

Draft Comment Concerning the Name of an Individual Debtor
Prepared by Steve Weise
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“Short” Version

In both Alternative A and Alternative B, Sections [9-503(a)(5)] and [9-503(a)(4)(A)] provide in some circumstances for a financing statement to provide the “name” of an individual debtor. Further, Sections [9-503(a)(5)] and [9-503(a)(4)(B)], respectively, provide a “safe harbor” for individuals without a [driver’s license], if the financing statement provides the debtor’s first personal name and surname. In each of these situations, it is the state’s law of names that determines which words constitute the person’s name (including the person’s surname) at the relevant time.

a. *Context.* When looking to a state’s law of names, it should be noted that the state’s law of names may address a person’s name in other contexts. In determining a person’s name under Article 9, the reference to a state’s law of names should take into account the context of the use of the name under Article 9.

b. *Other documents.* The name on a person’s birth certificate is not necessarily the person’s name, unless the state’s law of names [considers] [recognizes] the name on the birth certificate to be the person’s name. Further, the words that a person puts into other documents as that person’s name, such as a bankruptcy petition or a tax return, are not the person’s name, unless state law of names [considers] [recognizes] them as the person’s name.

c. *Surnames.* The identification of an individual debtor’s surname does not depend on the location of the surname in the sequence of words that make up the individual’s name. While in most cases, the surname is the last word of an individual’s name, in some cultures the surname is the first word, and in others it may be a word in the middle. In addition, in some situations, the surname may consist of more than one word, which may or may not be hyphenated. Moreover, in some cultures, a person may have two family names, one from the person’s father and one from the person’s mother. In some cases, the person’s surname consists of both names. In other cases, only one of those family names is the person’s surname. In all of these situations, it is the state’s law of names that determines which word or words constitute the person’s surname.

d. *Nicknames.* A nickname is not a part of a person’s name, unless the nickname has become the person’s name under the state law of names. See Section 9-503(d) (providing only a debtor’s trade name on a financing statement is not sufficient).

“Long” Version
(Additions to “short” version are underscored)

In both Alternative A and Alternative B, Sections [9-503(a)(5)] and [9-503(a)(4)(A)] provide in some circumstances for a financing statement to provide the “name” of an individual debtor.

Further, Sections [9-503(a)(5)] and [9-503(a)(4)(B)], respectively, provide a “safe harbor” for individuals without a [driver’s license], if the financing statement provides the debtor’s first personal name and surname. In each of these situations, it is the state’s law of names that determines which words constitute the person’s name (including the person’s surname) at the relevant time.

a. *Context.* When looking to a state’s law of names, it should be noted that the state’s law of names may address a person’s name in other contexts. In determining a person’s name under Article 9, the reference to a state’s law of names should take into account the context of the use of the name under Article 9. The context of the goals of the UCC is to have an operational system that, by simplicity and predictability, facilitates financing. There is a value in uniformity in the determination of a person’s name in the context of the fact that searchers and filers are not necessary local to the state in which the filing is made.

b. *Other documents.* The name on a person’s birth certificate is not necessarily the person’s name, unless the state’s law of names [considers] [recognizes] the name on the birth certificate to be the person’s name. The text of Article 9 does not refer to a person’s “legal” name and a court should not rely on the “legal” if the debtor’s name under the state’s law of names is different from what might be considered the “legal” name, such as a birth certificate name. Further, the words that a person puts into other documents as that person’s name, such as a bankruptcy petition or a tax return, are not the person’s name, unless state law of names [considers] [recognizes] them as the person’s name.

c. *Surnames.* The identification of an individual debtor’s surname does not depend on the location of the surname in the sequence of words that make up the individual’s name. While in most cases, the surname is the last word of an individual’s name, in some cultures the surname is the first word, and in others it may be a word in the middle. In addition, in some situations, the surname may consist of more than one word, which may or may not be hyphenated. Moreover, in some cultures, a person may have two family names, one from the person’s father and one from the person’s mother. In some cases, the person’s surname consists of both names. In other cases, only one of those family names is the person’s surname. In all of these situations, it is the state’s law of names that determines which word or words constitute the person’s surname.

d. *Nicknames.* A nickname is not a part of a person’s name, unless the nickname has become the person’s name under the state law of names. See Section 9-503(d) (providing only a debtor’s trade name on a financing statement is not sufficient).