

## The Importance of Protecting Solar Financing

# Understanding and mitigating risk through the solar lending and servicing lifecycle

As the nation's \$35 billion solar energy industry continues to grow rapidly, with experts projecting it to nearly triple by 2027, the market presents exciting opportunities for lenders. Yet, lending organizations need to take the following steps to protect their investments and define sound business practices:

- ✔ Recognize the importance of protecting and perfecting solar financing.
- ✔ Understand the intricacies of the Uniform Commercial Code (UCC).
- ✔ Establish lending workflow.
- ✔ Realize the value of a knowledgeable expert.

## Why protect and perfect solar equipment financing?

Safeguarding solar equipment financing is a critical part of the residential solar business, and there are steps lenders can take to mitigate risk and protect their interests. Establishing the appropriate precedents is critical to effectively managing risk and protecting your interests against the many known—and unknown—events that can impact whether a lender is repaid for a loan.

### 1 Options to secure interest in the solar equipment

- ✔ **Purchase Money Security Interest (PMSI)**  
Legal claim that gives a lender priority over others in obtaining repayment.
- ✔ **Secured debt**  
Filing notice of the security agreement or contract in public records.

### 2 How to perfect that interest

Protecting and perfecting an interest in solar equipment begins with thoroughly understanding the Uniform Commercial Code (UCC), Article 9, which applies to transactions where assets or collateral are used to secure a financial obligation.

- 1 The original UCC-1 is filed to notify the public of an interest in the asset and gives lenders advantages over potential third-party claimants.
- 2 UCC filings are neither permanent nor unchanging. A number of circumstances can trigger the need to update the original UCC, including:
  - Sale of home
  - Name changes
  - Separation/Divorce
  - Bankruptcy of the borrower
  - Death of the borrower
  - Collateral damage
  - Loan refinancing or payoff
- 3 While most solar loans extend an average of 20-30 years, a UCC filing expires after just five years, necessitating the filing of multiple continuations.
- 4 With varied requirements among 3,600+ different jurisdictions, lenders must understand the specifications in the jurisdiction they are filing.
- 5 Throughout the life of the loan, oversight is needed to ensure that protections remain active.

#### Be sure to continuously monitor the status of your UCC filings since:

- Debtors can file terminations without the knowledge of the lender
- A customer contract doesn't provide complete protection

## Solar lending stages

Understanding the following steps required at each stage of the lending process is a crucial factor in protecting and perfecting your interests in solar equipment.



### Underwriting

Uncovers risks associated with a borrower

- Title search
- Bankruptcy search
- Jurisdiction information

#### Search tips

- 1 Determine the states and filing offices to search.
- 2 Search by debtor's correct legal name.
- 3 Search both state and county level public records to identify existing liens against a debtor, or a financed solar system.
- 4 Determine desired search types, including:

#### Search types

- UCC
- Business entity
- Bankruptcy
- Real property
- Litigation
- Federal and state tax liens
- Judgment liens
- Corporate document retrieval

#### Types of UCC filings

- ✔ **UCC-1**  
A UCC-1 lien is a financing statement filed by a secured party to perfect a legal interest in the personal property of the debtor, (e.g., physical assets, future revenues).
- ✔ **UCC-1 fixture**  
A fixture filing is a financing statement much like a UCC-1 that is filed when the collateral consists of goods which have been grown or extracted from real estate or items attached to the real estate.
- ✔ **UCC-3**  
Amendments for changes to borrowers/lessors, collateral, secured party ownership, continuations, and terminations.
- ✔ **UCC-3 fixture**  
Amendments for all changes, but must be filed in the county's real property records.

#### UCC timing for perfecting interest in solar equipment

- 1 **Inventory collateral (equipment held for sale, lease or work in process)** — UCC must be filed before the debtor takes possession of the collateral.
- 2 **Non-inventory collateral (equipment that has been purchased or leased)** — UCC filing must be done within 20 days of the debtor taking possession of the collateral.
- 3 **Fixture filings (equipment that is physically attached to a property)** — UCC must be filed as soon as possible after goods becoming affixed to the real property; in this case, the first to file is first in line for repayment.

UCC filings are not permanent; they last 5 years.

#### Types of UCC-3 amendment filings

Each UCC amendment filings is tied to a specific event that must be reflected in the updated filing in order to preserve the perfection of financial interests.

- ✔ **Continuation**  
Extends the life of the financing statement by an additional five years; for a 20-year loan, a lender can expect to file three continuations.
- ✔ **Party amendment**  
Used to change or add critical information about the debtor or the secured party, such as an address or name change.
- ✔ **Collateral amendment**  
Used to add collateral, remove collateral, or restate the entire collateral description.
- ✔ **Assignment**  
Used to transfer the rights in a filing from one secured party to another. There are both 'partial' and 'full' assignments.
- ✔ **Termination**  
Used to extinguish the UCC-3 before its five-year term has ended.



### End of loan

- UCC terminations
- PUC extinguishments

#### Does the solar system reside in California?

Public Utilities Code (PUC) filings are required by California whenever a solar energy system is sold or leased for use in a residence. The PUC filing is filed against the title to the real property on which the electricity is generated, and any adjacent property on which it is used.

## The value of a knowledgeable expert

When navigating the complex landscape of residential solar lending, a knowledgeable partner can be instrumental in helping lenders at every stage of the process, from completing legal filings to conducting lien searches to overseeing ongoing tracking and reviewing due diligence. By engaging with an organization that understands both the UCC and the solar industry, lenders can ensure they remain on top of the latest legislation, new regulations, and rapidly changing jurisdictional requirements, all of which can significantly impact solar lending.



#### Benefits of working with a knowledgeable partner

- ✔ Reduce risks.
- ✔ Simplify UCC and related filings.
- ✔ Ensure accurate and complete searches.
- ✔ Gain assistance with portfolio management.
- ✔ Stay on top of intricate rules and regulations.
- ✔ Create repeatable processes to speed workflow, reduce errors, streamline data entry, and increase consistency.
- ✔ Ensure compliance.
- ✔ Faster and simpler filings, and documentation for solar clients.
- ✔ Make better informed decisions about your business.

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