Anatomy of the Financing Statement
Article 9, U.C.C.—Secured Transactions

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A fundamental three party concept makes up the machinery by which most modern secured transactions are closed. This basic arrangement finds almost uniform application whether the transaction involves real, mixed or personal property.

The Concept. The first person has financing available and will make advances for business purposes under certain conditions; the second person has goods to sell (or needs financing to produce goods to sell), and the third person needs the goods and does not have the immediate means of purchasing them. If the first person makes an advance either (1) to allow the second person to produce the goods for sale, or (2) to finance the purchase by the third person, or both, the transaction can be closed. The first person obtains his profit through interest when his advance is repaid; the second person makes a profit on the sale and the third person benefits by the possession, or use, of what he has purchased. This basic arrangement is repeated daily in countless transactions in our commercially oriented society.

Variations of this basic concept are found in actual practice. For example, the second person may finance the purchase either (1) out of his own resources, or (2) by the use of the funds of the first person. But regardless of the precise form of the transaction, one overriding question must be answered at the outset: what assurance can the debtor give to the lender that the advance

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will be repaid promptly, with interest—and even if insolvency or bankruptcy of the debtor intervenes? If this assurance cannot be provided, the basic concept will not function and the lender will direct his attention elsewhere. The reputation of the debtor for meeting obligations is generally not enough; and this is true whether the transaction is a routine purchase on credit by a buyer of consumer goods, or the financing of the current production of a major corporation. The uncertainties of business, coupled with the tendency of debtors to appear to be very solvent just prior to filing a petition in bankruptcy, make it apparent that something else is required.

"Some History. In the days of "Victorian vending," the relationship between the lender and the debtor was close, often personal, and geared to a pace set by limited manufacturing, distributing and selling. Products of those days were packed in dovetailed wooden boxes and shipped by rail or water. Popular soft drinks were hand pumped from brass containers at the ice cream parlor and the horse and buggy made local deliveries of ice, bread and other consumer products.

In many instances, the businessman dealt face to face with his buyer and the transaction was often closed by cash payment. The need for advances from the lender for use in day to day business transactions was limited. A "line of credit" did not have to be any longer than the market that the businessman served—and this was often small. When advances became necessary, the security arrangement used was often determined by the nature of the transaction. As a result of this, a variety of security devices developed; each with distinct characteristics and each with sanction of law in some form.

Lenders hesitated when asked for advances—and this was not always due to the risks that they would take. The pace of commerce was simply being reflected in the mirror of lending. This hesitancy is still part of the reputation that modern lenders inherited. It is gradually being overcome by assurance to the debtor that the lender needs his business.

As seen by a modern businessman, merchandising in the days of our grandfathers and great grandfathers was quaint, colorful and even romantic—(witness a drug store Indian or a five cent beer dispenser). But a great change was coming.

"The Thirties. In the decade following the crash of 1929, America was on the threshold of a new commercial era. Mass production of the Twentieth Century, spearheaded by the automobile industry, was preparing to shift into high gear. The "march to Union power" was well underway; another "war to end wars" was on the horizon and the lender was busy making advances for business use at an unprecedented rate. But a day would soon come when the debtor would make demands for financing that were not even thought of at this time in business history—and these demands would not fall on deaf ears. However, the grim memories of the recent depression provided restraint which
in turn directed the attention of the lender—and his lawyer—to toward the security devices provided by law. A demand for more efficient security arrangements was beginning to develop.

The Mid-Century Merchandising Miracle. An age of computerized buying and selling, jet transportation, mass haulage of goods by “truck trains” on an expanding system of interstate highways, electronic money and unbelievable production exploded upon the modern American scene. A new age of business—and lending—was a reality. Notwithstanding social problems of great complexity, and other problems directly related to business, this new age brought with it benefits that overshadow the warnings of impending disaster by those who apparently believe that today and tomorrow died yesterday.

Modern Secured Transactions. The age of “leisurely lending” has been replaced with an age of computerized corporations, conglomerates, and a myriad of other business forms which may have the entire world as their market. To an unprecedented degree, modern business relies upon borrowed capital to keep the goods of our times moving to buyers at the various levels of commerce. This in turn has placed the modern lender in a dilemma: the complexities of business coupled with the constant threat of bankruptcy, spells out the need for caution. But over-caution may result in the loss of sale of the lender’s product-financing. And lenders are concerned with capturing their fair share of the market. As a result, modern lenders are relying more than ever upon security devices provided by law to give them assurance that their advances will be recaptured with reasonable certainty, and with a reasonable profit, in the event of insolvency, bankruptcy or just plain stubbornness of the debtor.

Article 9—U.C.C. Before the development and almost universal adoption of the Uniform Commercial Code by the states a variety of security devices were in use. However, all of these security arrangements had two things in common: a debt obligation upon the one receiving the advance, and security for the person (or firm) who advanced the credit. With certain exceptions the Code has replaced all of these with the “security agreement.” This is the revolution of the Code—a document that is otherwise said to be evolutionary.

The Code has further provided a simple, yet effective “notice concept” in the form of the “financing statement”—the subject of this paper. This document is designed to back up the security agreement and is now in widespread, daily use. Preparing and filing a financing statement to give public notice of the existence of the security agreement (and its underlying security interest)

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1 As of January 1, 1969, all states except Louisiana have adopted the Code. In addition it has been adopted by the District of Columbia and the Virgin Islands.

2 Examples include pledges, factors liens, trust receipts, chattel mortgages and conditional sales contracts.

seems elementary—and it is to a certain extent. However, its use is often accompanied by legal complexities; its mis-use is usually followed by unexpected legal results, and worse, the failure to use it when it should be used is sometimes followed by disaster for the lender. 4

Unlike real estate transactions, Code transactions are often closed by an agent of the lender without the immediate services of a lawyer. 6 This makes it essential that those who carry out the mechanics of closing Code transactions have a solid working knowledge of the financing statement—and the legal effects of its use and mis-use.

The Security Interest. Under Article 9, the security interest of the person or firm advancing the credit must arise first. However, due to one of the Statute of Frauds sections of the Code 6 this interest is virtually worthless if it is not reduced to writing. 7 An exception is recognized if the secured party takes possession of the collateral given as security for the advance in question. 8 A common example is the pledge transaction.

The Security Agreement. The security agreement is the written evidence of the security interest. Although it does not have to be executed at the outset of the transaction, it must nevertheless be executed properly. It must be in writing; signed by the debtor; make reference to the debt secured and contain a brief description of the collateral. "In describing collateral, the word 'proceeds' is sufficient without further description to cover proceeds of any character." 9 Where equipment is involved, a precise description is very desirable unless all of the debtor's equipment is being used as security. This will make it easier for the lender to trace his security in the event of subsequent bankruptcy of the debtor. If the interest covers "... crops of oil, gas or other minerals to be extracted or timber to be cut, a description of the land concerned" is required. 10 A question often arises in reference to the detail of the description of the real estate in such instances.

The Code states: "For the purposes of this Article any description of personal or real estate is sufficient whether or not it is specific if it reasonably

6 Smaller lending institutions usually have counsel approve the forms and then provide some instruction to those who will use the forms.
6 U.C.C. 9–203.
7 Dunsford v. Columbus Auto, supra note 4; McDonald v. Peoples Automobile Loan, 154 S.E.2d 886 (Ct. App. Ga., 1967).
9 U.C.C. 9–203 (1) (b).
10 Ibid.
identifies what is described." However, as one Court stated: "... the Code does not purport to change established property law." Therefore a precise legal description of the real estate involved, properly prepared by an attorney, would be in order to prevent future objection to the description.

Excellent articles and books are available on the subject of the security agreement and it will not be discussed further here, other than as incidental to the financing statement.

Attachment. The security interest, which has now been, or will be, reduced to writing, must "attach." This is a word of "Code Art" and there are three requirements. First, there must be a properly executed security agreement. Second, "value" must be given. Third, the debtor must have "rights" in the collateral. The Code makes it clear that it does not matter in what order these requirements are met. But until all three are fulfilled, the security interest has not attached to the collateral and perfection cannot follow.

Perfection. After the security agreement has "attached" it must be "perfected." This is another word of Code Art. A security interest is perfected when it has attached and all applicable steps for perfection have been taken. If such steps are taken before the security interest attaches, it is perfected at the time when all requirements of attachment are met. This again illustrates that the order in which the secured transaction is completed is not controlling. Flexibility for the lender is thus provided and certain parts of the transaction can be completed ahead of time.

There are three types of perfection: (1) possessory perfection. For example, a debtor delivers a valuable ring to the lender to secure a loan. No written

11 U.C.C. 9-110.
15 This makes it obvious that the filing of a financing statement where the security agreement is never in fact executed is fatal to the lender where an innocent third party makes an advance on the same collateral, or if a trustee in bankruptcy places a claim upon the same collateral attempted to be secured.
17 U.C.C. 9–204 (1).
18 U.C.C. 9–303 (1).
security agreement or financing statement is needed in such a case.\textsuperscript{19} Third parties cannot acquire an interest in the ring since the debtor will not be able to offer it to others as security.\textsuperscript{20} (2) Perfection can arise by the proper preparation, and filing, of a financing statement.\textsuperscript{21} It is this type of perfection that we are concerned with here. (3) Perfection can arise without filing or possession. An example would be a “purchase money security interest” in consumer goods or farm equipment. In these instances attachment is all that is necessary.\textsuperscript{22} However this type of perfection leaves the lender wide open on the question of “priorities.” This will be discussed below. It is usually a mistake to rely upon this section of the Code to get out of filing.

The Document. Most States, with some variations, use the Standard Form UCC-1.\textsuperscript{23} This is a five page, precarboned, snap out form of about 6” x 8” in size. The first page (original) is the copy for the filing officer for use in alphabetical filing. At the top of this page are instructions for the completion of the form. Three spaces are set out across the top of the document: 1. Debtor(s) (Last Name First) and address(es); 2. Secured Party(ies) and address(es) and 3. Maturity date (if any). Under number 3. is found a space for the Filing Officer (Date, time, number, and Filing Office). Space 4. completes the bulk of the document and these words are found there: “This financing statement covers the following types (or items) of property.” A brief description of the property secured is to be inserted here. The completion of this space requires some thought on the part of the person filling in the document. For example, the debtor may object to a general description such as “machinery” where only a part of his machinery is being pledged for security. This could cause problems for the debtor if later he wanted to use the balance of his machinery as collateral for another advance from a different lender. Further, it could cause problems for the lender if later it became necessary to trace the precise machinery after bankruptcy of the debtor as mentioned above. (A precise description in the security agreement might be enough, but this gives the trustee in bankruptcy something to complain about). Where serial numbers are involved, care should be exercised to assure that the numbers are accurately set out. If the collateral is affixed to real estate (or will be affixed to real estate) a description of the land should be included as discussed and reference should be made in this description to the record owner of the land and his source of title. While the Standard Form

\textsuperscript{19} U.C.C. 9-203 (1) (a), 9-302 (1) (a), 9-304 (1) and 9-305.

\textsuperscript{20} Field warehousing, while similar to this illustration is covered by another provision of the Code. See U.C.C. 9-304 (2) and (3).

\textsuperscript{21} U.C.C. 9-203 (1) (b), 9-304 and 9-304 (1).

\textsuperscript{22} U.C.C. 9-302 (1) (c) and (d), 9-304 (4) and (5) and 9-307 (2).

does not provide a space for the description of real estate, Code Article 9, section 402(3) makes it apparent that the drafters intended the form to contain such a space. The failure to provide the separate space makes it dangerous for those who screen the records in search of existing security interests. It is also hazardous for the secured party because the description may later be held to be insufficient in a contest concerning priorities.

South Dakota\textsuperscript{24} and other states have altered the Standard Form to include a space for the description of real estate. This change would be in order in other states where the Standard Form is used.

A small space is provided within space 4. for the assignee of the secured party where this is applicable. Near the bottom of the document are found two small squares with the notation “check if covered.” The first square covers “Proceeds of Collateral” and the second “Products of Collateral.” If neither square is checked, the privilege of claiming these benefits is lost for all practical purposes. The person completing the document must be aware of this and check the squares where applicable. At the bottom of the first page are found two signature lines, one for the debtor (or debtors) and the other for the secured party (or parties).

Page 2 is a true carbon of page 1 and is for the use of the filing officer in numerical filing. Page 3 is a carbon of pages 1 and 2 but omits the signature lines by use of a short carbon. In their place is found the “termination statement.” When signed by the secured party and delivered to the filing officer this operates as a release of the security interest in the collateral. The debtor has a right to have this “release” executed upon termination of his obligation and the Code provides penalties for the secured party if he fails to comply with the written request from the debtor.\textsuperscript{25} Page 4 is the copy for the secured party and page 5 is the copy for the debtor.

\textbf{Functions of the Financing Statement.} The act of filing the Financing Statement is a notice concept and places others on notice of the security interest of the secured party.\textsuperscript{26} This notice remains in effect for five years if a time period is not stated on the financing statement. If a time period is stated the length of coverage is enlarged by sixty days.\textsuperscript{27}

The act of filing the financing statement does not create a security interest and only gives notice that there is one. The warning signal has simply been sounded for the applicable time period. This notice is comparable to that resulting from recordation of deeds, deeds of trust, judgments and the like. The careless lender in a secured transaction who files the financing statement but neglects to create the security agreement, has complied with one section

\textsuperscript{24} Ibid, \textit{Financing Statement for Filing Fixtures}, Robert Kratovil, at page 1210.

\textsuperscript{25} U.C.C. 9–404 (1).

\textsuperscript{26} U.C.C. 9–403.

\textsuperscript{27} Ibid.
of the Code but has failed to comply with another, equally as important. This can be an expensive lesson to learn where the rights of others intervene.

Filing. The basic filing rules are covered by Article 9, section 312. The security agreement may be filed in place of the financing statement if both parties have signed it, and have added their addresses. Otherwise the financing statement should be filed. Filing means what it says since the filing points retain the copies and do not reproduce them as is done with deeds and the like. The name and address of the secured party is required to give third parties who may later engage in secured transactions with the debtor a ready means of contact with those who have existing security interests or security interests that should have been terminated but have not been. The Code makes it clear, however, that only the debtor has the right to demand information from the secured party.

The advantages of filing the financing statement outweigh any benefits that may be gained by filing the modified security agreement. A minimum of information is placed on record; the filing fee is less; it can cover a series of transactions and can be placed on file ahead of time. It can be filed even before the security agreement is executed as discussed above.

The location of the filing depends first upon the option adopted by each state. Some states have local filing, some have central filing and some have both. Where accounts of the debtor are used as collateral for security, the Code provides that the filing should also be made where the “records of the debtor are kept.” This provision is causing problems, especially where a debtor has his records stored in computers in various locations around the nation. Where goods that will become fixtures are involved, filing is usually required not only in the normal location but also with the records that contain the chain of title of the real estate involved. This is the second factor that determines the location of filing.

As a rule filing should be completed as quickly as possible, especially in view of the fact that priorities will depend upon the actual filing time. However, in a “purchase money” transaction involving an interest in consumer goods or farm equipment the Code allows a ten day period and the effective date of

29 U.C.C. 9–203 (1) (b).
30 U.C.C. 9–208.
31 U.C.C. 9–401.
32 The Permanent Editorial Board for the Code established a Review Committee for Article 9. This was done in the latter part of 1966. The First Report of this Committee was published in the January, 1969, issue of The Business Lawyer, Volume 24, No. 2 at page 341, note 23 supra. The Sections of the Code in which the Committee have proposed changes include the following: U.C.C. 9–105, 9–110, 9–302, 9–313, 9–401, 9–402, 9–403 and 9–405. Notation of the proposed changes will keep the reader informed of changes that may come in the future after action by the respective state legislatures.
the filing relates back to the time of sale. This provision was designed to prevent the hardships that would confront a retail seller if he had to engage in a perpetual footrace to the filing point to prevent others from getting in front of a security interest that he created with his own money.

The rule of filing as quickly as possible would also be modified in three other instances: (1) if a "lien creditor" becomes so before a security interest is perfected and without knowledge of it, he would take priority over the unperfected security interest; (2) where goods are taken from the state where the secured transaction was entered into, the secured party has a four month period in which to file in the new state. If he does file in the new state within the four month period, his perfection continues in the goods and relates back to the time of the original filing. (3) A twenty-one day period for perfection without filing is provided where goods are held for sale. One other exception may be found in the provision that no filing is necessary if the debtor does not obtain lawful possession of the collateral.

Where fixtures are involved filing is carried out under the provisions of Section 9-313. If the secured party is in doubt of the nature of any particular transaction he should resolve this doubt in his own favor and file in the regular manner and also in the manner prescribed for fixture filing. The filing fee is cheaper than litigation.

Priorities. Perfection does not assure priority and some lenders are learning this the hard way. It is possible to "perfect" by "attachment" of the "security interest" and still lose out to third parties, such as the trustee in bankruptcy, on the question of priorities.

As explained, the Code makes it clear that priority depends upon the time of filing of the Financing Statement. As a result of this, lenders are preparing a financing statement at the time of the initial inquiry by the future debtor. The proposed collateral is described briefly (but adequately) and the financing statement is filed. If the loan is made later (and the security agreement

38 U.C.C. 9–312 (4).
39 U.C.C. 9–301 (1) (b).
40 U.C.C. 9–401 (3).
41 U.C.C. 9–304 (5).
42 U.C.C. 9–113.
43 The law of each state must be looked to for a definition of "fixtures." The Code does not define the term.
44 This subject is extensive and beyond the scope of this article. For this reason it will not be discussed here in depth. However, for a basic orientation see the following provisions of the Code: after acquired property, 9–204 (3); future advances, 9–204 (5); processing of collateral, 9–315; (the security interest continues in spite of the processing if this right is reserved on the face of the financing statement) and the security interest may continue into the proceeds of the collateral (such as when sold) if this was reserved on the face of the financing statement. See 9–306.
45 Note 4, supra.
properly executed), the lender has priority from the time of filing. This also protects the lender when asking for a search as explained previously. If the lender does not make the loan he will simply release the financing statement on file by filing a termination statement. Assume that the first lender refuses the loan after the filing mentioned and a second lender makes a loan taking the described collateral as security. If the first lender then makes the loan using the same collateral, his priority dates from the original time of filing and he has a superior interest over the second lender. This situation is not likely to happen in practice since the second lender would normally search the filing index for existing security interests in the same collateral. But what would happen if the second lender made a quick search at a time when the first financing statement, which has been filed with the filing officer, has not yet been indexed?

In the “purchase money” situation the Code states that where security interests in consumer goods and farm products are involved, the financing statement does not have to be filed. But this is a trap for the careless. What happens if the buyer of such goods in a purchase money situation sells to another for use in his home and this third party in fact has no actual notice of the existing security interest? The security interest of the seller would be cut off by the innocent buyer. It is true that the secured party would be protected against general creditors in the event of insolvency or bankruptcy of the buyer (debtor). But the seller must always be concerned with intervening rights of third parties. As a rule of thumb, if the seller cannot afford to lose the sum involved in any consumer transaction, he should always file.

When is the Financing Statement Filed in Fact? The exact moment of filing can be of key importance where there are conflicting and competing security interests and especially on every question of priorities. Presentation of the financing statement for filing and tender of the filing fee or acceptance of the financing statement by the filing officer constitutes filing under the Code. This means that a financing statement can be legally filed before it is placed into the index. The searcher must examine not only the index but also the filed statements that have not yet been indexed. In West Virginia and probably in most states, the financing statements is clocked in by a time instrument which records the exact time and date of the filing upon the document itself. Problems of delay could arise where filing is done by mail and special precautions should be taken in such cases. For example, pre-filing may be necessary.

41 U.C.C. 9-302 (1) (d).
42 U.C.C. 9-307 (2).
43 U.C.C. 9-403 (1).
Searching the Records. Depending upon the state, there may be a variety of filing combinations such as local filing, central filing, or central plus local filing. Where fixtures and accounts are involved dual filing may be required. Add to this the normal delay that results from the time of filing and the time the filing is properly indexed (from one to three days in some cases) and a dangerous situation is created for the lender. A person or firm who asks for a search must ask for it in all conceivable locations and careful attention must be given to any filed statements that contain a description of real estate.

Lenders can do two things to add safety to a pending transaction: (1) instruct the searcher to be careful of those items mentioned, and (2) create a proper financing statement at loan application time and prefile before the search is requested. This will protect against filed but not indexed statements and the perfection will relate to filing time as explained.

Amendments of the Financing Statement. The Code makes provisions for amendments to be made to a statement that is already on file. But it is clear that if the amendment adds collateral, perfection as to the added collateral would be effective only from the time of filing the amendment. For example, a concern files as to "inventory and fixtures" but fails to include a description of the real estate. The field statement can be amended to add the description. If this is done, the security interest in the fixtures will be perfected from the date of the second filing. Perfection as to "inventory" will be undisturbed.

Termination. When the obligation secured by the Security Agreement, and its back up Financing Statement, is paid or otherwise ended, the debtor has the right, upon written demand, to have a termination statement properly executed by the secured party and forwarded to the filing point. If the secured party has assigned his interest in the security at hand, the debtor would also be entitled to proper legal proof of the assignment.

Upon receipt of the termination statement from the lender, or his assignee, the Filing Officer will note it in the index; remove the Financing Statement from the files; mark it "terminated" and return it (and any related documents on file) to the secured party.

Failure of the secured party to execute and send in the termination statement within ten days after proper demand by the debtor, will render his "... liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure." In a recent case, this loss added up to the sum of $1,200.

45 This should be done whether a local attorney is used or whether the leader must rely upon an official at the filing point or points.
46 U.C.C. 9-402 (4).
47 U.C.C. 9-402 (1).
48 U.C.C. 9-402 (2).
49 U.C.C. 9-404 (1), emphasis added.
Check List of Financing Statement Errors. Trustees in bankruptcy are finding that the “basics” are not being complied with in the completion of the financing statement. As a result, they are able to upset many secured transactions to their benefit and to the loss of the secured party, forcing him to file a claim as a general creditor. Apparently almost any error is fatal in the bankruptcy courts. This makes it mandatory that lenders develop “The Financing Statement Attitude.” This requires that they recognize its importance and treat it accordingly. The following suggests some common bases for errors that have resulted in loss to the lender: (1) leaving off one of the required signatures; (2) when signing in a representative capacity failing to do so properly; (3) omitting one or more addresses of the parties; (4) failing to execute the security agreement; (5) using an inadequate legal description of real estate where required; (6) asking the debtor to sign a financing statement in blank; (7) changing the name of a business—or when merging or consolidating with another business; (8) failing to check the block on the face of the financing statement when proceeds, or products of collateral, or both are to be covered; (9) indiscriminately relying upon Section 9-302 to get out of filing and (10) where fixtures are involved (or where collateral is taken as security that could become fixtures) failing to file properly.

Consignments. In the typical consignment situation the liability of the consignee to pay for the goods consigned to him is contingent upon his sale of the goods to third parties. Title is normally reserved in the consignor until the sale. Since consignments are specifically covered by Cole Article 2, Sales, why should we be concerned with them here? The answer is: while the Drafters should have treated consignments under Article 9, they did not (for whatever reasons) choose to do so. The cases are making it apparent that it should have been so treated.

However, the Code does state that if a consignment is intended to be a secured transaction than Article 9 applies. But regardless of “intention” or “what should or should not have been done,” the problem is one of protecting the consignor from third parties.

The Code treats a sale on consignment (where title is retained in the consignor) as a “sale or return.” This gives rise to the bankruptcy problem and the third party problem, since this section makes it clear that if the

51 U.C.C. 3-403, “The Hidden Trap of Article 3”.
52 This may require adjustment or amendment of existing security interests by new filing with the accompanying problem of potential loss of priority.
53 U.C.C. 2-326.
55 U.C.C. 2–326 (3).
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consignee deals in the goods involved using a name other than that of the consignor then with respect to creditors dealing with him, these goods are subject to the claims of his creditors.

The Code then apparently comes to the aid of the consignor and gives him three ways in which to protect his interest in the consigned goods. First, the consignor can comply with an "applicable sign law" and place a sign with the consigned goods stating that he owns them. This has been criticized because many states do not have a sign law and because it is unsound to rely upon the debtor to maintain a sign for the benefit of the lender. Second, the consignor can protect himself if he can establish that the consignee "... is generally known by his creditors to be substantially engaged in selling the goods of others..." The problem here is also apparent: this is a matter for determination by a jury—and in the cases decided to date, the consignor has failed to sustain the burden of proof. Third, the Code states: "... This subsection is not applicable if the person making delivery (c) complies with the filing provisions of the Article on Secured Transactions (Article 9)...." It seems to be a reasonable conclusion that the Code has thus effectively placed consignments under Article 9 for all practical purposes.

Now What? It is clear that the filing provisions of Article 9 should be complied with in consignment situations and that the creditor should file to perfect the Security Interest; file in the proper place; and file the proper document. But the question immediately arises: do all of the provisions of Article 9 have to be complied with or just the filing provisions? The Code does not give the answer but apparently only the filing provisions must be complied with.

The consignor, faced with the problems discussed here—and others not mentioned—should proceed as follows in making a delivery under a consignment arrangement: first, he should search the records to see if there are any perfected security interests in the consignee's present inventory. If any are found, he should assume that they cover "after acquired property," even if they do not. Second, he should then properly prepare a financing statement and file it according to law. Third, he should then give notice in writing to the holders of security interests—if any are found—keeping carbons of the letters for his own records. Fourth, he can then ship the goods to the consignee.

66 U.C.C. 2–326 (3) (a).
67 U.C.C. 2–326 (3) (b).
68 U.C.C. 2–326 (3) (c).
70 U.C.C. 9–401.
71 U.C.C. 9–402.
consignor complies with the provisions of both Article 2 and Article 9—and a court may favor him in some future contest over "who gets the goods."

Conclusion. The subject of the financing statement is extensive and complex and it has been necessary to leave many things unsaid. But it is hoped that the effort here will aid some lenders in avoiding the losses that have been experienced by others.