

PANDORA'S BOXES

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For years now, UCC specialists have been preaching the fundamental basics for the preparation of an effective financing statement. Be sure to get the debtor's name right, be sure to file in the legal state of formation or domicile for Debtor, and be sure to effectively describe your collateral without unknowingly limiting your security interest. However, we rarely speak of, or pay attention to, the multitude of check boxes available on the National UCC-1, Addendum and UCC-3 forms. When taking a closer look at some of these boxes, we discover that they may encompass critical information.

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (ADDITIONAL FEE)	<input type="checkbox"/> Optional	<input type="checkbox"/> All Debtors	<input type="checkbox"/> Debtor 1	<input type="checkbox"/> Debtor 2
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Towards the bottom of the UCC-1 financing statement, Filer has the option to check a box with the expectation of receiving a post-filing search report from the Secretary of State reflecting their Debtor Party(s). Might the filer be anticipating a search-to-reflect their lien in return? Perhaps; however, the reality is that if the state doesn't completely ignore this request (most of them do), they will probably fulfill it by immediately running a search that would not yet reflect our filer's financing statement. Very few jurisdictions actually place this request within a tickler system to ensure a reflective through date. Filer is not necessarily getting what he paid for.

6. <input type="checkbox"/> This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable]
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Check box #6 located on The UCC-1 financing Statement and check box # 13 located on its Addendum reflect Information relative to the lien's status as a

13. This FINANCING STATEMENT covers <input type="checkbox"/> timber to be cut or <input type="checkbox"/> as-extracted collateral, or is filed as a <input type="checkbox"/> fixture filing.
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Fixture Filing to be recorded within the land or real estate records of the filing jurisdiction. Oftentimes, when lenders use document solutions software to print the necessary forms for their real estate loan origination documents, they will print the recordable fixture filing financing statement and make a photocopy of the document for filing with the Secretary of State. Unless a savvy service provider takes note of this and corrects the error by eliminating the check marks – filer is, in effect, filing a fixture filing at the state: Wrong Jurisdiction. Whether or not this results in the filing being seriously misleading remains to be seen. A searcher combing the state records of California, for example, should review the stated collateral and – at the very least – consider that the filer's intent was to file a UCC against personal property at the state. However, the line may blur in those states that have a central index for filing – one searchable index for which the only differentiation of intent are these check boxes. Hawaii, Georgia and Louisiana are three states wherein searcher might have to rely solely on these indicators to determine if the lien encumbers personalty or realty.

Oftentimes, when searchers review their search reports, they disregard those financing statements filed more than five years prior and without a subsequent continuation statement.

An inexperienced searcher may simply write the lien off as 'lapsed.' However, if filer correctly indicated in box #18 that the debtor is a Transmitting Utility, the UCC remains effective for the life of the loan.

18. Check only if applicable and check only one box.

<input type="checkbox"/> Debtor is a TRANSMITTING UTILITY
<input type="checkbox"/> Filed in connection with a Manufactured-Home Transaction — effective 30 years
<input type="checkbox"/> Filed in connection with a Public-Finance Transaction — effective 30 years

Furthermore, manufactured home transaction and public finance transaction UCCs are eligible for a life of 30 years. Hopefully, the filing clerk caught this detail during their review of the document and accurately calculated the true lapse date of the lien within their database – otherwise, 6 years later, this effective lien may not be seen at all by Searcher.

Our seemingly simple financing statements are wrought with pitfalls. Collateral amendments continue to confound many document preparers, debtor authorized amendments are begging for further investigation, and the complexities of the Trust filing preparation remains an area of debate for even the most tenured professionals in our industry.

Thankfully, First American has developed a wealth of UCC related insurance products intended to shift the risk away from Lender. Call today and discover the products and services created by industry leaders, administrated by trained professionals and secured by First American Title Insurance Company. We look forward to hearing from you. **UCC Division / 800-700-1191 / www.eagle9.com**