

12.6.2.28 **GROUNDS FOR REFUSAL OF UCC DOCUMENT.** The following grounds are the sole grounds for the filing officer's refusal to accept a UCC document for filing. As used herein, the term "legible" is not limited to refer only to written expressions on paper: it requires a machine-readable transmission for electronic transmissions and an otherwise readily decipherable transmission in other cases.

A. Debtor name and address. An initial financing statement or an amendment that purports to add a debtor shall be refused if the document fails to include a legible debtor name and address for a debtor, in the case of an initial financing statement, or for the debtor purporting to be added in the case of such an amendment. If the document contains more than one debtor name or address and some names or addresses are missing or illegible, the filing officer shall index the legible name and address pairings, and provide a notice to the remitter containing the file number of the document, identification of the debtor name(s) that was (were) indexed, and a statement that debtors with illegible or missing names or addresses were not indexed.

B. Additional debtor identification. An initial financing statement or an amendment adding one or more debtors shall be refused if the document fails to identify whether each named debtor (or each added debtor in the case of such an amendment) is an individual or an organization, if the last name of each individual debtor is not identified, or if, for each debtor identified as an organization, the document does not include in legible form the organization's type, state of organization and organization number (if it has one) or a statement that it does not have one. Debtors identified as individuals are not required to include a social security number. Social security numbers are provided voluntarily and will be made available on copies of UCC records.

C. Secured party name and address. An initial financing statement, an amendment purporting to add a secured party of record, or an assignment, shall be refused if the document fails to include a legible secured party (or assignee in the case of an assignment) name and address. If the document contains more than one secured party (or assignee) name or address and some names or addresses are missing or illegible, the filing officer shall refuse the UCC document.

D. Lack of identification of initial financing statement. A UCC document other than an initial financing statement shall be refused if the document does not provide a file number of a financing statement in the UCC information management system that has not lapsed.

E. Identifying information A UCC document that does not identify itself as an amendment or identify an initial financing statement to which it relates, as required by chapter 55, article 9, sections 512, 514 or 518 NMSA 1978, is an initial financing statement.

F. Timeliness of continuation. A continuation shall be refused if it is not received during the six month period concluding on the day upon which the related financing statement would lapse. In the event that the day upon which the related financing statement would lapse falls on a day on which the filing office is not open, the last day is then the first business day immediately preceding the day that the office is closed. A postmark stamped on an envelope by the U.S. Postal Service does not cause timely filing of the continuation if the continuation is received by the filing office after the last day upon which the related financing statement would lapse.

(1) First day permitted. The first day on which a continuation may be filed is the date of the month corresponding to the date upon which the financing statement would lapse, six months preceding the month in which the financing statement would lapse. If there is no such corresponding date during the sixth month preceding the month in which the financing statement would lapse, the first day on which a continuation may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse, although filing by certain means may not be possible on such date if the filing office is not open on such date.

(2) Last day permitted. The last day on which a continuation may be filed is the date upon which the financing statement lapses.

G. Fee. A document shall be refused if the document is accompanied by less than the full filing fee tendered by a method described in 12.6.2.19 NMAC. In the event that more than one filing is submitted with one payment for all filings and one or more filings are refused pursuant to this rule, the filing office will file the accepted filings and receipt the payment received (if the payment is not less than the full filing fee for the total of the accepted filings) for the filings which were acceptable without a refund or credit for the payment due for the unaccepted filing(s) unless the filer demonstrates that the rejected

filings should not have been refused under this rule. Otherwise, the filer must correct and resubmit the rejected filing(s) with a new payment.

H. Means of communication. UCC documents communicated to the filing office by a means of communication not authorized by the filing officer for the communication of UCC documents shall be refused.

I. Non-UCC filings not accepted. Filings (such as those pursuant to the Farm Products Secured Interest Act or Federal Tax Liens) which are not included in Chapter 55, Article 9 NMSA 1978 (Chapter 139, Laws of 2001) but submitted on forms prescribed in 12.6.2.14 NMAC will be refused and returned without processing.

[12.6.2.28 NMAC – N, 7/1/2001]

12.6.2.29 GROUND NOT WARRANTING REFUSAL. The sole grounds for the filing officer's refusal to accept a UCC document for filing are enumerated in 12.6.2.28 NMAC. The following are examples of defects that do not constitute grounds for refusal to accept a document. These are not a comprehensive enumeration of defects outside the scope of permitted grounds for refusal to accept a UCC document for filing.

A. Errors. The UCC document contains or appears to contain a misspelling or other apparently erroneous information.

B. Incorrect names.

(1) The UCC document appears to identify a debtor incorrectly.

(2) The UCC document appears to identify a secured party or a secured party of record incorrectly.

C. Extraneous information. The UCC document contains additional or extraneous information of any kind.

D. Insufficient information. The UCC document contains less than the information required by

Chapter 55, Article 9 NMSA 1978; provided that the document contains the information required in Subsections A through E of 12.6.2.28 NMAC.

E. Collateral description. The UCC document incorrectly identifies collateral, or contains an illegible

or unintelligible description of collateral, or appears to contain no such description.

F. Excessive fee. The document is accompanied by funds in excess of the full filing fee.

[12.6.2.29 NMAC – N, 7/1/2001]

12.6.2.30 TIME LIMIT. The filing officer shall determine whether criteria exist to refuse acceptance of a UCC document for filing not later than the third business day after the date the document would have been filed had it been accepted for filing and shall index a UCC document not so refused within the same time period.

[12.6.2.30 NMAC – N, 7/1/2001]

12.6.2.31 PROCEDURE UPON REFUSAL. If the filing officer finds grounds under 12.6.2.28 NMAC to refuse acceptance of a UCC document, the filing officer shall return the document, if written, to the remitter along with the filing fee. The filing office shall send a notice that contains the date and time the document would have been filed had it been accepted for filing (unless such date and time are stamped on the document), and a brief description of the reason for refusal to accept the document under 12.6.2.28 NMAC. The notice shall be sent to a secured party or the remitter as provided in Subsection C of 12.6.2.200 NMAC no later than the third business day after the filing office receives the document.

[12.6.2.31 NMAC – N, 7/1/2001]

12.6.2.32 ACKNOWLEDGMENT. At the request of a filer or remitter who files a paper or paper-based UCC document, the filing officer shall either (i) send to said filer or remitter an image of the first page of the UCC document showing the file number assigned to it and the date and time of filing or, (ii) if such filer or remitter provides a copy of such UCC document, note the file number and the date and time of filing on the copy and deliver or send it to said filer or remitter.

[12.6.2.32 NMAC – N, 7/1/2001]

12.6.2.33 OTHER NOTICES. Nothing in these rules prevents a filing officer from communicating to a filer or a remitter that the filing officer noticed apparent potential defects in a UCC document, whether or not it was filed or refused for filing. However, the filing office is under no obligation to do so and may not, in fact, have the resources to do so or to identify such defects. **THE RESPONSIBILITY FOR THE LEGAL EFFECTIVENESS OF FILING RESTS WITH FILERS AND REMITTERS AND THE FILING OFFICE BEARS NO RESPONSIBILITY FOR SUCH EFFECTIVENESS.**
[12.6.2.33NMAC – N, 7/1/2001]

12.6.2.34 REFUSAL ERRORS. If a secured party or a remitter demonstrates to the satisfaction of the filing officer that a UCC document that was refused for filing should not have been refused under 12.6.2.28 NMAC, the filing officer will file the UCC document as provided in these rules with a filing date and time assigned when such filing occurs. The filing officer will also file a filing officer statement (and such demonstration of error shall constitute the secured party's authorization to do so) that states that the effective date and time of filing is the date and time the UCC document was originally tendered for filing, and sets forth such date and time.
[12.6.2.34 NMAC – N, 7/1/2001]