assignee; or

(7) In the case of a continuation statement, the record is not filed within the six-month period prescribed by section 490:9-515(d)."

SECTION 16. Section 490:9-518, Hawaii Revised Statutes, is amended to read as follows:



1       "§490:9-518 Claim concerning inaccurate or wrongfully  
2 filed record. (a) A person may file in the filing office [a  
3 ~~correction~~] an information statement with respect to a record  
4 indexed there under the person's name if the person believes  
5 that the record is inaccurate or was wrongfully filed.

6       ~~[(b) A correction statement must:~~

7       ~~(1) Identify the record to which it relates by the file  
8 number assigned to the initial financing statement to  
9 which the record relates;~~

10       ~~(2) Indicate that it is a correction statement; and~~

11       ~~(3) Provide the basis for the person's belief that the  
12 record is inaccurate and indicate the manner in which  
13 the person believes the record should be amended to  
14 cure any inaccuracy or provide the basis for the  
15 person's belief that the record was wrongfully filed.]~~

16       (b) An information statement under subsection (a) shall:

17       (1) Identify the record to which it relates by the file  
18 number assigned to the initial financing statement to  
19 which the record relates;

20       (2) Indicate that it is an information statement; and

21       (3) Provide the basis for the person's belief that the  
22 record is inaccurate and indicate the manner in which



1           the person believes the record should be amended to  
2           cure any inaccuracy or provide the basis for the  
3           person's belief that the record was wrongfully filed.

4           (c) A person may file in the filing office an information  
5           statement with respect to a record filed there if the person is  
6           a secured party of record with respect to the financing  
7           statement to which the record relates and believes that the  
8           person that filed the record was not entitled to do so under  
9           section 490:9-509(d).

10          (d) An information statement under subsection (c) shall:

11          (1) Identify the record to which it relates by the file  
12          number assigned to the initial financing statement to  
13          which the record relates;

14          (2) Indicate that it is an information statement; and

15          (3) Provide the basis for the person's belief that the  
16          person that filed the record was not entitled to do so  
17          under section 490:9-509(d).

18          ~~[(e)]~~ (e) The filing of ~~[a correction]~~ an information  
19          statement does not affect the effectiveness of an initial  
20          financing statement or other filed record."

21          SECTION 17. Section 490:9-521, Hawaii Revised Statutes, is  
22          amended to read as follows:



1       "§490:9-521 Uniform form of written financing statement  
2 and amendment. (a) A filing office that accepts written  
3 records for filing may not refuse to accept a written initial  
4 financing statement in the following form, except for a reason  
5 set forth in section 490:9-516(b):

6 UCC FINANCING STATEMENT

7 FOLLOW INSTRUCTIONS

8

9 A. NAME & PHONE OF CONTACT AT FILER (optional)

10 \_\_\_\_\_

11 B. E-MAIL CONTACT AT FILER (optional)

12 \_\_\_\_\_

13 C. SEND ACKNOWLEDGMENT TO: (Name and Address)

14 \_\_\_\_\_

15

16 THE ABOVE SPACE IS FOR

17 FILING OFFICE USE ONLY

18

19 1. DEBTOR'S NAME - provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any

20 word in the Debtor's name)



1 1a. ORGANIZATION'S NAME

2 \_\_\_\_\_

3 OR

4 1b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

5 \_\_\_\_\_

6 ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR SUFFIX

7 \_\_\_\_\_

8 1c. MAILING ADDRESS

9 \_\_\_\_\_

10 CITY STATE POSTAL CODE COUNTRY

11 \_\_\_\_\_

12 2. DEBTOR'S NAME - provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any

13 word in the Debtor's name)

14

15 2a. ORGANIZATION'S NAME

16 \_\_\_\_\_

17 OR

18 2b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME



1 \_\_\_\_\_

2 ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR SUFFIX

3 \_\_\_\_\_

4 2c. MAILING ADDRESS

5 \_\_\_\_\_

6 CITY STATE POSTAL CODE COUNTRY

7 \_\_\_\_\_

8 3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY) - provide only one Secured Party

9 name (3a or 3b)

10 3a. ORGANIZATION'S NAME

11 \_\_\_\_\_

12 OR

13 3b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

14 \_\_\_\_\_

15 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

16 \_\_\_\_\_

17 3c. MAILING ADDRESS

18 \_\_\_\_\_

19 CITY STATE POSTAL CODE COUNTRY



1 \_\_\_\_\_

2 4. COLLATERAL: This financing statement covers the following collateral:

3 \_\_\_\_\_

4 5. Check only if applicable and check only one box:

5 Collateral is ☐ held in a Trust (see Instructions)

6 ☐ being administered by a Decedent's Personal Representative.

7 6a. Check only if applicable and check only one box:

8 ☐ Public-Finance Transaction ☐ Manufactured-Home Transaction

9 ☐ A Debtor is a Transmitting Utility

10 6b. Check only if applicable and check only one box:

11 ☐ Agricultural Lien ☐ Non-UCC Filing

12 7. ALTERNATIVE DESIGNATION (if applicable): ☐ Lessee/Lessor ☐ Consignee/Consignor ☐ Seller/Buyer

13 ☐ Bailee/Bailor ☐ Licensee/Licenser

14 8. OPTIONAL FILER REFERENCE DATA

15 \_\_\_\_\_

16 [UCC FINANCING STATEMENT (Form UCC1)]

17

18 UCC FINANCING STATEMENT ADDENDUM

19 FOLLOW INSTRUCTIONS

20 9. NAME OF FIRST DEBTOR (same as item 1a or 1b on Financing Statement)



1 9a. ORGANIZATION'S NAME

2 \_\_\_\_\_

3 OR

4 9b. INDIVIDUAL'S SURNAME

5 \_\_\_\_\_

6 FIRST PERSONAL NAME

7 \_\_\_\_\_

8 ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

9 \_\_\_\_\_

10 THE ABOVE SPACE IS FOR

11 FILING OFFICE USE ONLY

12

13 10. ADDITIONAL DEBTOR'S NAME - provide only one Debtor name (10a or 10b) (use exact, full name; do not omit, modify, or

14 abbreviate any word in the Debtor's name)

15 10a. ORGANIZATION'S NAME

16 \_\_\_\_\_

17 OR

18 10b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

19 \_\_\_\_\_





1	ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR	SUFFIX
2	<hr/>	
3	10c. MAILING ADDRESS	
4	<hr/>	
5	CITY	STATE    POSTAL CODE    COUNTRY
6	<hr/>	
7		
8	11. 9 ADDITIONAL SECURED PARTY'S NAME <u>or</u> 9 ASSIGNOR SECURED PARTY'S NAME - provide only <u>one</u> name (11a or	
9	11b)	
10	11a. ORGANIZATION'S NAME	
11	<hr/>	
12	OR	
13	11b. INDIVIDUAL'S SURNAMEFIRST PERSONAL NAME	
14	<hr/>	
15	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
16	<hr/>	
17	11c. MAILING ADDRESS	
18	<hr/>	



1 CITY STATE POSTAL CODE COUNTRY

2 \_\_\_\_\_

3 12. ADDITIONAL SPACE FOR ITEM 4 (Collateral)

4 \_\_\_\_\_

5  
6 13. 9 This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS (if applicable)

7 14. This FINANCING STATEMENT:

8 9 covers timber to be cut 9 covers as-extracted collateral 9 is filed as a fixture filing

9 15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest):

10 \_\_\_\_\_

11 16. Description of real estate:

12 \_\_\_\_\_

13 17. MISCELLANEOUS:

14 \_\_\_\_\_

15 [UCC FINANCING STATEMENT ADDENDUM (Form UCC1Ad)]

16 (b) A filing office that accepts written records for  
17 filing may not refuse to accept a written financing statement  
18 amendment in the following form, except for a reason set forth  
19 in section 490:9-516(b):

20 UCC FINANCING STATEMENT AMENDMENT



1 FOLLOW INSTRUCTIONS

2 A. NAME & PHONE OF CONTACT AT FILER (optional)

3 \_\_\_\_\_

4 B. E-MAIL CONTACT AT FILER (optional)

5 \_\_\_\_\_

6 C. SEND ACKNOWLEDGMENT TO: (Name and Address)

7 \_\_\_\_\_

8 THE ABOVE SPACE IS FOR

9 FILING OFFICE USE ONLY

10

11 1a. INITIAL FINANCING STATEMENT FILE NUMBER

12 \_\_\_\_\_

13 1b. 9 This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE

14 RECORDS.

15 Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13.

16 2. 9 TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security

17 interest(s) of Secured Party authorizing this Termination Statement

18 3. 9 ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and name

19 of Assignor in item 9. For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8



- 1 4. 9 CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of  
2 Secured ,  
3 Party authorizing this Continuation Statement is continued for the additional period provided by applicable law
- 4 5. 9 PARTY INFORMATION CHANGE:  
5 Check one of these two boxes:  
6 This Change affects 9 Debtor or 9 Secured Party of record.  
7 AND  
8 Check one of these three boxes to:  
9 9 CHANGE name and/or address: Complete item 6a or 6b, and item 7a or 7b and item 7c.  
10 9 ADD name: Complete item 7a or 7b, and item 7c.  
11 9 DELETE name: Give record name to be deleted in item 6a or 6b.
- 12 6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one name (6a or 6b) (use  
13 exact, full name; do not omit, modify, or abbreviate any word in the Debtor's name)  
14 6a. ORGANIZATION'S NAME  
15 \_\_\_\_\_  
16 OR  
17 6b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME  
18 \_\_\_\_\_  
19 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX  
20 \_\_\_\_\_



1 7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name (7a

2 or 7b) (use exact full name; do not omit, modify, or abbreviate any word in the Debtor's name)

3 7a. ORGANIZATION'S NAME

4 \_\_\_\_\_

5 OR

6 7b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

7 \_\_\_\_\_

8 ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR SUFFIX

9 \_\_\_\_\_

10 7c. MAILING ADDRESS

11 \_\_\_\_\_

12 CITY STATE POSTAL CODE COUNTRY

13 \_\_\_\_\_

14 8. 9 COLLATERAL CHANGE:

15 Also check one of these four boxes:

16 9 ADD collateral 9 DELETE collateral 9 RESTATE covered collateral

17 9 ASSIGN collateral

18 Indicate collateral:



1 9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT - provide only one name (9a or 9b) (name  
2 of Assignor, if this is an Assignment)

3 If this is an Amendment authorized by a DEBTOR, check here 9 and provide name of authorizing Debtor

4 9a. ORGANIZATION'S NAME

5 \_\_\_\_\_

6 OR

7 9b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

8 \_\_\_\_\_

9 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

10 \_\_\_\_\_

11 10. OPTIONAL FILER REFERENCE DATA

12 \_\_\_\_\_

13 [UCC FINANCING STATEMENT AMENDMENT (Form UCC3)]

14

15

16 UCC FINANCING STATEMENT AMENDMENT ADDENDUM

17 FOLLOW INSTRUCTIONS

18 11. INITIAL FINANCING STATEMENT FILE NUMBER (same as item 1a on Amendment form)

19 \_\_\_\_\_

20 12. NAME OF PARTY AUTHORIZING THIS AMENDMENT (same as item 9 on Amendment form)



1 12a. ORGANIZATION'S NAME  
2 \_\_\_\_\_

3 OR

4 12b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME  
5 \_\_\_\_\_

6 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX  
7 \_\_\_\_\_

8 THE ABOVE SPACE IS FOR  
9 FILING OFFICE USE ONLY

10

11 13. Name of DEBTOR on related financing statement (Name of a current Debtor of record required for indexing purposes only in  
12 some filing offices - see Instruction for item 13 - insert only one Debtor name (13a or 13b) (use exact, full name; do not  
13 omit, modify, or abbreviate any word in the Debtor's name)

14 13a. ORGANIZATION'S NAME  
15 \_\_\_\_\_

16 OR

17 13b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME  
18 \_\_\_\_\_

19 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX  
20 \_\_\_\_\_



1 14. ADDITIONAL SPACE FOR ITEM 8 (Collateral)

2 \_\_\_\_\_

3 15. This FINANCING STATEMENT AMENDMENT: 9 covers timber to be cut

4 9 covers as-extracted collateral 9 is filed as a fixture filing

5 16. Name and address of a RECORD OWNER of real estate described in item 17 (if Debtor does not have a record interest):

6 \_\_\_\_\_

7 17. Description of real estate

8 \_\_\_\_\_

9 18. MISCELLANEOUS:

10 \_\_\_\_\_

11

12 [UCC FINANCING STATEMENT AMENDMENT ADDENDUM (Form UCC3Ad) ]

13

14 (c) A form that a filing office may not refuse to accept  
15 under subsection (a) or (b) must conform to the format  
16 prescribed for the form by the National Conference of  
17 Commissioners on Uniform State Laws."

18 SECTION 18. Section 490:9-607, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20 "(b) If necessary to enable a secured party to exercise  
21 under subsection (a) (3) the right of a debtor to enforce a





1 mortgage nonjudicially, the secured party may record in the  
2 office in which a record of the mortgage is recorded:

3 (1) A copy of the security agreement that creates or  
4 provides for a security interest in the obligation  
5 secured by the mortgage; and

6 (2) The secured party's sworn affidavit in recordable form  
7 stating that:

8 (A) A default has occurred[+] with respect to the  
9 obligation secured by the mortgage; and

10 (B) The secured party is entitled to enforce the  
11 mortgage nonjudicially."

12 SECTION 19. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 20. This Act shall take effect on July 1, 2013.  
15



**Report Title:**

Uniform Commercial Code; Secured Transactions

**Description:**

Implements the amendments to article 9 of the Uniform Commercial Code, relating to secured transactions, set forth by the Uniform Law Commission. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

