

when tested by the Establishment Clause and the Free Exercise Clause of the First Amendment to the Constitution of the United States. Further, it is my opinion that Act 241, P.A. 1963, is in accord with the Revised Constitution of 1963, both as to Article I, Sec. 4 and Article IX, Sec. 11 thereof.

FRANK J. KELLEY,  
*Attorney General.*

630926.1

**UNIFORM COMMERCIAL CODE:** Filing fees.  
**COUNTIES:** Register of deeds.  
**FEES:** Chattel papers.

Chattel instruments or financial statements appearing on non-standard size paper may be filed with the filing officer upon tender of the filing fee of \$1.00 in accordance with Section 9403 of the Uniform Commercial Code unless the filing officer declines to accept the documents because they appear on nonstandard size paper. In that event, such documents may be filed upon tender of a filing fee of \$1.50 for each paper so filed in accordance with Section 9408 of the Uniform Commercial Code.

No. 4191

September 20, 1963

Hon. James M. Hare  
Secretary of State  
The Capitol  
Lansing, Michigan

You recently requested my opinion on whether Section 9408<sup>1</sup> of the Uniform Commercial Code made it mandatory that a register of deeds charge 50¢ extra for filing chattel instruments or financing statements submitted on nonstandard paper. An examination of the legislative history of this section has been made. The House of Representatives amended Enrolled Senate Bill No. 1014 by adding a new section to stand as Section 9408 as follows:

"The secretary of state or register of deeds need not accept for filing a financing statement or chattel paper unless it is prepared on paper 8½ by 13 inches in size and of not less than 16 pound weight."<sup>2</sup>

The Senate did not concur in that amendment and a conference committee was appointed which recommended that the bill be adopted with Section 9408 amended to read as follows:

"Register of deeds need not accept at standard rates after January 1, 1964 chattel instruments or financing statements for filing unless prepared on paper 8½ x 13 inches in size, with a ½ inch in length and width allowed for tolerance before such papers shall be deemed non-standard, and of not less than 16 pound weight. Nonstandard chattel

<sup>1</sup> Act 174, P.A. 1962, as amended by Act 223, P.A. 1963, being M.S.A. Curr. Mat § 19.9408 (page 751).

<sup>2</sup> 1963 House Journal, No. 53, page 1186.

papers in size or weight may be filed by paying 50 cents extra for each paper so filed.”<sup>3</sup>

That language was adopted by both the House of Representatives and the Senate and is the language towards which your question is specifically directed.

Consideration must also be given to Section 9403(1) of the Uniform Commercial Code which provides as follows:

“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 article.”

Reading Section 9408 and Section 9403(1) of the Uniform Commercial Code together, it must be concluded that when a document which is upon paper of a size deemed nonstandard under Section 9408, the filing officer is not required to accept the document for filing and under Section 9403(1), such document is not considered to be filed. However, with the consent of the filing officer a filing may take place of such document appearing on nonstandard size paper upon presentation for filing of the statement and tender of the filing fee even though it appears on nonstandard size paper. In such instance the filing fee remains \$1.00 in accordance with Section 9403(5). In the event the filing officer refuses to accept the filing of such document appearing upon nonstandard paper, such nonstandard paper may be filed by paying 50 cents extra for each paper so filed in accordance with Section 9408 of the Uniform Commercial Code.

Therefore, it is my opinion that the chattel instruments or financial statements may be submitted for filing on nonstandard size paper and may be filed upon tender of the filing fee of \$1.00 pursuant to Section 9403(1) and Section 9403(5), unless the filing officer declines to accept such statement because it is presented on nonstandard size paper. In that event such documents presented on nonstandard size paper may be filed by paying 50¢ extra for each paper so filed in accordance with Section 9408 of the Uniform Commercial Code as amended.

FRANK J. KELLEY,  
*Attorney General.*

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<sup>3</sup> 1963 Senate Journal, No. 67, page 1235.