



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

July 21, 1977

ATTORNEY GENERAL OPINION NO. 77-, 238

Earl J. Irish
Consumer Credit Commissioner
535 Kansas Avenue, Suite 1114
Topeka, Kansas 66603

RE: Uniform Commercial Code - Financing Statements -
Listing Debtor - Filing Fees. K.S.A. 1976 Supp.
84-9-402, 84-9-403 as amended

SYNOPSIS: The Register of Deeds must index the names of the debtor listed on every financing statement. Where the debtor has more than one name, such indexing must be made for each name of the debtor and fees charged as provided by law. The secured party has no right or discretion to list more than one name as debtor, and then ask the Register of Deeds to index only one designated name as debtor, charging only the fee for one name.

* * *

Dear Mr. Irish:

You ask if the secured party, upon filing a financing statement with the register of deeds under Senate Bill 493 passed by the 1977 session and effective July 1, 1977, may list the names of two "debtors", but then ask that indexing be made only on one designated name so that the fee would be \$1.00 instead of \$2.00? You ask if the secured party has the right or discretion to make such a request or the register of deeds the authority to accede to such a request?

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It is our opinion that the register of deeds must file and index a financing statement as to the "debtor" just exactly as the instrument reads. If there is more than one name listed as "debtor", then all names of the "debtor" must be indexed and a fee charged for each such name.

K.S.A. 1976 Supp. 84-9-403 was amended by Senate Bill 493, now Chapter 395 of the Session Laws of 1977, but the language "the fee for each name more than one (1) required to be indexed shall be one dollar (\$1.00)." was retained. Several other fees were raised.

The contents and requisites of a financing statement are set forth in K.S.A. 1976 Supp. 84-9-402(1), which was not amended by Chapter 395 of the 1977 Session Laws: "A financing statement shall be in a form prescribed by the secretary of state and shall give the names of the debtor and the secured party, shall be signed by the debtor, ..." Immediate attention should be called to the statutory use of the word "debtor" as being a "plural" word, because the word "names", a plural word, precedes it. A debtor may be more than one person. The law requires all names of the debtor to be listed. By listing, all names are then indexed, so as to give public notice as to the debtor. There is but one debt, and it is proper to refer to those owing that debt as the "debtor".

There is no right or discretion in either the secured party or the register of deeds to change the statutory requirements as to listing, indexing and charging fees, except that if the secured party wants to list only one name as debtor, that is the way it will be indexed, and the fee for only one name will be charged.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS:CJM:gw