

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1164

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 5-29-85
DATE FOR REVIEW 6-7-85
DATE DUE 6-12-85

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved 6/10/85 (CS) Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 6-11-85 Revisor approved 5/29/85 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 5.22.85 Date

_____ Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

_____ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency contains small biz statement.

✓ Affidavit of Mailing Notice or rulemaking
3.29.85 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
4.1.85 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

_____ Agency's Findings of Fact

_____ LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

_____ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: J. MICHAEL MILES
Assistant Attorney General
JUDITH V. WEHRWEIN
Legal Assistant

DATE: 5/29/85

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: SUBMISSION OF THE SECRETARY OF STATE'S AMENDMENTS OF THE RULE GOVERNING UNIFORM COMMERCIAL CODE FORMS

The Secretary of State's Office is submitting the above-captioned amendments to the Attorney General for approval pursuant to Minn. Stat. § 14.26 (1984). Two subparts of the rule were amended to correct references to wrong statutory citations.

Enclosed for your review are the following:

1. Four copies of the Rule as Adopted;
2. Rule as Proposed;
3. Two Orders Adopting the Rule;
4. Order for Notice of Intent to Adopt Rule without a Public Hearing;
5. Notice of Intent to Adopt a Rule without a Public Hearing - as mailed;
6. Notice of Intent to Adopt a Rule without a Public Hearing - State Register publication, April 1, 1985;
7. Affidavit of Mailing Notice of Intent to Adopt Rules without a Public Hearing;
8. Mailing List Certificate;
9. Statement of Need and Reasonableness;
10. Certificate of Compliance with Rulemaking Procedures.

No comments were received during the 30-day comment period. In addition, no requests to be informed of submission of the rule to the Attorney General were received.

MJC:dw

Enclosures

cc: Cheri Mattson
Secretary of State's Office

RECEIVED
MAY 29 1985
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: JOAN ANDERSON GROWE
Secretary of State

DATE: 6-10-85

ATTN: MARTHA J. CASSERLY
Special Assistant Attorney General

FROM: LARRY D. STARNS LDS
Special Assistant Attorney General

PHONE: 297-3493

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Office of the Secretary of State Governing Uniform Commercial Code Forms.

The above-referenced rule has been approved as to its legality by the Attorney General on June 10, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

LDS:sz

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

Secretary of State

Adopted Rules Relating to Financing Statements

Rules as Adopted

8260.0100 FINANCING STATEMENT: FORM UCC-1.

Subpart 1. **Permitted use.** This form is for use when filing a financing statement pursuant to Minnesota Statutes, section 336.9-401, subsection (1), paragraphs (a) and (b). The use of any other form will result in a nonstandard fee charge.

Subp. 2. to 5. [Unchanged.]

8260.0200 FIXTURE/REAL ESTATE: FORM UCC-2.

Subpart 1. **Transactions covered.** This form is for use when filing a financing statement pursuant to Minnesota Statutes, section 336.9-401, subsection (1), paragraph (c). The use of any other form will result in a nonstandard fee.

Subp. 2. to 5. [Unchanged.]

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUN 1 1 1985
Joan Anderson Growe
Secretary of State

2:45PM

APPROVED AS TO LEGALITY

June 10, 1985

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY
SPECIAL ASSISTANT ATTORNEY GENERAL

Rules as Proposed

8260.0100 FINANCING STATEMENT: FORM UCC-1.

Subpart 1. **Permitted use.** This form is for use when filing a financing statement pursuant to Minnesota Statutes, section ~~336.9-402~~ 336.9-401, subsection (1), paragraphs (a) and ~~(c)~~ (b). The use of any other form will result in a nonstandard fee charge.

Subp. 2. to 5. [Unchanged.]

8260.0200 FIXTURE/REAL ESTATE: FORM UCC-2.

Subpart 1. **Transactions covered.** This form is for use when filing a financing statement pursuant to Minnesota Statutes, section ~~336.9-402~~ 336.9-401, subsection (1), paragraph ~~(b)~~ (c). The use of any other form will result in a nonstandard fee.

Subp. 2. to 5. [Unchanged.]

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

State of Minnesota

OFFICE OF THE SECRETARY OF STATE

St. Paul 55155

JOAN ANDERSON GROWE
Secretary of State

ELAINE V. VOSS
Deputy Secretary of State

180 STATE OFFICE BUILDING
Corporation Division: 612/296-2803
UCC Division: 612/296-2434
Election Division: 612/296-2805
Office of the Secretary: 612/296-3266
Office of Deputy Secy.: 612/296-2309

In the Matter of the Proposed Adoption of Rules of the Office of the Secretary of State Governing Uniform Commercial Code Forms

ORDER ADOPTING RULES

Notice of the Secretary's intent to adopt the above-entitled rules without a public hearing was published in the State Register on April 1, 1985, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 14.14, subdivision 1 on March 29, 1985. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than 25 written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Relating to Uniform Commercial Code Standard Forms are adopted this twenty-second day of May, 1985, pursuant to authority vested in me by Minnesota Statutes sections 336.9-403 Subd. 5.

STATE OF MINNESOTA

Joan Anderson Growe

Joan Anderson Growe
Secretary of State

State of Minnesota

OFFICE OF THE SECRETARY OF STATE

St. Paul 55155

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Secretary of State

ELAINE VOSS
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In the Matter of the Proposed Adoption
of the Rules of the Office of the Secretary
of State Governing Uniform Commercial Code Forms

ORDER FOR NOTICE
OF INTENT TO ADOPT
RULES WITHOUT
PUBLIC HEARING

IT IS ORDERED this 29th day of March, 1985 that a Notice of Intent to Adopt Rules without Public Hearing in the above-entitled matter be given to all persons who have that purpose and be published in the State Register.

STATE OF MINNESOTA

Joan Anderson Growe

Joan Anderson Growe
Secretary of State

State of Minnesota

OFFICE OF THE SECRETARY OF STATE

St. Paul 55155

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PROPOSED RULES RELATING TO UNIFORM COMMERCIAL CODE STANDARD FORMS

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Secretary of State proposes to modify the above-captioned rules without a public hearing. The modification corrects two referenced citations in the above-captioned rules. The Secretary of State has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in M.S. 14.21 - 14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules and comment is encouraged. Each comment should identify the portion of the rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the rule addressed, the reason for the request, and any change proposed. In the event a public hearing is required, the agency will proceed according to the provisions of M.S. 14.131 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

Cheri Mattson
Office of the Secretary of State
180 State Office Building
St. Paul, MN 55155
(612) 296-2434

Authority for the adoption of these rules is contained in M.S. 336.9-403 Subd. 5 and 14.06. A copy of the proposed rule is attached to this notice. A statement of need and reasonableness that describes the need and reasonableness of the amendments has been prepared and is available from Cheri Mattson at the above address upon request.

If no hearing is required, upon adoption of the rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of request to Cheri Mattson.

Pursuant to M.S. 14.115, the proposed rule will have an impact on small businesses as defined in M.S. 14.115. Subd 1. When any small business files financing statements pursuant to M.S. 336.9-401 subsection 1, paragraphs (a), (b) or (c) or seeks to obtain information pursuant to M.S. 336.9-407 from the Secretary of State or the County Recorder, the small business, as with any other filer must submit the information on forms substantially in the form set out in the rules or it will have to pay a nonstandard filing charge.

Joan Anderson Growe
Secretary of State

State of Minnesota

OFFICE OF THE SECRETARY OF STATE

St. Paul 55155

JOAN ANDERSON GROWE
Secretary of State

ELAINE VOSS
Deputy Secretary of State

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In the Matter of the Proposed Adoption of Rules of the Office of the Secretary Of State Governing Uniform Commercial

AFFIDAVIT OF MAILING NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Tom Durand, being first duly sworn, deposes and says:

That on the 29th day of March, 1985, in the City of St. Paul, County of Ramsey, State of Minnesota, the notice of the Secretary's intent to adopt the above-entitled rules without a public hearing was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 14.14, subdivision 1.

Tom Durand
Office Director

Subscribed and sworn to before me
this 23 day of May, 1985.

Michael S. Nelson

MICHAEL S. NELSON
NOTARY PUBLIC-MINNESOTA
ANOKA COUNTY
MY COMMISSION EXPIRES MAY 15, 1991

JOAN ANDERSON GROWE
Secretary of State
ELAINE VOSS
Deputy Secretary of State

State of Minnesota

OFFICE OF THE SECRETARY OF STATE

St. Paul 55155

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STATE OF MINNESOTA
COUNTY OF RAMSEY

MAILING LIST CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the Office of the Secretary of State Governing Uniform Commercial Code Forms

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14 subdivision 1, that their names be placed on file with and maintained by the Office of the Secretary of State for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 8:00 a.m. March 29, 1985.

Tom Durand
Office Director

Rule as Proposed

5220.1400 QUALIFYING ELIGIBILITY CRITERIA FOR REHABILITATION CONSULTANT.

Subpart 1. to 4. [Unchanged.]

Subp. 5. General criteria. All persons who are qualified rehabilitation consultants shall be exclusively self-employed or exclusively employed by a single organization that is approved for the employment of qualified rehabilitation consultants or an employer/insurer.

All persons who are qualified rehabilitation consultants shall be residents of Minnesota. An organization authorized for the employment of qualified rehabilitation consultants may request an exception for a consultant who lives contiguous to a Minnesota catchment area if the organization and any such consultant agrees, as a condition to approval, to appear at any hearing when requested, in the same manner as if they had been subpoenaed. Failure to do so shall result in automatic revocation of the individual consultant's approval.

A qualified rehabilitation consultant operating on the effective date of this amendment who is registered is deemed to meet the standards of this part. Registered qualified rehabilitation consultant interns operating on ~~the effective date of this amendment who are registered~~ February 7, 1984, must meet the minimum requirements ~~of this rule~~ in effect on February 6, 1984, in order to make application for qualified rehabilitation consultant registration.

Secretary of State

Proposed Rules Relating to Financing Statements

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Secretary of State proposes to modify the above-captioned rules without a public hearing. The modification corrects two referenced citations in the above-captioned rules. The Secretary of State has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in M.S. 14.21-14.28 (1982).

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules and comment is encouraged. Each comment should identify the portion of the rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Any person may make a written request for a public hearing on the rule within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the rule addressed, the reason for the request, and any change proposed. In the event a public hearing is required, the agency will proceed according to the provisions of M.S. 14.131 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or requests to:

Cheri Mattson
Office of the Secretary of State
180 State Office Building
St. Paul, MN 55155
(612) 296-2434

Authority for the adoption of these rules is contained in M.S. 336.9-403 Subd. 5 and 14.06. A copy of the proposed rule is attached to this notice. A statement of need and reasonableness that describes the need and reasonableness of the amendments has been prepared and is available from Cheri Mattson at the above address upon request.

If no hearing is required, upon adoption of the rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of request to Cheri Mattson.

Pursuant to M.S. 14.115, the proposed rule will have an impact on small businesses as defined in M.S. 14.115. Subd. 1. When any small business files financing statements pursuant to M.S. 336.9-401 subsection 1, paragraphs (a), (b) or (c) or seeks to obtain information pursuant to M.S. 336.9-407 from the Secretary of State or the County Recorder, the small business, as with any other filer must submit the information on forms substantially in the form set out in the rules or it will have to pay a nonstandard filing charge.

Joan Anderson Growe
Secretary of State

Rules as Proposed

8260.0100 FINANCING STATEMENT: FORM UCC-1.

Subpart 1. Permitted use. This form is for use when filing a financing statement pursuant to Minnesota Statutes, section ~~336.9-402~~ 336.9-401, subsection (1), paragraphs (a) and ~~(c)~~ (b). The use of any other form will result in a nonstandard fee charge.

Subp. 2. to 5. [Unchanged.]

8260.0200 FIXTURE/REAL ESTATE: FORM UCC-2.

Subpart 1. Transactions covered. This form is for use when filing a financing statement pursuant to Minnesota Statutes, section ~~336.9-402~~ 336.9-401, subsection (1), paragraph ~~(b)~~ (c). The use of any other form will result in a nonstandard fee.

Subp. 2. to 5. [Unchanged.]

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Housing Finance Agency

Adopted Rule Governing the Rental Rehabilitation Program

The rule proposed and published at *State Register*, Volume 9, Number 28, pages 1550-1551, January 7, 1985 (9 S.R. 1550) is adopted as proposed.

Housing Finance Agency

Adopted Rules Governing the Amount and Eligibility for Home Improvement Grants or Rental Rehabilitation Loans

The rule proposed and published at *State Register*, Volume 9, Number 28, pages 1548-1549, January 7, 1985 (9 S.R. 1548) is adopted as proposed.

State of Minnesota

OFFICE OF THE SECRETARY OF STATE

St. Paul 55155

JOAN ANDERSON GROWE
Secretary of State

ELAINE V. VOSS
Deputy Secretary of State

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STATE OF MINNESOTA
COUNTY OF RAMSEY

In the Matter of the Proposed Adoption
of Rules of the Office of the Secretary
of State Governing Uniform Commercial
Code Forms

STATEMENT OF NEED AND REASONABLENESS

Introduction

The Secretary of State is to prescribe uniform forms for all statements dealing with the perfection of security agreements by public filing pursuant to the Unfirom Commercial Code - Secured Transactions, M.S. 336.9-101 et seq. Minn.Stat. 14.06 (1982), requires adoption of rules to the extent that changes in procedures affect the rights of or procedures available to the public.

The Secretary of State rules governing Uniform Commercial Code forms became effective February 25, 1985. These rules are being proposed to be modified to correct two referenced citations.

Statutory Authority

Minn. Stat. 336.9-403 subd 5 (1984).

Futhermore, M.S. 336.9-407, requires that upon request, the filing officer provide certain information and charge a fee based on whether the request is on a standard or non-standard form as prescribed by the Secretary of State.

Taken together, the Secretary of State has the authority to promulgate rules to prescribe the standard forms.

Need and Reasonableness of Modifications

The purpose of the modification is to correct two citation references in the Rules governing Uniform Commercial Code Forsm, Minn Rules 8260.0100 through 8260.0500:

8260.0100 Subpart 1: Subpart 1 contains an incorrect statute citation. Minn. Stat. 336.9-402 subsection (1), paragraph (a) and (c), which is non-existent, is corrected to 336.9-401, subsection (1), paragraphs (a) and (b). The need is to correct the wrong statutory citation and it is reasonable to refer to the correct citation.

8260.0200 Subpart 1: Subpart 1 contains an incorrect statute citation. Minn. Stat. 336.9-402, subsection (1), paragraph (b), which is non-existent, is corrected to 336.9-401, subsection (1), paragraph (c). The need is to correct the wrong statutory citation and it is reasonable to refer to the correct citation.

Consideration of Small Business Needs

The Office of the Secretary of State has considered the requirements of M.S. 14.115 Subd 1 and has determined that no authority has been granted to the Agency to modify the reporting requirements of the Uniform Commercial Code, and that exemption of small businesses from requirements of the rule would be contrary to the statutory objectives that are the basis of the proposed rule-making. In fact, these rules reduce the impact on a small business by providing that if the small business files the information in substantially the form set out in the rule, a lesser fee will be charged.

To comply with M.S. 14.115 Subd 4, the Agency published in the State Register a Notice of Intent To Adopt Rules Without a Pubvlic Hearing, in which the Agency gave notice that the proposed rule will affect small businesses, and discussed the probable quantative and qualitive impact of rule in compliance with M.S. 14.115 Subd 4 (a).

In the Matter of the Proposed Adoption of Rules of the Office of the Secretary of State Governing Uniform Commercial Code Forms

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, MARTHA J. CASSERLY, Special Assistant Attorney General, do hereby declare that I have examined the rules and all related documents and that based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedures Act and the rules of the Attorney General have been followed. Any exceptions are noted below.

Martha J Casserly

MARTHA J. CASSERLY
Special Assistant
Attorney General

Dated: May 29, 1985