

MEMORANDUM

TO: Joint Review Committee on UCC Article 9
American Bankers Association Working Group on UCC Article 9

FROM: Steven L. Harris, Reporter

RE: Revised Draft Provisions Governing the Name of a Debtor That Is a Decedent's Estate

DATE: February 8, 2010

Following are revised draft provisions governing the name of a debtor that is a decedent's estate. They differ from the previous draft in two important respects. First, rather than look to the name on the petition to open the estate, this draft looks to the name on the letters testamentary or letters of administration issued by the court having jurisdiction over the collateral. Second, whereas the previous draft included only a "safe harbor" provision, this draft offers, as alternatives, both an "only if" rule and a "safe harbor" rule. The Joint Review Committee may wish to consider whether, in this context, it is desirable to offer States alternatives and, if it is not desirable, to decide which alternative is preferable.

S. L. H.

Appendix

*Provisions Governing the Name of a Debtor That is a Decedent's Estate
[Each State Should Select One Alternative]*

*[Alternative A]
Section 9-503(a)(2)*

SECTION 9-503. NAME OF DEBTOR AND SECURED PARTY.

(a) **[Sufficiency of debtor's name.]** A financing statement sufficiently provides the name of the debtor:

* * *

(2) if the [debtor is] [collateral is held in] a decedent's estate, only if the financing statement provides [, as the name of the debtor,] the name of the decedent indicated on letters testamentary or letters of administration issued by the court having jurisdiction over the collateral and, in a [field] [part of the financing statement] separate from that in which the name is provided, indicates that the [debtor is] [collateral is held in] an estate.

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[End of Alternative A]

*[Alternative B]
Section 9-503(a)(2), (w)*

SECTION 9-503. NAME OF DEBTOR AND SECURED PARTY.

(a) **[Sufficiency of debtor's name.]** A financing statement sufficiently provides the name of the debtor:

* * *

(2) subject to subsection (w), if the [debtor is] [collateral is held in] a decedent's estate, only if the financing statement provides[, as the name of the debtor,] the name of the decedent and, in a [field] [part of the financing statement] separate from that in which the name is provided, indicates that the debtor is an estate;

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(w) [Name of decedent.] The name of the decedent indicated on letters testamentary or letters of administration issued by the court having jurisdiction over the collateral in which the decedent's estate was opened is sufficient as the "name of the decedent" under subsection (a)(2).

[End of Alternative B]

[End of Alternatives]