

CHAPTER 312

CONSUMER AND COMMERCIAL TRANSACTIONS

SENATE BILL 04-229

BY SENATOR(S) Evans;
also REPRESENTATIVE(S) Williams T. and Stengel.**AN ACT****CONCERNING MODIFICATIONS TO THE "CENTRAL FILING OF EFFECTIVE FINANCING STATEMENT ACT".***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 4-9.5-103 (7), Colorado Revised Statutes, is amended to read:**4-9.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(7) "Effective financing statement" means a statement that:

(a) Is an original or reproduced copy thereof, a fax copy, or, if permitted by federal law, regulation, rule, or interpretation, an electronically transmitted filing;

(b) Is ~~signed, unless the statement is filed by electronic transmission, and~~ filed with the central filing officer by the secured party;(c) Is ~~signed, AUTHORIZED, OR OTHERWISE AUTHENTICATED by the debtor, unless the statement is filed by electronic transmission, IN WHICH CASE IT SHALL BE SIGNED, AUTHORIZED, OR OTHERWISE AUTHENTICATED ELECTRONICALLY PURSUANT TO SECTION 24-71-101, C.R.S.;~~

(d) Contains:

(I) The name and address of the secured party;

(II) The name and address of the debtor, which, in the case of a natural person, shall have the surname appear first, and, in the case of a corporation or other entity

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

not a natural person, shall have the name appear beginning with the first word or character not an article or punctuation mark;

(III) The social security number of the debtor or, in the case of a debtor doing business other than as an individual, the federal internal revenue service taxpayer identification number of such debtor;

(IV) A description of the farm products by categories included in subsection (8) of this section subject to the security interest created by the debtor including: The amount of such products, unless all of a particular farm product is subject to the particular security interest; identification of each county, utilizing the county code or other numeric method of identification used to identify the county established by the central filing officer; where the farm product is produced or stored or to be produced or to be stored; and the crop year, unless every crop year for the duration of the effective financing statement is subject to the particular security interest;

(V) Further details of the farm product subject to the security interest if needed to distinguish it from other farm products owned by the same person but not subject to the particular security interest; and

(VI) Such other additional information as the central filing officer may require to comply with ~~section 1324~~ 7 U.S.C. SEC. 1631 of the federal "Food Security Act of 1985"; or to more effectively carry out the purposes of this article.

(e) ~~Shall be amended in writing within three months after any material change. Similarly signed, and filed to reflect material changes.~~ Such amendment ~~and material change~~ shall be signed, AUTHORIZED, OR OTHERWISE AUTHENTICATED AND FILED WITH THE CENTRAL FILING OFFICER by the secured party, and if such amendment is filed ~~electronically~~ BY ELECTRONIC TRANSMISSION, it shall be signed, AUTHORIZED, OR OTHERWISE AUTHENTICATED electronically, pursuant to section 24-71-101, C.R.S. However, if the security interest is terminated as to one or more of the farm products shown on the filed effective financing statement and the effective financing statement is to remain effective as to one or more other farm products, ~~an amendment shall be filed showing such partial termination within thirty days after termination of such security interest, and if the affected secured party fails to file an amendment showing such partial termination within the thirty-day period, he shall be liable to the debtor for one hundred dollars, and, in addition, for any loss caused to the debtor by such failure~~ THE SECURED PARTY SHALL, WITHIN THIRTY DAYS AFTER SUCH PARTIAL TERMINATION, FILE AN AMENDMENT REFLECTING SUCH PARTIAL TERMINATION WITH THE CENTRAL FILING OFFICER. SUCH AMENDMENT SHALL BE SIGNED, AUTHORIZED, OR OTHERWISE AUTHENTICATED BY THE SECURED PARTY, AND IF SUCH AMENDMENT IS FILED BY ELECTRONIC TRANSMISSION, IT SHALL BE SIGNED, AUTHORIZED, OR OTHERWISE AUTHENTICATED ELECTRONICALLY, PURSUANT TO SECTION 24-71-101, C.R.S. IF THE AFFECTED SECURED PARTY FAILS TO FILE AN AMENDMENT REFLECTING SUCH PARTIAL TERMINATION WITHIN THE THIRTY-DAY PERIOD, THE SECURED PARTY SHALL BE LIABLE TO THE DEBTOR FOR FIVE HUNDRED DOLLARS, AND, IN ADDITION, FOR ANY LOSS CAUSED TO THE DEBTOR BY SUCH FAILURE.

(f) Remains effective for a period of five years ~~from~~ AFTER the date of filing, subject to extensions for additional five-year periods by filing ~~a~~ ONE OR MORE continuation ~~statement before the expiration of the applicable five-year period, as~~

~~provided~~ STATEMENTS in ACCORDANCE WITH section 4-9.5-106;

(g) Lapses on either the expiration of the effective period of the statement or the filing of a notice of termination signed by the secured party that the statement has terminated, whichever occurs first, as provided in section 4-9.5-107;

(h) May, for any given debtor, cover more than one farm product located in more than one county;

(i) May cover more than one debtor; ~~or one trade or assumed name of one debtor;~~

(j) Is accompanied by the requisite filing fee, established pursuant to section 4-9-525;

(k) Is on a form prescribed by the central filing officer; and

(l) Substantially complies with the requirements of this subsection (7) even though it contains minor errors that are not seriously misleading.

SECTION 2. 4-9.5-104 (5) (a), Colorado Revised Statutes, is amended to read:

4-9.5-104. Central filing system. (5) (a) The lists as identified pursuant to subsection (3) of this section shall be distributed by the central filing officer and shall reflect all ~~then effective~~ filings EFFECTIVE AS OF THE DATE STATED ON THE LIST, and shall be in writing or printed and shall also be stored in computer-readable form. The central filing officer shall determine the frequency with which the lists identified pursuant to subsection (3) of this section shall be distributed. Such lists may be distributed on an annual basis with three quarterly cumulative supplements or more frequent supplements as determined by the central filing officer reflecting all new filings, changes, and terminations since the last list, if it is cost-effective, requested by registered buyers, and permitted by applicable federal law. The central filing officer shall also provide for the distribution of the lists in direct computer access form and establish reasonable fees therefor pursuant to subsection (8) of this section. The central filing officer may also develop other forms in which to distribute lists and establish fees therefor pursuant to subsection (8) of this section. The lists shall be distributed by first-class mail, postage prepaid. A registrant is deemed to be registered only as to those products, counties, and crop years for which the registrant requests a list. If the name of the seller of a farm product is not on a list requested and received by a registrant, the registrant shall have no liability under this article except as to those farm products for which the registrant has received direct notification of the existence of security interests pursuant to ~~sections 1324 7 U.S.C. SEC. 1631 (e) (1) and (g) (2) (A). of the federal "Food Security Act of 1985"~~. The registrant may rely on the representation of the seller as to the seller's identity, so long as the reliance is in good faith.

SECTION 3. 4-9.5-107 (2) (a) (I), Colorado Revised Statutes, is amended to read:

4-9.5-107. Notice of termination. (2) (a) The notice of termination of an effective financing statement shall:

(I) Be signed, AUTHORIZED, OR OTHERWISE AUTHENTICATED by the secured party, and if such notice is filed ~~electronically~~ BY ELECTRONIC TRANSMISSION it shall be signed electronically, pursuant to section 24-71-101, C.R.S.;

SECTION 4. 4-9.5-108 (3), Colorado Revised Statutes, is amended to read:

4-9.5-108. Filings generally. (3) Any termination, amendment, assignment, or release of collateral filing made pursuant to this article shall ~~include~~ BE SIGNED, AUTHORIZED, OR OTHERWISE AUTHENTICATED BY ~~the signature of~~ the secured party, and if such filing is made ~~electronically~~ BY ELECTRONIC TRANSMISSION it shall be signed electronically, pursuant to section 24-71-101, C.R.S.

SECTION 5. 4-9.5-111, Colorado Revised Statutes, is amended to read:

4-9.5-111. Penalties. Any debtor or third party who provides any false or misleading information concerning the name of the owner of any farm products or the existence of any security interest affecting farm products with the intent to deprive the secured party of any of his or her security under the security interest or to defraud or mislead the buyer of any farm product as to the existence of the security interest or fails to pay to the secured party any moneys realized out of the sale of collateral in violation of any security agreement and with the intent to deprive the secured party of such party's rights thereto, or makes a filing ~~that does not include the authorized signature of the secured party as required by~~ SUBJECT TO section 4-9.5-108 (3) THAT IS NOT SIGNED, AUTHORIZED, OR OTHERWISE AUTHENTICATED BY THE SECURED PARTY AS REQUIRED BY SECTION 4-9.5-108 (3), shall be deemed to have violated section 18-5-206, C.R.S., and shall be subject to the penalties described in said section. Any penalty so collected shall be transmitted to the state treasurer, who shall credit the same to the department of state cash fund created in section 24-21-104 (3), C.R.S.

SECTION 6. Effective date. This act shall take effect July 1, 2004.

SECTION 7. 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: May 27, 2004