

CHAPTER 210

CONSUMER AND COMMERCIAL TRANSACTIONS

SENATE BILL 99-065

BY SENATORS Reeves, Linkhart, Powers, and Anderson;
also REPRESENTATIVES Leyba and Taylor.

AN ACT

CONCERNING FILINGS TO PERFECT SECURITY INTERESTS, AND, IN CONNECTION THEREWITH, AMENDING PROVISIONS GOVERNING THE OPERATION OF THE CENTRAL INDEXING SYSTEM AND MAKING AN APPROPRIATION.

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

SECTION 1. 4-9-401 (1) (b) (I) (B) and (1) (b) (II), Colorado Revised Statutes, are amended, and the said 4-9-401 (1) (b) (I) is further amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH, to read:

4-9-401. Place of filing - erroneous filing - removal of collateral. (1) (b) (I) The proper place to file in order to perfect a security interest is as follows:

(B) In all other cases, ON OR BEFORE DECEMBER 31, 1999, in the office of the secretary of state or in the office of the county clerk and recorder of any county;

(C) IN ALL OTHER CASES, ON OR AFTER JANUARY 1, 2000, IN THE OFFICE OF THE CENTRAL FILING OFFICER.

(II) ~~This paragraph (b) is effective July 1, 1996.~~

SECTION 2. Part 4 of article 9 of title 4, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

4-9-401.5. Central filing officer - definitions - powers and duties. (1) AS USED IN THIS PART 4, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BOARD" MEANS THE CENTRAL INFORMATION SYSTEM BOARD ESTABLISHED IN SECTION 4-9.3-103.

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

(b) "CENTRAL FILING OFFICER" MEANS THE DESIGNEE OF THE BOARD.

(c) "FILING OFFICER" MEANS EITHER THE CENTRAL FILING OFFICER OR THE COUNTY CLERK AND RECORDER OF ANY COUNTY.

(2) EXCEPT TO THE EXTENT OTHERWISE PROVIDED IN SECTION 4-9-401 (1) (b) (I) (A), EFFECTIVE JANUARY 1, 2000, THE CENTRAL FILING OFFICER SHALL:

(a) RECEIVE DOCUMENTS PRESENTED FOR FILING PURSUANT TO THIS PART 4 AND ARTICLE 9.5 OF THIS TITLE;

(b) CONCLUDING NO LATER THAN JULY 1, 2000, ASSEMBLE A COMPLETE DATABASE PURSUANT TO SECTION 4-9-414;

(c) MAINTAIN THE CENTRAL DATABASE AND THE CENTRAL INDEX AND CARRY OUT ALL OTHER DUTIES AND FUNCTIONS OF THE CENTRAL FILING OFFICER UNDER THIS PART 4 AND ARTICLES 9.3 AND 9.5 OF THIS TITLE; AND

(d) CHARGE FEES, WHICH SHALL BE DETERMINED AND COLLECTED PURSUANT TO SECTION 4-11-102, FOR FILING DOCUMENTS AND MAKING CERTIFICATES AS REQUIRED WHEN ACTING PURSUANT TO THIS PART 4 AND ARTICLES 9.3 AND 9.5 OF THIS TITLE.

(3) (a) THE CENTRAL FILING OFFICER SHALL, ON AND AFTER JANUARY 1, 2000, EXECUTE, ADMINISTER, PERFORM, AND ENFORCE THE RIGHTS, POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS VESTED PRIOR TO JANUARY 1, 2000, IN THE SECRETARY OF STATE AND, EXCEPT WITH RESPECT TO FILINGS UNDER SECTION 4-9-401 (1) (b) (I) (A), IN EACH COUNTY CLERK AND RECORDER, CONCERNING THE FILING AND MAINTAINING OF RECORDS PERTAINING TO SECURITY INTERESTS UNDER PART 4 OF ARTICLE 9 OF THIS TITLE AND UNDER ARTICLES 9.3 AND 9.5 OF THIS TITLE. ON JANUARY 1, 2000, ALL EMPLOYEES OF THE SECRETARY OF STATE WHOSE PRINCIPAL DUTIES ARE CONCERNED WITH THE DUTIES AND FUNCTIONS TO BE PERFORMED BY THE CENTRAL FILING OFFICER AND WHOSE EMPLOYMENT BY THE CENTRAL FILING OFFICER IS DEEMED NECESSARY BY THE CENTRAL FILING OFFICER TO CARRY OUT THE PURPOSES OF THIS PART 4 AND OF ARTICLES 9.3 AND 9.5 OF THIS TITLE SHALL BE TRANSFERRED TO THE CENTRAL FILING OFFICER AND SHALL BECOME EMPLOYEES THEREOF. SUCH EMPLOYEES SHALL RETAIN ALL RIGHTS TO THE STATE PERSONNEL SYSTEM AND RETIREMENT BENEFITS UNDER THE LAWS OF THIS STATE, AND THEIR SERVICES SHALL BE DEEMED TO HAVE BEEN CONTINUOUS. ALL TRANSFERS AND ANY ABOLISHMENT OF POSITIONS IN THE STATE PERSONNEL SYSTEM SHALL BE MADE AND PROCESSED IN ACCORDANCE WITH STATE PERSONNEL SYSTEM LAWS AND RULES.

(b) EXCEPT AS OTHERWISE PROVIDED IN SECTION 4-9-414 (1), ON JANUARY 1, 2000, ALL ITEMS OF PROPERTY, REAL AND PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS, DOCUMENTS, AND RECORDS OF THE SECRETARY OF STATE PERTAINING TO THE DUTIES AND FUNCTIONS TRANSFERRED TO THE CENTRAL FILING OFFICER, SHALL BE TRANSFERRED TO THE CENTRAL FILING OFFICER AND SHALL BECOME THE PROPERTY THEREOF.

(c) ON OR AFTER JANUARY 1, 2000, WHENEVER THE SECRETARY OF STATE IS REFERRED TO OR DESIGNATED BY ANY CONTRACT OR OTHER DOCUMENT ENTERED

INTO PRIOR TO JANUARY 1, 2000, TO WHICH THE SECRETARY OF STATE IS A PARTY IN CONNECTION WITH THE DUTIES AND FUNCTIONS TO BE PERFORMED BY THE CENTRAL FILING OFFICER, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO REFER TO OR DESIGNATE THE BOARD. ALL CONTRACTS ENTERED INTO BY THE SECRETARY OF STATE PRIOR TO JANUARY 1, 2000, IN CONNECTION WITH THE DUTIES AND FUNCTIONS TO BE PERFORMED BY THE CENTRAL FILING OFFICER ARE HEREBY VALIDATED, WITH THE BOARD SUCCEEDING TO ALL THE RIGHTS AND OBLIGATIONS OF SUCH CONTRACTS. ANY APPROPRIATIONS OF FUNDS FROM PRIOR FISCAL YEARS OPEN TO SATISFY OBLIGATIONS INCURRED UNDER SUCH CONTRACTS ARE HEREBY TRANSFERRED AND APPROPRIATED TO THE BOARD FOR THE PAYMENT OF SUCH OBLIGATIONS.

4-9-401.6. Fees - central filing office cash fund. (1) THE CENTRAL FILING OFFICER SHALL NOT FILE FOR RECORD ANY DOCUMENT OR DO ANY SUCH OFFICIAL WORK UNTIL THE FEE OR SUM ESTABLISHED TO BE COLLECTED THEREFOR HAS FIRST BEEN PAID.

(2) THE CENTRAL FILING OFFICER IS AUTHORIZED TO MAINTAIN AN ACCOUNTS RECEIVABLE SYSTEM FOR THE COLLECTION OF FEES CHARGED FOR PAPERS OFFICIALLY EXECUTED AND ALL OTHER OFFICIAL WORK THAT MAY BE DONE WHILE ACTING AS THE CENTRAL FILING OFFICER UNDER THIS PART 4 AND ARTICLES 9.3 AND 9.5 OF THIS TITLE.

(3) ALL FEES COLLECTED BY THE CENTRAL FILING OFFICER SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE CENTRAL INFORMATION SYSTEM CASH FUND CREATED IN SECTION 4-9.3-105. ALL MONEYS CREDITED TO SUCH FUND SHALL BE USED AS PROVIDED IN SECTION 4-9.3-105 AND SHALL NOT BE DEPOSITED IN OR TRANSFERRED TO THE GENERAL FUND OF THIS STATE OR ANY OTHER FUND. THE MONEYS CREDITED TO THE CENTRAL INFORMATION SYSTEM CASH FUND SHALL BE AVAILABLE FOR APPROPRIATION BY THE GENERAL ASSEMBLY TO THE BOARD IN THE GENERAL APPROPRIATION BILL.

SECTION 3. 4-9-403 (1), (2), (3), and (4), Colorado Revised Statutes, are amended, and the said 4-9-403 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

4-9-403. What constitutes filing - duration of filing - effect of lapsed filing - duties of filing officer. (1) (a) 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.

(b) ON AND AFTER JANUARY 1, 2000, THE CENTRAL FILING OFFICER SHALL ENSURE THAT DOCUMENTS MAY BE PRESENTED FOR FILING BY FACSIMILE TRANSMISSION. AFTER FILING, ALL DOCUMENTS SO PRESENTED SHALL BE RETAINED IN A FORM THAT FACILITATES LOCATION AND REPRODUCTION OF A TRUE COPY OF ANY SUCH DOCUMENT.

(c) ON AND AFTER JANUARY 1, 2000, THE CENTRAL FILING OFFICER SHALL ENSURE THAT PRESENTATION FOR FILING MAY BE ACCOMPLISHED ELECTRONICALLY, WITHOUT THE NECESSITY FOR THE PRESENTATION OF A PHYSICAL ORIGINAL DOCUMENT OR THE IMAGE THEREOF, IF ALL REQUIRED INFORMATION IS INCLUDED AND READILY RETRIEVABLE FROM THE DATA TRANSMITTED. ALL ELECTRONIC FILINGS SHALL BE

RETAINED IN A FORM THAT FACILITATES LOCATION OF THE INFORMATION SO FILED AND PRODUCTION OF A TRUE AND ACCURATE PHYSICAL PRINTOUT OR OTHER REPRESENTATION OF THE INFORMATION SO FILED.

(d) THE CENTRAL FILING OFFICER IS HEREBY SPECIFICALLY AUTHORIZED TO ESTABLISH PREPAID ACCOUNTS, AN ELECTRONIC DEBIT SYSTEM, A SYSTEM FOR THE ACCEPTANCE OF CREDIT CARDS OR ELECTRONIC FUNDS TRANSFERS, OR ANY COMBINATION THEREOF.

(e) TO FACILITATE THE FILING OF DOCUMENTS IN THE OFFICE OF THE CENTRAL FILING OFFICER ELECTRONICALLY OR BY FACSIMILE TRANSMISSION, THE CENTRAL FILING OFFICER IS HEREBY SPECIFICALLY AUTHORIZED TO ADOPT, BY RULE, TECHNICAL STANDARDS GOVERNING SUCH FILINGS AND TO REJECT DOCUMENTS THAT DO NOT COMPLY WITH SUCH STANDARDS. SUCH STANDARDS MAY INCLUDE, WITHOUT LIMITATION, THE SPECIFICATION OF COMMERCIALY AVAILABLE SOFTWARE OR THE DISSEMINATION OF SOFTWARE COMPATIBLE WITH THE CENTRAL FILING OFFICER'S RECEPTION, STORAGE, AND RETRIEVAL SYSTEM. WHERE NATIONAL STANDARDS ARE AVAILABLE AND HAVE BEEN PROMULGATED BY A RECOGNIZED PROFESSIONAL ORGANIZATION, THE CENTRAL FILING OFFICER SHALL CONSIDER AND MAY USE SUCH NATIONAL STANDARDS AS THE BASIS FOR THE RULES.

(f) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO IMPLY THAT AN EFFECTIVE FILING MAY NOT BE MADE BY THE PRESENTATION OF A HARD COPY OF THE FINANCING STATEMENT, IN PROPER FORM, TO THE CORRECT FILING OFFICER. IT IS THE GENERAL ASSEMBLY'S INTENT THAT ELECTRONIC FILING BE AVAILABLE IN ADDITION TO, BUT NOT TO THE EXCLUSION OF, FILING BY TRADITIONAL METHODS.

(2) Except as provided in SECTION 4-9-412 AND IN subsection (6) of this section, a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the SUCH five-year period OR, IF APPLICABLE, THE FIVE-YEAR PERIOD SPECIFIED IN SECTION 4-9-412, unless a continuation statement is filed prior to the lapse IN THE FILING OFFICE SPECIFIED IN SECTION 4-9-401 AS THE FILING OFFICE THAT IS APPROPRIATE AS OF THE DATE THE CONTINUATION STATEMENT IS FILED. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five-year period, whichever occurs later. Upon lapse the security interest becomes unperfected unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(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 OR, IF APPLICABLE, THE FIVE-YEAR PERIOD SPECIFIED IN SECTION 4-9-412, 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, WHETHER by physical annexation of financing statements to continuation statements or other related filings or by other means, SO AS TO ENSURE that if ~~he or she~~ THE FILING OFFICER 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 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.

(b) Any continuation statement filed on or after July 1, 1996, AND BEFORE JANUARY 1, 1998, including one that was perfected by filing with both the offices of the secretary of state and a county clerk and recorder, continues the perfection in all of the collateral listed on the filing. WITH RESPECT TO CONTINUATION STATEMENTS FILED ON OR AFTER JULY 1, 1996, AND BEFORE JANUARY 1, 1998, the filing of a single continuation statement shall maintain the effectiveness of financing statements that name identical collateral but have been filed in multiple locations.

(4) Except as provided in subsection (7) of this section, a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other ~~photographic~~ TRUE COPY OR DIGITALLY STORED IMAGE thereof for public inspection. In addition, the filing officer shall index the statement according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) (a) EFFECTIVE JANUARY 1, 2000, A FINANCING STATEMENT FILED BEFORE JANUARY 1, 2000, MAY BE CONTINUED, AMENDED, ASSIGNED, OR TERMINATED OF RECORD ONLY BY FILING A CONTINUATION STATEMENT, AMENDMENT, OR TERMINATION STATEMENT, AS APPLICABLE, IN THE FILING OFFICE IN WHICH SUCH FINANCING STATEMENT WOULD BE REQUIRED TO BE FILED ON OR AFTER JANUARY 1, 2000, PURSUANT TO SECTION 4-9-401 (1) (b) TO PERFECT A SECURITY INTEREST IN THE COLLATERAL DESCRIBED IN SUCH FINANCING STATEMENT.

(b) EFFECTIVE JANUARY 1, 2000, COLLATERAL MAY BE RELEASED OF RECORD ONLY BY FILING A STATEMENT OF RELEASE IN THE FILING OFFICE IN WHICH THE FINANCING STATEMENT THAT IS THE SUBJECT OF THE STATEMENT OF RELEASE WOULD BE REQUIRED TO BE FILED ON OR AFTER JANUARY 1, 2000, PURSUANT TO SECTION 4-9-401 (1) (b) TO PERFECT A SECURITY INTEREST IN THE COLLATERAL DESCRIBED IN SUCH FINANCING STATEMENT.

SECTION 4. Part 4 of article 9 of title 4, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

4-9-403.5. Filing officer's authority to reject certain records - definitions.

(1) THE CENTRAL FILING OFFICER SHALL, AND ANY FILING OFFICER MAY, REFUSE TO ACCEPT A RECORD FOR FILING ON ANY BASIS SET FORTH IN SUBSECTION (2) OF THIS SECTION. THE LIST OF BASES FOR REFUSAL SET FORTH IN SUBSECTION (2) OF THIS

SECTION IS EXCLUSIVE.

(2) FILING DOES NOT OCCUR WITH RESPECT TO A RECORD THAT A FILING OFFICER REFUSES TO ACCEPT BECAUSE:

(a) THE RECORD IS NOT PRESENTED BY A METHOD OR MEDIUM OF COMMUNICATION AUTHORIZED BY THE FILING OFFICER;

(b) AN AMOUNT EQUAL TO OR GREATER THAN THE APPLICABLE FILING FEE IS NOT TENDERED;

(c) THE FILING OFFICER IS UNABLE TO INDEX THE RECORD BECAUSE:

(I) IN THE CASE OF AN INITIAL FINANCING STATEMENT OR AN AMENDMENT THAT PROVIDES A NAME OF A DEBTOR THAT WAS NOT PREVIOUSLY PROVIDED IN THE FINANCING STATEMENT TO WHICH THE AMENDMENT RELATES, THE RECORD DOES NOT PROVIDE A NAME, MAILING ADDRESS, AND SOCIAL SECURITY OR FEDERAL TAX IDENTIFICATION NUMBER FOR THE DEBTOR;

(II) IN THE CASE OF AN AMENDMENT, CONTINUATION STATEMENT, STATEMENT OF ASSIGNMENT, STATEMENT OF RELEASE, OR TERMINATION STATEMENT, THE RECORD:

(A) DOES NOT IDENTIFY THE FILE NUMBER OF THE INITIAL FINANCING STATEMENT, THE FILING OFFICE IN WHICH THE INITIAL FINANCING STATEMENT WAS FILED, AND THE NAME OF AT LEAST ONE OF THE DEBTORS OF RECORD; OR

(B) IDENTIFIES AN INITIAL FINANCING STATEMENT WHOSE EFFECTIVENESS HAS LAPSED UNDER SECTION 4-9-403, 4-9-412, OR 4-9.5-106;

(d) IN THE CASE OF AN INITIAL FINANCING STATEMENT AND AN AMENDMENT THAT ADDS A SECURED PARTY OF RECORD, THE RECORD DOES NOT PROVIDE A NAME AND MAILING ADDRESS FOR THE SECURED PARTY OF RECORD;

(e) IN THE CASE OF AN AMENDMENT, THE RECORD DOES NOT PROVIDE A NAME AND ADDRESS FOR THE ASSIGNEE; OR

(f) IN THE CASE OF A CONTINUATION STATEMENT, THE RECORD IS NOT FILED WITHIN THE PERIOD SPECIFIED IN SECTION 4-9-403, 4-9-412, OR 4-9.5-106, AS APPLICABLE.

(3) FOR PURPOSES OF THIS SECTION:

(a) "RECORD" MEANS INFORMATION THAT IS INSCRIBED IN A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM;

(b) A RECORD DOES NOT PROVIDE INFORMATION IF THE FILING OFFICER IS UNABLE TO DECIPHER THE INFORMATION;

(c) A RECORD IS AN INITIAL FINANCING STATEMENT UNLESS IT BOTH:

(I) INDICATES THAT IT IS AN AMENDMENT, CONTINUATION STATEMENT, STATEMENT

OF ASSIGNMENT, STATEMENT OF RELEASE, OR TERMINATION STATEMENT; AND

(II) IDENTIFIES AN INITIAL FINANCING STATEMENT TO WHICH IT RELATES.

(4) IF A FILING OFFICER REFUSES TO ACCEPT A RECORD FOR FILING, THE FILING OFFICER SHALL COMMUNICATE THE FACT OF AND REASON FOR SUCH REFUSAL TO THE PERSON THAT PRESENTED THE RECORD IF SUCH PERSON HAS PROVIDED IN WRITING A NAME AND ADDRESS FOR SUCH PURPOSE OR, IN ALL OTHER CASES, TO THE SECURED PARTY AT THE SECURED PARTY'S MOST RECENT ADDRESS OF RECORD. SUCH COMMUNICATION SHALL BE MADE AT THE TIME AND IN THE MANNER PRESCRIBED BY THE FILING OFFICER BUT IN NO EVENT MORE THAN TWO BUSINESS DAYS AFTER THE FILING OFFICER RECEIVES THE RECORD.

SECTION 5. 4-9-407 (2), Colorado Revised Statutes, is amended to read:

4-9-407. Information from filing officer. (2) (a) Upon request of any person, the filing officer shall issue ~~his~~ a certificate showing whether ~~there is~~ THE FILING OFFICER HAS on file, ~~on~~ AS OF the date and hour stated therein, any presently effective financing statement naming a particular debtor, any other statement, and any federal tax lien notice, and if there is, giving the date and hour of filing of each such statement or notice and the names and addresses of each secured party or grantee therein. Upon request the filing officer shall furnish a copy of any filed financing statement, any other statement, or any tax lien notice.

(b) AS USED IN THIS SUBSECTION (2), A PRESENTLY EFFECTIVE FINANCING STATEMENT MEANS A FINANCING STATEMENT THAT HAS NOT BEEN TERMINATED PURSUANT TO SECTION 4-9-404 AND THE EFFECTIVENESS HAS NOT LAPSED AS A RESULT OF THE FAILURE TO FILE A CONTINUATION STATEMENT REQUIRED BY SECTION 4-9-403 OR 4-9-412.

SECTION 6. Part 4 of article 9 of title 4, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

4-9-414. Transfer of files - definitions. (1) ON AND AFTER JANUARY 1, 2000, AND IN ANY EVENT NO LATER THAN JULY 1, 2000, THE CENTRAL FILING OFFICER SHALL HAVE THE POWER AND DUTY TO OBTAIN FROM EACH COUNTY CLERK AND RECORDER, THE SECRETARY OF STATE, AND THE BOARD, WORKING IN COOPERATION WITH EACH AND TO THE EXTENT THE CENTRAL FILING OFFICER DEEMS NECESSARY, ORIGINALS OR TRUE COPIES OF THE FOLLOWING RECORDS FOR PURPOSES OF ASSEMBLING A COMPLETE, CENTRAL DATABASE OF SUCH RECORDS AND AN ACCOMPANYING INDEX; AND UPON REQUEST BY THE CENTRAL FILING OFFICER, EACH COUNTY CLERK AND RECORDER, THE SECRETARY OF STATE, AND THE BOARD SHALL PROVIDE THE CENTRAL FILING OFFICER WITH THE FOLLOWING RECORDS:

(a) ALL "UNIFORM COMMERCIAL CODE" RECORDS AND EFFECTIVE FINANCING STATEMENTS FILED ON OR AFTER JULY 1, 1996, WITH A COUNTY CLERK AND RECORDER OR THE SECRETARY OF STATE;

(b) ALL "UNIFORM COMMERCIAL CODE" RECORDS FILED PRIOR TO JULY 1, 1996, THE EFFECTIVENESS OF WHICH HAVE BEEN CONTINUED BY CONTINUATION STATEMENTS FILED ON OR AFTER JULY 1, 1996, AND ON OR BEFORE DECEMBER 31,

1997, PURSUANT TO SECTION 4-9-412 AND THAT HAVE NOT BEEN TERMINATED PURSUANT TO SECTION 4-9-404;

(c) ALL EFFECTIVE FINANCING STATEMENTS FILED PRIOR TO JULY 1, 1996, THE EFFECTIVENESS OF WHICH HAVE BEEN CONTINUED BY CONTINUATION STATEMENTS FILED ON OR AFTER JULY 1, 1996, AND ON OR BEFORE DECEMBER 31, 1997, PURSUANT TO SECTION 4-9.5-106 AND THAT HAVE NOT BEEN TERMINATED PURSUANT TO ARTICLE 9.5 OF THIS TITLE;

(d) ALL CONTINUATION STATEMENTS, AMENDMENTS, STATEMENTS OF ASSIGNMENT, STATEMENTS OF RELEASE, AND TERMINATION STATEMENTS RELATING TO ANY "UNIFORM COMMERCIAL CODE" RECORDS OR EFFECTIVE FINANCING STATEMENTS REFERRED TO IN PARAGRAPHS (a), (b), OR (c) OF THIS SUBSECTION (1);

(e) ALL NOTICES OF LIENS, CERTIFICATES, AND OTHER NOTICES AFFECTING FEDERAL TAX LIENS FILED WITH THE SECRETARY OF STATE PURSUANT TO SECTION 38-25-102 (2), C.R.S., ALL ITEMS FILED WITH THE BOARD PURSUANT TO SECTION 14-10-122, C.R.S., AND ALL ITEMS FILED WITH THE SECRETARY OF STATE PURSUANT TO SECTION 38-27-103, C.R.S.;

(f) AS TO ALL ITEMS DESCRIBED IN PARAGRAPHS (a) TO (e) OF THIS SUBSECTION (1), AN ACCOMPANYING INDEX SUFFICIENT TO PERMIT LOCATION OF EACH FILING BY DEBTOR NAME, SOCIAL SECURITY OR FEDERAL TAX IDENTIFICATION NUMBER, OR FILE NUMBER.

(2) THE CLERK AND RECORDER OF EACH COUNTY SHALL CONTINUE TO MAINTAIN RECORDS OF FINANCING STATEMENTS FILED IN THE REAL ESTATE RECORDS OF THE OFFICE OF THE COUNTY CLERK AND RECORDER PURSUANT TO SECTION 4-9-401 (1) (b) (I) (A). IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT FINANCING STATEMENTS AND OTHER DOCUMENTS HERETOFORE FILED ONLY IN THE REAL ESTATE RECORDS OF EACH COUNTY PURSUANT TO SECTION 4-9-401 (1) (b) (I) (A) CONTINUE TO BE SO FILED.

(3) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, IT SHALL NOT BE THE DUTY OF THE CENTRAL FILING OFFICER TO OBTAIN AN ORIGINAL OR TRUE COPY OF ANY FINANCING STATEMENT FILED WITH A COUNTY CLERK AND RECORDER PURSUANT TO SECTION 4-9-401 (1) (b) (I) (A). THE CENTRAL FILING OFFICER SHALL HAVE DISCRETION TO RECEIVE SUCH ORIGINAL OR TRUE COPIES IF SUCH A TRANSFER IS NECESSARY TO ACHIEVE THE COMPLETE AND EFFICIENT TRANSFER OF ALL RECORDS THAT THE CENTRAL FILING OFFICER HAS A DUTY TO OBTAIN UNDER SUBSECTION (1) OF THIS SECTION.

(4) BETWEEN JULY 1, 1999, AND JANUARY 1, 2000, THE BOARD AND EACH COUNTY CLERK AND RECORDER AND THE SECRETARY OF STATE, IN CONSULTATION WITH THE BOARD, SHALL ADOPT SUCH PROCEDURES AS THEY SHALL DEEM REASONABLE AND APPROPRIATE TO NOTIFY PERSONS FILING FINANCING STATEMENTS OR OTHER LIEN DOCUMENTS THAT, ON AND AFTER JANUARY 1, 2000, ALL RECORDS OF THE TYPE DESCRIBED IN SUBSECTION (1) OF THIS SECTION ARE TO BE FILED WITH THE CENTRAL FILING OFFICER.

(5) AS USED IN THIS SECTION:

(a) "EFFECTIVE FINANCING STATEMENT" HAS THE MEANING SET FORTH IN SECTION 4-9.5-103 (7).

(b) ""UNIFORM COMMERCIAL CODE" RECORDS" MEANS ALL FINANCING STATEMENTS AND OTHER ITEMS FILED PURSUANT TO THIS ARTICLE; EXCEPT THAT THE TERM DOES NOT INCLUDE FINANCING STATEMENTS FILED WITH A COUNTY CLERK AND RECORDER:

(I) TO PERFECT A SECURITY INTEREST IN TIMBER TO BE CUT, MINERALS OR OTHER SUBSTANCES OF VALUE WHICH MAY BE EXTRACTED FROM THE EARTH OR ACCOUNTS SUBJECT TO SECTION 4-9-103 (5); OR

(II) AS A FIXTURE FILING, AS DEFINED IN SECTION 4-9-313 (1) (b), TO PERFECT A SECURITY INTEREST IN GOODS WHICH ARE OR ARE TO BECOME FIXTURES.

4-9-415. Performance testing - adequacy of resources - self-audits - reports to general assembly. (1) AS AN INTEGRAL PART OF THE DESIGN AND IMPLEMENTATION OF THE FILING SYSTEM AND INDEX MAINTAINED BY THE CENTRAL FILING OFFICER, THE BOARD SHALL INCLUDE THE CAPABILITY FOR PERIODIC, INTERNAL AUDITS TO DETERMINE THE ACCURACY AND COMPLETENESS OF THE INDEX, THE ACCURACY AND THE COMPLETENESS OF SUCH RECORDS AND INFORMATION-GATHERING PROCESS PURSUANT TO SECTION 4-9-414, THE TIME LAG, IF ANY, BETWEEN THE PRESENTATION OF A DOCUMENT TO THE CENTRAL FILING OFFICER FOR FILING AND THE APPEARANCE OF THE DOCUMENT IN THE CENTRAL FILING OFFICER'S RECORDS AND IN THE INDEX, THE RETRIEVABILITY OF AN IMAGE OF SUCH DOCUMENT FROM THE RECORDS OF THE CENTRAL FILING OFFICER, AND OTHER FACTORS BEARING ON THE PERFORMANCE OF THE FILING SYSTEM AND THE INDEX AND THE ACCURACY OF THE CENTRAL FILING OFFICER'S CERTIFICATIONS PURSUANT TO SECTION 4-9-407.

(2) ON OR BEFORE NOVEMBER 1, 1999, AND QUARTERLY THEREAFTER, TO AND INCLUDING NOVEMBER 1, 2000, THE BOARD SHALL REPORT TO THE LEGISLATIVE AUDIT COMMITTEE ON THE RESULTS OF INTERNAL AUDITS CONDUCTED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(3) ON OR BEFORE JULY 1, 2000, AND ANNUALLY THEREAFTER, THE BOARD SHALL CAUSE TO BE PERFORMED A COMPARATIVE ANALYSIS OF THE SEARCHING AND INDEXING SYSTEMS EMPLOYED BY A REPRESENTATIVE SELECTION OF OTHER STATES FOR "UNIFORM COMMERCIAL CODE" FILINGS AND SHALL PREPARE AND DELIVER TO THE LEGISLATIVE AUDIT COMMITTEE A REPORT REFLECTING THE RESULTS OF SUCH STUDY.

SECTION 7. 4-9.3-101, Colorado Revised Statutes, is amended to read:

4-9.3-101. Short title. This article shall be known and may be cited as the "Central ~~indexing~~ INFORMATION System Act".

SECTION 8. 4-9.3-102, Colorado Revised Statutes, is amended to read:

4-9.3-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the central ~~indexing~~ INFORMATION system board.

(2) "CENTRAL FILING OFFICER" MEANS THE PERSON DESIGNATED BY THE BOARD PURSUANT TO SECTION 4-9.3-103.

SECTION 9. 4-9.3-103, Colorado Revised Statutes, is amended to read:

4-9.3-103. Central information system board - director - duties. (1) (a) There is hereby established in the department of state, by a **type 1** transfer, a central ~~indexing~~ INFORMATION system board which shall consist of the following eleven members:

(I) Two members appointed by the governor from the members of the Colorado association of clerks and recorders, one of whom shall be from a category I or II county and one of whom shall be from a category III, IV, or V county;

(II) One member appointed by the secretary of state to represent the department of state; and

(III) Eight members appointed by the governor, as follows:

(A) Two members who represent lenders;

(B) Two members who are agricultural producers;

(C) One member who is a buyer of agricultural products;

(D) One member who is an automobile representative;

(E) One member who is a title insurance industry representative;
and

(F) One member who is a representative of the motor vehicle division in the department of revenue.

(b) (I) ~~All members shall be appointed no later than December 31, 1996.~~ NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE TERMS OF ALL MEMBERS SHALL END ON JUNE 30, 1999, AND THE BOARD SHALL BE RECONSTITUTED IN ACCORDANCE WITH PARAGRAPH (c) OF THIS SUBSECTION (1).

(II) THE MEMBERS SERVING ON JUNE 30, 1999, WHOSE POSITIONS REMAIN ON THE RECONSTITUTED BOARD SHALL BE REAPPOINTED. THE MEMBERS OF THE RECONSTITUTED BOARD SHALL HAVE SUCH INITIAL TERMS AS SHALL AUTHORIZE THREE MEMBERS TO SERVE UNTIL JULY 1, 2000, THREE MEMBERS TO SERVE UNTIL JULY 1, 2001, THREE MEMBERS TO SERVE UNTIL JULY 1, 2002, AND TWO MEMBERS TO SERVE UNTIL JULY 1, 2003. THEREAFTER, ALL APPOINTMENTS SHALL BE IN ACCORDANCE WITH PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

(III) ON AND AFTER JUNE 30, 1999, UNTIL THE BOARD HAS BEEN FULLY RECONSTITUTED IN ACCORDANCE WITH PARAGRAPH (c) OF THIS SUBSECTION (1), the members of the committee appointed pursuant to ~~section 4-9-411~~ PARAGRAPH (a) OF

THIS SUBSECTION (1) shall serve as the central ~~indexing~~ INFORMATION system board and shall have all powers and duties of such board. ~~until all members have been appointed pursuant to this section.~~

(c) THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT OF STATE BY A **type 1** TRANSFER, A CENTRAL INFORMATION SYSTEM BOARD WHICH SHALL CONSIST OF THE FOLLOWING ELEVEN MEMBERS:

(I) ONE MEMBER APPOINTED BY THE GOVERNOR FROM THE MEMBERS OF THE COLORADO ASSOCIATION OF CLERKS;

(II) ONE MEMBER APPOINTED BY THE SECRETARY OF STATE TO REPRESENT THE DEPARTMENT OF STATE; AND

(III) NINE MEMBERS APPOINTED BY THE GOVERNOR, AS FOLLOWS:

(A) TWO MEMBERS WHO REPRESENT LENDERS, OF WHICH ONE REPRESENTS LENDERS THAT DO BUSINESS IN COLORADO ONLY AND THE OTHER REPRESENTS LENDERS THAT DO BUSINESS IN COLORADO AND AT LEAST ONE OTHER STATE;

(B) TWO MEMBERS WHO ARE AGRICULTURAL PRODUCERS;

(C) ONE MEMBER WHO IS A BUYER OF AGRICULTURAL PRODUCTS;

(D) ONE MEMBER WHO REPRESENTS THE PUBLIC RECORDS RESEARCH INDUSTRY;

(E) ONE MEMBER WHO IS AN ATTORNEY;

(F) ONE MEMBER WHO IS A REPRESENTATIVE OF THE MOTOR VEHICLE DIVISION IN THE DEPARTMENT OF REVENUE; AND

(G) ONE MEMBER AT LARGE, WITH EXPERTISE IN COMPUTER TECHNOLOGY, REPRESENTING CITIZENS OF COLORADO.

(d) PARAGRAPH (a) OF THIS SUBSECTION (1) IS REPEALED, EFFECTIVE JULY 1, 1999.

(2) (a) Initial members shall be appointed to the board as follows: Three members shall serve until July 1, 1997, three members shall serve until July 1, 1998, three members shall serve until July 1, 1999, and two members shall serve until July 1, 2000. All subsequent appointments shall be for terms of four years. No member of the board shall be eligible to serve more than two consecutive terms.

(b) Any vacancy on the board shall be filled for the unexpired term in the same manner as the original appointment. The member appointed to fill such vacancy shall be from the same category described in subsection (1) of this section as the member vacating the position.

(3) In performing its duties pursuant to this article, the board has the power to:

(a) Create and implement the central ~~indexing~~ INFORMATION system, which shall include the operation and improvement of the central filing system;

(b) Adopt, rescind, modify, or amend rules, orders, and resolutions for the exercise of its AND THE CENTRAL FILING OFFICER'S powers and duties; ~~including but not limited to rules lowering or increasing the amount of the surcharge imposed pursuant to section 4-9.3-105 (3), subject to article 4 of title 24, C.R.S.;~~

(c) Enter into contracts deemed appropriate to the purpose of carrying out the purposes of the board;

(d) Oversee the design, operation, and implementation of the central ~~indexing~~ INFORMATION system;

(d.5) Explore ways and means of expanding the amount and kind of public information provided and the form in which it is provided, expanding the base of user associations that access such public information, and, where appropriate, implementing such expansion or increase;

(e) Monitor program performance and accountability, INCLUDING THE PERFORMANCE OF THE CENTRAL FILING OFFICER DESIGNATED PURSUANT TO PARAGRAPH (j) OF THIS SUBSECTION (3);

(f) ~~Determine which filings to perfect security interests and notices of agricultural liens and other liens created by law shall be indexed in the central indexing system;~~ HIRE ALL NECESSARY PERSONNEL AND PROCURE ALL NECESSARY PERSONAL SERVICES AND EQUIPMENT TO ASSIST THE CENTRAL FILING OFFICER IN EXERCISING THE POWERS AND CARRYING OUT THE DUTIES SET FORTH IN THIS ARTICLE AND PART 4 OF ARTICLE 9 AND ARTICLE 9.5 OF THIS TITLE, INCLUDING, WITHOUT LIMITATION, ACQUIRING THE CAPABILITY TO RECEIVE ELECTRONIC FILINGS. WHENEVER PRACTICABLE, THE BOARD SHALL CONTRACT WITH PRIVATE ENTITIES FOR THE PERFORMANCE OF SUCH DUTIES.

(g) Establish fees to be charged for accessing information in the central ~~indexing~~ INFORMATION system, which fees shall be credited to the central ~~indexing~~ INFORMATION system cash fund, based upon the following factors:

- (I) The fiscal integrity of the central ~~indexing~~ INFORMATION system;
- (II) The right to access public information at a reasonable cost;
- (III) The market value of central ~~indexing~~ INFORMATION system information;
- (IV) ~~The proper balance between filing surcharge fees and access fees;~~
- (V) The availability of other funding sources.

(h) Contract with any public or private party concerning the design, implementation, operation, and improvement of the central ~~indexing~~ INFORMATION system, including accounting, information systems, and other professional services. The board shall acquire or lease the equipment and facilities necessary to carry out the purposes of the board.

(i) Work with various sales tax jurisdictions to resolve the current problem of automobile lien perfection and the collection of sales taxes;

~~(j) Establish fees for the filing of effective financing statements and continuation statements;~~ ON OR BEFORE NOVEMBER 1, 1999, APPOINT A PERSON TO PERFORM THE DUTIES OF THE CENTRAL FILING OFFICER UNDER THIS ARTICLE AND PART 4 OF ARTICLE 9 AND ARTICLE 9.5 OF THIS TITLE. THE PERSON SO APPOINTED SHALL EXERCISE SUCH POWERS AS MAY BE DELEGATED BY THE BOARD OR THAT MAY BE NECESSARY TO DISCHARGE THE DUTIES OF THE CENTRAL FILING OFFICER, INCLUDING, WITHOUT LIMITATION, THE IMPLEMENTATION OF ALL CONTRACTS ENTERED INTO BY THE BOARD PERTAINING TO THE PERFORMANCE OF SUCH DUTIES. THE CENTRAL FILING OFFICER SHALL SERVE FOR AN INDEFINITE TERM, AT THE PLEASURE OF THE BOARD.

(k) Establish fees for the filing of notices of agricultural liens created by law and promulgate forms for such filings;

(l) Establish fees for distributing the master list or portions thereof to buyers of farm products, commission merchants, and selling agents, or for providing such master list or portions thereof to other interested parties pursuant to article 9.5 of this title in photocopy, microfiche, or computer-readable form. Such fees shall not exceed the actual cost of providing the lists in the form requested.

(m) Hire employees, prescribe their duties, fix their compensation, and delegate board contract and disbursement responsibilities to such employees;

(n) Bring suit in connection with the exercise of its powers;

(o) Accept grants and moneys from the state or any other source;

(p) Cooperate with any local, state, or national organizations or governmental entities engaged in activities similar to those of the board and contract with such organizations or entities for the purpose of carrying on joint programs;

(q) Disburse funds in the central ~~indexing~~ INFORMATION system cash fund, created in section 4-9.3-105;

(r) Perform such other acts as may be necessary to carry out its duties and powers.

~~(4) The board shall not have the authority to establish or amend the fees for filings to perfect security interests established pursuant to section 4-11-102 or section 24-21-104, C.R.S.~~

(5) Members of the board shall serve without compensation, but their expenses shall be reimbursed from the central ~~indexing~~ INFORMATION system cash fund, created in section 4-9.3-105.

(6) The board shall choose a chairperson and vice-chairperson from among its members and may establish such organizational and procedural rules as are necessary.

~~(7) Such administrative, clerical, technical, and legal assistance as the board may require shall be provided by the department of state, subject to the approval of the board.~~

SECTION 10. 4-9.3-104, Colorado Revised Statutes, is amended to read:

4-9.3-104. Central information system - repeal. (1) On the earliest practical date, the board shall implement the central ~~indexing~~ INFORMATION system under the supervision of a designee of such board.

(2) (a) The indexing of a document pursuant to this article shall not constitute notice for purposes of section 38-35-109, C.R.S.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JANUARY 1, 2000.

SECTION 11. 4-9.3-105, Colorado Revised Statutes, is amended to read:

4-9.3-105. Central information system cash fund - creation. (1) The surcharge on filings and recordings made pursuant to subsection (3) of this section shall fund the hardware, software, programming, maintenance, and other related costs needed to allow for the electronic filing and retrieval of ~~lien index~~ data under the central ~~indexing~~ INFORMATION system Effective July 1, 1996, ~~moneys in the fund shall be appropriated by the general assembly to the board only for~~ AND FOR OTHER purposes recommended by the board to the joint budget committee. ~~For purposes of this article, "filing or recording" means the performance of any service by a clerk and recorder whether or not a specific statute uses the phrase, and includes any service performed by a clerk and recorder for a fee whereby a document becomes a public record. Notwithstanding any provision of this subsection (1) to the contrary, "filing or recording" does not mean the filing of a marriage license, the recording of a veterans' discharge certificate, or the recording of a duplicate motor vehicle title. The board may exempt other filings or recordings from the surcharge, as deemed appropriate.~~

(2) ~~The surcharges collected by the board pursuant to subsection (3) of this section shall be transmitted to the state treasurer who shall credit the same to the central indexing system cash fund, which fund is hereby created. The moneys in such fund shall be subject to annual appropriation by the general assembly to the board for the purposes described in subsection (1) of this section.~~

(3) (a) ~~A one-dollar surcharge shall be imposed on any and all filings and recordings made with the division of commercial recordings in the office of the secretary of state or any office of a county clerk and recorder, regardless of the statute under which the filing or recording is made; except that such surcharge shall not be imposed on filings and recordings for which there is no charge.~~

(b) ~~Notwithstanding the amount specified for the surcharge in paragraph (a) of this subsection (3), the board by rule or as otherwise provided by law may reduce the amount of the surcharge if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of the surcharge is credited. After the uncommitted reserves of the fund are sufficiently reduced, the board by rule or as otherwise provided by law may increase the amount of the surcharge as provided in section 24-75-402 (4), C.R.S.~~

(3.4) Revenues collected by the board AND THE CENTRAL FILING OFFICER from ~~the~~ operation of the central indexing system, with the exception of revenues derived from

~~the surcharge described in subsection (3) of this section;~~ THEIR RESPECTIVE OPERATIONS shall be transmitted to the state treasurer, who shall credit the same to the central ~~indexing~~ INFORMATION system cash fund, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. Such revenues shall be subject to annual appropriation by the general assembly to the board for the purposes described in subsection (1) of this section and in section 4-9.3-103. The board may allocate a share of such revenues to the governmental agencies that provide database information to the central ~~indexing~~ INFORMATION system for public access purposes.

(3.5) (a) There is hereby created within the central ~~indexing~~ INFORMATION system cash fund a county clerk's technology fund. ~~The secretary of state shall transmit the following revenues to the state treasurer, who shall credit them to such fund:~~

~~(F) Three dollars from the filing of each financing statement and each amendment, continuation, assignment, release, or termination of a financing statement, collected pursuant to section 24-21-104 (3) (f) (H), C.R.S.:~~

~~(H) Any revenue in the central indexing system cash fund not used for the continuing operation of the board or the central indexing system or otherwise allocated pursuant to subsection (3.4) of this section.~~

~~(b) The board shall determine, and may establish subcommittees to recommend, formulae pursuant to which moneys in the county clerk's technology fund shall be allocated among the county clerks. It is the intent of the general assembly that moneys in the fund be distributed directly to each county clerk in an amount equal to the allocation determined by the board and that such distribution not be considered a transfer to a county's general fund or subject to appropriation by a county commission.~~

~~(4) Subsections (1), (2), and (3) of this section and this subsection (4) are repealed, effective December 31, 2000. ALL EQUIPMENT, SOFTWARE, AND OTHER PROPERTY PURCHASED WITH MONEYS FROM THE COUNTY CLERK'S TECHNOLOGY FUND SHALL BECOME THE PROPERTY OF THE RESPECTIVE COUNTIES IN WHICH SUCH PROPERTY EXISTS AS OF DECEMBER 31, 1999. THE BOARD SHALL DETERMINE, AND MAY ESTABLISH SUBCOMMITTEES TO RECOMMEND, FORMULAE PURSUANT TO WHICH ANY UNEXPENDED, UNENCUMBERED MONEYS REMAINING IN THE COUNTY CLERK'S TECHNOLOGY FUND AS OF DECEMBER 31, 1999, SHALL BE ALLOCATED AMONG THE COUNTY CLERKS. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT MONEYS IN THE FUND BE DISTRIBUTED DIRECTLY TO EACH COUNTY CLERK IN AN AMOUNT EQUAL TO THE ALLOCATION DETERMINED BY THE BOARD AND THAT SUCH DISTRIBUTION NOT BE CONSIDERED A TRANSFER TO A COUNTY'S GENERAL FUND OR SUBJECT TO APPROPRIATION BY A COUNTY COMMISSION.~~

SECTION 12. 4-9.3-106, Colorado Revised Statutes, is amended to read:

4-9.3-106. Duties of filing officer - repeal. (1) The office of the secretary of state or any county clerk and recorder receiving a filing to perfect a security interest or agricultural lien pursuant to article 9 of this title shall transmit a copy of such filing, including all required elements of a financing statement as stated in section 4-9-402 (1), whether received electronically or by hard copy, to the central ~~indexing~~ INFORMATION system in a timely manner.

~~(1.5) Except as authorized by section 38-35-202, C.R.S., a filing officer shall not reject a document submitted for filing under this title unless:~~

~~(a) The filing party has failed to submit the proper fee; or~~

~~(b) The filing officer determines that the document is illegible and cannot be indexed by the debtor's name.~~

(2) For purposes of this section, "timely manner" means that:

(a) Filings received before noon on any business day will be transmitted to the central ~~indexing~~ INFORMATION system no later than the end of the following business day;

(b) Filings received after noon will be transmitted to the central ~~indexing~~ INFORMATION system no later than the end of the second business day following the day of receipt.

(3) This section ~~shall take effect July 1, 1996~~ IS REPEALED, EFFECTIVE JANUARY 1, 2000.

SECTION 13. 4-9.3-107 (1), Colorado Revised Statutes, is amended to read:

4-9.3-107. Immunity. (1) Except in cases of willful misconduct or bad faith, the CONTRACTORS RETAINED BY THE department of ~~revenue~~ STATE and central ~~indexing~~ INFORMATION system board, ~~contractors and contractors'~~ AS WELL AS THE employees OF SUCH CONTRACTORS, shall be exempt from personal liability as a result of an error or omission in receiving, entering, storing, or providing information or performing their duties as required by this title.

SECTION 14. 4-9.5-103 (1), (3), (7) (b), (7) (f), (7) (j), and (7) (k), Colorado Revised Statutes, are amended, and the said 4-9.5-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

4-9.5-103. Definitions. As used in this article, unless the context otherwise requires:

(1) "Board" means the state central ~~indexing~~ INFORMATION system board, created in section 4-9.3-103.

(2.5) "CENTRAL FILING OFFICER" MEANS THE PERSON DESIGNATED BY THE BOARD PURSUANT TO SECTION 4-9.3-103.

(3) "Central filing system" means a system for filing effective financing statements or notice of such financing statements on a statewide basis and which has been certified by the secretary of the United States department of agriculture pursuant to section 1324 of the "Food Security Act of 1985". IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT, EFFECTIVE JANUARY 1, 2000, THE FILING SYSTEM ESTABLISHED BY SECTION 4-9-401 SHALL CONSTITUTE THE CENTRAL FILING SYSTEM.

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

(b) Is signed, unless the statement is filed by electronic transmission, and filed with the ~~office of the board or its designee~~ CENTRAL FILING OFFICER by the secured party;

(f) Remains effective for a period of five years from the date of filing, subject to extensions for additional five-year periods by filing a continuation statement ~~within six months~~ before the expiration of the ~~current~~ APPLICABLE five-year period, as provided in section 4-9.5-106;

(j) Is accompanied by the requisite filing fee, established pursuant to ~~article 9.3 of this title~~ SECTION 4-11-102;

(k) Is on a form prescribed by the ~~board~~ CENTRAL FILING OFFICER; and

SECTION 15. 4-9.5-104 (1), (4), (5) (a), and (7), Colorado Revised Statutes, are amended to read:

4-9.5-104. Central filing system. (1) The board shall be responsible for the design, implementation, and operation of a central filing system for effective financing statements. The system shall provide a means for filing effective financing statements or notices of such effective financing statements WITH THE CENTRAL FILING OFFICER. The system shall include requirements:

(a) That an effective financing statement be filed in the office of the ~~board or its designee~~. ~~In the case of a secured party filing a notice of effective financing statement by computer modem access with the office of the board or its designee, the effective financing statement may be filed with the same office of the county clerk and recorder or the secretary of state where the security interest is filed, pursuant to section 4-9-401~~ CENTRAL FILING OFFICER;

(b) That the ~~board or its designee or, pursuant to paragraph (a) of this subsection (1), the county clerk and recorder or the secretary of state~~ CENTRAL FILING OFFICER record the date and hour of the filing of effective financing statements; and

(c) That the ~~board or its designee or, pursuant to paragraph (a) of this subsection (1), the county clerk and recorder or the secretary of state shall~~ CENTRAL FILING OFFICER assign a file number to each effective financing statement.

(4) All buyers of farm products, commission merchants, selling agents, and other persons may register with the board or its designee to receive lists described in subsection (3) of this section. Any buyer of farm products, commission merchant, selling agent, or other person conducting business from multiple locations may be considered as one entity, at its option. Such registration shall be on an annual basis. ~~except that the first registration shall be for calendar years 1988 and 1989~~. The board or its designee shall provide the form for registration ~~which~~ THAT shall include the name and address of the registrant and the list or lists described in subsection (3) of this section ~~which~~ THAT such registrant desires to receive. A registration shall not be completed until the form provided is properly completed and received by the board or its designee accompanied by the proper fee for the desired list or lists.

(5) (a) The lists as identified pursuant to subsection (3) of this section shall be distributed by the ~~board or its designee~~ CENTRAL FILING OFFICER and shall reflect all

then effective filings, calling attention to new filings, changes, and terminations since the last list, and shall be in writing or printed AND SHALL ALSO BE STORED IN microfiche and computer-readable forms. The board ~~or its designees~~ 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 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 board shall also provide for the distribution by the ~~board or its designee~~ CENTRAL FILING OFFICER of the lists in direct computer access form and establish reasonable charges therefor pursuant to article 9.3 of this title. The board may also develop other forms in which to distribute lists and establish charges therefor pursuant to article 9.3 of this title. The distribution shall be made 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 (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.

(7) ~~The board shall apply no later than January 1, 1989, to the secretary of the United States department of agriculture for certification of the central filing system.~~

SECTION 16. 4-9.5-105 (1) and (5), Colorado Revised Statutes, are amended to read:

4-9.5-105. Confirmations. (1) Oral and written inquiries regarding information provided by the filing of effective financing statements may be made at the office of the ~~board's designee~~ CENTRAL FILING OFFICER between the hours of 8:30 a.m. and 5 p.m. on business days.

(5) A buyer of farm products, whether or not registered, may rely conclusively on an oral or written confirmation received pursuant to this section, regardless of any errors or omissions committed by the board or its designee in the preparation or issuance of the confirmation. If the board or its designee confirms orally or in writing to such buyer that the name of the seller is not on the list for a specified product, such buyer shall have no liability under this article and the buyer may rely on the representation of the seller as to ~~his~~ THE SELLER'S identity, so long as the reliance is in good faith.

SECTION 17. 4-9.5-107 (1) and (2) (b), Colorado Revised Statutes, are amended to read:

4-9.5-107. Notice of termination. (1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall, within thirty days, file with the ~~board or its designee~~ CENTRAL FILING OFFICER a notice of termination of the effective financing statement and provide notice to the debtor of such filing, unless the debtor otherwise requests. If the affected secured party fails to file a termination statement within the thirty-day period, ~~he~~ THE SECURED PARTY shall be liable to the debtor for one hundred dollars,

and, in addition, for any loss caused to the debtor by such failure.

(2) (b) Termination shall be effective as of the date and hour of filing the notice with the ~~board or its designee~~ CENTRAL FILING OFFICER.

SECTION 18. 4-9.5-108 (1), Colorado Revised Statutes, is amended to read:

4-9.5-108. Filings generally. (1) ~~The board or its designee or, pursuant to section 4-9.5-104 (1) (a), the county clerk and recorder or the secretary of state~~ CENTRAL FILING OFFICER shall accept for filing all filings pursuant to this title during regular business hours. ~~The board or its designee or, pursuant to section 4-9.5-104 (1) (a), the county clerk and recorder or the secretary of state~~ CENTRAL FILING OFFICER shall record the date and hour of the filing of such statements. In the event of an electronic filing made other than during regular business hours, ~~the county clerk and recorder or the secretary of state~~ CENTRAL FILING OFFICER shall record the date of filing as follows: If an electronic filing is made other than during the regular business hours of the filing office, the date of filing shall be the day on which such office next commences business, and the hour of filing shall be the commencement of business on such day. All filings made pursuant to this title that are filed as paper documents and not electronically shall be filed in duplicate, and one copy of the statement shall be returned to the filing party stamped to show the time of receipt ~~thereof~~ OF THE FILING. All filings shall be submitted for filing on forms prescribed by the board. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE THE CENTRAL FILING OFFICER TO ACCEPT FOR FILING ANY ITEM THE REJECTION OF WHICH IS REQUIRED OR PERMITTED UNDER SECTION 4-9-403.5.

SECTION 19. 4-9.5-110, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

4-9.5-110. Fees - rules - federal certification. (4) IF REQUIRED BY THE FEDERAL "FOOD SECURITY ACT OF 1985", THE BOARD SHALL APPLY, NO LATER THAN JULY 31, 1999, TO THE SECRETARY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE FOR CERTIFICATION THAT THE CENTRAL FILING OFFICER AND THE CENTRAL FILING SYSTEM, AS MODIFIED BY LEGISLATIVE ENACTMENTS EFFECTIVE JANUARY 1, 2000, CONTINUE TO COMPLY WITH THE REQUIREMENTS OF SUCH FEDERAL LAW.

SECTION 20. 4-11-102 (1), (3), and (4), Colorado Revised Statutes, are amended to read:

4-11-102. Fees for filing, indexing, and furnishing data. (1) The filing officer shall charge a uniform fee in accordance with the following schedule:

(a) For filing, indexing, and furnishing filing data for an original financing statement, pursuant to section 4-9-403 OR AN ORIGINAL EFFECTIVE FINANCING STATEMENT PURSUANT TO SECTION 4-9.5-108: Fifteen dollars.

(a.5) (I) For filing a continuation statement between July 1, 1996, and December 31, 1997: Five dollars.

(II) For filing, indexing, and furnishing filing data for a continuation statement, except between July 1, 1996, and December 31, 1997: Fifteen dollars.

(b) For filing and indexing a separate statement of assignment pursuant to section 4-9-404 ~~(1)~~ OR 4-9.5-108: Fifteen dollars.

(c) For filing and indexing a termination statement pursuant to section 4-9-404 ~~(2)~~ OR 4-9.5-107: Fifteen dollars.

(d) For filing, indexing, and furnishing filing data for a financing statement indicating an assignment of a security interest in the collateral described in the statement, pursuant to section 4-9-405 (1) OR 4-9.5-108: Fifteen dollars.

(e) For filing, indexing, and furnishing filing data for a separate written statement of assignment, pursuant to section 4-9-405 (2) OR 4-9.5-108: Fifteen dollars.

(f) For filing and noting a statement releasing all or a part of any collateral described in a filed financing statement, pursuant to section 4-9-406 OR 4-9.5-108: Fifteen dollars.

(g) (I) For issuance of a certificate, pursuant to section 4-9-407 (2): Five dollars for the first year searched, plus two dollars for each additional year searched.

(II) For furnishing a copy of any filed financing statement or other statement, pursuant to section 4-9-407 (2): One dollar AND twenty-five cents per page, plus one dollar for certifying such copy and affixing the seal thereto.

(h) (Deleted by amendment, L. 91, p. 707, § 1, effective July 1, 1991.)

(3) When a document is not submitted on a standard form established by the ~~central indexing system board~~ CENTRAL FILING OFFICER for such purpose, the filing officer shall charge a five-dollar fee in addition to any other fee imposed pursuant to this section for filing, indexing, and furnishing data pursuant to ~~subsection~~ SUBSECTIONS (1) (a), (1) (a.5) (II), (1) (b), (1) (c), (1) (d), (1) (e), and (1) (f) of this section.

(4) Notwithstanding the amount specified for any fee in subsection (1) of this section, the ~~secretary of state~~ CENTRAL INFORMATION SYSTEM BOARD, CREATED IN SECTION 4-9.3-103, SHALL, by rule or as otherwise provided by law, ~~may~~ reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the ~~secretary of state by rule or as otherwise provided by law~~ CENTRAL INFORMATION SYSTEM BOARD may increase the amount of one or more of the fees as provided in section 24-75-402 (4), C.R.S.

SECTION 21. 14-10-122 (1.5) (c), (1.5) (e) (II), and (1.5) (i), Colorado Revised Statutes, are amended to read:

14-10-122. Modification and termination of provisions for maintenance, support, and property disposition - automatic lien. (1.5) (c) **Lien on personal property other than wages and moneys held by a financial institution as defined by 42 U.S.C. sec. 669 (d) or motor vehicles.** (I) To evidence a lien on personal property, other than wages and moneys held by a financial institution as defined in

~~section 42 U.S.C. sec. 669 (d) or motor vehicles, created pursuant to this subsection (1.5), the state child support enforcement agency shall file a notice of lien with the central indexing system board established pursuant to section 4-9.3-103, C.R.S. CENTRAL FILING OFFICER DESIGNATED PURSUANT TO SECTION 4-9.3-103 (1) (j), C.R.S., by means of direct electronic data transmission. From the time of filing the notice of lien with the central indexing system FILING OFFICER, such lien shall be an encumbrance in favor of the obligee, or the assignee of the obligee, and shall encumber all personal property or any interest of the obligor in any personal property.~~

(II) The lien on personal property created by this section shall remain in effect twelve years or until all past-due amounts are paid, including any accrued interest and costs, without the necessity of renewal. Within twenty calendar days after satisfaction of the debt or debts described in the notice of lien, the state child support enforcement agency shall file a release of lien with the central ~~indexing system board~~ FILING OFFICER. The filing of such a release of lien shall be conclusive evidence that the lien is extinguished.

(III) The state child support enforcement agency shall be exempt from paying a fee for the filing of notices of liens or releases of liens with the central ~~indexing system~~ FILING OFFICER pursuant to this paragraph (c).

(IV) For purposes of this paragraph (c), "personal property" means property that the child support enforcement agency has determined has a net equity value of not less than five thousand dollars at the time of the filing of the notice of lien with the central ~~indexing system~~ FILING OFFICER.

(e) **Priority of a lien.** (II) A lien on personal property, other than motor vehicles, created pursuant to this section shall be in effect for twelve years or until all past-due amounts are paid and shall have priority from the time the lien is filed with the central ~~indexing system~~ FILING OFFICER over all unfiled liens and all subsequent filed or unfiled liens, except such liens as may be exempted by regulation of the state board of human services. A lien on personal property arising pursuant to this subsection (1.5) shall expire at the conclusion of twelve years and may not be extended or renewed beyond that period of time.

(i) **No liability.** No clerk and recorder, authorized agent as defined in section 42-6-102 (1), C.R.S., financial institution, lienholder, or ~~central indexing system personnel~~ FILING OFFICER, NOR ANY EMPLOYEE OF ANY OF SUCH PERSONS OR ENTITIES, shall be liable for damages for actions taken in good faith compliance with this subsection (1.5).

SECTION 22. 24-21-104 (3) (f) (II), Colorado Revised Statutes, is amended to read:

24-21-104. Fees of secretary of state - repeal. (3) (f) With respect to the moneys collected by the office of the secretary of state pursuant to section 4-11-102 (1) (a), (1) (a.5) (II), (1) (b), (1) (c), (1) (d), (1) (e), and (1) (f), C.R.S.:

(II) (A) Three of every fifteen dollars shall be transferred to the central ~~indexing~~ INFORMATION system cash fund, created in section 4-9.3-105, C.R.S. Such moneys shall be separately accounted for within such fund and used for revenue sharing

purposes with the counties of this state, as determined by the central ~~indexing~~ INFORMATION system board.

(B) THIS PARAGRAPH (f) IS REPEALED, EFFECTIVE JANUARY 1, 2000.

SECTION 23. 38-25-102 (2), Colorado Revised Statutes, is amended, and the said 38-25-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

38-25-102. Federal liens - places of filing - definition. (2) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed as follows:

(a) If the person against whose interest the lien applies is a corporation, ~~or~~ partnership, OR LIMITED LIABILITY COMPANY whose ~~principal~~ CHIEF executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the ~~secretary of state~~ CENTRAL FILING OFFICER;

(b) If the person against whose interest the lien applies is a trust that is not covered by paragraph (a) of this subsection (2), in the office of the ~~secretary of state~~ CENTRAL FILING OFFICER;

(c) If the person against whose interest the lien applies is the estate of a decedent, in the office of the ~~secretary of state~~ CENTRAL FILING OFFICER;

(d) In all other cases, the notice of lien shall be recorded in the office of the county clerk and recorder of the county where the person against whose interest the lien applies resides at the time of recording of the notice of lien.

(2.5) AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "CENTRAL FILING OFFICER" MEANS THE CENTRAL FILING OFFICER DESIGNATED PURSUANT TO SECTION 4-9.3-103, C.R.S.

SECTION 24. 38-25-104 (1) (a), the introductory portion to 38-25-104 (2), and 38-25-104 (4), Colorado Revised Statutes, are amended to read:

38-25-104. Duties of filing officer. (1) If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection (2) of this section is presented to a filing officer who is:

(a) The ~~secretary of state~~ CENTRAL FILING OFFICER, then the ~~secretary of state~~ CENTRAL FILING OFFICER shall cause the notice to be marked, held, and indexed in accordance with the provisions of section 4-9-403 (4), C.R.S., as if the notice were a financing statement within the meaning of such section; or

(2) If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the ~~secretary of state~~ CENTRAL FILING OFFICER for filing, the ~~secretary of state~~ CENTRAL FILING OFFICER shall:

(4) Upon request of any person, the filing officer shall issue a certificate showing

whether there is on file, or recorded on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this article, naming a particular person and, if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for the issuance of a certificate by the ~~secretary of state~~ CENTRAL FILING OFFICER shall be determined and collected pursuant to section 24-21-104 (3), C.R.S., and the fee for the issuance of a certificate by a county clerk and recorder shall be the same as provided in section 4-11-102 (1) (g) (I), C.R.S. Upon request, the filing officer shall furnish a copy of any notice of federal lien or notice or certificate affecting a federal lien. The fee for furnishing and for certifying such copy and affixing the seal thereto shall be determined and collected pursuant to section 24-21-104 (3), C.R.S., if furnished by the ~~secretary of state~~ CENTRAL FILING OFFICER, and the said fee shall be the same as provided in section 4-11-102 (1) (g) (II), C.R.S., if furnished by a county clerk and recorder.

SECTION 25. 38-25-105 (1) (c), Colorado Revised Statutes, is amended to read:

38-25-105. Fees. (1) (c) When the filing officer is the ~~secretary of state~~ CENTRAL FILING OFFICER, the fees required by this subsection (1) shall be determined and collected pursuant to section 24-21-104 (3), C.R.S.

SECTION 26. 38-25-106, Colorado Revised Statutes, is amended to read:

38-25-106. Lien not valid until notice filed. Prior to the time of the filing of a notice of lien in the office of the ~~secretary of state~~ CENTRAL FILING OFFICER or the county clerk and recorder, as the case may be, the ~~same~~ LIEN shall not be valid as against any mortgagee, purchaser, or judgment creditor.

SECTION 27. 38-27-102, Colorado Revised Statutes, is amended to read:

38-27-102. Notice of lien. Such lien shall take effect if, prior to any such judgment, settlement, or compromise, a written notice of lien containing the name and address of the injured person, the date of the accident, the name and location of the hospital, and the name of the person alleged to be liable to the injured person for the injuries received is filed by the hospital in the office of the ~~secretary of state~~ CENTRAL FILING OFFICER DESIGNATED PURSUANT TO SECTION 4-9.3-103, C.R.S. Hospital liens properly recorded with the division of insurance prior to July 1, 1994, shall be valid and enforceable without filing with the office of the secretary of state. Within ten days after such filing, the hospital shall mail by certified mail, return receipt requested, a copy of said notice to such injured person at the last address provided to the hospital by such person, to his or her attorney, if known, to the persons alleged to be liable to such injured person for the injuries sustained, if known, and to the insurance carriers, if known, which have insured such persons alleged to be liable against such liability. If an action for damages on account of such injuries or death is pending, the requirements of notice contained in this section shall be satisfied by the filing of the said notice of lien in the pending action, with copies thereof to the attorneys of record for the parties thereto.

SECTION 28. Appropriation - adjustments to the 1999 long bill. (1) (a) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the secretary of state cash fund not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 1999, the sum of eighty-nine thousand three

hundred eight dollars (\$89,308) and 0.5 FTE, or so much thereof as may be necessary, for the implementation of this act.

(b) In addition to any other appropriation, there is hereby appropriated, to the department of state, for the fiscal year beginning July 1, 1999, the sum of eight hundred seventy thousand eighty-seven dollars (\$870,087), or so much thereof as may be necessary, for the implementation of this act. Of said sum, seven hundred forty-nine thousand four hundred twenty-six dollars (\$749,426) shall be from any moneys in the central information system cash fund created in section 4-9.3-1105, Colorado Revised Statutes, not otherwise appropriated, and one hundred twenty thousand six hundred sixty-one dollars (\$120,661) and 1.5 FTE shall be from any moneys in the central filing office cash fund created in section 4-9-401.6, Colorado Revised Statutes, not otherwise appropriated. Such sums shall be made available as of January 1, 2000.

(c) In addition to any other appropriation, there is hereby appropriated, to the department of law, for the fiscal year beginning July 1, 1999, the sum of four thousand six hundred twenty-six dollars (\$4,626), or so much thereof as may be necessary, for the provision of legal services to the department of state related to the implementation of this act. Of said sum, two thousand three hundred thirteen dollars (\$2,313) shall be from cash funds exempt received from the department of state out of the appropriation made in paragraph (a) of this subsection (1), and two thousand three hundred thirteen dollars (\$2,313) shall be from cash funds exempt received from the department of state out of the appropriation made in paragraph (b) of this subsection (1).

(2) For the implementation of this act, appropriations made in the annual general appropriation act to the department of state, special purpose, central lien indexing, for the fiscal year beginning July 1, 1999, shall be decreased by two million six hundred fourteen thousand seven hundred seventy dollars cash funds (\$2,614,770) and 2.0 FTE.

SECTION 29. Effective date. Sections 15, 16, 17, 18, 21, 23, 24, 25, 26, and 27 of this act shall take effect January 1, 2000, and the remainder of this act shall take effect July 1, 1999.

SECTION 30. 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 20, 1999