

MEMORANDUM

To: Members of the Article 9 Joint Review Committee, Advisors and Observers

From: Edwin E. Smith, Chair

Date: January 13, 2009

Re: February 6-8, 2009, meeting of the Article 9 Joint Review Committee

The Article 9 Joint Review Committee will meet on February 6-8, 2009, in Portland, Oregon, to (a) review proposed statutory and Official Comment revisions to Article 9 of the Uniform Commercial Code relating to the issues list created by the initial Article 9 review committee created by the Permanent Editorial Board of the Uniform Commercial Code and (b) continue our discussions of the issues raised in the issue list.

The agenda for the meeting, an initial draft of proposed statutory and Official Comment revisions to Article 9, and some of the supplemental materials to be discussed at the meeting are attached. The issues list and the other materials to which the agenda refers, and which are not attached, were previously distributed in connection with the October 2008 meeting of the Joint Review Committee. If you need copies of any of these other materials, please contact Leang Sou at the ULC office.

The meeting will take place at the Hilton Portland & Executive Towers, 921 SW Sixth Avenue in Portland. You should have already received the meeting notice from the ULC office. We will start promptly at 9 am West Coast time on each of Friday, Saturday and Sunday. We hope to conclude by 5:30 pm West Coast time on Friday and Saturday and by a little before noon on Sunday.

As we have done before, we will concentrate our discussions on the issues raised on the issues list including the proposed statutory and Official Comment revisions. Only if there is time will we be able to discuss additional issues raised and indicated on the agenda. As the agenda states, the discussion of the filing issues will take place on Saturday, February 7.

If any of you have any drafting suggestions for the draft of the proposed statutory and Official Comment revisions in advance of the meeting, please feel free to send them to Steve Harris and myself so that we can consider them before the meeting. Steve's email address is Sharris@kentlaw.edu, and mine is edwin.smith@bingham.com.

The following are the standards that I recommend that we use in proposing revisions of the Official Text of Article 9:

- We should not recommend changes that would alter policy decisions made during the 1998 revision unless the current provisions appear to be creating significant problems in practice.
- Recommendations for statutory change should focus on issues as to which ambiguities have been discovered in existing statutory language, where there are substantial problems in practice under the current provisions, or as to which there have been significant non-uniform amendments that suggest the need to consider revisions.
- We should recommend that an issue be handled by a revision to the Official Comments rather than to the statutory text whenever we believe that the statutory language is sufficiently clear and produces the desired result, but that judicial decisions or experience in practice indicates that some clarification might be desirable.

The issues list and proposed statutory and Official Comment revisions present a full agenda for the Joint Review Committee. The additional issues on the agenda, and any other issue that any of you may wish to raise that is not identified on the issues list, will be given secondary consideration by the Joint Review Committee. If the Joint Review Committee believes that the issue deserves further consideration, it will need to seek approval from the sponsoring organizations - the American Law Institute and the Uniform Law Conference - before proceeding with any further consideration.

We welcome all of you and look forward to another very productive meeting.