WHY STATES SHOULD ADOPT THE 2010 AMENDMENTS TO ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE

Article 9 of the Uniform Commercial Code governs secured transactions in personal property. Article 9 was substantially revised in 1998, and the 1998 revisions are in effect in all states and the District of Columbia. The 2010 amendments to Article 9 modify the existing statute to respond to filing issues and address other matters that have arisen in practice following a decade of experience with the revised Article 9.

Of most importance, the amendments provide greater guidance as to the name of an individual debtor to be provided on a financing statement. The amendments offer two alternatives to each state:

- Alternative A provides that, if the debtor holds a driver's license issued by the state where the financing statement is filed, the debtor's name as it appears on the financing statement is the name required to be used on the financing statement. If the debtor does not have such a driver's license, either the debtor's actual name or the debtor's surname and first personal name may be used on the financing statement.

- Alternative B provides that the debtor's driver's license name, the debtor's actual name or the debtor's surname and first personal name may be used on the financing statement.

A state considering adopting Alternative A should in particular consider whether the state's driver's license database is compatible with its Uniform Commercial Code database as to characters, field length and the like.

The amendments further improve the filing system for the filing of financing statements. More detailed guidance is provided for the debtor's name on a financing statement when the debtor is a corporation, limited liability company or limited partnership or when the collateral is held in a statutory or common law trust or in a decedent's estate. Some extraneous information currently provided on financing statements will no longer be required.

In addition, the amendments provide greater protection for an existing secured party having a security interest in after-acquired property when its debtor relocates to another state or merges with another entity.

The amendments also contain a number of technical changes that respond to issues arising in the marketplace and a set of transition rules.

A state should adopt the 2010 amendments so that its Article 9 rules will benefit from the experience with the existing statute and are up to date.