

**Statement of the
Permanent Editorial Board for the
Uniform Commercial Code**

December 19, 2005

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**MAINTAINING PERFECTION BEYOND JUNE 30, 2006 OF SECURITY
INTERESTS CREATED AND PERFECTED BY FILING UNDER FORMER
ARTICLE 9**

The attached Report of the Permanent Editorial Board for the Uniform Commercial Code dated December 19, 2005 (the "Report") discusses some interpretive issues concerning UCC Section 9-705 and in particular the further continuation of certain financing statements that were continued during the first half of 2001 that would otherwise have lapsed during the second half of 2001.

Secured parties whose security interests are perfected by financing statements that were filed under former Article 9, and the effectiveness of which has not been continued under revised Article 9, generally need to take action by June 30, 2006, in order to maintain perfection of their security interests. There is, however, one class of cases – financing statements filed under former Article 9 in the same state and office as required by revised Article 9 and whose effectiveness would have lapsed after the effective date of revised Article 9 but which were continued by the filing of a continuation statement before that effective date – as to which Section 9-705 presents some interpretive difficulties.

As the Report indicates, though, under any interpretation of Section 9-705, a secured party wishing to continue the effectiveness of such a financing statement can avoid the risk of an untimely (and, therefore, ineffective) continuation if it files its new continuation statement:

- (i) *no earlier* than six months before the effectiveness of the financing statement would otherwise lapse without regard to the June 30, 2006 cutoff date indicated in UCC Section 9-705(c)(2), and
- (ii) *no later* than June 30, 2006.

The Permanent Editorial Board understands that there is a desire on the part of Uniform Commercial Code filing officers to educate affected secured parties who want to maintain the perfection of their security interests after June 30, 2006. Filing officers may wish to consider making copies of the Report available to interested parties, particularly secured parties who filed continuation statements in the first half of 2001 for financing statements that would otherwise have lapsed in the second half of 2001 (the class of filings as to which 9-705 may present interpretive difficulties).