

M E M O R A N D U M

To: UCOTA Standby Committee

From: Alvin Harrell, Ed Smith

Re: Additional UCOTA Technical amendment

Date: June 29, 2006

In addition to the Technical Amendments/Corrections distributed to you last Friday, and in response to matters raised by Tom Buiteweg, we have developed an additional proposed amendment. This change would create a new section 9(c) to read:

“(c) A certificate of title created in another jurisdiction and submitted in connection with an application is part of the application.”

The subsequent subsections would be re-lettered (d) - (h).

The purpose of this language is to make clear that a certificate of title created in another jurisdiction which indicates a security interest and is submitted in connection with an application under section 9 is part of the application and therefore constitutes a security-interest statement under section 2(a)(27)(B). The new subsection deals with the scenario where a debtor applies for a new certificate of title in the (UCOTA) enacting state and submits with the application a certificate of title from another jurisdiction indicating a prior security interest but does not otherwise disclose the prior security interest.

We believe this proposed language reflects universal current practice. Our thanks to Tom for raising the issue. The attached page contains all the proposed changes.

Section 2(a)(27):

“Security-interest statement” means:

(A) a record created by a secured party which indicates a security interest; or

(B) an application for which the office is required to create a certificate of title, if the application indicates a security interest.

Section 9(b)(4):

an indication of all security interests in the vehicle known to the applicant, including the name and mailing address of the secured party or a representative of the secured party, and, if the application includes a direction to terminate a security-interest statement, the information required for sufficiency of a security-interest statement under Section 25(a) and the secured party’s or its representative’s name and address for receiving communications;

Section 9(c): (Other subsections to be re-lettered)

A certificate of title created in another jurisdiction and submitted in connection with an application is part of the application.

Section 11(b) (Other subsections to be re-lettered)

Nothing in this act precludes an office from noting on a certificate the name and address of a secured party that is not a secured party of record.

Section 25(a):

A security-interest statement is sufficient if it includes the name of the debtor, the name of the secured party or a representative of the secured party, a description that reasonably identifies the vehicle and is not seriously misleading under Section 20, and is delivered by:

(A) if the security-interest statement is indicated on an application for which the office is required to create a certificate of title, the owner; or

(B) if the security-interest statement is not indicated on an application for which the office is required to create a certificate of title, a person authorized to file an initial financing statement covering the vehicle pursuant to [Uniform Commercial Code Section 9-509].

Section 26(e):

A security interest is perfected to the extent provided in [Uniform Commercial Code Section 9-316(d)]. A secured party may also perfect a security interest by taking possession of a vehicle, but only if it does so pursuant to [Uniform Commercial Code Sections 9-313(b) and 9-316(d)].