

CHAPTER 2

CONSUMER AND COMMERCIAL TRANSACTIONS

SENATE BILL 97S-5

BY SENATORS Schroeder, Arnold, Bishop, Chlouber, and Mutzebaugh;
also REPRESENTATIVES Tucker, Gotlieb, Grampas, Kaufman, Musgrave, Reeser, Schauer, and Tate.

AN ACT

CONCERNING CONTINUATION STATEMENTS FILED WITH FILING OFFICERS UNDER THE "UNIFORM COMMERCIAL CODE - SECURED TRANSACTIONS" AND THE "CENTRAL FILING OF EFFECTIVE FINANCING STATEMENTS ACT", AND, IN CONNECTION THEREWITH, VALIDATING SUCH STATEMENTS FILED IN FORMS NOT CONTAINING CERTAIN LANGUAGE DELETED OR INTENDED TO BE DELETED BY SENATE BILL 97-155 AND DELETING REMAINING STATUTORY LANGUAGE REFLECTING THIS REQUIREMENT MISTAKENLY NOT DELETED BY SENATE BILL 97-155.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 4-9-403 (3) (a), Colorado Revised Statutes, is amended to read:

4-9-403. What constitutes filing - duration of filing - effect of lapsed filing - duties of filing officer. (3) (a) Subject to section 4-9-412 and paragraph (b) of this subsection (3), a continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in subsection (2) of this section. Any such continuation statement must identify the original statement by filing office, file number, and date of filing. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) of this section unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise and except as provided in subsection (6) of this section, the filing officer may remove a lapsed statement from the files and destroy it or a microfilm or other photographic record thereof after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he or she physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

still effective under subsection (6) of this section shall be retained. NO CONTINUATION STATEMENT FILED PURSUANT TO THIS PARAGRAPH (a) ON OR AFTER JULY 1, 1995, SHALL BE INEFFECTIVE SOLELY BECAUSE IT FAILED TO INCLUDE A STATEMENT THAT THE ORIGINAL FINANCING STATEMENT IS STILL EFFECTIVE.

SECTION 2. 4-9-412 (1), Colorado Revised Statutes, is amended to read:

4-9-412. Refiling required. (1) (a) ~~A financing statement or continuation statement filed before July 1, 1996, which has not lapsed by December 31, 1997, shall lose its perfection and priority rights unless a new continuation statement is filed on or after July 1, 1996, but on or before December 31, 1997, which identifies the original statement by county, file number, and date and time of filing, and lists the collateral of the original filing and includes a statement that the original financing statement is still effective. The filing of a new continuation statement shall preserve the priority of the original filing and shall be effective for five years from the expiration date of the original filing or any continuation statement filed before July 1, 1996.~~ THE EFFECTIVENESS OF A FINANCING STATEMENT THAT WAS FILED BEFORE JULY 1, 1996, AND THAT HAS NOT OTHERWISE LAPSED BY DECEMBER 31, 1997, SHALL LAPSE IN THE MANNER PROVIDED IN SECTION 4-9-403 (2) ON DECEMBER 31, 1997, UNLESS A CONTINUATION STATEMENT IS FILED ON OR AFTER JULY 1, 1996, BUT ON OR BEFORE DECEMBER 31, 1997, THAT IDENTIFIES THE ORIGINAL STATEMENT BY FILING OFFICE, FILE NUMBER, AND DATE OF FILING AND CONTAINS A STATEMENT INDICATING THE TYPES OR DESCRIBING THE ITEMS OF COLLATERAL INDICATED IN THE FINANCING STATEMENT. UPON THE FILING OF A CONTINUATION STATEMENT PURSUANT TO THIS PARAGRAPH (a), THE EFFECTIVENESS OF THE ORIGINAL FINANCING STATEMENT IS CONTINUED FOR FIVE YEARS AFTER THE LAST DATE TO WHICH THE FILING WOULD OTHERWISE HAVE BEEN EFFECTIVE, WHEREUPON IT LAPSES IN THE MANNER PROVIDED IN SECTION 4-9-403 (2) UNLESS ANOTHER CONTINUATION STATEMENT IS FILED PURSUANT TO SECTION 4-9-403 (2) PRIOR TO SUCH LAPSE.

(b) NO CONTINUATION STATEMENT FILED PURSUANT TO THIS SUBSECTION (1) ON OR AFTER JULY 1, 1996, SHALL BE INEFFECTIVE SOLELY BECAUSE IT:

(I) FAILED TO IDENTIFY THE ORIGINAL STATEMENT BY COUNTY, IF THE FILING OFFICE WAS THE OFFICE OF THE SECRETARY OF STATE AND THE STATEMENT SO STATED, OR BY TIME OF FILING;

(II) INDICATED THE TYPES OR DESCRIBED THE ITEMS OF THE COLLATERAL INDICATED IN THE FINANCING STATEMENT INSTEAD OF LISTING THE COLLATERAL OF THE ORIGINAL FILING; OR

(III) FAILED TO INCLUDE A STATEMENT THAT THE ORIGINAL FINANCING STATEMENT IS STILL EFFECTIVE.

SECTION 3. 4-9.5-106 (2), Colorado Revised Statutes, is amended, and the said 4-9.5-106 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

4-9.5-106. Continuation statements. (2) ~~An effective financing statement filed before July 1, 1996, that has not lapsed by December 31, 1997, shall lose its perfection and priority rights unless a new continuation statement is filed on or after~~

~~July 1, 1996, but on or before December 31, 1997. Any such continuation statement shall identify the original statement by filing office, file number, and date of filing. The filing of such continuation statement shall preserve the priority of the original filing and shall be effective for the later of five years after the expiration of the original filing or the expiration of any continuation statement filed before July 1, 1996.~~ THE EFFECTIVENESS OF AN EFFECTIVE FINANCING STATEMENT THAT WAS FILED BEFORE JULY 1, 1996, AND THAT HAS NOT OTHERWISE LAPSED BY DECEMBER 31, 1997, SHALL LAPSE IN THE MANNER PROVIDED IN SUBSECTION (1) OF THIS SECTION ON DECEMBER 31, 1997, UNLESS A CONTINUATION STATEMENT IS FILED ON OR AFTER JULY 1, 1996, BUT ON OR BEFORE DECEMBER 31, 1997, THAT COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION. UPON THE FILING OF A CONTINUATION STATEMENT PURSUANT TO THIS SUBSECTION (2), THE EFFECTIVENESS OF THE EFFECTIVE FINANCING STATEMENT IS EXTENDED FOR FIVE YEARS AFTER THE LAST DATE TO WHICH THE EFFECTIVE FINANCING STATEMENT WOULD OTHERWISE HAVE BEEN EFFECTIVE, WHEREUPON IT LAPSES IN THE MANNER SET FORTH IN SUBSECTION (1) OF THIS SECTION UNLESS ANOTHER CONTINUATION STATEMENT IS FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION PRIOR TO SUCH LAPSE.

(4) NO CONTINUATION STATEMENT FILED PURSUANT TO THIS SECTION ON OR AFTER JULY 1, 1995, SHALL BE INEFFECTIVE SOLELY BECAUSE IT FAILED TO INCLUDE A STATEMENT THAT THE ORIGINAL FINANCING STATEMENT IS STILL EFFECTIVE.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: October 22, 1997