



State of New Jersey

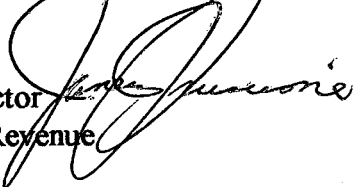
DEPARTMENT OF THE TREASURY
DIVISION OF REVENUE
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MEMORANDUM TO: The State House Press

FROM: James J. Fruscione, Director
New Jersey Division of Revenue 

DATE: July 24, 2007

RE: **PROPOSED RULE READOPTION N.J.A.C. 17:33**

The Division of Revenue, Department of the Treasury, has proposed the readoption of rules for New Jersey's Uniform Commercial Code, Filing Office Procedures, which are found in the New Jersey Administrative Code at N.J.A.C. 17:33. The rule readoption proposal is published in the **New Jersey Register** dated July 16, 2007.

The comment period ends on September 14, 2007. Written comments may be sent to Mr. James J. Fruscione, Director, Division of Revenue at: P.O. Box 168, 160 South Broad Street, Trenton, New Jersey 08625, ATTN: UCC Rule Proposal; or via fax at: 609-984-8460.

Requests for copies of the proposed rule readoption may be sent to Mr. Fruscione at the address above.

**DRAFT RULE READOPTION PROPOSAL
N.J.A.C. UCC FILING OFFICE**

7/24/2007

TREASURY
DIVISION OF REVENUE
Uniform Commercial Code
Filing Office Procedures
Proposed New Rules: N.J.A.C. 17:33

Authorized By: Bradley I. Abelow, State Treasurer
Authority: N.J.S.A. 12A:9-501 and N.J.S.A. 12A:9-526
Calendar Reference: See explanation of calendar exception in Summary below.
Proposal Number: PRN 2007 – _____

Submit comments by _____ to:

James J. Fruscione
Director, New Jersey Division of Revenue
PO Box 168
160 South Broad Street
Trenton, New Jersey 08625
ATTN: UCC RULE PROPOSAL

FAX: 609-984-8460

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978), and N.J.S.A. 52:14B-5.1c, N.J.A.C. 17:33 will expire on February 18, 2008. These rules encompass policies and procedures for the State of New Jersey's Uniform Commercial Code; filing office and filing officer.

The Division of Revenue has reviewed these rules and has determined them to be necessary, reasonable, adequate, efficient, and responsive for the purpose for which they were originally, and are now, promulgated.

The purpose of the rules proposed for the readoption is to specify the basic procedures of the filing officer, the State Treasurer, and the filing office, Bureau of Business Support Services, Division of Revenue, in relation to the State of New Jersey's Uniform Commercial Code system.

Generally, the rules proposed for readoption are designed to foster uniformity by documenting New Jersey's basic UCC policies and procedures, as administered by the Division of Revenue/Business Support Services Bureau and to address the following objectives:

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To foster greater understanding of UCC filing and information and retrieval practices in New Jersey;

To increase public access to UCC information and filing services;

To the extent possible, conform New Jersey's policies and procedures to those of other states, and to applicable national standards;

To increase the accountability of the filing office;

To increase public participation in the formulation of administrative policy and procedures; and

To maintain the integrity of the public filing system for UCC documents, by determining whether the information contained in UCC filings may be deciphered within the meaning of the UCC, and by assuring that the UCC filings are consistent with the purposes for which the UCC system was designed.

The primary purpose of the UCC itself is to record transactions intended to create a security interest between the debtor and secured party in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper or accounts.

Although the revisions to New Jersey's UCC set restrictive guidelines under which the filing office may reject a UCC filing in N.J.S.A. 12A:9-516(b), N.J.S.A. 12A:9-516(c) provides that a record does not provide information if the filing office is unable to read or decipher the information in the record. In such instances the filing office may reject such filings since the filings fail to provide decipherable information according to N.J.S.A. 12A:9-516(c).

For example, the filing office may receive filings which provide the same name as both the debtor and the secured party. Since it is unclear how an obligation can exist between a debtor and a secured party that is both the same individual, the filing office is unable to decipher such a record. In accordance with N.J.S.A. 12A:9-516(b) (3) (A), the filing office is unable to determine the name of the debtor and may refuse filing.

While the filing office is considered a depository for UCC filings, the filing office may not, contrary to the public interest and the legislative purpose may cause a substantial harm to the public and because of the volume of such filings, the Division of Revenue/Business Support Services Bureau proposes rejection criteria for certain filings as part of these rules at subchapter 5.

A summary of each subchapter proposed for readoption follows:

Subchapter 1 lists the purpose of the proposed new rules and basic definitions that relate to Uniform Commercial Code filing and information retrieval services.

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Subchapter 2 defines general administrative information on Uniform Commercial Code services such as the place to file and office hours, filing delivery instructions, and filing date and time determinations.

Subchapter 3 outlines Uniform Commercial Code expedited service.

Subchapter 4 specifies acceptable payment types and related payment procedures.

Subchapter 5 details the criteria used to accept or reject UCC filings.

Subchapter 6 describes processing time limits, procedures upon refusal of filings, and the processing of notices and acknowledgements.

Subchapter 7 describes the UCC information management system.

Subchapter 8 describes UCC search request and report processes and procedures.

Social Impact

The administration of the Uniform Commercial Code system has an important impact on society. UCC filings and information reflect and help to protect a secured party's interest in the collateral offered by a debtor for a loan or financing. In essence, the UCC gives public notice relative to the debtor-secured party relationship and the collateral involved.

Economic Impact

The Uniform Commercial Code also has an important impact on the economy. By allowing for standardized commercial processes, including the filing and disclosure of secured loans, the UCC facilitates the flow of capital and commerce in this State. Promoting understanding and uniformity relative to UCC filing and information services helps to provide a solid foundation for the State's economy. In terms of the cost impacts on the private sector, the rules proposed for readoption implement the service fees found in N.J.S.A. 12A:9-501 et seq. Further, as has been the case since the inception of the UCC in the 1960's, businesses will be required to invest administrative resources in completing various filing and informational retrieval requests.

Federal Standards Statement

A federal standards analysis is not required because the rules proposed for readoption relate strictly to the State of New Jersey and its Uniform Commercial Code statutes. The rules are, therefore, independent from any Federal systems or requirements.

Jobs Impact

The rules proposed for readoption will not result in the creation or loss of jobs.

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Regulatory Flexibility Statement

The rules proposed for re adoption are designed to foster uniformity by documenting New Jersey's basic UCC policies and procedures, as administered by the Division of Revenue/Business Support Services. Anyone submitting UCC collateral filings or requesting searches of such filings, including small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., must utilize forms and procedures set forth in the rules. Fees and administrative costs that will be incurred are discussed in the Economic Impact above. No professional services are necessary to comply with these rules. The Division considers the requirements of these rules to be the minimum necessary for the maintenance of a comprehensive, workable and accessible UCC filing system. For that reason, and because the requirements imposed are not administratively burdensome, the Division has not provided any exceptions or lesser requirements for small businesses.

Smart Growth Impact

The rules proposed for re adoption will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposed re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:33.