

## **Central Filing with the Secretary of State for Agricultural Liens and Farm-related Security Interests - Transition**

### **1.00 Authority**

- 1.01 The Arkansas Secretary of State's authority for promulgating this rule is pursuant to Ark. Code Ann. § 4-9-526.
- 1.02 This rule shall be known as the rule for Central Filing with the Secretary of State for Agricultural Liens and Farm-related Security Interests - Transition.

### **2.00 Purpose**

- 2.01 The purpose of this rule is to provide a procedure to implement Act 942 of 2009 also known as "An Act to Provide Central Filing with the Secretary of State for Agricultural Liens and Farm-related security interests; to provide for Filing Fees with the Secretary of State and the Distribution of filing fees; and for other Purposes"

### **3.00 Definitions**

- 3.01 Terms defined in A.C.A. 4-9-102(a) shall apply in this rule.
- 3.02 "Amendment statement" as used in this rule means an amendment, including a termination statement, to a financing statement filed in the office of Circuit Clerk prior to January 1, 2010.
- 3.03 "Secretary of State" as used in this rule means the Arkansas Secretary of State or any employee of the Secretary of State acting under the authority of the Secretary of State

### **4.00 General**

- 4.01 Except as provided in section 4.02 of this rule, beginning January 1, 2010 the filing office for a financing statement, a termination statement, amendment statement or a continuation statement to extend the effectiveness of a financing statement, if the debtor is engaged in farming operations and the collateral described in a financing statement is an agricultural lien or a security interest in equipment used in farming operations, farm products, or accounts arising from the sale of farm products, will be the office of the Secretary of State.
- 4.02 Beginning January 1, 2012 the filing office for a financing statement, a termination statement, amendment statement or a continuation statement to extend the effectiveness of a financing statement, if the debtor is engaged in farming operations and the collateral described in a financing statement is a farm-stored commodity

financed by a loan through the Commodity Credit Corporation of the United States Department of Agriculture, will be the office of the Secretary of State.

- 4.03 A financing statement, amendment statement or a continuation statement to extend the effectiveness of a financing statement filed in the office of Circuit Clerk, if the debtor is engaged in farming operations and the collateral described in the financing statement is an agricultural lien or a security interest in equipment used in farming operations, farm products, or accounts arising from the sale of farm products will remain effective until it reaches its lapse date or is terminated in accordance with these rules.

## 5.00 Transition - Continuation

- 5.01 The effectiveness of a financing statement that perfects an agricultural lien or a security interest in equipment used in farming operations, farm products, or accounts arising from the sale of farm products may be continued by filing a continuation statement with the Secretary of State pursuant to A.C.A. Section 4-9-510(d)(3).
- 5.02 Notwithstanding ***Arkansas Secretary of State Administrative Rules For Uniform Commercial Code 106.4***, a continuation statement submitted for filing pursuant to A.C.A. Section 4-9-510(d)(3) may only be communicated as a written record.
- 5.03 A continuation statement filed pursuant to A.C.A. Section 4-9-510(d)(3) to continue the effectiveness of a financing statement filed in the office of Circuit Clerk prior to January 1, 2010 must include an attached certified copy of the initial financing statement that legibly indicates the date of filing and file number of the initial financing statement assigned by the Circuit Clerk.
- 5.04 The Secretary of State may, under A.C.A. Section 4-9-516(b)(7), refuse to accept a continuation statement submitted pursuant to A.C.A. Section 4-9-510(d)(3) if, based on the file date indicated by the Circuit Clerk on the attached initial financing statement, the filing office determines the record is not filed within the six-month period prescribed by A.C.A. Section 4-9-515(d).
- 5.05 Upon the filing of a continuation statement described in this rule, the Secretary of State shall index the information on the attached financing statement as if it were an initial financing statement, except;
- 1) The date and time of filing assigned in the index shall be the date and time of filing indicated by the Circuit Clerk on the initial financing statement.
  - 2) The lapse date in the index shall be the next five-year anniversary of the initial financing statement file date.

## 6.00 Transition - Amendment

- 6.01 The effectiveness of a financing statement that perfects an agricultural lien or a security interest in equipment used in farming operations, farm products, or accounts arising

from the sale of farm products may be amended by filing an amendment statement with the Secretary of State.

- 6.02 Notwithstanding ***Arkansas Secretary of State Administrative Rules for Uniform Commercial Code 106.4***, an amendment statement, as described in this rule, may only be communicated as a written record.
- 6.03 An amendment statement to amend a financing statement filed in the office of Circuit Clerk prior to January 1, 2010 must include an attached certified copy of the initial financing statement that legibly indicates the date of filing and file number of the initial financing statement assigned by the Circuit Clerk.
- 6.04 Upon the filing of an amendment statement as described in this rule, the Secretary of State shall index the information on the attached financing statement as if it were an initial financing statement, except, the date and time of filing assigned in the index shall be the date and time of filing indicated by the Circuit Clerk on the initial financing statement. After the financing statement has been indexed, the Secretary of State shall then index the information provided on the amendment statement.

## **7.00 Fees**

- 7.01 The fee for filing and indexing a continuation statement filed with the Secretary of State pursuant to this rule shall be six dollars (\$6.00), if the record consists of one (1) page and fifty cents (\$0.50) per page for each page thereafter, up to a maximum of one hundred dollars (\$100) if the record consists of more than one (1) page.
- 7.02 The fee for filing and indexing an amendment statement filed with the Secretary of State pursuant to this rule shall be six dollars (\$6.00), if the record consists of one (1) page and fifty cents (\$0.50) per page for each page thereafter, up to a maximum of one hundred dollars (\$100) if the record consists of more than one (1) page.

## **8.0 Effective Date**

- 8.01 The effective date of this rule shall be December 31, 2009