



**Office of the Secretary of State
Report to the Texas Legislature Pursuant to
Texas Business and Commerce Code § 9.527
December 2024**

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Secretary of State**

Background

Section 9.527 of the Texas Business and Commerce Code (Chapter 9, Uniform Commercial Code - Secured Transactions) directs the Secretary of State to submit a report to the Legislature biennially regarding “the operation of the filing office”—*i.e.*, the Secretary of State’s office. Section 9.527 provides that the report “must contain a statement of the extent to which” the Secretary of State’s administrative rules implementing the provisions of Chapter 9 of the Business and Commerce Code (“*SOS Rules*”) are “not in harmony” with similar rules in other jurisdictions and the most recent version of the Model Administrative Rules promulgated by the International Association of Commercial Administrators (“*Model Rules*”), as well as the reasons for any variations.

Summary of UCC Filing Office Operations for Fiscal Year 2024

The number of UCC filing transactions processed by the Secretary of State’s office in FY2024 was approximately 662,323. The number of processed requests for information on UCC records in FY2024 was approximately 583,255. Approximately 91.50% of all UCC filings and 96.20% of all UCC copy and certification requests were filed and processed electronically in FY2024. The Secretary of State’s office completed 98.32% of UCC filing transactions and information request responses within three business days. The total revenue collected by the Secretary of State’s office with respect to UCC filing transactions and UCC information requests was approximately \$9.19 million.

Summary of Rule Variations

As a general matter, the *SOS Rules* address similar issues as the rules adopted by other filing-office jurisdictions and the *Model Rules*. A review of other jurisdictions’ filing-office rules reflects that such rules cover provisions relating to, among other things: the means of delivery of UCC financing statements; acceptable methods of payment, accepted forms, and established fees; the acceptance and refusal of records; the UCC information management system used by a filing office; filing and data entry procedures; search requests and reports; and other notices of liens that may be filed with the filing office.

The attached chart contains a summary of variations between the *SOS Rules* and the *Model Rules*, some of which have been adopted by other filing-office jurisdictions.

As indicated in the chart, the majority of the identified variations are a result of the following:

- 1.) Differences between the technology used by the respective states to manage the filings made pursuant to the Secured Transactions portion of the Uniform Commercial Code;
- 2.) Specific statutory requirements of each state’s legislature;
- 3.) Policy differences between the state agencies that receive and maintain these filings;
- 4.) Organizational differences within the state agencies that receive and maintain these filings;
- 5.) Processing differences within these state agencies; and
- 6.) Programming decisions made by the respective state agencies during the creation of the automated information systems used to record, index, and maintain these filings.

Definitions:

SOS Rules - Texas Administrative Code, Title 1, Part 4, Chapter 95 (Uniform Commercial Code)

Model Rules - International Association of Commercial Administrators, Model Administrative Rules, Uniform Commercial Code, Article 9 (rev. May 23, 2024)

Texas Administrative Code Rule Name	Texas Administrative Code Rule Number	IACA Model Administrative Rule Number	Comparison
Definitions - Secured Party of Record	\$95.100(11)	100.10	The SOS Rules add to the definition of a "secured party of record" as follows: "The term includes the assignor listed on an amendment that purports to be an assignment." The Model Rules include a reference to the exception under which a party purporting to assign their security interest is not considered a secured party of record. See Model Rule 306.1. The SOS Rules do not make reference to those circumstances.
Means to Deliver UCC Records; Time of Filing - Telefacsimile Delivery, to the Filing Office's Fax Filing Telephone Number	\$95.101(4)	100.4	The Model Rules allow fax and email submission, while the SOS Rules do not permit email submission. The SOS Rules also reflect a difference in the possible filing time. The Model Rules allow for a potentially earlier file time than the SOS Rules.
Methods of Payment - Checks	\$95.106(2)	105.2	The SOS Rules require a check be drawn from a U.S. bank, in accordance with Comptroller (Treasury) requirements. The Model Rules do not contain a similar provision.
Methods of Payment - Prepaid Account	\$95.106(4)	105.4	The SOS Rules provide more specific information on opening a prepaid account and do not require a minimum deposit.
Methods of Payment - Credit Cards	\$95.106(5)	105.5	The Model Rules permit "debit and/or credit cards" as a payment method, while the SOS Rules do not allow debit card transactions. The SOS Rules also provide greater specificity regarding the process of accepting payment by credit cards and include a reference to the convenience fee that the SOS is authorized to charge pursuant to Section 405.031(e) of the Government Code.
Overpayment and Underpayment Policies	\$95.107	106	The SOS Rules describe how overpayments are handled and how the return of filings with underpayments are processed by the SOS. The SOS Rules allow smaller overpayments to be credited to the customer's prepaid account without a written request, while the Model Rules do not contain a similar provision.
Procedure Upon Refusal	\$95.203	203	The SOS Rules and the Model Rules are substantially the same. However, there is a variance in the procedure for the receipt of a filing with underpayment of the filing fee. The SOS Rules include the option of returning payment, which reflects the SOS's practice in returning payment to the remitter when grounds exist for the refusal of a document.

Texas Administrative Code Rule Name	Texas Administrative Code Rule Number	IACA Model Administrative Rule Number	Comparison
UCC Information Management System - General	\$95.300	300 and 503.1.2	The SOS Rules and the Model Rules are substantially the same, except that the relevant Model Rules are split into two separate rules.
Primary Data Elements - Lapse Indicator	\$95.301(6)	301.6	The SOS Rules include a reference to §95.307 (Amendments Generally), while the Model Rules do not reference the equivalent rule (Rule 307).
Data Entry	\$95.401	401	Based on system database limitations, the SOS Rules add a subsection relating to acceptable characters in a name.
Judicial Finding of Fact	\$95.406	N/A	The Model Rules do not contain a provision comparable to this SOS Rule, which incorporates the mandate referenced in Section 51.905 of the Government Code and primarily affects UCC filings although it is not a part of the UCC. Thus, the variance between the SOS Rules and the Model Rules is attributable to a specific statutory mandate.
Archives - General	\$95.407	314	The Model Rules contain a general rule for archiving, allowing each state to develop specific rules--as the Secretary of State has done in §95.407.
Lapse Date and Time	\$95.408	306.3 and 308.1	The SOS Rules and the Model Rules are substantively the same regarding lapse date and time, but the Model Rules are split into two separate rules.
Search Requests and Reports - General Requirements	\$95.500	500 and 503.1.2	The SOS Rules and the Model Rules are substantially the same, except that the relevant Model Rules are split into two separate rules.
Search Requests - Required Information	\$95.501(1)	501.1	There is a variance between the SOS Rules and the Model Rules to the extent that the SOS UCC information management system fields are labeled differently, and the structure of the rules is slightly different although the function appears to be the same.

Texas Administrative Code Rule Name	Texas Administrative Code Rule Number	IACA Model Administrative Rule Number	Comparison
Search Requests - Optional Information	§95.502(1)	502.1	The Model Rules allow the search to be limited using any of four different search criteria. The SOS Rules provide for limitation on searches using only one of the four methods listed in the Model Rules (i.e., records that include search of debtor with a particular city in the debtor address field). This variance between the SOS Rules and the Model Rules is due to the automated design of the SOS UCC information management system.
Search Requests - Optional Information	§95.502(2)	502.2	The Model Rules imply that a search can be performed for unlapsed records only. The SOS Rules do not contain this implication, as such searches cannot be performed in the SOS system. This variance between the SOS Rules and the Model Rules is due to SOS's system design. The SOS system searches all active records, defined as a record stored and indexed in the UCC information management system and not yet removed from the searchable indexes.
Search Methodology - Standard Search Logic	§95.503(1)(H)	503.1.4(a)-(c)	The SOS Rules provide a list of names that the search will return as similar to one another. This provision reflects the design of the SOS UCC information management system, which will also return results for similar first names.
Search Responses - Introductory Information	§95.505(2)(C)	505.2.3	The Model Rules require that a UCC search response include the date and time that the search report is generated. The SOS Rules include only the date that a search report is generated. This variance between the SOS Rules and the Model Rules is due to the design of the SOS UCC information management system.
Search Responses - Report	§95.505(3)(C)(xiii)	505.3.3	The Model Rules do not include a provision comparable to this SOS Rule, which references inclusion of any judicial findings of fact indexed in the UCC record retrieved by a search. The SOS Rules include this information because the document is required to be indexed in the UCC record pursuant to Section 51.905 of the Government Code.