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# A BILL FOR AN ACT

RELATING TO UNIFORM COMMERCIAL CODE ARTICLE 9.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 490, Hawaii Revised Statutes, is  
2 amended by adding a new part to article 9 to be designated and  
3 to read as follows:

4   "PART 8

5   **TRANSITION PROVISIONS FOR 2010 AMENDMENTS**

6           **§490:9-801 Effective date.** This part shall take effect on  
7 July 1, 2013.

8           **§490:9-802 Savings clause.** (a) Except as otherwise  
9 provided in this part, this part applies to a transaction or  
10 lien within its scope, even if the transaction or lien was  
11 entered into or created before July 1, 2013.

12           (b) This part does not affect an action, case, or  
13 proceeding commenced before July 1, 2013.

14           **§490:9-803 Security interest perfected prior to July 1,**  
15 **2013.** (a) A security interest that is a perfected security  
16 interest prior to July 1, 2013, shall be a perfected security  
17 interest under this article if, on or before July 1, 2013, the



1 applicable requirements for attachment and perfection under this  
2 article are satisfied without further action.

3 (b) Except as otherwise provided in section 490:9-805, if,  
4 prior to July 1, 2013, a security interest is a perfected  
5 security interest, but the applicable requirements for  
6 perfection under this article are not satisfied by July 1, 2013,  
7 the security interest shall remain perfected thereafter only if  
8 the applicable requirements for perfection under this article  
9 are satisfied on or before July 1, 2014.

10 **§490:9-804 Security interest unperfected before July 1,**  
11 **2013.** A security interest that is an unperfected security  
12 interest prior to July 1, 2013, shall be a perfected security  
13 interest:

14 (1) Without further action, if, on or before July 1, 2013,  
15 the applicable requirements for perfection under this  
16 article are satisfied; or

17 (2) Upon satisfaction of the applicable requirements for  
18 perfection.

19 **§490:9-805 Effectiveness of action taken before July 1,**  
20 **2013.** (a) If a financing statement is filed prior to July 1,  
21 2013, to perfect a security interest, that filing shall be



1 effective to the extent that it satisfies the applicable  
2 requirements for perfection under this article.

3 (b) A financing statement that was filed prior to July 1,  
4 2013, shall be effective if it satisfies the applicable  
5 requirements for perfection under the then-existing state law;  
6 provided that except as provided in subsections (c) and (d) and  
7 section 490:9-806, the financing statement shall cease to be  
8 effective:

9 (1) If the financing statement was filed in this State, at  
10 the time the financing statement would have ceased to  
11 be effective under the then-existing state law; or

12 (2) If the financing statement was filed in another  
13 jurisdiction, at the earlier of:

14 (A) The time the financing statement would have  
15 ceased to be effective under the law of that  
16 jurisdiction; or

17 (B) June 30, 2018.

18 (c) The filing of a continuation statement on or after  
19 July 1, 2013, shall not continue the effectiveness of a  
20 financing statement filed prior to July 1, 2013; provided that  
21 upon the timely filing of a continuation statement on or after



1 July 1, 2013, in accordance with the law of the jurisdiction  
2 governing perfection as provided in this article, the  
3 effectiveness of a financing statement filed in the same office  
4 in that jurisdiction prior to July 1, 2013, shall continue for  
5 the period provided by the law of that jurisdiction.

6 (d) Subsection (b) (2) (B) shall apply to a financing  
7 statement that is filed prior to July 1, 2013, against a  
8 transmitting utility and that satisfies the applicable  
9 requirements for perfection under the law of the jurisdiction  
10 governing perfection as provided in this article as it existed  
11 prior to July 1, 2013, only to the extent that this article  
12 provides that the law of a jurisdiction other than the  
13 jurisdiction in which the financing statement was filed governs  
14 perfection of a security interest in collateral covered by the  
15 financing statement.

16 (e) A financing statement that includes a financing  
17 statement filed prior to July 1, 2013, and a continuation  
18 statement filed on or after July 1, 2013, shall be effective  
19 only to the extent that it satisfies the requirements of section  
20 490:9-806. A financing statement that indicates that the debtor  
21 is a decedent's estate indicates that the collateral is being  
22 administered by a personal representative within the meaning of



1 section 490:9-503(a)(2). A financing statement that indicates  
2 that the debtor is a trust or is a trustee acting with respect  
3 to property held in trust indicates that the collateral is held  
4 in a trust within the meaning of section 490:9-503(a)(3).

5 **§490:9-806 When initial financing statement suffices to**  
6 **continue effectiveness of financing statement.** (a) The filing  
7 of an initial financing statement in the office specified in  
8 section 490:9-501 continues the effectiveness of a financing  
9 statement filed prior to July 1, 2013, if:

10 (1) The filing of an initial financing statement in that  
11 office would be effective to perfect a security  
12 interest under this article;

13 (2) The pre-effective-date financing statement was filed  
14 in an office in another state; and

15 (3) The initial financing statement satisfies subsection  
16 (c).

17 (b) The filing of an initial financing statement under  
18 subsection (a) continues the effectiveness of the pre-effective-  
19 date financing statement:

20 (1) If the initial financing statement is filed prior to  
21 July 1, 2013, for the period provided in section



1 490:9-515 with respect to an initial financing  
2 statement; and  
3 (2) If the initial financing statement is filed on or  
4 after July 1, 2013, for the period provided in section  
5 490:9-515 for an initial financing statement.

6 (c) To be effective for purposes of subsection (a), an  
7 initial financing statement shall:

8 (1) Satisfy the requirements of part 5 for an initial  
9 financing statement;

10 (2) Identify the pre-effective-date financing statement by  
11 indicating the office in which the financing statement  
12 was filed and providing the dates of filing and file  
13 numbers, if any, of the financing statement and of the  
14 most recent continuation statement filed with respect  
15 to the financing statement; and

16 (3) Indicate that the pre-effective-date financing  
17 statement remains effective.

18 **§490:9-807 Amendment of pre-effective-date financing**

19 **statement.** (a) For purposes of this section, "pre-effective-  
20 date financing statement" means a financing statement filed  
21 before July 1, 2013.



1 (b) On or after July 1, 2013, a person may add or delete  
2 collateral covered by, continue or terminate the effectiveness  
3 of, or otherwise amend the information provided in a pre-  
4 effective-date financing statement only in accordance with the  
5 law of the jurisdiction governing perfection as provided in this  
6 article; provided that the effectiveness of a pre-effective-date  
7 financing statement also may be terminated in accordance with  
8 the law of the jurisdiction in which the financing statement is  
9 filed.

10 (c) Except as otherwise provided in subsection (d), if the  
11 law of this State governs perfection of a security interest, the  
12 information in a pre-effective-date financing statement may be  
13 amended on or after July 1, 2013, only if:

14 (1) The pre-effective-date financing statement and an  
15 amendment are filed in the office specified in section  
16 490:9-501;

17 (2) An amendment is filed in the office specified in  
18 section 490:9-501 concurrently with, or after the  
19 filing in that office of, an initial financing  
20 statement that satisfies section 490:9-806(c); or

21 (3) An initial financing statement that provides the  
22 information as amended and satisfies section



1           490:9-806(c) is filed in the office specified in  
2           section 490:9-501.

3           (d) If the law of this State governs perfection of a  
4 security interest, the effectiveness of a pre-effective-date  
5 financing statement may be continued only under section  
6 490:9-805(c) and (e) or 490:9-806.

7           (e) Whether or not the law of this State governs  
8 perfection of a security interest, the effectiveness of a pre-  
9 effective-date financing statement filed in this State may be  
10 terminated after July 1, 2013, by filing a termination statement  
11 in the office in which the pre-effective-date financing  
12 statement is filed, unless an initial financing statement that  
13 satisfies section 490:9-806(c) has been filed in the office  
14 governing perfection as provided in this article as the office  
15 in which to file a financing statement.

16           **§490:9-808 Person entitled to file initial financing**  
17 **statement or continuation statement.** A person may file an  
18 initial financing statement or a continuation statement under  
19 this part if:

- 20           (1) The secured party of record authorizes the filing; and  
21           (2) The filing is necessary under this part:





- 1 (A) To continue the effectiveness of a financing
- 2 statement filed before this part takes effect; or
- 3 (B) To perfect or continue the perfection of a
- 4 security interest.

5 **§490:9-809 Priority.** This article determines the priority  
 6 of conflicting claims to collateral. However, if the relative  
 7 priorities of the claims were established before July 1, 2013,  
 8 this article as it existed before July 1, 2013, shall determine  
 9 priority."

10 SECTION 2. Section 490:9-102, Hawaii Revised Statutes, is  
 11 amended as follows:

12 1. By adding a new definition to be appropriately inserted  
 13 and to read:

14 "Public organic record" means a record that is available  
 15 to the public for inspection and is:

16 (1) A record consisting of the record initially filed with  
 17 or issued by a state or the United States to form or  
 18 organize an organization and any record filed with or  
 19 issued by the state or the United States that amends  
 20 or restates the initial record;

21 (2) An organic record of a business trust consisting of  
 22 the record initially filed with a state and any record



1 filed with the state that amends or restates the  
2 initial record, if a statute of the state governing  
3 business trusts requires that the record be filed with  
4 the state; or

5 (3) A record consisting of legislation enacted by the  
6 legislature of a state or the Congress of the United  
7 States that forms or organizes an organization, any  
8 record amending the legislation, and any record filed  
9 with or issued by the state or the United States that  
10 amends or restates the name of the organization."

11 2. By amending the definitions of "authenticate",  
12 "certificate of title", "jurisdiction of organization", and  
13 "registered organization" to read:

14 "Authenticate" means:

15 (1) To sign; or

16 (2) [~~To execute or otherwise adopt a symbol, or encrypt or~~  
17 ~~similarly process a record in whole or in part, with~~  
18 ~~the present intent of the authenticating person to~~  
19 ~~identify the person and adopt or accept a record.]~~

20 With present intent to adopt or accept a record, to  
21 attach or to logically associate with the record an  
22 electronic sound, symbol, or process.



1 "Certificate of title" means a certificate of title with  
2 respect to which a statute provides for the security interest in  
3 question to be indicated on the certificate as a condition or  
4 result of the security interest's obtaining priority over the  
5 rights of a lien creditor with respect to the collateral. The  
6 term includes another record maintained as an alternative to a  
7 certificate of title by the governmental unit that issues  
8 certificates of title if a statute permits the security interest  
9 in question to be indicated on the record as a condition or  
10 result of the security interest's obtaining priority over the  
11 rights of a lien creditor with respect to the collateral.

12 "Jurisdiction of organization", with respect to a  
13 registered organization, means the jurisdiction under whose law  
14 the organization is formed or organized.

15 "Registered organization" means an organization formed or  
16 organized solely under the law of a single state or the United  
17 States [and as to which the state or the United States must  
18 maintain a public record showing the organization to have been  
19 organized.] by the filing of a public organic record with, the  
20 issuance of a public organic record by, or the enactment of  
21 legislation by the state or the United States. The term  
22 includes a business trust that is formed or organized under the



1 law of a single state if a statute of the state governing  
2 business trusts requires that the business trust's organic  
3 record be filed with the state."

4 SECTION 3. Section 490:9-105, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§490:9-105 Control of electronic chattel paper. (a) A  
7 secured party has control of electronic chattel paper if a  
8 system employed for evidencing the transfer of interests in the  
9 chattel paper reliably establishes the secured party as the  
10 person to which the chattel paper was assigned.

11 (b) A system satisfies subsection (a) if the record or  
12 records comprising the chattel paper are created, stored, and  
13 assigned in such a manner that:

14 (1) A single authoritative copy of the record or records  
15 exists which is unique, identifiable and, except as  
16 otherwise provided in paragraphs (4), (5), and (6),  
17 unalterable;

18 (2) The authoritative copy identifies the secured party as  
19 the assignee of the record or records;

20 (3) The authoritative copy is communicated to and  
21 maintained by the secured party or its designated  
22 custodian;



1 (4) Copies or [~~revisions~~] amendments that add or change an  
2 identified assignee of the authoritative copy can be  
3 made only with the [~~participation~~] consent of the  
4 secured party;

5 (5) Each copy of the authoritative copy and any copy of a  
6 copy is readily identifiable as a copy that is not the  
7 authoritative copy; and

8 (6) Any [~~revision~~] amendment of the authoritative copy is  
9 readily identifiable as [~~an~~] authorized or  
10 unauthorized [~~revision~~]."

11 SECTION 4. Section 490:9-307, Hawaii Revised Statutes, is  
12 amended by amending subsection (f) to read as follows:

13 "(f) Except as otherwise provided in subsection (i), a  
14 registered organization that is organized under the law of the  
15 United States and a branch or agency of a bank that is not  
16 organized under the law of the United States or a state are  
17 located:

18 (1) In the state that the law of the United States  
19 designates, if the law designates a state of location;

20 (2) In the state that the registered organization, branch,  
21 or agency designates, if the law of the United States  
22 authorizes the registered organization, branch, or



1 agency to designate its state of location[+],  
2 including by designating its main office, home office,  
3 or other comparable office; or

4 (3) In the District of Columbia, if neither paragraph (1)  
5 nor paragraph (2) applies."

6 SECTION 5. Section 490:9-311, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) Except as otherwise provided in subsection (d), the  
9 filing of a financing statement is not necessary or effective to  
10 perfect a security interest in property subject to:

11 (1) A statute, regulation, or treaty of the United States  
12 whose requirements for a security interest's obtaining  
13 priority over the rights of a lien creditor with  
14 respect to the property preempt section 490:9-310(a);

15 (2) Chapter 286; or

16 (3) A [~~certificate of title~~] statute of another  
17 jurisdiction which provides for a security interest to  
18 be indicated on [~~the~~] a certificate of title as a  
19 condition or result of the security interest's  
20 obtaining priority over the rights of a lien creditor  
21 with respect to the property."



1 SECTION 6. Section 490:9-316, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "~~§490:9-316 [Continued perfection of security interest~~  
4 ~~following]~~ Effect of change in governing law. (a) A security  
5 interest perfected pursuant to the law of the jurisdiction  
6 designated in section 490:9-301(1) or 490:9-305(c) remains  
7 perfected until the earliest of:

8 (1) The time perfection would have ceased under the law of  
9 that jurisdiction;

10 (2) The expiration of four months after a change of the  
11 debtor's location to another jurisdiction; or

12 (3) The expiration of one year after a transfer of  
13 collateral to a person that thereby becomes a debtor  
14 and is located in another jurisdiction.

15 (b) If a security interest described in subsection (a)  
16 becomes perfected under the law of the other jurisdiction before  
17 the earliest time or event described in that subsection, it  
18 remains perfected thereafter. If the security interest does not  
19 become perfected under the law of the other jurisdiction before  
20 the earliest time or event, it becomes unperfected and is deemed  
21 never to have been perfected as against a purchaser of the  
22 collateral for value.



1 (c) A possessory security interest in collateral, other  
2 than goods covered by a certificate of title and as-extracted  
3 collateral consisting of goods, remains continuously perfected  
4 if:

5 (1) The collateral is located in one jurisdiction and  
6 subject to a security interest perfected under the law  
7 of that jurisdiction;

8 (2) Thereafter the collateral is brought into another  
9 jurisdiction; and

10 (3) Upon entry into the other jurisdiction, the security  
11 interest is perfected under the law of the other  
12 jurisdiction.

13 (d) Except as otherwise provided in subsection (e), a  
14 security interest in goods covered by a certificate of title  
15 which is perfected by any method under the law of another  
16 jurisdiction when the goods become covered by a certificate of  
17 title from this State remains perfected until the security  
18 interest would have become unperfected under the law of the  
19 other jurisdiction had the goods not become so covered.

20 (e) A security interest described in subsection (d)  
21 becomes unperfected as against a purchaser of the goods for  
22 value and is deemed never to have been perfected as against a





1 purchaser of the goods for value if the applicable requirements  
2 for perfection under section 490:9-311(b) or 490:9-313 are not  
3 satisfied before the earlier of:

4 (1) The time the security interest would have become  
5 unperfected under the law of the other jurisdiction  
6 had the goods not become covered by a certificate of  
7 title from this State; or

8 (2) The expiration of four months after the goods had  
9 become so covered.

10 (f) A security interest in deposit accounts, letter-of-  
11 credit rights, or investment property which is perfected under  
12 the law of the bank's jurisdiction, the issuer's jurisdiction, a  
13 nominated person's jurisdiction, the securities intermediary's  
14 jurisdiction, or the commodity intermediary's jurisdiction, as  
15 applicable, remains perfected until the earlier of:

16 (1) The time the security interest would have become  
17 unperfected under the law of that jurisdiction; or

18 (2) The expiration of four months after a change of the  
19 applicable jurisdiction to another jurisdiction.

20 (g) If a security interest described in subsection (f)  
21 becomes perfected under the law of the other jurisdiction before  
22 the earlier of the time or the end of the period described in



1 that subsection, it remains perfected thereafter. If the  
2 security interest does not become perfected under the law of the  
3 other jurisdiction before the earlier of that time or the end of  
4 that period, it becomes unperfected and is deemed never to have  
5 been perfected as against a purchaser of the collateral for  
6 value.

7 (h) The following rules apply to collateral to which a  
8 security interest attaches within four months after the debtor  
9 changes its location to another jurisdiction:

10 (1) A financing statement filed before the change pursuant  
11 to the law of the jurisdiction designated in section  
12 490:9-301(1) or 490:9-305(c) is effective to perfect a  
13 security interest in the collateral if the financing  
14 statement would have been effective to perfect a  
15 security interest in the collateral had the debtor not  
16 changed its location; and

17 (2) If a security interest perfected by a financing  
18 statement that is effective under paragraph (1)  
19 becomes perfected under the law of the other  
20 jurisdiction before the earlier of the time the  
21 financing statement would have become ineffective  
22 under the law of the jurisdiction designated in



1 section 490:9-301(1) or 490:9-305(c) or the expiration  
2 of the four-month period, it remains perfected  
3 thereafter. If the security interest does not become  
4 perfected under the law of the other jurisdiction  
5 before the earlier time or event, it becomes  
6 unperfected and is deemed never to have been perfected  
7 as against a purchaser of the collateral for value.

8 (i) If a financing statement naming an original debtor is  
9 filed pursuant to the law of the jurisdiction designated in  
10 section 490:9-301(1) or 490:9-305(c) and the new debtor is  
11 located in another jurisdiction, the following rules apply:

12 (1) The financing statement is effective to perfect a  
13 security interest in collateral acquired by the new  
14 debtor before, and within four months after, the new  
15 debtor becomes bound under section 490:9-203(d), if  
16 the financing statement would have been effective to  
17 perfect a security interest in the collateral had the  
18 collateral been acquired by the original debtor; and

19 (2) A security interest perfected by the financing  
20 statement and that becomes perfected under the law of  
21 the other jurisdiction before the earlier of the time  
22 the financing statement would have become ineffective



1           under the law of the jurisdiction designated in  
 2           section 490:9-301(1) or 490:9-305(c) or the expiration  
 3           of the four-month period remains perfected thereafter.  
 4           A security interest that is perfected by the financing  
 5           statement but that does not become perfected under the  
 6           law of the other jurisdiction before the earlier time  
 7           or event becomes unperfected and is deemed never to  
 8           have been perfected as against a purchaser of the  
 9           collateral for value."

10           SECTION 7. Section 490:9-317, Hawaii Revised Statutes, is  
 11 amended as follows:

12           1. By amending subsection (b) to read:

13           "(b) Except as otherwise provided in subsection (e), a  
 14 buyer, other than a secured party, of tangible chattel paper,  
 15 tangible documents, goods, instruments, or [~~a security~~  
 16 ~~certificate~~] certificated security takes free of a security  
 17 interest or agricultural lien if the buyer gives value and  
 18 receives delivery of the collateral without knowledge of the  
 19 security interest or agricultural lien and before it is  
 20 perfected."



1           2. By amending subsection (d) to read:

2           "(d) A licensee of a general intangible or a buyer, other  
3 than a secured party, of [~~accounts, electronic chattel paper,~~  
4 ~~electronic documents, general intangibles, or investment~~  
5 ~~property~~] collateral other than tangible chattel paper, tangible  
6 documents, goods, instruments, or a certificated security takes  
7 free of a security interest if the licensee or buyer gives value  
8 without knowledge of the security interest and before it is  
9 perfected."

10           SECTION 8. Section 490:9-326, Hawaii Revised Statutes, is  
11 amended to read as follows:

12           "**§490:9-326 Priority of security interests created by new**  
13 **debtor.** (a) Subject to subsection (b), a security interest  
14 that is created by a new debtor [which is] in collateral in  
15 which the new debtor has or acquires rights and is perfected  
16 solely by a filed financing statement that [is effective solely  
17 under section 490:9-508 in collateral in which a new debtor has  
18 or acquires rights] would be ineffective to perfect the security  
19 interest but for the application of section 490:9-316(i)(1) or  
20 490:9-508 is subordinate to a security interest in the same  
21 collateral which is perfected other than by such a filed



1 financing statement [~~that is effective solely under section~~  
2 ~~490:9-508~~].

3 (b) The other provisions of this part determine the  
4 priority among conflicting security interests in the same  
5 collateral perfected by filed financing statements [~~that are~~  
6 ~~effective solely under section 490:9-508.~~] described in  
7 subsection (a). However, if the security agreements to which a  
8 new debtor became bound as debtor were not entered into by the  
9 same original debtor, the conflicting security interests rank  
10 according to priority in time of the new debtor's having become  
11 bound."

12 SECTION 9. Section 490:9-406, Hawaii Revised Statutes, is  
13 amended by amending subsection (e) to read as follows:

14 "(e) Subsection (d) does not apply to the sale of a  
15 payment intangible or promissory note[-], other than a sale  
16 pursuant to a disposition under section 490:9-610 or an  
17 acceptance of collateral under section 490:9-620."

18 SECTION 10. Section 490:9-408, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20 "(b) Subsection (a) applies to a security interest in a  
21 payment intangible or promissory note only if the security  
22 interest arises out of a sale of the payment intangible or



1 promissory note[-], other than a sale pursuant to a disposition  
2 under section 490:9-610 or an acceptance of collateral under  
3 section 490:9-620."

4 SECTION 11. Section 490:9-502, Hawaii Revised Statutes, is  
5 amended by amending subsection (c) to read as follows:

6 "(c) A record of a mortgage is effective, from the date of  
7 recording, as a financing statement filed as a fixture filing or  
8 as a financing statement covering as-extracted collateral or  
9 timber to be cut only if:

10 (1) The record indicates the goods or accounts that it  
11 covers;

12 (2) The goods are or are to become fixtures related to the  
13 real property described in the record or the  
14 collateral is related to the real property described  
15 in the record and is as-extracted collateral or timber  
16 to be cut;

17 (3) The record satisfies [~~with~~] the requirements for a  
18 financing statement in this section [~~other than an~~  
19 ~~indication~~]; provided that:

20 (A) The record need not indicate that it is to be  
21 filed in the real property records; and



1           (B) The record sufficiently provides the name of a  
 2           debtor who is an individual if it provides the  
 3           individual name of the debtor or the surname and  
 4           first personal name of the debtor, even if the  
 5           debtor is an individual to whom section 490:9-  
 6           503(a)(4) applies; and

7           (4) The record is duly recorded."

8           SECTION 12. Section 490:9-503, Hawaii Revised Statutes, is  
 9 amended to read as follows:

10           "**§490:9-503 Name of debtor and secured party.** (a) A  
 11 financing statement sufficiently provides the name of the  
 12 debtor:

13           (1) ~~[¶]~~ Except as otherwise provided in paragraph (3), if  
 14           the debtor is a registered organization or the  
 15           collateral is held in a trust that is a registered  
 16           organization, only if the financing statement provides  
 17           the name ~~[of the debtor indicated]~~ that is stated to  
 18           be the registered organization's name on the public  
 19           organic record [¶] most recently filed with or issued  
 20           or enacted by the [debtor's] registered organization's  
 21           jurisdiction of organization which ~~[shows the debtor~~





- 1 ~~to have been organized;]~~ purports to state, amend, or  
2 restate the registered organization's name;
- 3 (2) ~~[If]~~ Subject to subsection (f), if the [debtor is a  
4 decedent's estate,] collateral is being administered  
5 by the personal representative of a decedent, only if  
6 the financing statement provides, as the name of the  
7 debtor, the name of the decedent and, in a separate  
8 part of the financing statement, indicates that the  
9 [debtor is an estate,] collateral is being  
10 administered by a personal representative;
- 11 (3) ~~If the [debtor is a trust or a trustee acting with~~  
12 ~~respect to property held in trust, only if the~~  
13 ~~financing statement.~~
- 14 ~~(A) Provides the name specified for the trust in its~~  
15 ~~organic documents or, if no name is specified,~~  
16 ~~provides the name of the settlor and additional~~  
17 ~~information sufficient to distinguish the debtor~~  
18 ~~from other trusts having one or more of the same~~  
19 ~~settlers; and~~
- 20 ~~(B) Indicates, in the debtor's name or otherwise,~~  
21 ~~that the debtor is a trust or is a trustee acting~~  
22 ~~with respect to property held in trust; and]~~



1 collateral is held in a trust that is not a registered  
2 organization, only if the financing statement:

3 (A) Provides, as the name of the debtor:

4 (i) If the organic record of the trust specifies  
5 a name for the trust, the name specified; or

6 (ii) If the organic record of the trust does not  
7 specify a name for the trust, the name of  
8 the settlor or testator; and

9 (B) In a separate part of the financing statement:

10 (i) If the name is provided in accordance with  
11 subparagraph (A)(i), indicates that the  
12 collateral is held in a trust; or

13 (ii) If the name is provided in accordance with  
14 subparagraph (A)(ii), provides additional  
15 information sufficient to distinguish the  
16 trust from other trusts having one or more  
17 of the same settlors or the same testator  
18 and indicates that the collateral is held in  
19 a trust, unless the additional information  
20 so indicates;

21 (4) Subject to subsection (g), if the debtor is an

22 individual to whom this State has issued a driver's



1           license or non-driver identification card that has not  
2           expired, only if the financing statement provides the  
3           name of the individual that is indicated on the  
4           driver's license or non-driver identification card;

5           (5) If the debtor is an individual to whom paragraph (4)  
6           does not apply, only if the financing statement  
7           provides the individual name of the debtor or the  
8           surname and first personal name of the debtor; and

9           [+4+] (6) In other cases:

10           (A) If the debtor has a name, only if ~~it~~ the  
11           financing statement provides the ~~individual or~~  
12           organizational name of the debtor; and

13           (B) If the debtor does not have a name, only if it  
14           provides the names of the partners, members,  
15           associates, or other persons comprising the  
16           debtor~~-~~, in a manner that each name provided  
17           would be sufficient if the person named were the  
18           debtor.

19           (b) A financing statement that provides the name of the  
20           debtor in accordance with subsection (a) is not rendered  
21           ineffective by the absence of:

22           (1) A trade name or other name of the debtor; or



1 (2) Unless required under subsection [~~(a)(4)(B)~~,]  
2 (a)(6)(B), names of partners, members, associates, or  
3 other persons comprising the debtor.

4 (c) A financing statement that provides only the debtor's  
5 trade name does not sufficiently provide the name of the debtor.

6 (d) Failure to indicate the representative capacity of a  
7 secured party or representative of a secured party does not  
8 affect the sufficiency of a financing statement.

9 (e) A financing statement may provide the name of more  
10 than one debtor and the name of more than one secured party.

11 (f) The name of the decedent indicated on the order  
12 appointing the personal representative of the decedent issued by  
13 the court having jurisdiction over the collateral is sufficient  
14 as the "name of the decedent" under subsection (a)(2).

15 (g) If this State has issued to an individual more than  
16 one driver's license or non-driver identification card of a kind  
17 described in subsection (a)(4), the one that was issued most  
18 recently is the one to which subsection (a)(4) refers.

19 (h) In this section, the "name of the settlor or testator"  
20 means:

21 (1) If the settlor is a registered organization, the name  
22 that is stated to be the settlor's name on the public



1           organic record filed most recently with or issued or  
 2           enacted by the settlor's jurisdiction of organization  
 3           that purports to state, amend, or restate the  
 4           settlor's name; or

5           (2) In other cases, the name of the settlor or testator  
 6           indicated in the trust's organic record."

7           SECTION 13. Section 490:9-507, Hawaii Revised Statutes, is  
 8 amended by amending subsection (c) to read as follows:

9           "(c) If [~~a debtor so changes its~~] the name that a filed  
 10 financing statement provides for a debtor becomes insufficient  
 11 as the name of the debtor under section 490:9-503(a) so that the  
 12 financing statement becomes seriously misleading under section  
 13 490:9-506:

14           (1) The financing statement is effective to perfect a  
 15 security interest in collateral acquired by the debtor  
 16 before, or within four months after, the [~~change,~~]  
 17 filed financing statement becomes seriously  
 18 misleading; and

19           (2) The financing statement is not effective to perfect a  
 20 security interest in collateral acquired by the debtor  
 21 more than four months after the [~~change,~~] filed  
 22 financing statement becomes seriously misleading,



1 unless an amendment to the financing statement which  
 2 renders the financing statement not seriously  
 3 misleading is filed within four months after [~~the~~  
 4 ~~change.~~] the financing statement became seriously  
 5 misleading."

6 SECTION 14. Section 490:9-515, Hawaii Revised Statutes, is  
 7 amended by amending subsection (f) to read as follows:

8 "(f) If a debtor is a transmitting utility and a filed  
 9 initial financing statement so indicates, the financing  
 10 statement is effective until a termination statement is filed."

11 SECTION 15. Section 490:9-516, Hawaii Revised Statutes, is  
 12 amended by amending subsection (b) to read as follows:

13 "(b) Filing does not occur with respect to a record that a  
 14 filing office refuses to accept because:

- 15 (1) The record is not communicated by a method or medium
- 16 of communication authorized by the filing office;
- 17 (2) An amount equal to or greater than the applicable
- 18 filing fee is not tendered;
- 19 (3) The filing office is unable to index the record
- 20 because:



- 1 (A) In the case of an initial financing statement,  
2 the record does not provide a name for the  
3 debtor;
- 4 (B) In the case of an amendment or [~~correction~~  
5 information] statement, the record:  
6 (i) Does not identify the initial financing  
7 statement as required by section 490:9-512  
8 or 490:9-518, as applicable; or  
9 (ii) Identifies an initial financing statement  
10 whose effectiveness has lapsed under section  
11 490:9-515;
- 12 (C) In the case of an initial financing statement  
13 that provides the name of a debtor identified as  
14 an individual or an amendment that provides a  
15 name of a debtor identified as an individual  
16 which was not previously provided in the  
17 financing statement to which the record relates,  
18 the record does not identify the debtor's [~~last~~  
19 ~~name,~~] surname; or
- 20 (D) In the case of a record filed in the filing  
21 office described in section 490:9-501(a)(1), the



1 record does not provide a sufficient description  
2 of the real property to which it relates;

3 (4) In the case of an initial financing statement or an  
4 amendment that adds a secured party of record, the  
5 record does not provide a name and mailing address for  
6 the secured party of record;

7 (5) In the case of an initial financing statement or an  
8 amendment that provides a name of a debtor which was  
9 not previously provided in the financing statement to  
10 which the amendment relates, the record does not:

11 (A) Provide a mailing address for the debtor; or

12 (B) Indicate whether the name provided as the name of  
13 the debtor is the name of an individual or an  
14 organization; [~~or~~

15 ~~(C) If the financing statement indicates that the~~  
16 ~~debtor is an organization, provide:~~

17 ~~(i) A type of organization for the debtor;~~

18 ~~(ii) A jurisdiction of organization for the~~  
19 ~~debtor; ~~or~~~~

20 ~~(iii) An organizational identification number for~~  
21 ~~the debtor or indicate that the debtor has~~  
22 ~~none;]~~





1 (6) In the case of an assignment reflected in an initial  
 2 financing statement under section 490:9-514(a) or an  
 3 amendment filed under section 490:9-514(b), the record  
 4 does not provide a name and mailing address for the  
 5 assignee; or

6 (7) In the case of a continuation statement, the record is  
 7 not filed within the six-month period prescribed by  
 8 section 490:9-515(d)."

9 SECTION 16. Section 490:9-518, Hawaii Revised Statutes, is  
 10 amended to read as follows:

11 **"§490:9-518 Claim concerning inaccurate or wrongfully**  
 12 **filed record.** (a) A person may file in the filing office [a  
 13 ~~correction~~] an information statement with respect to a record  
 14 indexed there under the person's name if the person believes  
 15 that the record is inaccurate or was wrongfully filed.

16 [~~(b) A correction statement must:~~

17 ~~(1) Identify the record to which it relates by the file~~  
 18 ~~number assigned to the initial financing statement to~~  
 19 ~~which the record relates;~~

20 ~~(2) Indicate that it is a correction statement; and~~

21 ~~(3) Provide the basis for the person's belief that the~~  
 22 ~~record is inaccurate and indicate the manner in which~~



1 ~~the person believes the record should be amended to~~  
2 ~~cure any inaccuracy or provide the basis for the~~  
3 ~~person's belief that the record was wrongfully filed.]~~

4 (b) An information statement under subsection (a) shall:

5 (1) Identify the record to which it relates by the file  
6 number assigned to the initial financing statement to  
7 which the record relates;

8 (2) Indicate that it is an information statement; and

9 (3) Provide the basis for the person's belief that the  
10 record is inaccurate and indicate the manner in which  
11 the person believes the record should be amended to  
12 cure any inaccuracy or provide the basis for the  
13 person's belief that the record was wrongfully filed.

14 (c) A person may file in the filing office an information  
15 statement with respect to a record filed there if the person is  
16 a secured party of record with respect to the financing  
17 statement to which the record relates and believes that the  
18 person that filed the record was not entitled to do so under  
19 section 490:9-509(d).

20 (d) An information statement under subsection (c) shall:



- 1        (1) Identify the record to which it relates by the file
- 2        number assigned to the initial financing statement to
- 3        which the record relates;
- 4        (2) Indicate that it is an information statement; and
- 5        (3) Provide the basis for the person's belief that the
- 6        person that filed the record was not entitled to do so
- 7        under section 490:9-509(d).

8        [~~e~~] (e) The filing of [~~a correction~~] an information  
 9 statement does not affect the effectiveness of an initial  
 10 financing statement or other filed record."

11        SECTION 17. Section 490:9-521, Hawaii Revised Statutes, is  
 12 amended to read as follows:

13        "**§490:9-521 Uniform form of written financing statement**  
 14 **and amendment.** (a) A filing office that accepts written  
 15 records for filing may not refuse to accept a written initial  
 16 financing statement in the following form, except for a reason  
 17 set forth in section 490:9-516(b):

18 **UCC FINANCING STATEMENT**

19 FOLLOW INSTRUCTIONS

20

21 A.        NAME & PHONE OF CONTACT AT FILER (optional)  
 22            \_\_\_\_\_

23 B.        E-MAIL CONTACT AT FILER (optional)  
 24            \_\_\_\_\_



1 C. SEND ACKNOWLEDGMENT TO: (Name and Address)

2 \_\_\_\_\_

3

4

THE ABOVE SPACE IS FOR

5

FILING OFFICE USE ONLY

6

7 1. DEBTOR'S NAME - provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate  
8 any word in the Debtor's name)

9 1a. ORGANIZATION'S NAME

10

\_\_\_\_\_

11 OR

12 1b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

13

\_\_\_\_\_

14 ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR SUFFIX

15

\_\_\_\_\_

16 1c. MAILING ADDRESS

17

\_\_\_\_\_

18 CITY STATE POSTAL CODE COUNTRY

19

\_\_\_\_\_

20 2. DEBTOR'S NAME - provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate  
21 any word in the Debtor's name)

22

23 2a. ORGANIZATION'S NAME

24

\_\_\_\_\_

25 OR

26 2b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

27

\_\_\_\_\_



1 ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR SUFFIX

2 \_\_\_\_\_

3 2c. MAILING ADDRESS

4 \_\_\_\_\_

5 CITY STATE POSTAL CODE COUNTRY

6 \_\_\_\_\_

7 3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY) - provide only one Secured

8 Party name (3a or 3b)

9 3a. ORGANIZATION'S NAME

10 \_\_\_\_\_

11 OR

12 3b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

13 \_\_\_\_\_

14 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

15 \_\_\_\_\_

16 3c. MAILING ADDRESS

17 \_\_\_\_\_

18 CITY STATE POSTAL CODE COUNTRY

19 \_\_\_\_\_

20 4. COLLATERAL: This financing statement covers the following collateral:

21 \_\_\_\_\_

22 5. Check only if applicable and check only one box:

23 Collateral is  held in a Trust (see Instructions)

24  being administered by a Decedent's Personal Representative.

25 6a. Check only if applicable and check only one box:

26  Public-Finance Transaction  Manufactured-Home Transaction

27  A Debtor is a Transmitting Utility

28 6b. Check only if applicable and check only one box:

29  Agricultural Lien  Non-UCC Filing



1 7. ALTERNATIVE DESIGNATION (if applicable):  Lessee/Lessor  Consignee/Consignor  Seller/Buyer  
2  Bailee/Bailor  Licensee/Licensor

3 8. OPTIONAL FILER REFERENCE DATA

4 \_\_\_\_\_

5 [UCC FINANCING STATEMENT (Form UCC1)]

6  
7 **UCC FINANCING STATEMENT ADDENDUM**

8 FOLLOW INSTRUCTIONS

9 9. NAME OF FIRST DEBTOR (same as item 1a or 1b on Financing Statement)

10 9a. ORGANIZATION'S NAME

11 \_\_\_\_\_

12 OR

13 9b. INDIVIDUAL'S SURNAME

14 \_\_\_\_\_

15 FIRST PERSONAL NAME

16 \_\_\_\_\_

17 ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

18 \_\_\_\_\_

19 THE ABOVE SPACE IS FOR  
20 FILING OFFICE USE ONLY  
21

22 10. ADDITIONAL DEBTOR'S NAME - provide only one Debtor name (10a or 10b) (use exact, full name; do not omit, modify,  
23 or abbreviate any word in the Debtor's name)

24 10a. ORGANIZATION'S NAME

25 \_\_\_\_\_

26 OR

27 10b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

28 \_\_\_\_\_



1 ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR SUFFIX  
2 \_\_\_\_\_

3 10c. MAILING ADDRESS

4 \_\_\_\_\_

5 CITY STATE POSTAL CODE COUNTRY

6 \_\_\_\_\_

7

8 11. ADDITIONAL SECURED PARTY'S NAME or ASSIGNOR SECURED PARTY'S NAME - provide only one name (11a or  
9 11b)

10 11a. ORGANIZATION'S NAME

11 \_\_\_\_\_

12 OR

13 11b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

14 \_\_\_\_\_

15 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

16 \_\_\_\_\_

17 11c. MAILING ADDRESS

18 \_\_\_\_\_

19 CITY STATE POSTAL CODE COUNTRY

20 \_\_\_\_\_

21 12. ADDITIONAL SPACE FOR ITEM 4 (Collateral)

22 \_\_\_\_\_

23

24 13.  This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS (if applicable)

25 14. This FINANCING STATEMENT:

26  covers timber to be cut  covers as-extracted collateral  is filed as a fixture filing

27 15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest):

28 \_\_\_\_\_

29 16. Description of real estate:

30 \_\_\_\_\_



1 17. MISCELLANEOUS:

2 \_\_\_\_\_

3 [UCC FINANCING STATEMENT ADDENDUM (Form UCC1Ad)]

4 (b) A filing office that accepts written records for  
5 filing may not refuse to accept a written financing statement  
6 amendment in the following form, except for a reason set forth  
7 in section 490:9-516(b):

8 UCC FINANCING STATEMENT AMENDMENT

9 FOLLOW INSTRUCTIONS

10 A. NAME & PHONE OF CONTACT AT FILER (optional)

11 \_\_\_\_\_

12 B. E-MAIL CONTACT AT FILER (optional)

13 \_\_\_\_\_

14 C. SEND ACKNOWLEDGMENT TO: (Name and Address)

15 \_\_\_\_\_

16 THE ABOVE SPACE IS FOR  
17 FILING OFFICE USE ONLY

18  
19 1a. INITIAL FINANCING STATEMENT FILE NUMBER

20 \_\_\_\_\_

21 1b.  This FINANCING STATEMENT AMENDMENT is to be filed [for record] (or recorded) in the REAL ESTATE  
22 RECORDS.

23 Filer: attach Amendment Addendum (Form UCC3Ad) and provide Debtor's name in item 13.

24 2.  TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to the security  
25 interest(s) of Secured Party authorizing this Termination Statement

26 3.  ASSIGNMENT (full or partial): Provide name of Assignee in item 7a or 7b, and address of Assignee in item 7c and  
27 name of Assignor in item 9. For partial assignment, complete items 7 and 9 and also indicate affected collateral in item 8

28 4.  CONTINUATION: Effectiveness of the Financing Statement identified above with respect to the security interest(s) of  
29 Secured





1 Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

2 5.  PARTY INFORMATION CHANGE:

3 Check one of these two boxes:

4 This Change affects  Debtor or  Secured Party of record.

5 AND

6 Check one of these three boxes to:

7  CHANGE name and/or address: Complete item 6a or 6b, and item 7a or 7b and item 7c.

8  ADD name: Complete item 7a or 7b, and item 7c.

9  DELETE name: Give record name to be deleted in item 6a or 6b.

10 6. CURRENT RECORD INFORMATION: Complete for Party Information Change - provide only one name (6a or 6b) (use  
11 exact, full name; do not omit, modify, or abbreviate any word in the Debtor's name)

12 6a. ORGANIZATION'S NAME

13 \_\_\_\_\_

14 OR

15 6b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

16 \_\_\_\_\_

17 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

18 \_\_\_\_\_

19 7. CHANGED OR ADDED INFORMATION: Complete for Assignment or Party Information Change - provide only one name  
20 (7a or 7b) (use exact full name; do not omit, modify, or abbreviate any word in the Debtor's name)

21 7a. ORGANIZATION'S NAME

22 \_\_\_\_\_

23 OR

24 7b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

25 \_\_\_\_\_

26 ADDITIONAL NAME(S)/INITIAL(S) THAT ARE PART OF THE NAME OF THIS DEBTOR SUFFIX

27 \_\_\_\_\_

28 7c. MAILING ADDRESS

29 \_\_\_\_\_



1 CITY STATE POSTAL CODE COUNTRY

2 \_\_\_\_\_

3 8.  COLLATERAL CHANGE:

4 Also check one of these four boxes:

5  ADD collateral  DELETE collateral  RESTATE covered collateral

6  ASSIGN collateral

7 Indicate collateral:

8 9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT - provide only one name (9a or 9b)

9 (name of Assignor, if this is an Assignment)

10 If this is an Amendment authorized by a DEBTOR, check here  and provide name of authorizing Debtor

11 9a. ORGANIZATION'S NAME

12 \_\_\_\_\_

13 OR

14 9b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

15 \_\_\_\_\_

16 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

17 \_\_\_\_\_

18 10. OPTIONAL FILER REFERENCE DATA

19 \_\_\_\_\_

20 [UCC FINANCING STATEMENT AMENDMENT (Form UCC3)]

21  
22 **UCC FINANCING STATEMENT AMENDMENT ADDENDUM**

23 FOLLOW INSTRUCTIONS

24 11. INITIAL FINANCING STATEMENT FILE NUMBER (same as item 1a on Amendment form)

25 \_\_\_\_\_

26 12. NAME OF PARTY AUTHORIZING THIS AMENDMENT (same as item 9 on Amendment form)

27 12a. ORGANIZATION'S NAME

28 \_\_\_\_\_

29 OR

30 12b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME

31 \_\_\_\_\_



1 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX  
2 \_\_\_\_\_

3 THE ABOVE SPACE IS FOR  
4 FILING OFFICE USE ONLY  
5

6 13. Name of DEBTOR on related financing statement (Name of a current Debtor of record required for indexing purposes only  
7 in some filing offices - see Instruction for item 13 - insert only one Debtor name (13a or 13b) (use exact, full name; do not  
8 omit, modify, or abbreviate any word in the Debtor's name)

9 13a. ORGANIZATION'S NAME  
10 \_\_\_\_\_

11 OR

12 13b. INDIVIDUAL'S SURNAME FIRST PERSONAL NAME  
13 \_\_\_\_\_

14 ADDITIONAL NAME(S)/INITIAL(S) SUFFIX  
15 \_\_\_\_\_

16 14. ADDITIONAL SPACE FOR ITEM 8 (Collateral)  
17 \_\_\_\_\_

18 15. This FINANCING STATEMENT AMENDMENT:  covers timber to be cut

19  covers as-extracted collateral  is filed as a fixture filing

20 16. Name and address of a RECORD OWNER of real estate described in item 17 (if Debtor does not have a record interest):  
21 \_\_\_\_\_

22 17. Description of real estate  
23 \_\_\_\_\_

24 18. MISCELLANEOUS:  
25 \_\_\_\_\_  
26

27 [UCC FINANCING STATEMENT AMENDMENT ADDENDUM (Form UCC3Ad) ]  
28

29 (c) A form that a filing office may not refuse to accept  
30 under subsection (a) or (b) must conform to the format



1 prescribed for the form by the National Conference of  
2 Commissioners on Uniform State Laws."

3 SECTION 18. Section 490:9-607, Hawaii Revised Statutes, is  
4 amended by amending subsection (b) to read as follows:

5 "(b) If necessary to enable a secured party to exercise  
6 under subsection (a)(3) the right of a debtor to enforce a  
7 mortgage nonjudicially, the secured party may record in the  
8 office in which a record of the mortgage is recorded:

9 (1) A copy of the security agreement that creates or  
10 provides for a security interest in the obligation  
11 secured by the mortgage; and

12 (2) The secured party's sworn affidavit in recordable form  
13 stating that:

14 (A) A default has occurred~~[+]~~ with respect to the  
15 obligation secured by the mortgage; and

16 (B) The secured party is entitled to enforce the  
17 mortgage nonjudicially."

18 SECTION 19. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 20. This Act shall take effect on July 1, 2013.



**Report Title:**

Uniform Commercial Code; Secured Transactions

**Description:**

Implements the amendments to Article 9 of the Uniform Commercial Code, relating to secured transactions, set forth by the Uniform Law Commission. Effective July 1, 2013. (HB2162 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

