

Understanding Risk Mitigation in Solar Lending and Servicing



The importance of protecting the financing of solar equipment

Equipment financing, for sales or leased equipment, is an important part of the residential and community solar business. Providing lending options enables more customers to take advantage of solar, and creates opportunities for providers to capture more of a quickly growing market. Yet, with opportunity comes risk, and prudent lenders take steps to mitigate that risk and protect their interests.

With residential and community solar projected to continue growing, the practices companies adopt now can establish the precedents that protect their businesses well into the future.

Lien Solutions has spent years perfecting the protocols and processes that can help clients strengthen their positions as lenders for PV equipment. In this paper, we will explain some of the basic steps that companies can take to help protect their interests and define sound business practices in solar lending and servicing.

Establishing the right precedents, now



Effectively managing risk means protecting one's interests against all of the many known—and unknown—events that can impact whether one is repaid for a loan. Some interests are protected by the contract signed with a customer. But such contracts do not provide complete protection.

When extending loans for PV equipment, it's advantageous to become a "secured party." That means declaring a security interest—or lien—against the equipment

that has been financed. A lender's right to property that has been financed is known as a Purchase Money Security Interest, and can give the lender priority over other lenders in obtaining repayment. "Secured" debt—such as a mortgage—generally takes precedence over unsecured debt—such as credit cards. So, it's in a company's interest to become a secured lender for the solar equipment it finances. For example, if a customer finances the purchase of a PV system and then sells the house where the system is installed, a lender would want to be sure that it's in a position to secure repayment.



Once a security interest in the solar equipment has been established, the next step is to perfect that interest.

What it means to protect and “perfect” financial interests in PV equipment

The first step toward securing debt in solar equipment, as with other types of machinery or equipment, is to take a security interest in that equipment. This is done by performing due diligence, entering into a contract with the borrower, and preparing a financing statement for filing in the correct state or county.

Once a security interest in the solar equipment has been established, the next step is to perfect that interest. That means filing a public notice of one’s right to the asset—again, through the appropriate state and county authorities.

Performing due diligence thoroughly and making sure to file in the right ways at the right places and times can be a complex undertaking. The good news is that laws exist

to help protect lenders’ interests, and there are service providers like Lien Solutions who understand both the regulatory environment and the solar industry in great depth. The key is to be clear about the steps that must be taken, and to ensure that they are executed precisely and promptly.

Table Of “Trigger Events” That Can Impact One’s Standing

Event	
Sale of Home	Separation / Divorce
Bankruptcy of the Borrower	Collateral Damage
Death of the Borrower	

Understanding the basics of the Uniform Commercial Code

Protecting and perfecting an interest in solar equipment starts by becoming familiar with the Uniform Commercial Code, or UCC. The UCC consists of the laws that govern commercial transactions in the United States: Specifically, Article 9 of the UCC applies to transactions where assets or collateral—like a PV system—are used to secure a financial obligation.

The UCC is the mechanism that enables a lien to be established on the equipment that has been financed. A lien is often understood as a general term for a financial obligation secured by a physical asset.

Strictly speaking, a lien is a document that is created in addition to the contract with a customer (the security agreement) and which is filed to notify the public of an interest in the asset. It is the filing of this public notice that perfects one’s interest in the solar equipment. And, to reiterate, it is perfection that gives lenders advantages over potential third parties who might later claim an interest in the same property. In short, the purpose of completing the appropriate UCC filings is to make sure that a lender is in as good a position as possible for recouping the investment it has made in financing a customer’s PV system.

Types of UCC Filings

UCC-1	A UCC 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 very much like a UCC-1. A fixture filing is filed when the collateral consists of goods which have been grown or extracted from real estate or of items which become 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 filed in the county real property records.

Types of filings and amendments

It's also important to recognize that UCC filings are not permanent and unchanging. The original filing is called a UCC 1, and there are a number of real-world events and circumstances that may trigger the need to update the UCC 1 with amendments. Furthermore, there's the need to watch the calendar itself—since UCC filings are good for 5 years and it is common for solar equipment loans to be written for up to 20 years.

Depending upon the jurisdiction, other types of real property documentation may also be required—such as a Notice of Independent Solar Energy Producer, in California. This highlights the importance of understanding the requirements in all relevant jurisdictions in order to ensure compliance in all 50 states—knowledge that Lien Solutions is ready to provide and help you address.



It's important to recognize that UCC filings are not permanent and unchanging.

Amendment filings to UCC 1s are called UCC 3s. There are five different types, each connected to a real world event that must be reflected in the updated UCC filing to preserve the perfection of financial interests:

Continuations: This type of filing extends the life of the financing statement by another five years. For a 20-year loan, one can expect to file three Continuations.

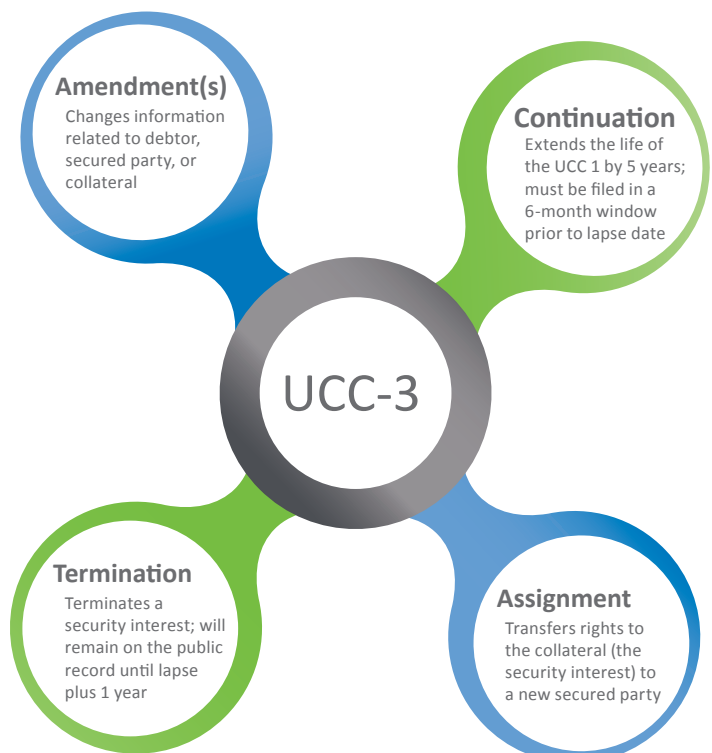
Party amendments: Used to change or add critical information about the debtor or the secured party. For example, it can be used to change the name or the address.

Collateral amendments: Used to add collateral, remove collateral, or restate the entire collateral description

Assignments: Used to transfer the rights in a filing from one secured party to another. There are both 'partial' and 'full' assignments.

Terminations: Used to extinguish the UCC before its five-year term has ended. It's important to keep in mind that, because the current UCC does not require any signatures on the filings, debtors themselves can file terminations of UCCs. Without ongoing monitoring of the status of one's filings, it is entirely possible that a UCC can be terminated without the knowledge of the lender—eliminating the protections that have been put in place

UCC 3 Types



Notes on timing



When it comes to protecting one's financial interests with UCC and other filings, time is of the essence.

For *inventory collateral*—that is, equipment held for sale, lease or work in process—the UCC must be filed before the debtor takes possession of the collateral. For *non-inventory collateral*—that is equipment that has been purchased or leased—the UCC filing used to establish a Purchase Money Security Interest must be

done within 20 days of the debtor taking possession. And, *fixture filings*—for equipment that is physically attached to a property—must be filed as soon as possible after goods become affixed to the real property: In this case, the “first to file is first in line” for repayment. For any lender wishing to perfect a security interest in PV equipment, it's vital to make sure that not only are the required filings completed, but that they're completed on time.

INVENTORY COLLATERAL

UCC must be filed **before** the debtor takes possession of the collateral

NON-INVENTORY COLLATERAL

UCC filing **must be done within 20 days** of the debtor taking possession of the collateral

FIXTURE FILINGS

UCC must be filed **as soon as possible** after goods becoming affixed to the real property

Before filing, search

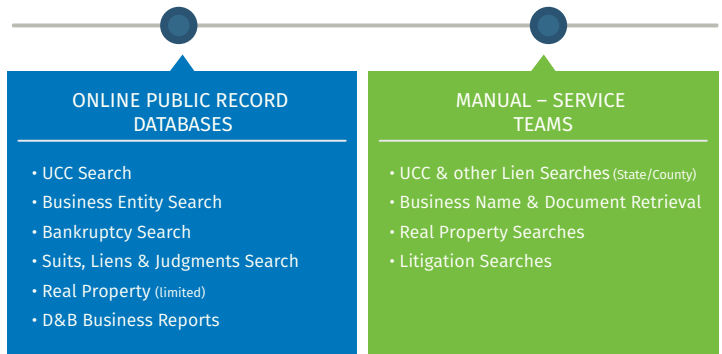
While UCC filings are the tools for perfecting and preserving interests in PV equipment, a lender's ideal to-do list begins well before executing these filings. That's because, the more details one possesses before filing, the more accurate those filings will be—and, fundamentally, it's a business best practice to know as much as possible before entering into a financial contract. It's essential to understand exactly who the borrower is, and what other financial and legal obligations that party might be under. If borrowers have pre-existing debts or liens against them, these may take precedence over their obligations to a new loan. Similarly, when providing financing for pre-existing solar equipment—such as a PV system sold along with a residence—it's important to know whether that equipment is currently under a financing agreement.

This is where legal searches come into play—an area where, like filings, Lien Solutions has established decades of best practice expertise. Before doing a UCC filing, and as part of the underwriting and due diligence processes, it is prudent to search existing public records—at both the state and county level—to find out if there are pre-existing liens against a debtor or the equipment that will be financed. The first step is to determine which states need to be searched, and then decide which filing offices need to be searched. Incorrectly identifying which filing office has jurisdiction over a given location is the cause of many unsuccessful searches, and leads to wasted resources. Similarly, there can be multiple variations on the name of an individual or entity, and searching by the debtor's correct legal name is an absolute necessity.

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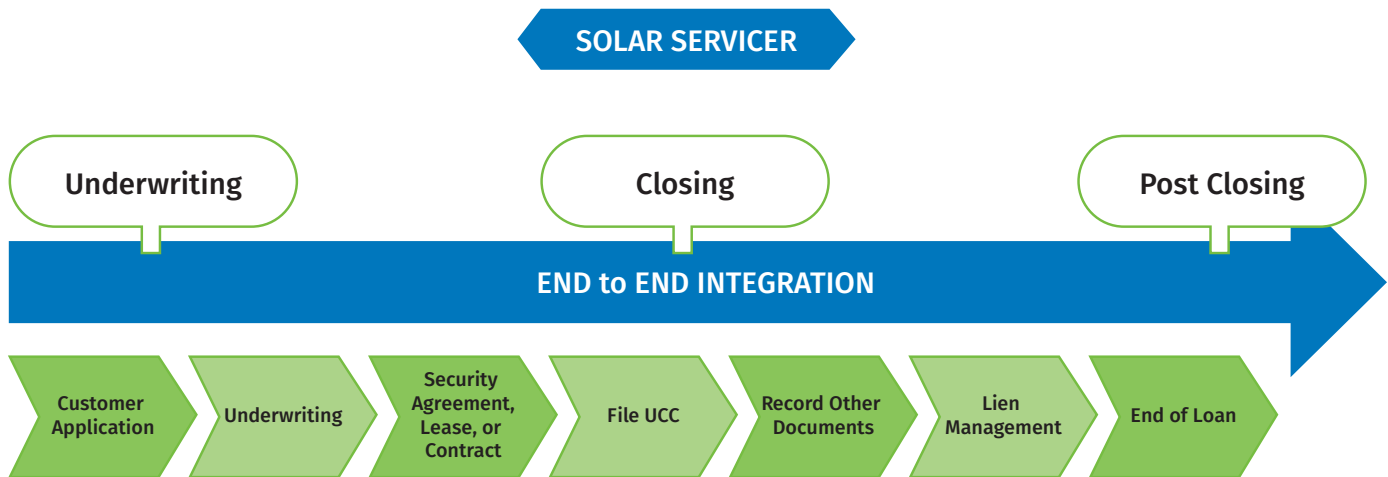
A full due diligence and underwriting process will comprise a range of search types and searches. These include UCC searches, as well as federal and state tax liens. They can also cover judgment liens stemming from court cases, and litigation searches, which can help reveal any open or pending suits involving a potential debtor. The value in these searches is to avoid finding out after the fact that someone else's interest supersedes one's own in a PV system that has been financed.

Search Types



Reviewing the sequence of events

Lending Workflow



Filings and searches are important parts of the overall cycle of solar lending and servicing. Understanding the steps to take at each stage is key to protecting one's interests in solar equipment.

Underwriting is essential to understanding the risks associated with a borrower before lending to that borrower. Performing the proper due diligence searches provides evidence that it is an acceptable risk to lend to

the borrower at that time. At closing, and immediately following, a range of filings needs to be put into place to secure and perfect interests in the financed equipment. Thereafter, through the life of the loan, additional management is needed to ensure that these protections last to end of the loan. And, at the end of a loan, wrapping up business in an orderly way means filing UCC terminations and PUC Extinguishments.

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The value of a knowledgeable expert

When navigating the often-complex terrain of legal filings and searches, having a partner like Lien Solutions can make all the difference. With decades of experience working with equipment providers, we closely follow the UCC and related laws and provisions in order to support clients with the most up to date information. The perspective we provide can be invaluable for managing the ins and outs of UCC filings and searches, from the basic to the complex. Moreover, we're finely attuned to the needs of companies in the solar space and are expert in the administrative processes that can help protect investments in financing the buying or leasing of PV equipment.

We take a consultative approach to understanding clients' needs across the entire solar lending servicing cycle, making sure they understand the appropriate processes at each stage. Our solutions-oriented engagements are based on listening carefully to clients and responding with targeted guidance for the appropriate filings and real property documents. Our service specialists deliver a nuanced knowledge of what to file and search. And, because we've worked across the relevant jurisdictions, we can provide support nearly anywhere in the country.

We draw on a number of innovative offerings to help speed and simplify filings and documentation for solar clients. For example, our iLien tool is a single, customizable web-based desktop application that allows clients to conduct lien searches, retrieve UCC and corporate records, create filings, and conduct ongoing tracking and recurring due diligence. With our proprietary **iLienRED®** tool, clients can manage and record real estate documents for any jurisdiction in the nation—securely, online, and with no need to install software. With our deep knowledge of searches and filings, and our portfolio of customer-centric tools, clients are able not only to make informed decisions about what's best for their business—but also to act on these decisions.

What's especially important is that we're not only experts in the intricacies of searching and filing, we've also made a commitment to the quickly growing solar industry. We're actively helping to define industry best practices and are ready to share industry intelligence and case studies to help determine the best course of action.

Searches and filings can present unfamiliar processes and challenges and it helps to have a resource like Lien Solutions at one's side. Because this is what we focus on every day, we're able to save time, getting right to what needs to be done...and doing it right. Our interfacing capabilities are designed to reduce extra steps and streamline the heavy data-entry required for large numbers of searches and filings. By creating repeatable processes, we not only speed workflow, we can reduce errors and increase the consistency that yields better compliance. Together, our responsive people and user-friendly technological tools help to free customers from bureaucratic hassle so they can focus instead on the benefits made possible by securing financial protections.

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In conclusion: Summary and action items



Solar is, arguably, one of the most exciting industries to be in today—poised for further growth and with many potential opportunities ahead. But, as companies pursue possibilities, it's also important to protect the financial investments they make. The UCC and related searches can help to provide these essential protections. By becoming a secured lender, a company helps position itself to be paid off before other creditors when defaults or conflicts over repayment arise. While decisions may ultimately lie with judges empowered to create case law, when making these determinations magistrates very often take into account the steps that lenders have taken to protect their investments.

With the help of an expert partner—one who understands both the UCC and the solar industry—it's easier to navigate the sometimes-complex rules and regulations at play. The UCC and related search protocols constitute a field of expertise unto itself—one that Lien Solutions has made a primary focus for decades.

About Lien Solutions

Lien Solutions is the unsurpassed market leader in UCC filings and searches, and pioneer of UCC filing automation. Providing comprehensive lien management, debtor due diligence and monitoring and risk management solutions, Lien Solutions partners with lenders, corporations and other lending organizations to protect and optimize security interests.



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