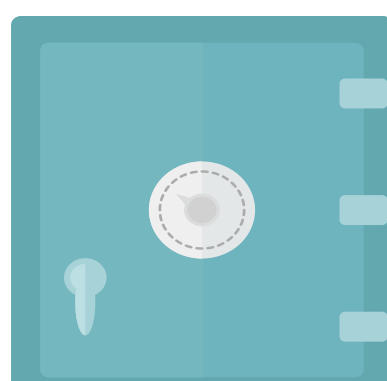


NCS UCC Services Presents FIXTURE FILINGS 101

Most variations of UCC filings are fairly easy to explain.

A Blanket filing is a security interest in all assets of your customer.

A Purchase Money Security Interest filing grants a security interest like a blanket filing, but with the added ability to repossess inventory or equipment.



But fixture filings...

But fixture filings... fixture filings seem to be a bit more difficult to understand.

What is a fixture?

The general idea of a fixture filing isn't necessarily the complicated part; it's actually determining what constitutes as a "fixture" that can be tricky.

Article 9 of the Uniform Commercial Code Says...

Fixtures are "goods that have become so related to particular real property that an interest in them arises under real property law". - (Article 9-102[41])

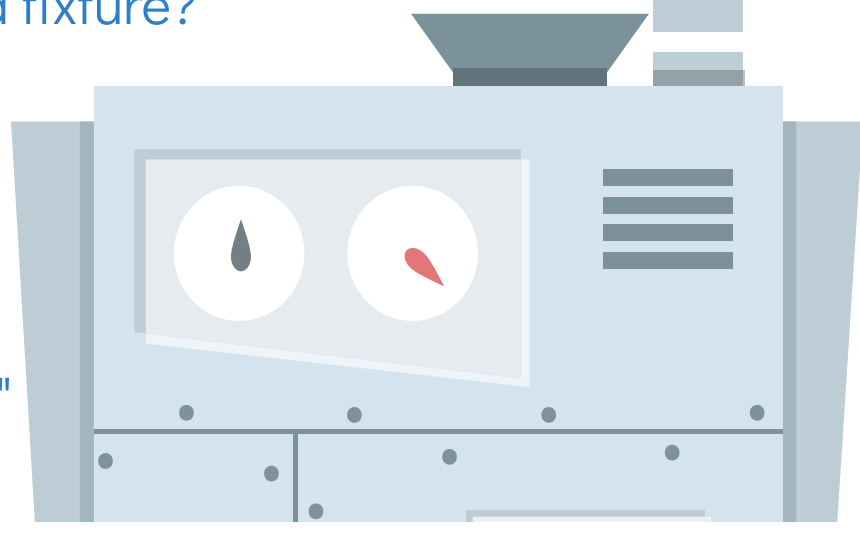


So, a fixture filing is:

"...the filing of a financing statement covering goods that are or are to become fixtures and satisfying Section 9-502(a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures." - (Article 9-102[40])

What can be considered a fixture?

Anything that is "so related to a particular real property." The item isn't permanent, but is still physically attached to the real property.



The key is "so related"

Here are some examples!



You will likely notice a theme here: the items are secured to the building or premises, but can be removed if necessary and their removal won't impact the structural soundness of the building or property.

GAS/FUEL PUMPS

PRINTING PRESS

EXTERNAL SIGNS

HOTEL HEADBOARDS

WALK-IN COOLERS

OVENS

DISHWASHERS

AIR-VENT/OVEN HOODS

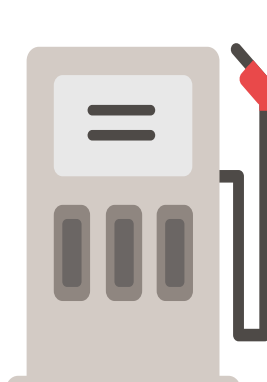
Headboards are often affixed to the wall, but could be removed without compromising the physical integrity of the hotel (i.e. a support beam would compromise the hotel, but simply changing out a headboard that is secured to the wall won't make the building tumble to the ground).

Similarly, the signs you see outside the hotel identifying it's a Holiday Inn or Marriott are attached to the building, but not permanent.



Filing on a Fixture

A filing on a fixture is simply a UCC Financing Statement, recorded with the Secretary of State, which includes "fixtures" in the collateral description. This filing does not attach to real property and would not appear in real property records (i.e. the county Assessor's or Recorder's Offices).



Fixture Filing

Although a fixture filing is still a UCC filing, it is recorded in the real property records, which then turns the security interest into a mortgage or lien against the actual property where the fixture is or will be located. A fixture filing should satisfy Sections 9-502(a) & (b). Section 9-502(b) is key, as it is specific to real property.

"Why should I record a fixture filing?"

One excellent reason is because the filing clouds the title of the property. This encumbrance alerts potential buyers/sellers that you need to be paid before the filing will be removed from the property -- essentially the filing keeps the property from transferring from one party to another, until the debt is satisfied.

Best Practice

If you are providing items that are affixed to real property, do both a filing on a fixture with the Secretary of State and a fixture filing with the real property records.

Wonder if you are supplying fixtures?
Need assistance with UCC filings?

Contact us!

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