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## **Blackfeet Tribal Law and Order Code**

Circa 1999

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### **Title III. BLACKFEET COMMERCIAL CODE - SECURED TRANSACTIONS**

#### **PART 4**

#### **FILING**

##### **Section 9-401. Collateral**

1. The proper place to file in order to perfect a security interest is as follows:
  - a. when the collateral is timber to be cut or is minerals or the like (including oil and gas) or accounts subject to subsection (5) of Section 9-103, or when the financing statement is filed as a fixture filing (Section 9-313) and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate would be filed or recorded; the Court.
  - b. in all other cases; in the office of the Clerk of the Court.
2. A filing which is made in good faith in an improper place or not in the place required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this Title and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financial statement.
3. A filing which is made in the proper place on the reservation continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.
4. The rules stated in Section 9-103 determine whether filing is necessary on the Reservation.
5. Notwithstanding the preceding subsections, and subject to subsection (3) of Section 9-302, the proper place to file in order to perfect a security interest in collateral, including fixtures of a transmitting utility is the office of the Clerk of Court. This filing constitutes a fixture filing (Section 9-313) as to the collateral described therein which is or is to become fixtures.
6. For the purposes of this section, the residence of an organization is its place of business if it has one or its chief executive office if it has more than one place of business.

##### **Comment**

This section designates the place for the filing of financing statements in order to perfect the

security interest, states that an incorrect filing made in good faith is effective, and states that a filing continues to be effective when the debtor or the business changes residence or the location of the collateral changes.

**Section 9-402. Formal Requisites of Financing Statement; Amendments; Mortgage as Financing Statement**

1. A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches when the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financial statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of Section 9-103, or when the financing statement is filed as a fixture filing (Section 9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of the security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed on the reservation.
2. A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in:
  - a. collateral already subject to a security interest in another jurisdiction when it is brought into this jurisdiction, or when the debtor's location is changed to this jurisdiction. Such a financing statement must state that the collateral was brought into this jurisdiction or that the debtor's location was changed to this jurisdiction under such circumstances; or
  - b. proceeds under Section 9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or
  - c. collateral as to which the filing has lapsed; or
  - d. collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)).

3. A form substantially as follows is sufficient to comply with subsection (1):

Name of debtor (or assignor) \_\_\_\_\_  
Address \_\_\_\_\_

Name of secured party (or assignee) \_\_\_\_\_  
Address \_\_\_\_\_

1. This financing statement covers the following types (or items) of property:  
( Describe) \_\_\_\_\_
2. (If the collateral is crops) The above described crops are growing or are to be grown on:

(Describe real estate)\_\_\_\_\_

3. (If applicable) The above goods are to become fixtures on\*1 (Describe real estate) \_\_\_\_\_ and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record)  
The name of a record owner is \_\_\_\_\_
4. (If the products of collateral are claimed) Products of the collateral are also covered.

(use whichever is applicable)

\_\_\_\_\_  
Signature of Debtor or Assignor

\_\_\_\_\_  
Signature of Secured Party or Assignee

4. A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this Title, unless the context otherwise requires , the term " financing statement" means the original financing statement and any amendments.

1\* Where appropriate substitute either "The above timber is standing on ...." or "The above minerals or the like (including oil and gas) or accounts will be financed at the wellhead or minehead of the well or mine located on..."

5. A financing statement covering timber to be cut or covering minerals or the like ( including oil and gas ) or accounts subject to subsection (5) of Section 9-103, or a financing statement filed as a fixture filing (Section 9-313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be filed for record in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the laws of the Blackfeet Tribe. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.
6. A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if:
  - . the goods are described in the mortgage by item or type; and
  - a. the goods are or are to become fixtures related to the real estate described in the mortgage; and
  - b. the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records; and
  - c. the mortgage is duly recorded.

No fee with reference to the financing statement is required other than the

regular recording and satisfaction fees with respect to the mortgage.

7. A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structuring, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.
8. A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

### Comment

This section describes the form of financing statement and fixture filings. The section also provides for the amendment of the statement and the time for filing it.

### **Section 9-403. What Constitutes Filing; Duration of Filing; Effect of Lapsed Filing; Duties of Filing Officer**

1. Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Title.
2. Except as provided in subsection (6) a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.
3. A continuation statement may be filed by the secured party within six months prior to the expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of Section 9- 405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement.
4. Except as provided in subsection (7), a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition, the filing shall index the statement according to the name of the debtor and shall note in the index the file

number and the address of the debtor given in the statement.

5. The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be \$10.00.
6. If the debtor is a transmitting utility (subsection (5) of Section 9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of Section 9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.
7. When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of Section 9-103, or is filed as a fixture filing, the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of the Blackfeet Tribe provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

#### **Comment**

This section describes the mechanics of filing a financing statement and continuation statement and fixes the fee for these filings. The section also specifies the duration of the original filing and of a continuation filing, and describes the duties of the filing officer. Some modifications have been made in connection with the duties of the filing officer.

#### **Section 9-404. Termination Statement**

1. Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by a person other than the secured party of record must be accompanied by separate written statement of assignment signed by the secured party of record complying with subsection (2) of Section 9-405, including payment of the required fee. If the affected secured party fails to file such a termination statement as required by this subsection, or to send such a termination statement within ten days after proper demand therefor, he shall be liable to the debtor for one hundred dollars and in addition for any loss caused to the debtor by such failure.
2. On the presentation to the filing officer of such a termination statement he must note it in the index. If he has received the termination statement in duplicate, he shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof. If the filing officer has a microfilm or other photographic record of the financing statement, and of any related continuation statement, statement of assignment and statement of release, he may remove the originals from the files at any time after receipt of the termination statement, or if he has no such record, he may remove them from the files at any time after one year after receipt of the termination statement.
3. If the termination statement is in the standard form prescribed by the Clerk of Court, the

uniform fee for filing and indexing the termination statement shall be \$10.00.

### **Comment**

This section provides for the filing of a termination statement when the security interest transaction is ended. It specifies the fees to be charged and the duties of the filing officer. The section is modified to reflect that all financing statements are to be treated the same.

### **Section 9-405. Assignment of Security Interest; Duties of Filing Officer; Fees**

1. A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in Section 9-403(4). The uniform fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be \$10.00.
2. A secured party may assign of record all or part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of Section 9-103, he shall index the assignment under the name of the assignor as grantor, and to the extent that Blackfeet law provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be \$10.00. Notwithstanding the provisions of this sub-section, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of Section 9-402) may be made only by an assignment of the mortgage in the manner provided by the law applicable to the recording of such mortgages.
3. After the disclosure or filing of an assignment under this Section, the assignee is the secured party of record.

### **Comments**

This section regulates the procedure when the secured party assigns his interest. The section also prescribes the duties of the filing officer and states the fees to be charged.

### **Section 9-406. Release of Collateral; Duties of Filing Officer; Fees**

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a

separate written statement of assignment signed by the secured party of record and complying with subsection (2) of Section 9-405, including payment of the required fee. Upon presentation of such a statement of re lease to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be \$5.00.

#### **Comment**

This section describes the procedures for releasing some of the collateral without terminating the financing statement. It prescribes the fees and the duties of the filing officer.

#### **Section 9-107. Information From Filing Officer**

1. If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.
2. Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be \$10.00. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of \$.50 per page.

#### **Comment**

This section provides for the supplying of information by the filing officer to the person filing any document to show the disposition made by the officer. It also provides for the furnishing by the filing officer, upon request of any person, of information relating to financing statements and statements of assignment.

#### **Section 9-408. Financing Statements Covering Consigned or Leased Goods**

A consignor or lessor of goods may file a financing statement using the terms "consignor," "consignee," "lessor," "lessee" or the like instead of the terms specified in Section 9-402. The provision of this Part shall apply as appropriate to such a financing statement, but its filing shall not of itself be a factor in determining whether or not the consignment or lease is intended as security (Section 1-201(37)). However, if it is determined for other reasons that the consignment or lease is so intended, a security interest of the consignor or lessor which attaches to the consigned or leased goods is perfected by such filing.

#### **Comment**

This section provides a method of protection for persons where consignments or leases are involved and the consignee or lessee is found to be a secured party.

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