

PUBLIC RECORDS:
RECORDER'S OFFICE:
UNIFORM COMMERCIAL CODE:

Financing statements filed in recorder's
office subject to public inspection.

OPINION NO. 38

January 7, 1969



Honorable Robert Devoy
State Representative - District 92
Missouri House of Representatives
111 East Brooks Street
Brookfield, Missouri 64628

Dear Representative Devoy:

In your recent opinion request to this office you pointed out the existence of the "Public Records Act," (Section 109.180 and Section 109.190, RSMo Supp. 1967), and Section 400.9-407, RSMo Supp. 1967, a provision in the Missouri Uniform Commercial Code. You further stated, in part, as follows:

" * * * The question is, whether financing statements in the Recorder's office may be inspected by the public and persons in the abstract of title business without written request and without the payment of fees prescribed by 400.9-407.

"A further question is, should these records be considered private records of the Recorder or should they be considered public records open to the public for inspection under terms of Section 109.180?"

Section 400.9-401 provides for a financing statement to be filed or recorded either with the county recorder or with the Secretary of State depending upon the type of collateral that is used as security.

The question presented is whether such a financing statement as filed is open to public inspection as a public record kept in a public office.

The right of the public to inspect public records in this state is provided by Section 109.180, RSMo Supp. 1967, which provides in part:

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"Except as otherwise provided by law, all state, county and municipal records kept pursuant to statute or ordinance shall at all reasonable times be open for a personal inspection by any citizen of Missouri, and those in charge of the records shall not refuse the privilege to any citizen. * * *"

We find no statutory provision requiring financing statements to be exempted or excluded from the provisions of the above statutes.

Section 400.9-403, RSMo Supp. 1967, defines what constitutes a filing of a financing statement and the duties of the filing officer and provides in part:

"(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition the filing officer shall index the statements 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."

This statute expressly provides that it is the duty of the filing officer to mark the financing statement with a number, index, file the same and "shall hold the statement for public inspection."

It is the opinion of this department that a financing statement filed as provided for under Section 400.9-401 must be made available by the filing officer for public inspection without charge and that any person has the right to inspect and make copies of such statement within the hours and under such conditions as may be established by the filing officer that are reasonable.

Reference is made in the opinion request to Section 400.9-407, RSMo Supp. 1967, which provides that on the request of any person the filing officer shall issue a certificate showing whether there is on file a financing statement and other information in regard to the financing statement for which the file officer is entitled to a fee as provided in said statute. This section applies only when a person requests such information to be certified in writing by the filing officer and has nothing to do with the right of the public to inspect a financing statement.

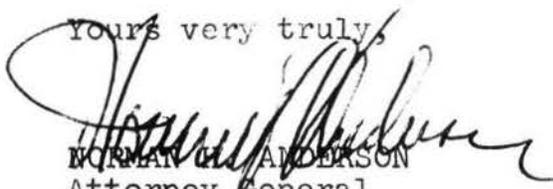
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CONCLUSION

It is the opinion of this department that a financing statement filed as provided for under the "Uniform Commercial Code" under Section 400.9-401, RSMo Supp. 1967, is subject to inspection free of charge by any person within the hours and under such conditions as may be reasonably imposed by the filing officer in charge of such financing statement.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Moody Mansur.

Yours very truly,



NORMAN C. ANDERSON
Attorney General