NCS CREDIT

UCC Filing in the Foodservice, Hospitality, & Beverage Industries

For Webinar Technical Assistance,
please call NCS at 800-826-5256
Our presentation will begin shortly

Agenda

- Collateral and credit lines
- Article 9
- Blanket filings
- Purchase Money Security Interest Filings
- Fixture Filings
- Security Agreements
- Financing Statements
- Consignment Sales

Collateral

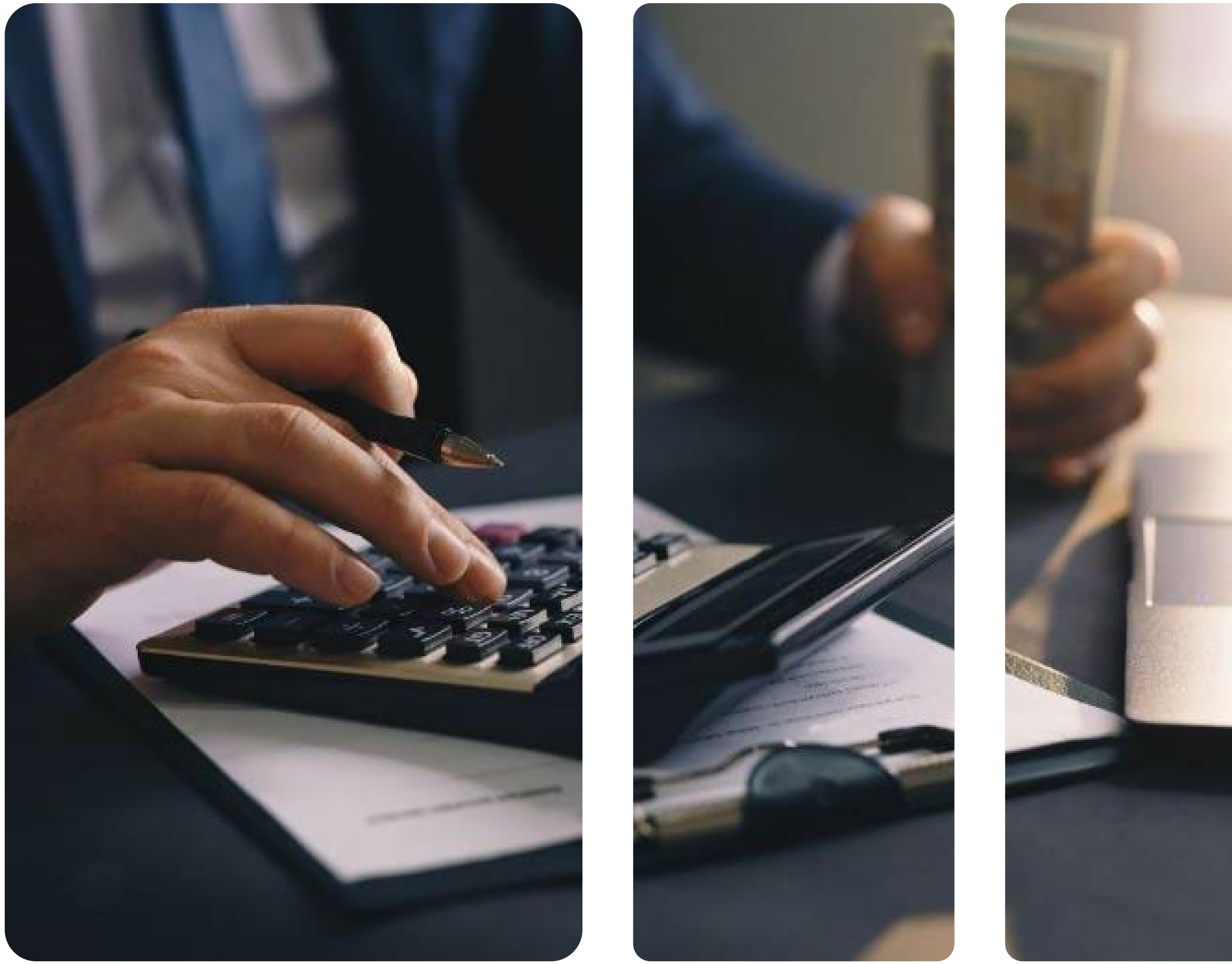
Property pledged as a guarantee of payment for an obligation or loan.

Collateralize Receivables

- Personal Property
- Real Property

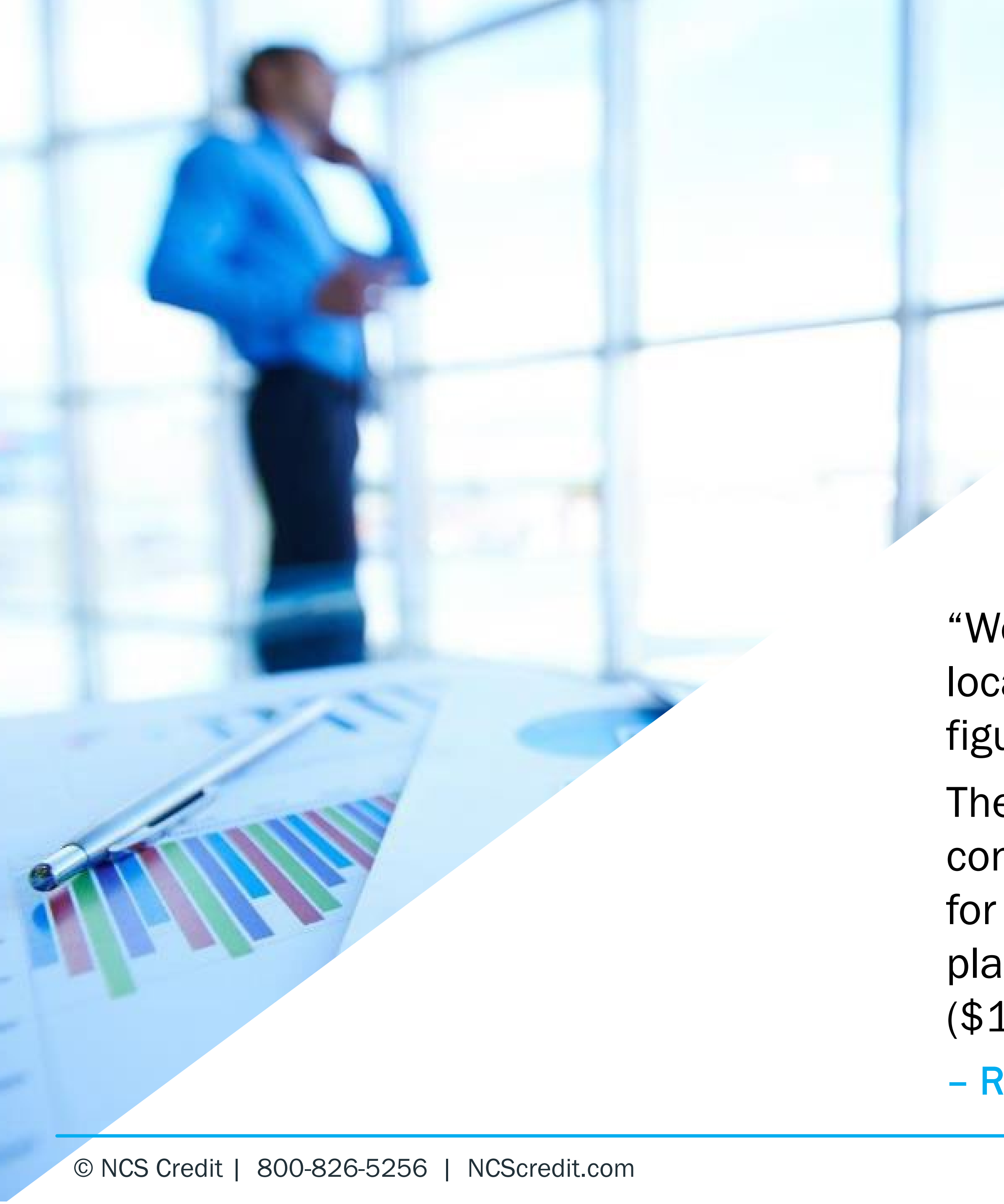
Evolution

1 of the **10** of the **15…**



Benefits of Secured Transactions

- Secured creditor status in a Chapter 7
- Right of Repossession (PMSI)
- Part of the secured creditor team in a Chapter 11
- Generally protected from preferential payment suits
- Public record of debt in case business is sold
- Public record of ownership of assets



UCC Success Story

“We were notified that the customer was selling a location which at the time had an AR in the mid-six figures, all of which was past due…

The sale took place and our Credit Manager was contacted by the attorney who had the check in hand for the full amount. Had we not had the UCC filing in place we would not have received this payment ($154,000) and very likely, only cents on the dollar.”

– Region Credit Manager, Food Service Industry

Two Types of UCC Filings

1. Blanket, or Basic
2. Purchase Money Security Interest

Blanket, or Basic, UCC-1 Filing

Two Characteristics:

01

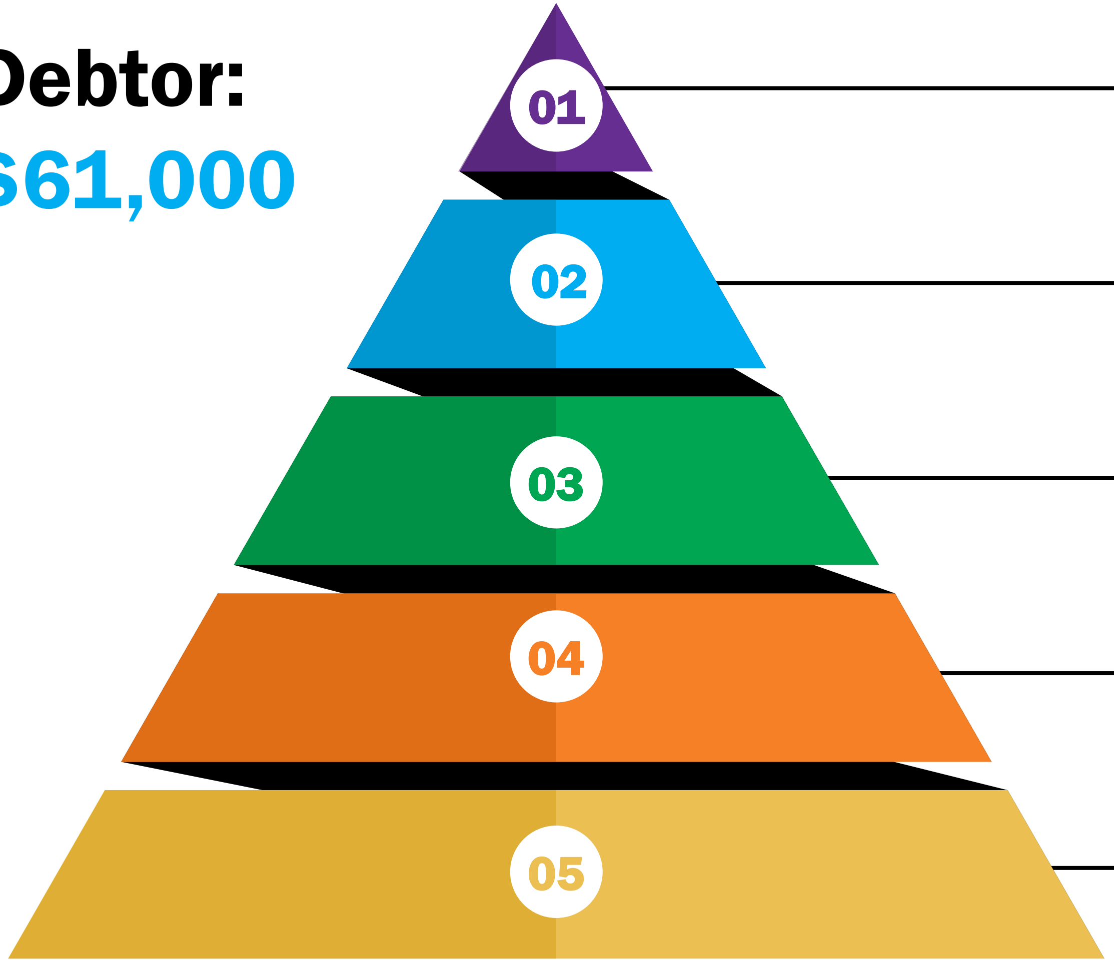
The filing covers all assets

02

The priority stacks

Debtor:

$61,000



Bank
$20,000

2nd Creditor
$10,000

3rd Creditor
$10,000

4th Creditor
$5,000

5th Creditor
$10,000

Secured Creditors

Unsecured Creditors

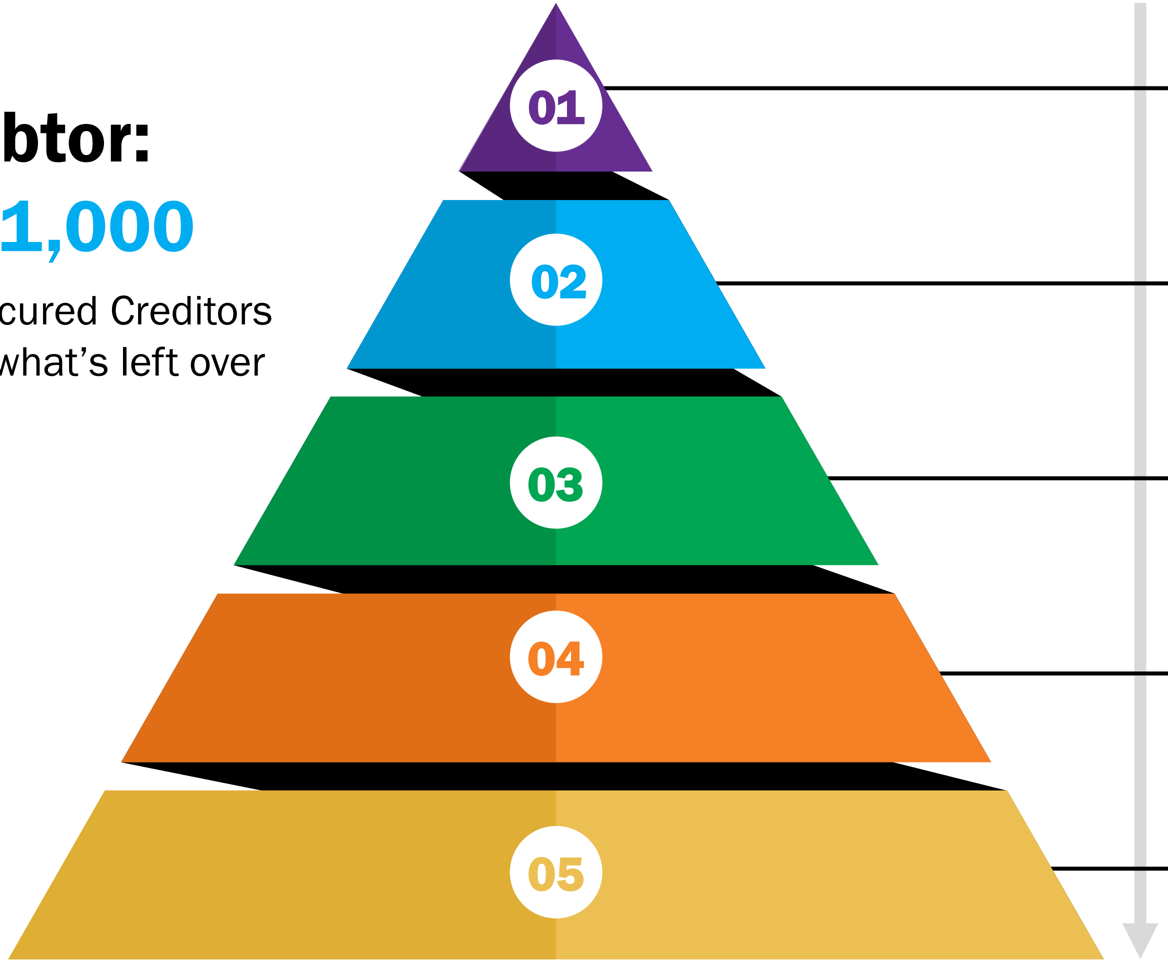
Chapter 7

Bankruptcy

Debtor:

$61,000

Unsecured Creditors split what's left over



Bank
100%, $20,000

2nd Creditor
100%, $10,000

3rd Creditor
100%, $10,000

4th Creditor
100%, $5,000

5th Creditor
100%, $10,000

First in time, first in right

Secured Creditors

$55,000

100 unsecured creditors. Each is owed $1000. $60 each is actually paid. 100 unsecured creditors 6 cents on the dollar

Priority in UCC Filings

Claims are paid based on where they are situated on the claims priority ladder.

01 Secured Creditors

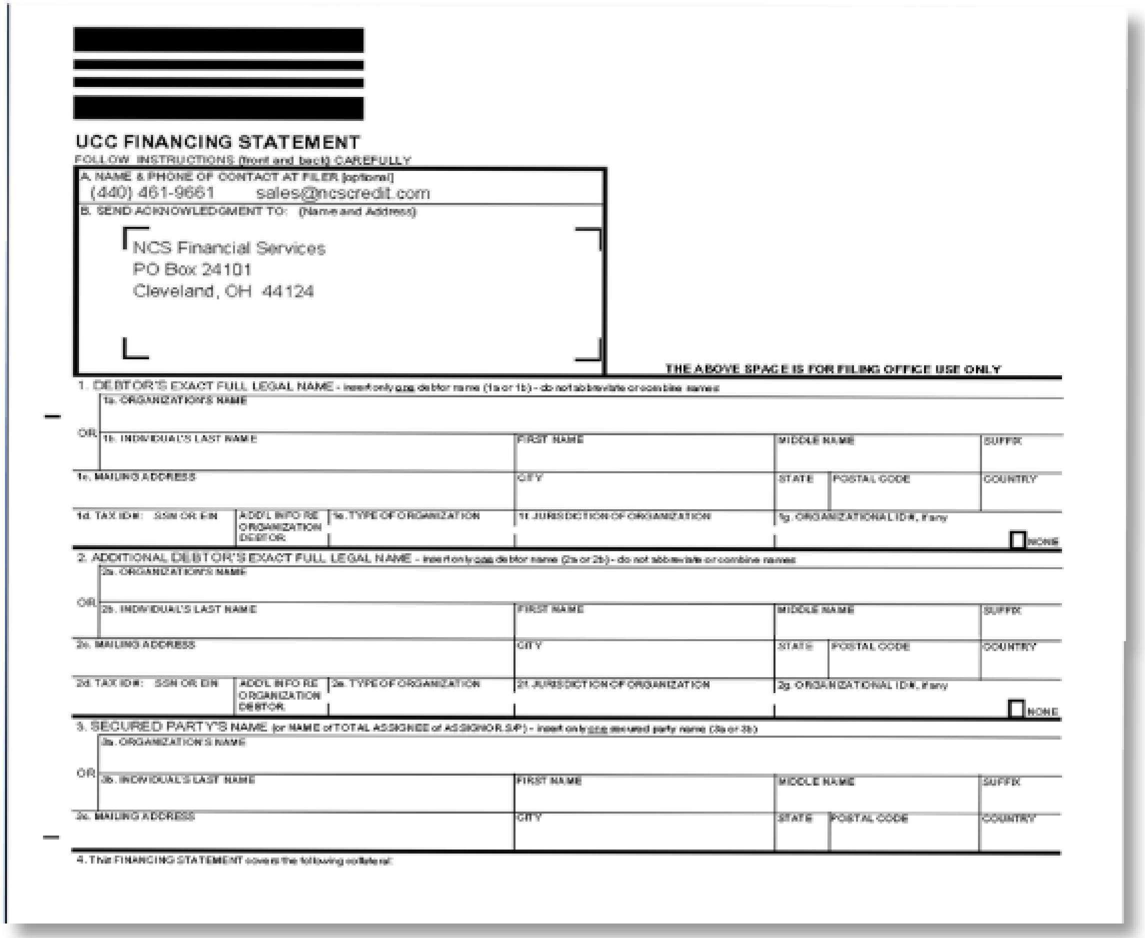
02 Administrative Priority Claims

03 Lower-Level Priority Claims

04 Pre-petition Unsecured Creditors

Purchase Money Security Interest

A priority security interest in specific identifiable goods with a secondary non-priority interest in intangibles.



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UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

(440) 461-9661 sales@ncscredit.com

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

NCS Financial Services
PO Box 24101
Cleveland, OH 44124

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME

OR 1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

1c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

1d. TAX ID#: SSN OR EIN | ADD'L INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION | 1f. JURISDICTION OF ORGANIZATION | 1g. ORGANIZATIONAL ID#, if any | NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR 2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

2d. TAX ID#: SSN OR EIN | ADD'L INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATIONAL ID#, if any | NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME

OR 3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | SUFFIX

3c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

Purchase Money Security Interest

Two Characteristics:

01

Creditor finances goods

02

There is value in repossessing those goods

Inventory vs. Equipment

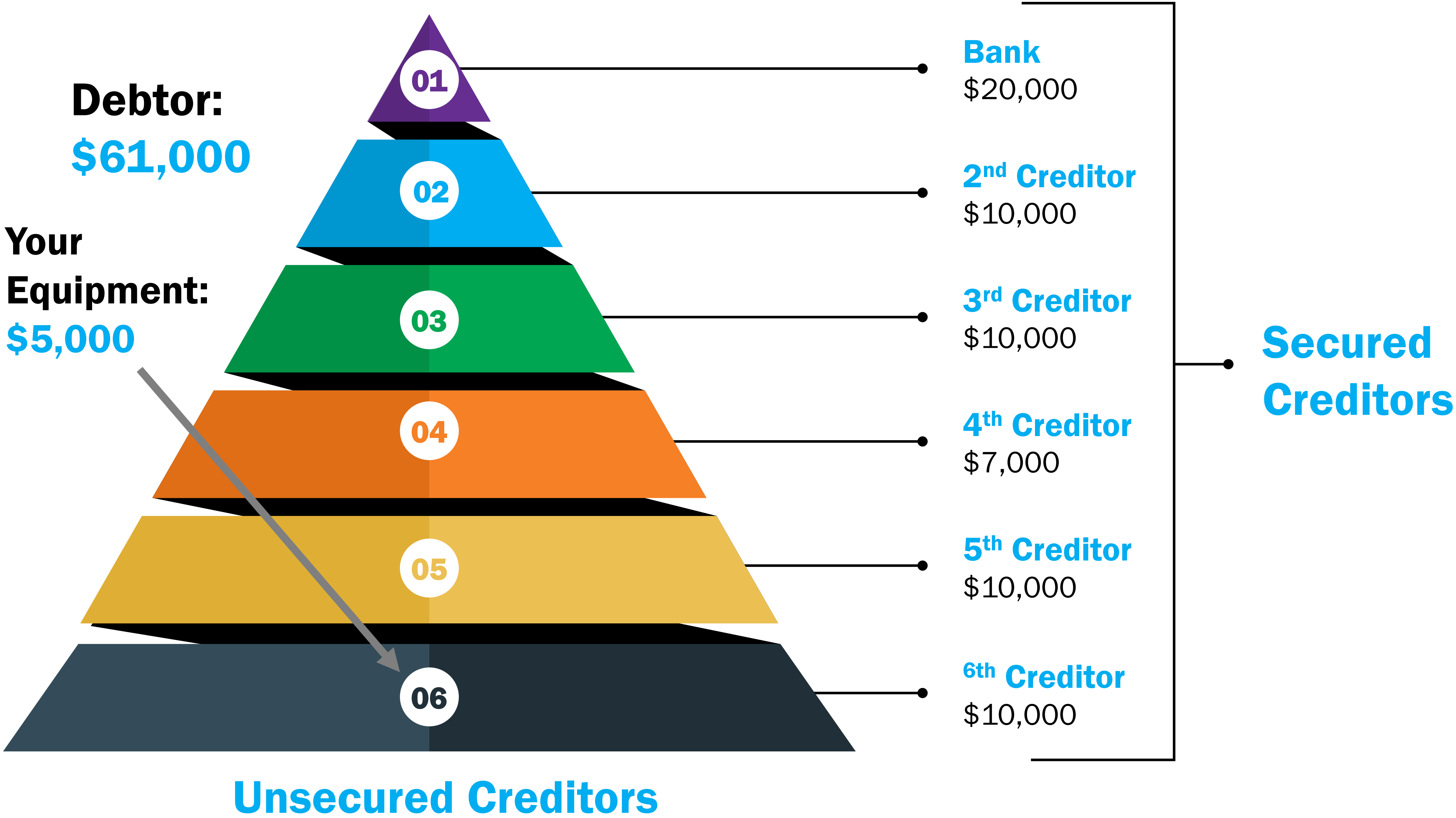
It depends on what your customer does with the goods you sell to them.
Is your customer **reselling** or **using** your products in their business?

INVENTORY (GOODS)

- Search
- Customer resells the goods to another entity
- Notify

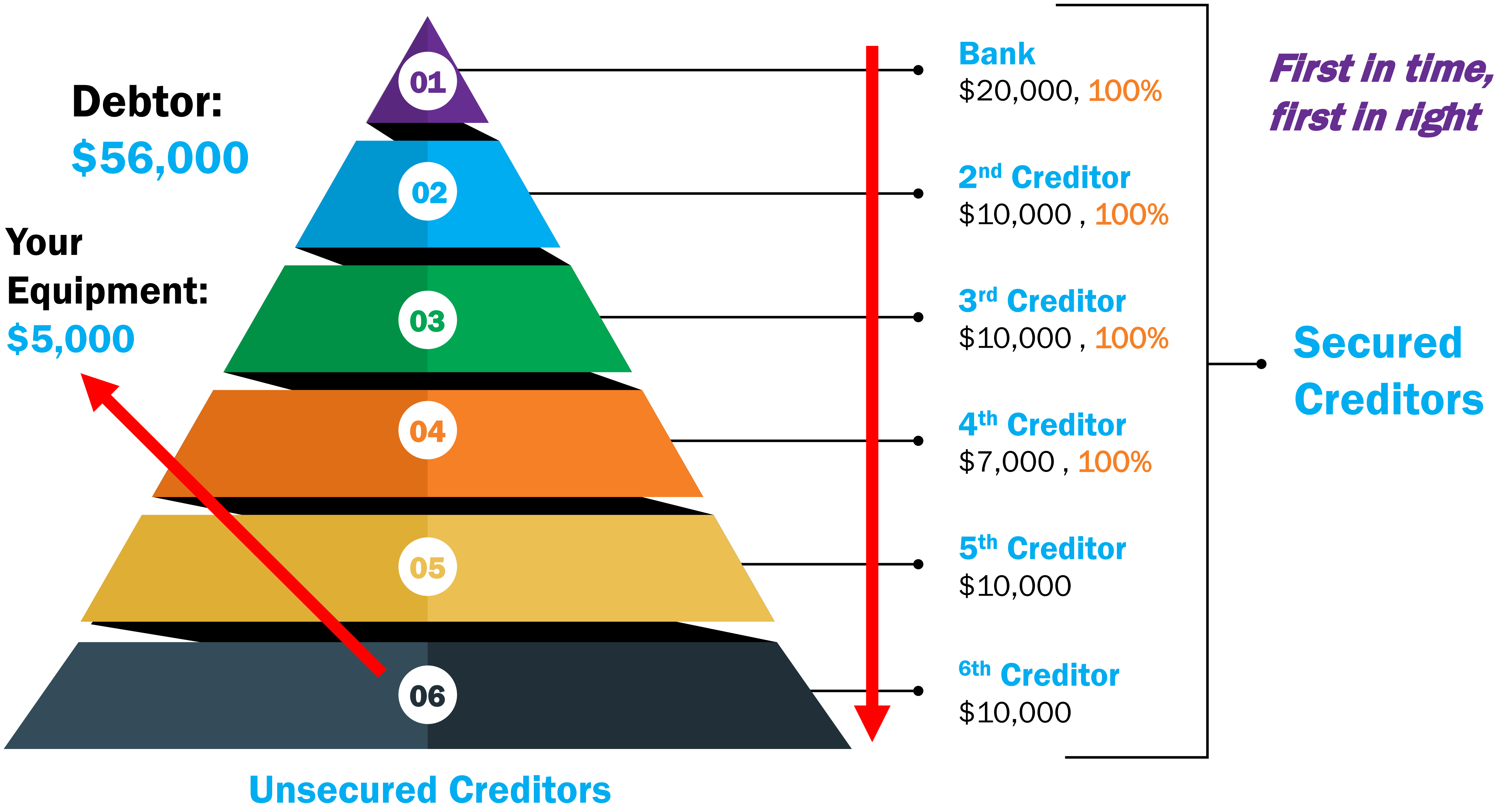
EQUIPMENT

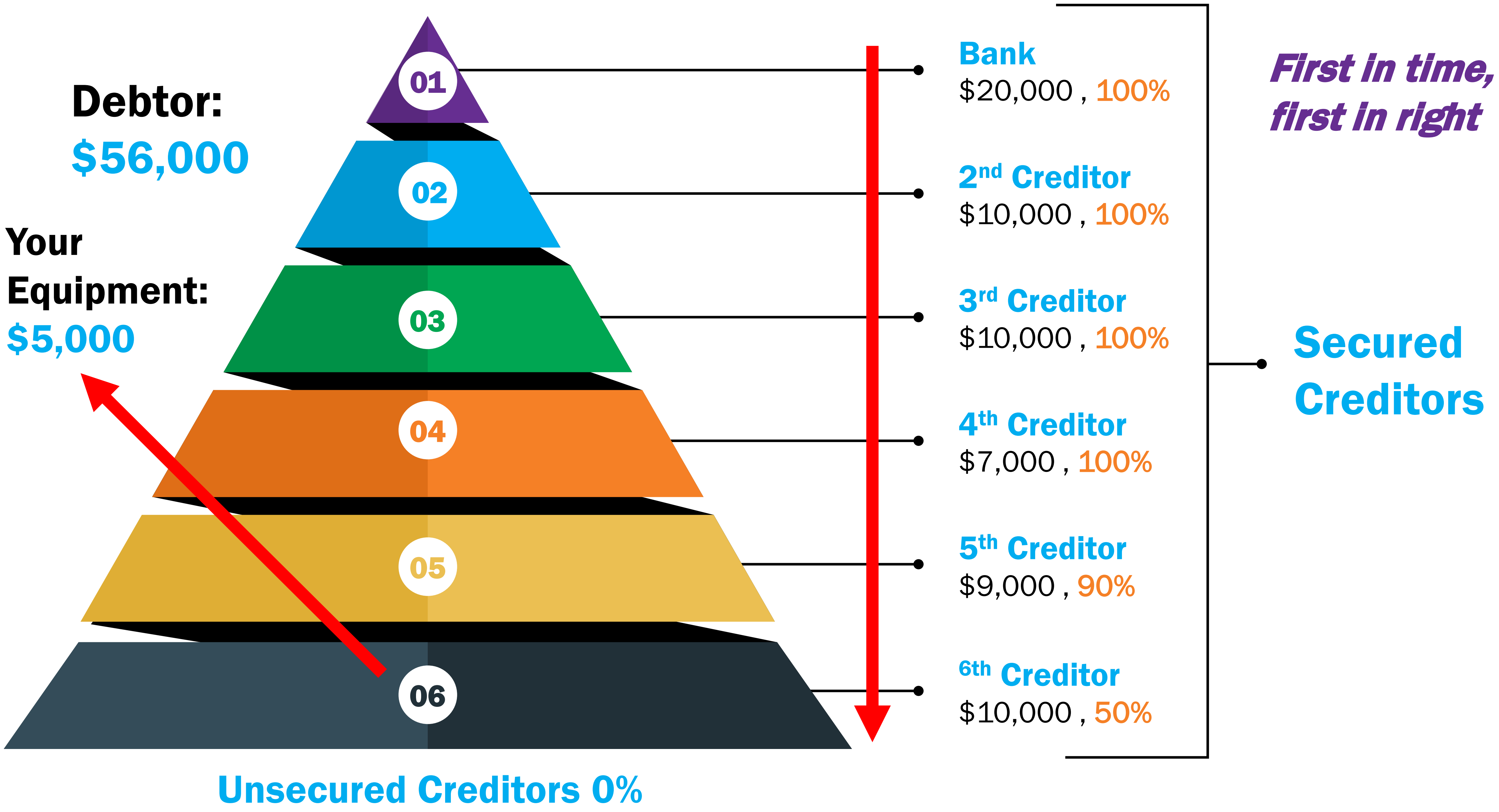
- Contract
- Customer uses the goods in the course of their business
- 20-day Rule


Debtor:
$61,000
Your
Equipment:
$5,000
01
02
03
04
05
06
Bank
$20,000
2nd Creditor
$10,000
3rd Creditor
$10,000
4th Creditor
$7,000
5th Creditor
$10,000
6th Creditor
$10,000
Secured
Creditors
Unsecured Creditors

Chapter 7

Bankruptcy


Debtor:
$56,000
Your Equipment:
$5,000
01
02
03
04
05
06
Bank
$20,000, 100%
2nd Creditor
$10,000 , 100%
3rd Creditor
$10,000 , 100%
4th Creditor
$7,000 , 100%
5th Creditor
$10,000
6th Creditor
$10,000
First in time, first in right
Secured Creditors
Unsecured Creditors


Debtor:
$56,000
Your Equipment:
$5,000
01
02
03
04
05
06
Bank
$20,000 , 100%
2nd Creditor
$10,000 , 100%
3rd Creditor
$10,000 , 100%
4th Creditor
$7,000 , 100%
5th Creditor
$9,000 , 90%
6th Creditor
$10,000 , 50%
First in time, first in right
Secured Creditors
Unsecured Creditors 0%

PMSI: The Value of Repossession

1. Resale
2. Differentiating your receivables

UCC Success Story 2

"A supermarket customer, that had a restaurant area included in the store, closed. A foreclosure action ensued and their bank was looking to auction all fixtures & equipment to satisfy the outstanding payment obligation…

The bank realized we had filed a UCC-1 with a purchase money security agreement. We required the bank to pay us in order to release the lien on the equipment. We received a $15,000 check from the bank which was payment in full." – Director of Credit, Distributer of Food Service Equipment & Supplies.

$ 9-334 Fixtures

"Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

- Ranges
- Ovens
- Coolers
- Sinks
- Dishwashers

$ 9-334 Fixtures

Factors to consider:

01 Is the good attached to real property?

02 Has the good been adapted for use in the real property?

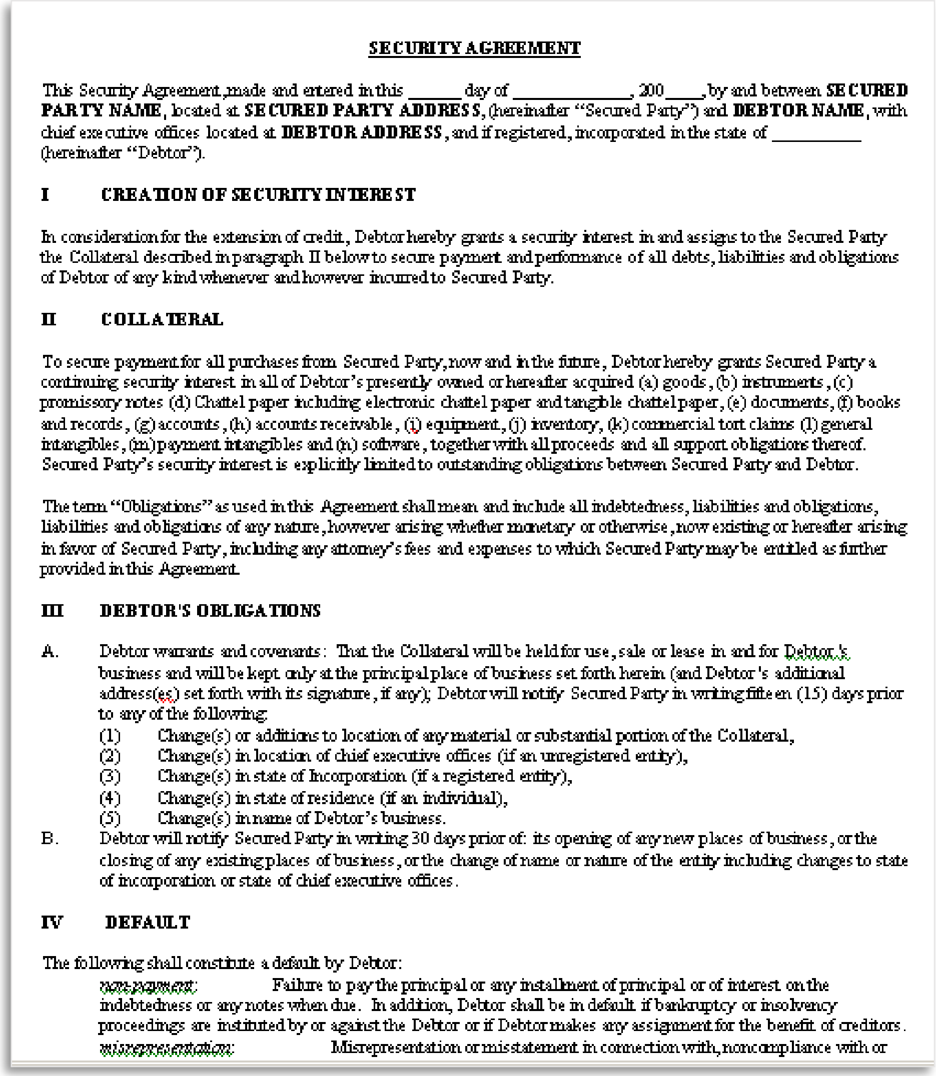
03 Did the party making the annexation intend for the good to be permanently attached to the real property?

Two Required Elements

1. Security Agreement
2. Financing Statement or UCC-1

Security Agreement

- Creates the secured interest
- Spells out terms and conditions



SECURITY AGREEMENT

This Security Agreement,made and entered in this ______ day of ____________, 200____,by and between **SECURED PARTY NAME**, located at **SECURED PARTY ADDRESS**, (hereinafter "Secured Party") and **DEBTOR NAME**, with chief executive offices located at **DEBTOR ADDRESS**, and if registered, incorporated in the state of _________ (hereinafter "Debtor").

I CREATION OF SECURITY INTEREST

In consideration for the extension of credit, Debtor hereby grants a security interest in and assigns to the Secured Party the Collateral described in paragraph II below to secure payment and performance of all debts, liabilities and obligations of Debtor of any kind whenever and however incurred to Secured Party.

II COLLATERAL

To secure payment for all purchases from Secured Party,now and in the future, Debtor hereby grants Secured Party a continuing security interest in all of Debtor's presently owned or hereafter acquired (a) goods, (b) instruments, (c) promissory notes (d) Chattel paper including electronic chattel paper and tangible chattel paper, (e) documents, (f) books and records, (g) accounts, (h) accounts receivable, (i) equipment, (j) inventory, (k) commercial tort claims (l) general intangibles, (m) payment intangibles and (n) software, together with all proceeds and all support obligations thereof. Secured Party's security interest is explicitly limited to outstanding obligations between Secured Party and Debtor.

The term "Obligations" as used in this Agreement shall mean and include all indebtedness, liabilities and obligations, liabilities and obligations of any nature, however arising whether monetary or otherwise, now existing or hereafter arising in favor of Secured Party, including any attorney's fees and expenses to which Secured Party may be entitled as further provided in this Agreement.

III DEBTOR'S OBLIGATIONS

A. Debtor warrants and covenants: That the Collateral will be held for use, sale or lease in and for Debtor's business and will be kept only at the principal place of business set forth herein (and Debtor's additional address(es) set forth with its signature, if any); Debtor will notify Secured Party in writing fifteen (15) days prior to any of the following:
(1) Change(s) or additions to location of any material or substantial portion of the Collateral,
(2) Change(s) in location of chief executive offices (if an unregistered entity),
(3) Change(s) in state of Incorporation (if a registered entity),
(4) Change(s) in state of residence (if an individual),
(5) Change(s) in name of Debtor's business.

B. Debtor will notify Secured Party in writing 30 days prior of: its opening of any new places of business, or the closing of any existing places of business, or the change of name or nature of the entity including changes to state of incorporation or state of chief executive offices.

IV DEFAULT

The following shall constitute a default by Debtor:

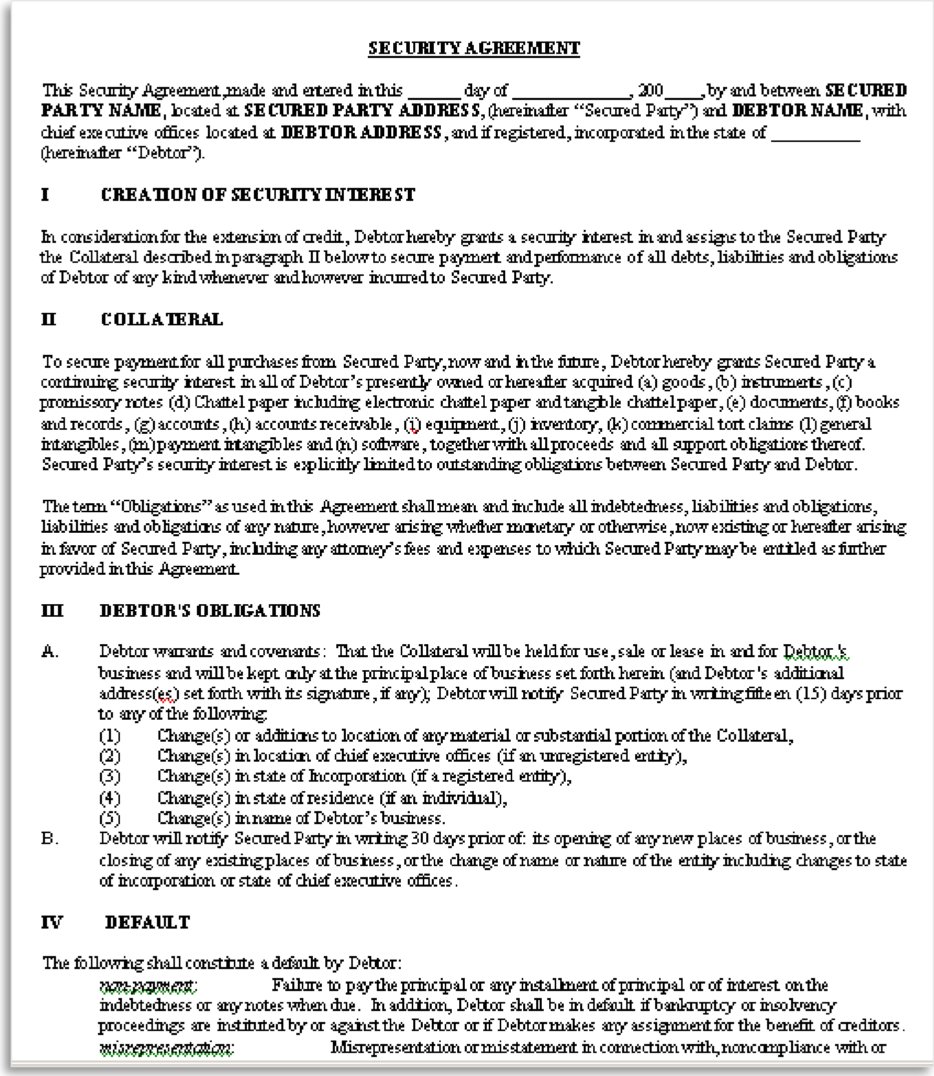
non-payment: Failure to pay the principal or any installment of principal or of interest on the indebtedness or any notes when due. In addition, Debtor shall be in default if bankruptcy or insolvency proceedings are instituted by or against the Debtor or if Debtor makes any assignment for the benefit of creditors.

misrepresentation: Misrepresentation or misstatement in connection with, noncompliance with or

Security Agreement

Can be a stand-alone document or exist in other forms:

- Loan agreement
- Sales agreement
- Consignment agreement
- Promissory note
- Conditional sales contract
- Dealer agreement
- Or….



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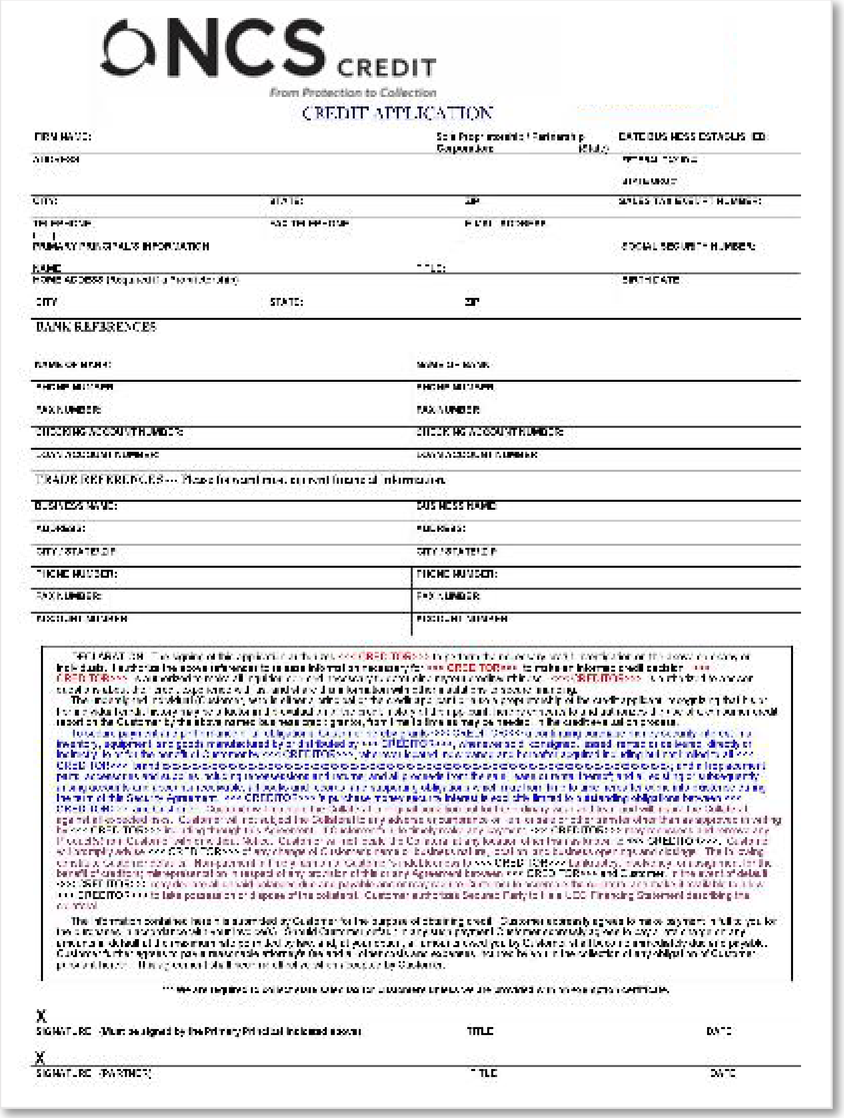
Security Agreement

Credit

Application

Security

Agreement


NCS CREDIT

From Protection to Collection

CREDIT APPLICATION

FIRM NAME:

CITY:

BANK REFERENCES

TRADE REFERENCES

BUSINESS NAME:

PHONE NUMBER:

FAX NUMBER:

ACCOUNT NUMBER:

X

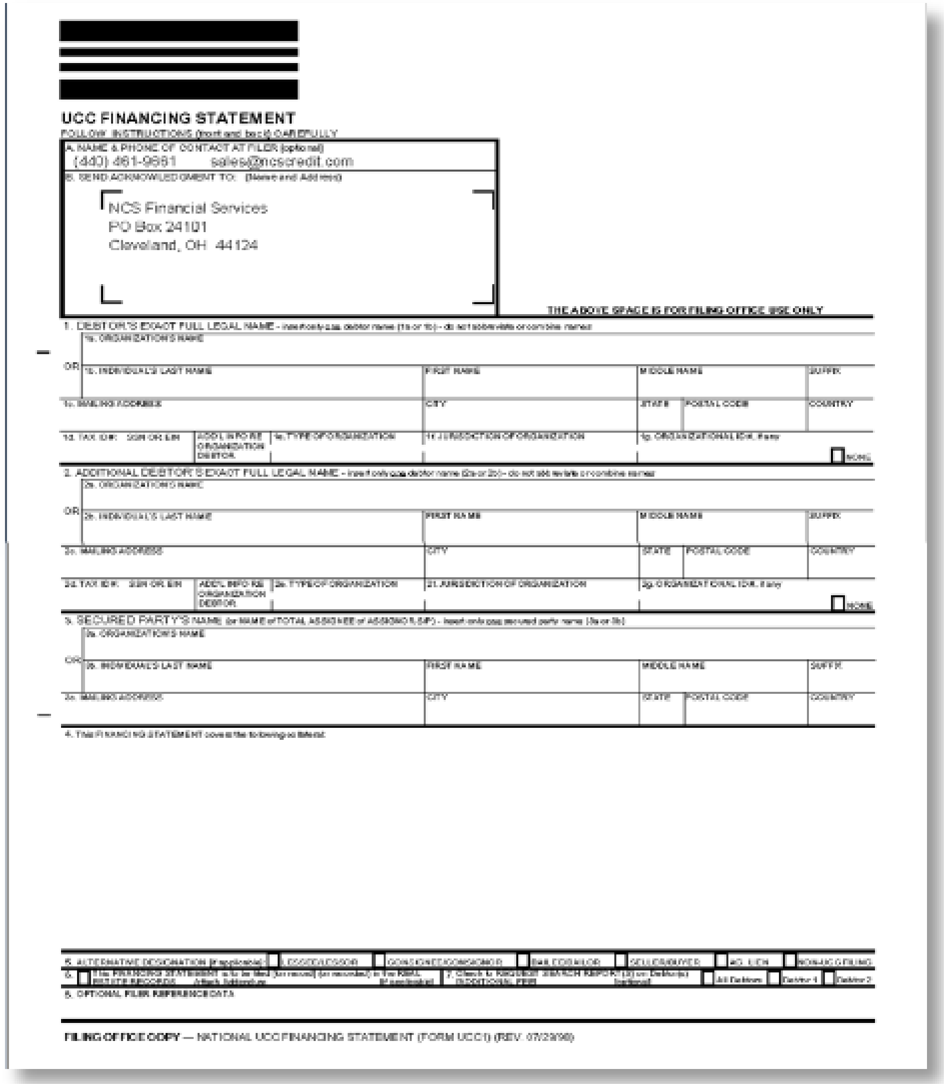
SIGNATURE

TITLE

DATE

Financing Statement

- Records the secured interest and makes it a public record
- In effect for five years, at which time can be continued for another five-year period
- Filed in locations based on your customer's form of business


[redacted]

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

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(440) 461-9661 sales@ncscredit.com

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

NCS Financial Services
PO Box 24101
Cleveland, OH 44124

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME

3. SECURED PARTY'S NAME

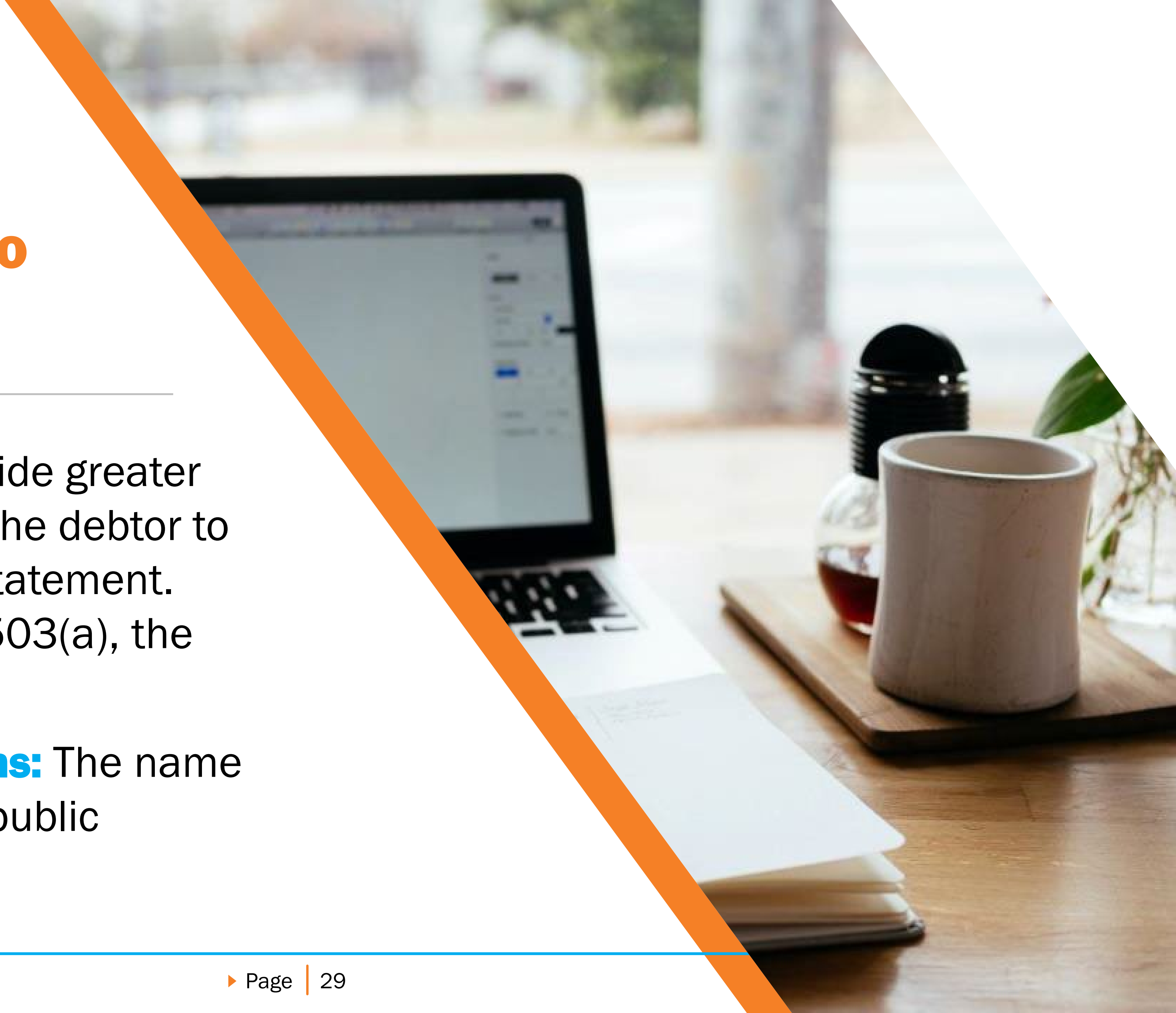
4. This FINANCING STATEMENT covers the following collateral:

FILING OFFICE COPY — NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 07/29/98)

2013 Amendments to UCC Article 9

The 2013 Amendments provide greater guidance as to the name of the debtor to be provided on a financing statement. This guidance falls under 9-503(a), the debtor name.

For Registered Organizations: The name will be what is found on the public organic record(s)



Articles of Incorporation

Should be performed with each filing

Confirms:

- State of incorporation
- Corporate legal name of customer
- State organizational ID number

ARTICLES OF ORGANIZATION
OF
NEAL DESIGNS, LLC
A TEXAS LIMITED LIABILITY COMPANY

FILED
In the Office of the
Secretary of State of Texas
OCT 8 1998
Corporations Section

The undersigned, acting as the sole organizer of a limited liability company under the Texas Limited Liability Company Act (the "Act"), does hereby adopt the following Articles of Organization for NEAL DESIGNS LLC

ARTICLE ONE

The name of the company is NEAL DESIGNS, LLC

ARTICLE TWO

The period of its duration is perpetual

ARTICLE THREE

The purpose or purposes for which the company is organized is the transaction of any or all lawful business for which limited liability companies may be organized under the Texas Limited Liability Company Act

ARTICLE FOUR

The address of the registered office of NEAL DESIGNS, LLC is 3003 Cemetery Hill, Carrollton, Texas 75007 The initial registered agent at such address is Steve D Neal

ARTICLE FIVE

The company is to be managed by the members whose names and addresses are as follows

Steve D Neal
3003 Cemetery Hill
Carrollton Texas 75007

Tobi R Neal
3003 Cemetery Hill
Carrollton, Texas 75007

00025662 •3942

ARTICLES OF ORGANIZATION FOR
NEAL DESIGNS LLC
PAGE 1

NCS CREDIT

2013 Amendments to UCC Article 9

The 2013 Amendments provide greater guidance as to the name of the debtor to be provided on a financing statement. This guidance falls under 9-503(a), the debtor name.

01

For Registered Organizations: The name will be what is found on the public organic record(s).

02

For Individuals: The states have chosen between...

The State's Two Choices for Individual Debtor's Name

Alternative A:

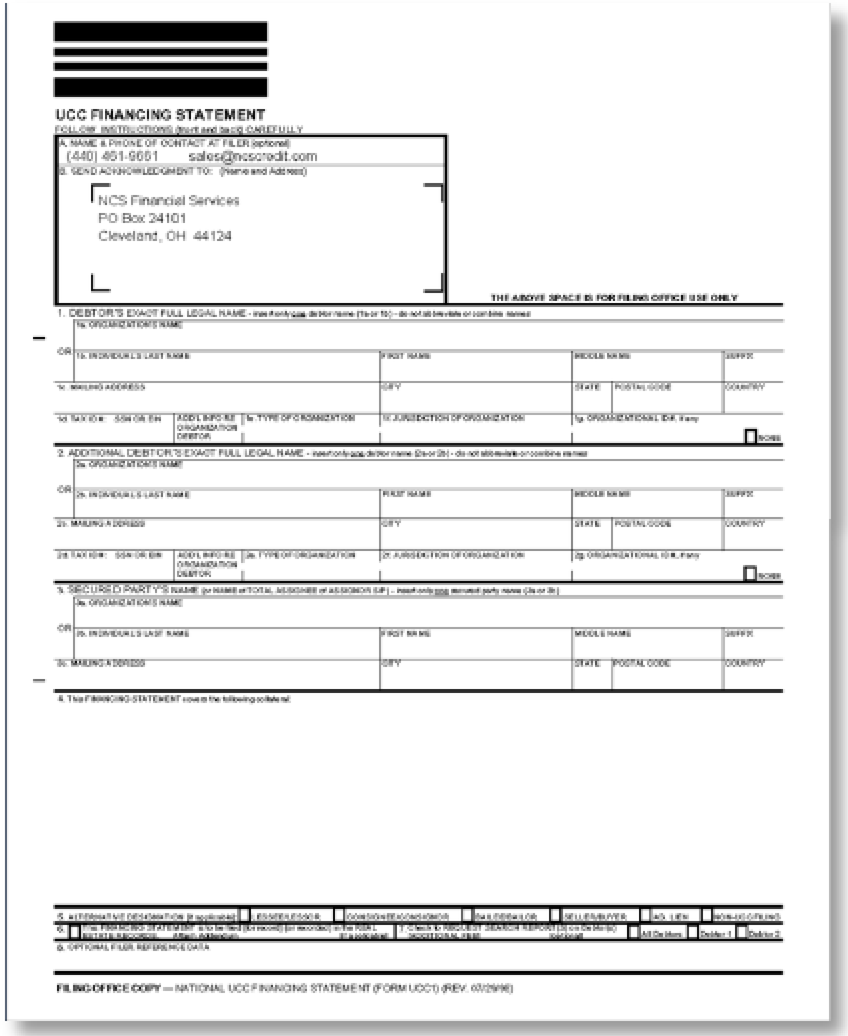
The name of an individual debtor, as it appears on the most recent unexpired driver's license

Alternative B:

Provides 3 ways for the name of individual debtor:

- as under current law - using the individual name of the debtor.
- debtor's last name (surname) and first name.
- unexpired driver's license

Factors in Financing Statements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2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME

3. SECURED PARTY'S NAME

4. This FINANCING STATEMENT covers the following collateral:

FILING OFFICE COPY — NATIONAL UCC FINANCING STATEMENT (FORM UCC1)

Hastings State Bank v Stalnaker

Debtor: EDM Corporation

01

Three Secured Creditors: Hastings State Bank, Tier One Bank, Huntington National Bank

02

Hastings State Bank filed a financing statement listing the debtor name as "EDM Corporation d/b/a EDM Equipment"

Host America v Coastline Financial (UT)

Debtor: K.W.M. Electronics Corporation

01

The secured party listed the debtor name on the financing statement without periods

02

Court ruled seriously misleading

Receivables Purchasing Company v R&R Drilling (GA)

Debtor: Network Solutions

01

Secured party listed debtor name as Net work Solutions, Inc

02

Search did not reveal the financing statement

Reflective Searches

Due Diligence

01 **Pull articles of incorporation prior to lending**

02 **Know the state nuances**

03 **Perform reflective searches**

04 **Monitor name changes**

Post Closing Change

Change to Debtor's Name and Location

1 All changes must be filed within four month

1 If late, the security interest will become unperfected in assets the debtor acquired after that four-month period

1 The only exception to the four-month rule is for changes to state of incorporation

1 The Secured Party has one year to correct the filing

NCS CREDIT | UCC Services

NCS Monitoring Services

NCS offers a variety of tools to help you effectively monitor your customers.

How can I keep track of what my customers are doing and put myself in the best position to get paid?

Whether you want to protect your identity as a creditor or know when your customer has filed for bankruptcy, NCS has a monitoring service to keep you a step ahead.

UCC Identity Protection

The name of the Secured Party listed on the Financing Statement will be "C & S Associates, Inc. as representative" or another name of your choice. By listing "C & S Associates, Inc. as representative" (or an alternate name) your identity as a creditor will remain private, protecting your valuable sales!

UCC Monitoring

Six months prior to filing expiration, NCS will send an email notification requesting the Client to advise whether or not the filing(s) should be continued. If no response is received 30 days prior to the expiration date, NCS will automatically continue the filing. NCS offers two levels of monitoring, and this service is available regardless if you used NCS to file the original UCC Financing Statement.

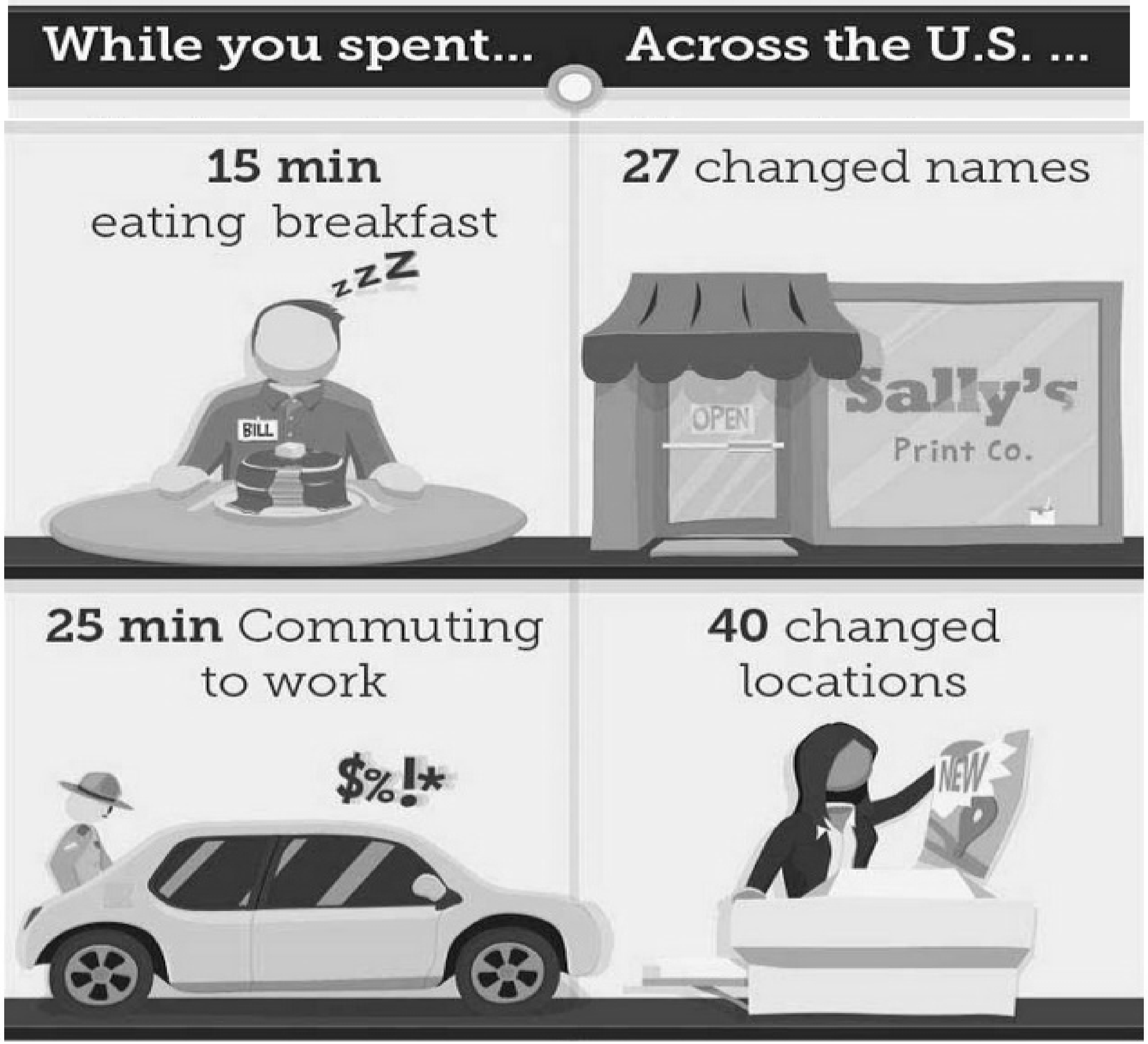
Pre-Paid Monitoring is ideal for creditors whose business partnerships last longer than 5 years, and are likely to continue UCC filings. A flat fee is charged per UCC filing for NCS to monitor and file the continuation. Prepayment earns a $5.00 discount off of the list price. $14 per filing, per year.*

Pay-As-You-Go Monitoring is recommended for creditors whose business transactions are typically paid within 5 years, and are less likely to continue UCC filings. An annual flat fee is assessed for all active filings. $350 annually.*

Corporate Monitoring

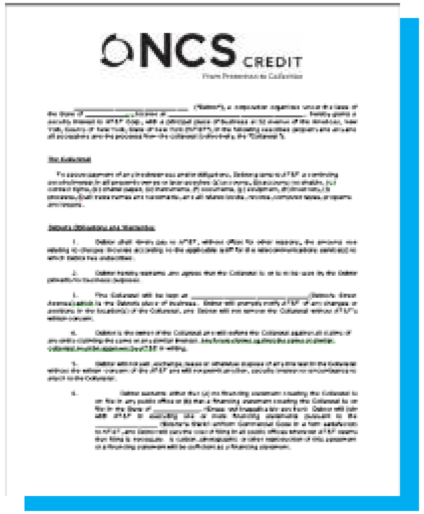
NCS will provide an email notification to alert you of an entity name or status change. Monitor your customer for corporate compliance to assist in credit line analysis and to keep the UCC Financing Statement in compliance with Article 9 – 507(c), which provides a 4-month window to amend the filing for a debtor name change that may be considered "seriously misleading" and to keep priority in Inventory / Equipment.

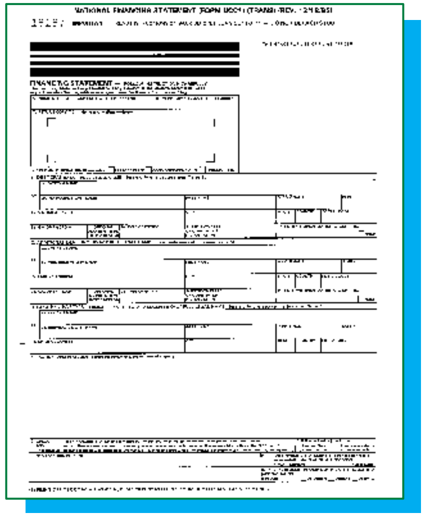
*some exceptions may apply



A Day's Worth of Business Information in the Age of Big Data [Infographic]. (n.d.). *MarketingProfs*.

Perfecting Consignment



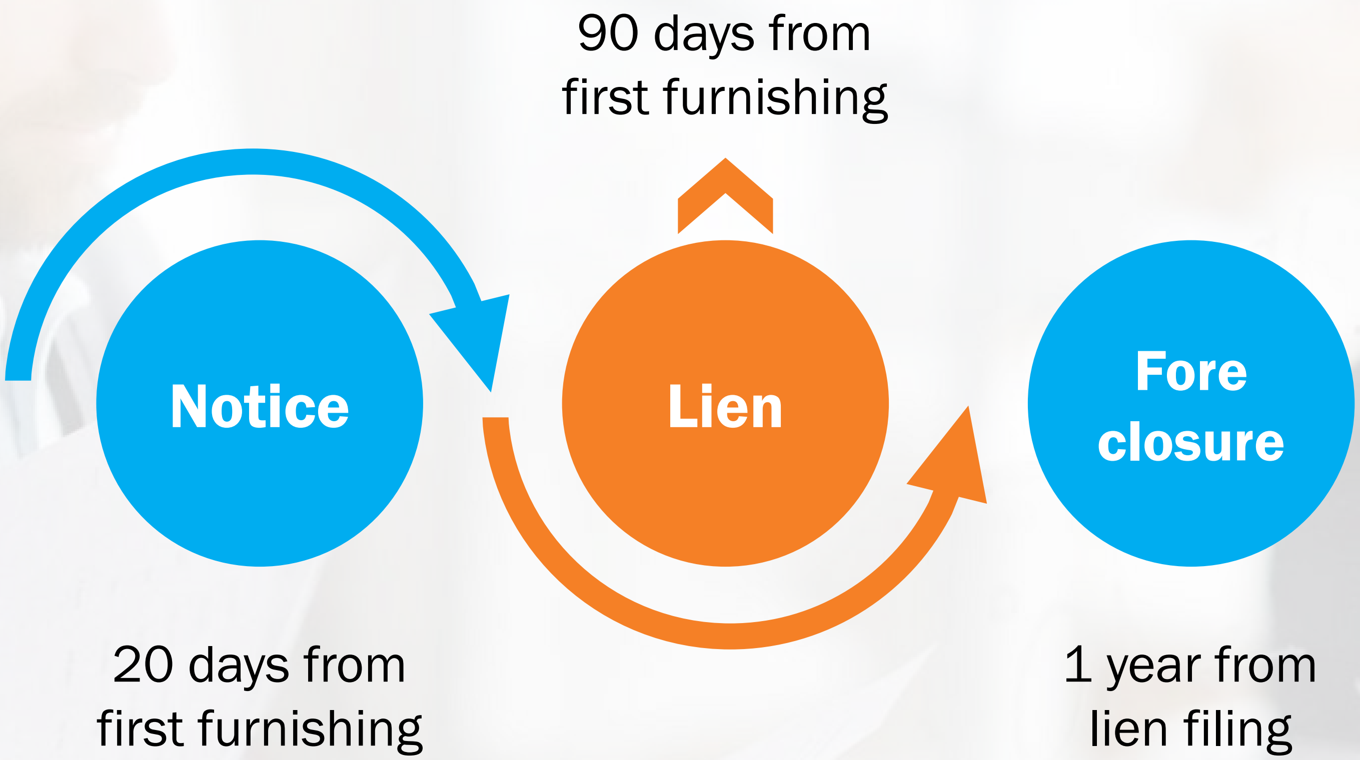


1.
Consignment Agreement

2.
Financing Statement or UCC-1

3.
Search and Notify

Mechanic's Lien Filing Process: Three Steps



Above deadlines are examples

Review of Topics Covered

01 UCC Filings offer a number of benefits.

02 Article 9 was created to help us protect our accounts receivable and sell more.

03 Different types of filings provide different protections.

04 There are going to be more bankruptcies and defaults in this uncertain economy, so protecting our accounts receivable is important.

05 Call with any questions or if you need assistance

Thank you for your time!

Contact Us

www.ncscredit.com

Jerry Bailey
jbailey@ncscredit.com

800-826-5256 ext. 177

Education & Resources

- Don’t miss our upcoming webinars! View the schedule at: www.ncscredit.com/education

- NCS webinars are available OnDemand. Contact us to learn more.

- View NCS Extra Credit videos on our YouTube channel: http://www.youtube.com/user/NCSCredit

- Follow us on Facebook, Twitter, YouTube, LinkedIn, and Instagram