

CHAPTER 249

CONSUMER AND COMMERCIAL TRANSACTIONS

SENATE BILL 06-188

BY SENATOR(S) Evans;
also REPRESENTATIVE(S) Hodge.

AN ACT

CONCERNING THE CENTRAL FILING OF AN EFFECTIVE FINANCING STATEMENT, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 4-9.5-103 (7), (8), and (12), Colorado Revised Statutes, are amended, and the said 4-9.5-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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

(7) "Effective financing statement" means a ~~statement~~ RECORD 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 filed with the central filing officer by the secured party; AND

(c) Is signed, authorized, or otherwise authenticated by the debtor, unless the ~~statement~~ RECORD 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:~~

~~(f) The name and address of the secured party;~~

~~(H) The name and address of the debtor, which, in the case of a natural person,~~

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

shall have the surname appear first, and, in the case of a corporation or other entity 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 7 U.S.C. sec. 1631 or to more effectively carry out the purposes of this article.~~

~~(e) Shall be amended in writing within three months after any material change. Such amendment shall be signed, authorized, or otherwise authenticated and filed with the central filing officer 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. 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, 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 after the date of filing, subject to extensions for additional five-year periods by filing one or more continuation 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;~~

~~(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.~~

(8) "Farm product" ~~shall mean~~ MEANS an agricultural commodity, a species of livestock used or produced in farming operations, or a product of such crop or livestock in its unmanufactured state, that is in the possession of a person engaged in farming operations. "Farm product" ~~shall include~~ INCLUDES, but is not limited to, apples, artichokes, asparagus, barley, cantaloupe, carrots, cattle and calves, chickens, corn, cotton, cucumbers, dry beans, eggs, fish, flax seed, fur-bearing animals, grapes, hay, hogs, honey, honeydew melon, horses, legumes, milk, muskmelon, oats, onions, pecans, popcorn, potatoes, pumpkins, raspberries, rye, seed crops, sheep and lambs, silage, sorghum grain, soybeans, squash, strawberries, sugar beets, sunflower seeds, sweet corn, tomatoes, trees, triticale, turkeys, vetch, walnuts, watermelon, wheat, and wool. The central filing officer may add other farm products in addition to those ~~lists~~ specified in this subsection (8) if such products are covered by the general definition contained in this subsection (8).

(11.5) "RECORD", EXCEPT AS USED IN "FOR RECORD", "OF RECORD", "RECORD OR LEGAL TITLE", AND "RECORD OWNER", MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR WHICH IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(12) "Registrant" or "registered buyer" means any buyer of farm products, commission merchant, or selling agent, who has registered with the central filing officer pursuant to section ~~4-9.5-104 (4)~~ 4-9.5-104.5 (3).

(16) "UNIQUE IDENTIFIER" MEANS A NUMBER, COMBINATION OF NUMBERS OR LETTERS, OR OTHER IDENTIFIER SELECTED BY THE CENTRAL FILING OFFICER USING A SYSTEM OR METHOD APPROVED BY THE UNITED STATES SECRETARY OF AGRICULTURE IN ACCORDANCE WITH THE FEDERAL "FOOD SECURITY ACT OF 1985".

SECTION 2. Repeal. 4-9.5-104 (2), (3), (4), (5), (6), and (8), Colorado Revised Statutes, are repealed as follows:

4-9.5-104. Central filing system. (2) ~~The central filing officer shall compile all such statements or notices into a master list:~~

~~(a) Organized according to farm product;~~

~~(b) Arranged within each such farm product;~~

~~(f) In alphabetical order according to the last name of the individual debtors or;~~

~~in the case of debtors doing business other than as individuals, the first word in the name of such debtors;~~

~~(H) In numerical order according to the social security number of the individual debtors or, in the case of debtors doing business other than as individuals, the federal internal revenue service taxpayer identification number of such debtors;~~

~~(HH) Geographically by county; and~~

~~(IV) By crop year;~~

~~(c) Containing the information referred to in section 4-9.5-103 (7) (d):~~

~~(3) (a) The central filing officer shall cause the information on the master list to be published in lists:~~

~~(f) By farm product arranged alphabetically by debtor; and~~

~~(H) By farm product arranged numerically by the debtor's social security number for individual debtors or, in the case of debtors doing business other than as individuals, the federal internal revenue service taxpayer identification number of such debtors:~~

~~(b) If a registered buyer or other interested person so requests, the list or lists for such buyer or person may be limited to any county or group of counties where the farm product is used or produced or to any crop year or years or a combination of such identifiers:~~

~~(4) All buyers of farm products, commission merchants, selling agents, and other persons may register with the central filing officer 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. The central filing officer shall provide the form for registration that shall include the name and address of the registrant and the list or lists described in subsection (3) of this section that such registrant desires to receive. A registration shall not be completed until the form provided is properly completed and received by the central filing officer 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 central filing officer and shall reflect all 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 7 U.S.C. sec. 1631 (c) (1) and (g) (2) (A). 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.

(b) The central filing officer shall establish the dates upon which the lists will be distributed, the dates after which a filing of an effective financing statement will not be reflected on the next distribution of lists, and the dates by which a registrant must complete a registration to receive the next list.

(6) The central filing officer shall remove terminated effective financing statements from the master list prior to preparation of the lists required to be distributed by subsection (5) of this section.

(8) The central filing officer shall establish fees for distributing the master list or portions thereof to buyers of farm products, commission merchants, selling agents, or other interested parties pursuant to this article in written, printed, or computer-readable form. Such fees shall be established and collected in accordance with section 24-21-104, C.R.S.

SECTION 3. Article 9.5 of title 4, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

4-9.5-104.5. Master list. (1) THE CENTRAL FILING OFFICER SHALL COMPILE ALL EFFECTIVE FINANCING STATEMENTS OR NOTICES INTO A MASTER LIST:

- (a) CONTAINING THE INFORMATION REFERRED TO IN SECTION 4-9.5-105.3;
- (b) ORGANIZED ACCORDING TO FARM PRODUCT; AND
- (c) ARRANGED WITHIN EACH SUCH FARM PRODUCT:

(I) IN ALPHABETICAL ORDER ACCORDING TO THE LAST NAME OF THE INDIVIDUAL DEBTORS OR, IN THE CASE OF DEBTORS DOING BUSINESS OTHER THAN AS INDIVIDUALS, THE FIRST WORD IN THE NAME OF SUCH DEBTORS;

(II) IN NUMERICAL ORDER ACCORDING TO THE SOCIAL SECURITY NUMBER, OR OTHER UNIQUE IDENTIFIER, OF THE INDIVIDUAL DEBTORS OR, IN THE CASE OF DEBTORS DOING BUSINESS OTHER THAN AS INDIVIDUALS, THE FEDERAL INTERNAL REVENUE SERVICE TAXPAYER IDENTIFICATION NUMBER, OR OTHER UNIQUE IDENTIFIER, OF SUCH DEBTORS;

(III) GEOGRAPHICALLY BY COUNTY; AND

(IV) BY CROP YEAR.

(2) (a) THE CENTRAL FILING OFFICER SHALL CAUSE THE INFORMATION ON THE MASTER LIST TO BE PRODUCED IN LISTS ORGANIZED IN THE SAME MANNER AS THE MASTER LIST.

(b) IF A REGISTERED BUYER OR OTHER INTERESTED PERSON SO REQUESTS, THE LIST OR LISTS FOR SUCH BUYER OR PERSON MAY BE LIMITED TO ANY COUNTY OR GROUP OF COUNTIES WHERE THE FARM PRODUCT IS USED OR PRODUCED, OR TO ANY CROP YEAR OR YEARS, OR A COMBINATION OF SUCH IDENTIFIERS.

(3) ALL BUYERS OF FARM PRODUCTS, COMMISSION MERCHANTS, SELLING AGENTS, AND OTHER PERSONS MAY REGISTER WITH THE CENTRAL FILING OFFICER TO ACCESS LISTS DESCRIBED IN SUBSECTION (2) 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. THE CENTRAL FILING OFFICER SHALL PRESCRIBE THE PROCESS FOR REGISTRATION, WHICH SHALL INCLUDE THE NAME AND ADDRESS OF THE REGISTRANT AND THE LIST OR LISTS DESCRIBED IN SUBSECTION (2) OF THIS SECTION THAT SUCH REGISTRANT DESIRES TO RECEIVE. A REGISTRATION SHALL BE COMPLETE WHEN THE REGISTRANT HAS PROVIDED THE REQUIRED INFORMATION AND PAID THE PRESCRIBED FEE. A REGISTRANT IS DEEMED TO BE REGISTERED ONLY AS TO THOSE PRODUCTS, COUNTIES, AND CROP YEARS FOR WHICH THE REGISTRANT REQUESTS A LIST.

(4) THE LISTS AS PRODUCED PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL BE PUBLISHED AND DISTRIBUTED BY THE CENTRAL FILING OFFICER AND SHALL REFLECT ALL EFFECTIVE FINANCING STATEMENTS THAT ARE EFFECTIVE AS OF THE DATE OF THE COMPILATION OF THE LISTS. THE CENTRAL FILING OFFICER SHALL DETERMINE THE FREQUENCY WITH WHICH THE LISTS IDENTIFIED PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL BE COMPILED AND DISTRIBUTED. SUCH LISTS MAY BE DISTRIBUTED ON AN ANNUAL BASIS WITH THREE QUARTERLY CUMULATIVE SUPPLEMENTS OR, IF COST-EFFECTIVE, REQUESTED BY REGISTERED BUYERS, AND PERMITTED BY APPLICABLE FEDERAL LAW, THE CENTRAL FILING OFFICER MAY DISTRIBUTE MORE FREQUENT SUPPLEMENTS AS DETERMINED BY THE CENTRAL FILING OFFICER REFLECTING ALL NEW FILINGS, CHANGES, AND TERMINATIONS SINCE THE LAST LIST. THE CENTRAL FILING OFFICER MAY DEVELOP THE FORM IN WHICH TO DISTRIBUTE LISTS. IF THE NAME OF THE SELLER OF A FARM PRODUCT IS NOT ON A LIST REQUESTED AND RECEIVED BY A REGISTRANT, THE SALE OF THE FARM PRODUCT TO THE REGISTRANT SHALL BE FREE OF ANY SECURITY INTEREST GRANTED BY THAT SELLER WITH RESPECT TO THE FARM PRODUCT EXCEPT AS TO ANY FARM PRODUCT FOR WHICH THE REGISTRANT HAS RECEIVED DIRECT NOTIFICATION OF THE EXISTENCE OF A SECURITY INTEREST PURSUANT TO 7 U.S.C. SEC. 1631 (e) (1) AND (g) (2) (A). 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.

(5) THE CENTRAL FILING OFFICER SHALL REMOVE FROM THE MASTER LIST ANY EFFECTIVE FINANCING STATEMENT THAT HAS LAPSED PURSUANT TO SECTION 4-9.5-105.3 (2) OR HAS BEEN TERMINATED PURSUANT TO SECTION 4-9.5-107.

(6) AS SOON AS PRACTICABLE, THE CENTRAL FILING OFFICER SHALL PUBLISH AND DISTRIBUTE THE MASTER LIST ELECTRONICALLY.

SECTION 4. 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 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~~ INFORMATION OBTAINED FROM THE MASTER LIST PUBLISHED AND DISTRIBUTED ELECTRONICALLY, regardless of any errors or omissions committed by the central filing officer in the ~~preparation or issuance of the confirmation~~ ELECTRONIC PUBLICATION OR DISTRIBUTION OF THE MASTER LIST. If the ~~central filing officer~~ INFORMATION OBTAINED ELECTRONICALLY confirms ~~orally or in writing to such buyer~~ that the name of the seller of A SPECIFIED FARM PRODUCT is not on the MASTER list, ~~for a specified product, such~~ THE SALE OF THE FARM PRODUCT TO THE buyer shall ~~have no liability under this article~~ BE FREE OF ANY SECURITY INTEREST GRANTED BY THAT SELLER WITH RESPECT TO THE FARM PRODUCT and the buyer may rely on the representation of the seller as to the seller's identity, so long as the reliance is in good faith.

SECTION 5. Article 9.5 of title 4, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

4-9.5-105.3. Effective financing statements. (1) AN EFFECTIVE FINANCING STATEMENT SHALL STATE:

(a) THE NAME AND ADDRESS OF THE SECURED PARTY;

(b) THE NAME AND ADDRESS OF THE DEBTOR, WHICH, IN THE CASE OF AN INDIVIDUAL, SHALL HAVE THE SURNAME APPEAR FIRST, AND IN THE CASE OF A CORPORATION OR OTHER ENTITY THAT IS NOT AN INDIVIDUAL, SHALL HAVE THE NAME APPEAR BEGINNING WITH THE FIRST WORD OR CHARACTER THAT IS NOT AN ARTICLE OR PUNCTUATION MARK;

(c) THE SOCIAL SECURITY NUMBER, OR OTHER UNIQUE IDENTIFIER, 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, OR OTHER UNIQUE IDENTIFIER, OF SUCH DEBTOR;

(d) A DESCRIPTION OF THE FARM PRODUCTS SUBJECT TO THE SECURITY INTEREST CREATED BY THE DEBTOR, INCLUDING:

(I) THE AMOUNT OF THE FARM PRODUCTS, UNLESS ALL OF A PARTICULAR FARM PRODUCT IS SUBJECT TO THE PARTICULAR SECURITY INTEREST;

(II) THE NAME OF EACH COUNTY IN WHICH THE FARM PRODUCTS ARE PRODUCED, STORED, OR OTHERWISE LOCATED OR TO BE PRODUCED, STORED, OR OTHERWISE LOCATED; AND

(III) THE CROP YEAR, UNLESS EVERY CROP YEAR FOR THE DURATION OF THE EFFECTIVE FINANCING STATEMENT IS SUBJECT TO THE PARTICULAR SECURITY INTEREST.

(e) FURTHER DETAILS OF THE FARM PRODUCTS SUBJECT TO THE SECURITY INTEREST, IF NEEDED TO DISTINGUISH THEM FROM OTHER FARM PRODUCTS OWNED BY THE SAME PERSON BUT NOT SUBJECT TO THE PARTICULAR SECURITY INTEREST; AND

(f) SUCH OTHER ADDITIONAL INFORMATION AS THE CENTRAL FILING OFFICER MAY REQUIRE TO COMPLY WITH 7 U.S.C. SEC. 1631 OR TO MORE EFFECTIVELY CARRY OUT THE PURPOSES OF THIS ARTICLE.

(2) AN EFFECTIVE FINANCING STATEMENT SHALL REMAIN EFFECTIVE FOR A PERIOD OF FIVE YEARS AFTER THE DATE OF FILING, UNLESS ITS EFFECTIVENESS IS EXTENDED BY FILING ONE OR MORE CONTINUATION STATEMENTS IN ACCORDANCE WITH SECTION 4-9.5-106 (1).

(3) AN EFFECTIVE FINANCING STATEMENT MAY:

(a) COVER MORE THAN ONE FARM PRODUCT LOCATED IN MORE THAN ONE COUNTY FOR ANY GIVEN DEBTOR; AND

(b) COVER MORE THAN ONE DEBTOR.

(4) AN EFFECTIVE FINANCING STATEMENT MAY NOT BE CREATED BY AMENDING A FINANCING STATEMENT FILED UNDER ARTICLE 9 OF THIS TITLE.

4-9.5-105.7. Amendment of effective financing statements. (1) AN EFFECTIVE FINANCING STATEMENT MAY BE AMENDED TO ADD OR DELETE COLLATERAL, OR OTHERWISE TO AMEND THE INFORMATION PROVIDED IN THE EFFECTIVE FINANCING STATEMENT, BY FILING AN AMENDMENT WITH THE CENTRAL FILING OFFICER THAT IDENTIFIES THE EFFECTIVE FINANCING STATEMENT TO WHICH THE AMENDMENT RELATES BY PROVIDING ITS FILE NUMBER, FILING OFFICE WHERE ORIGINALLY FILED, AND DATE FILED.

(2) AN EFFECTIVE FINANCING STATEMENT THAT IS AMENDED BY AN AMENDMENT THAT ADDS COLLATERAL IS EFFECTIVE AS TO THE ADDED COLLATERAL ONLY FROM THE DATE OF THE FILING OF THE AMENDMENT.

(3) AN EFFECTIVE FINANCING STATEMENT THAT IS AMENDED BY AN AMENDMENT THAT ADDS A DEBTOR IS EFFECTIVE AS TO THE ADDED DEBTOR ONLY FROM THE DATE OF THE FILING OF THE AMENDMENT.

(4) 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, THE SECURED PARTY SHALL, WITHIN THIRTY DAYS AFTER SUCH PARTIAL TERMINATION, FILE AN AMENDMENT REFLECTING SUCH PARTIAL TERMINATION WITH THE CENTRAL FILING OFFICER. 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.

(5) AN AMENDMENT TO AN EFFECTIVE FINANCING STATEMENT TO DELETE COLLATERAL DOES NOT AMEND OR OTHERWISE IMPAIR THE PERFECTION OF ANY SECURITY INTEREST PERFECTED BY THE EFFECTIVE FINANCING STATEMENT FOR PURPOSES OF ARTICLE 9 OF THIS TITLE.

SECTION 6. 4-9.5-106 (1), (2), and (3), Colorado Revised Statutes, are amended to read:

4-9.5-106. Continuation statements. (1) A continuation statement may be filed within six months prior to the expiration of the five-year period of EFFECTIVENESS OF an effective financing statement. ~~Any such~~ A continuation statement shall identify the ~~current~~ effective financing statement by file number, FILING OFFICE WHERE ORIGINALLY FILED, AND DATE FILED. Upon timely filing of the continuation statement, the effectiveness of the EFFECTIVE FINANCING statement shall be continued for five years after the last date to which the ~~filing~~ EFFECTIVE FINANCING STATEMENT was effective, whereupon ~~it~~ ITS EFFECTIVENESS shall lapse unless another continuation statement is filed prior to such lapse. ~~If an effective financing statement exists at the time insolvency proceedings are commenced by or against the debtor, the effective financing statement shall remain effective until termination of the insolvency proceedings and thereafter for a period of sixty days or until the expiration of the five-year period, whichever occurs later.~~ Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the ~~original~~ EFFECTIVE FINANCING statement.

(2) The effectiveness of an effective financing statement that was filed before July 1, 1996, and that ~~has~~ HAD not otherwise lapsed by December 31, 1997, shall ~~lapse~~ BE DEEMED TO HAVE LAPSED in the manner provided in subsection (1) of this section on December 31, 1997, unless a continuation statement ~~is~~ WAS filed on or after July 1, 1996, but on or before December 31, 1997, that ~~complies~~ COMPLIED with the requirements of subsection (1) of this section. ~~Upon~~ The filing of a continuation statement pursuant to this subsection (2) SHALL HAVE EXTENDED 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~~ SHALL HAVE LAPSED in the manner set forth in subsection (1) of this section unless ~~another~~ FURTHER continuation ~~statement is~~ STATEMENTS WERE filed ~~pursuant to~~ IN THE MANNER AND WITHIN THE TIME PERIODS PRESCRIBED IN subsection (1) of this section ~~prior to~~ IN ORDER TO PREVENT such lapse.

(3) ~~The effectiveness of an effective financing statement filed before July 1, 1996, that lapses after July 1, 1996, but before December 31, 1997, may be continued by filing a continuation statement in accordance with this section. If such continuation statement is filed before July 1, 1996, such effective financing statement or continuation statement shall be continued by the timely filing of a further continuation statement, pursuant to subsection (2) of this section.~~

SECTION 7. 4-9.5-107 (1) and (2), Colorado Revised Statutes, are amended,

and the said 4-9.5-107 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

4-9.5-107. Termination statement. (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 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, 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.~~ THE SECURED PARTY IDENTIFIED IN AN EFFECTIVE FINANCING STATEMENT MAY AT ANY TIME, AND WITHOUT REGARD TO WHETHER THERE IS ANY OUTSTANDING SECURED OBLIGATION OR COMMITMENT TO MAKE ADVANCES, INCUR OBLIGATIONS, OR OTHERWISE GIVE VALUE, FILE WITH THE CENTRAL FILING OFFICER A TERMINATION STATEMENT WITH RESPECT TO SUCH EFFECTIVE FINANCING STATEMENT PURSUANT TO THIS SECTION AND PROVIDE NOTICE TO THE DEBTOR OF SUCH FILING.

(1.3) (a) UNLESS THE DEBTOR OTHERWISE REQUESTS, WHENEVER THERE IS NO OUTSTANDING SECURED OBLIGATION AND NO COMMITMENT TO MAKE ADVANCES, INCUR OBLIGATIONS, OR OTHERWISE GIVE VALUE, THE SECURED PARTY IDENTIFIED IN AN EFFECTIVE FINANCING STATEMENT RELATING TO SUCH OBLIGATION OR COMMITMENT SHALL, WITHIN THIRTY DAYS, TERMINATE SUCH EFFECTIVE FINANCING STATEMENT BY FILING WITH THE CENTRAL FILING OFFICER EITHER:

(I) A TERMINATION STATEMENT PURSUANT TO THIS SECTION; OR

(II) A TERMINATION STATEMENT PURSUANT TO ARTICLE 9 OF THIS TITLE.

(b) IF A TERMINATION STATEMENT IS FILED PURSUANT TO EITHER SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a) OF THIS SUBSECTION (1.3), THE SECURED PARTY SHALL PROVIDE NOTICE TO THE DEBTOR OF SUCH FILING. IF THE SECURED PARTY FAILS TO FILE A REQUIRED TERMINATION STATEMENT WITHIN THE THIRTY-DAY PERIOD, THE SECURED PARTY SHALL BE LIABLE TO THE DEBTOR FOR ONE THOUSAND DOLLARS, AND, IN ADDITION, FOR ANY LOSS CAUSED TO THE DEBTOR BY SUCH FAILURE.

(1.5) A TERMINATION STATEMENT FILED PURSUANT TO EITHER SUBSECTION (1) OR PARAGRAPH (a) OF SUBSECTION (1.3) OF THIS SECTION DOES NOT TERMINATE OR OTHERWISE IMPAIR THE PERFECTION OF ANY SECURITY INTEREST PERFECTED BY THE EFFECTIVE FINANCING STATEMENT FOR PURPOSES OF ARTICLE 9 OF THIS TITLE.

(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 by electronic transmission it shall be signed electronically, pursuant to section 24-71-101, C.R.S.;

(II) Identify the effective financing statement, THE EFFECTIVENESS OF WHICH IS to be terminated, by file number, FILING OFFICE WHERE ORIGINALLY FILED, AND DATE FILED; and

(III) State that the effective financing statement is to be removed from the master list.

(b) ~~Termination~~ THE EFFECTIVENESS OF A TERMINATED EFFECTIVE FINANCING STATEMENT shall ~~be effective~~ CEASE as of the date and hour of filing the ~~notice with~~ TERMINATION STATEMENT BY the central filing officer.

SECTION 8. 4-9.5-108, Colorado Revised Statutes, is amended to read:

4-9.5-108. Filings generally. (1) ~~The central filing officer shall accept for filing all filings pursuant to this title during regular business hours. The 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 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 of the filing. All filings shall be submitted for filing on forms prescribed by the central filing officer. 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 4-9-520~~ EACH RECORD FILED IN THE CENTRAL FILING SYSTEM SHALL CONTAIN ALL INFORMATION REQUIRED BY THE LAWS OF THIS STATE TO BE CONTAINED IN THE RECORD. EACH SUCH RECORD SHALL:

(a) BE ON OR IN SUCH MEDIUM AS MAY BE ACCEPTABLE TO THE CENTRAL FILING OFFICER AND FROM WHICH THE CENTRAL FILING OFFICER MAY CREATE A PHYSICAL DOCUMENT THAT CONTAINS ALL OF THE INFORMATION IN THE RECORD. THE CENTRAL FILING OFFICER MAY REQUIRE THAT THE RECORD BE DELIVERED BY ANY ONE OR MORE MEANS OR ON OR IN ANY ONE OR MORE MEDIA AS MAY BE ACCEPTABLE TO THE CENTRAL FILING OFFICER. THE CENTRAL FILING OFFICER IS NOT REQUIRED TO ACCEPT FOR FILING A RECORD THAT IS NOT DELIVERED BY A MEANS AND IN A MEDIUM THAT COMPLIES WITH THE REQUIREMENTS THEN ESTABLISHED BY THE CENTRAL FILING OFFICER FOR THE DELIVERY AND FILING OF RECORDS. IF THE CENTRAL FILING OFFICER PERMITS A RECORD TO BE DELIVERED ON PAPER, THE RECORD SHALL BE TYPEWRITTEN OR MACHINE PRINTED, AND THE CENTRAL FILING OFFICER MAY IMPOSE REASONABLE REQUIREMENTS UPON THE DIMENSIONS, LEGIBILITY, QUALITY AND COLOR OF SUCH PAPER, AND TYPEWRITING OR PRINTING. IF THE DELIVERY OF A RECORD SUBJECT TO THIS ARTICLE FOR FILING IS REQUIRED OR PERMITTED TO BE ACCOMPLISHED ELECTRONICALLY, THEN THE CENTRAL FILING OFFICER MAY PRESCRIBE THE FORMAT AND OTHER ATTRIBUTES OF THE RECORD AND MAY REFUSE TO PERMIT SUCH RECORD TO BE ACCOMPANIED BY ANY PHYSICAL DOCUMENT.

(b) BE IN THE ENGLISH LANGUAGE;

(c) INCLUDE ANY FORM OR COVER SHEET, OR BOTH, REQUIRED PURSUANT TO SECTION 4-9.5-108.5;

(d) BE DELIVERED TO THE CENTRAL FILING OFFICER FOR FILING; AND

(e) BE ACCOMPANIED BY ALL REQUIRED FEES.

(2) A ~~document~~ RECORD filed pursuant to this article shall not constitute notice for purposes of section 38-35-109, C.R.S.

(3) Any CONTINUATION, termination, amendment, OR assignment ~~or release of collateral filing made pursuant to this article~~ OF AN EFFECTIVE FINANCING STATEMENT shall be signed, authorized, or otherwise authenticated by the secured party, and, IN THE CASE OF AN AMENDMENT THAT ADDS COLLATERAL OR ADDS AN ADDITIONAL DEBTOR, BY THE AFFECTED DEBTOR OR DEBTORS. If such filing is made by electronic transmission, it shall be signed electronically, pursuant to section 24-71-101, C.R.S.

(4) THE PROVISIONS OF PART 5 OF ARTICLE 9 OF THIS TITLE REGARDING THE FILING OF RECORDS SHALL APPLY TO THE FILING OF RECORDS UNDER THIS ARTICLE TO THE EXTENT NOT INCONSISTENT THEREWITH.

SECTION 9. Article 9.5 of title 4, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

4-9.5-108.5. Forms. THE CENTRAL FILING OFFICER MAY PREPARE AND FURNISH A FORM FOR ANY RECORD THAT IS SUBJECT TO THIS ARTICLE AND MAY REQUIRE THE USE OF ANY SUCH FORM.

SECTION 10. 4-9.5-110, Colorado Revised Statutes, is amended to read:

4-9.5-110. Fees - rules - federal certification.

(1) Repealed.

(1.5) THE CENTRAL FILING OFFICER SHALL CHARGE AND COLLECT FEES AND OTHER CHARGES, WHICH SHALL BE DETERMINED AND COLLECTED PURSUANT TO SECTION 24-21-104 (3), C.R.S., FOR:

(a) DISTRIBUTING THE MASTER LIST;

(b) FURNISHING ANY INFORMATION;

(c) FURNISHING A COPY OF ANY FILED RECORD;

(d) FILING ANY RECORD REQUIRED OR PERMITTED TO BE FILED UNDER THIS ARTICLE.

(2) The central filing officer is hereby authorized to adopt such rules ~~and regulations~~ as are necessary to carry out the provisions of this article and to conform the central filing system to the requirements of the federal "Food Security Act of 1985".

(3) The central filing officer may contract with one or more public or private

parties to perform some or all of its duties under this article; except that the central filing officer may not delegate the power to make rules or regulations, conduct public hearings, prescribe forms, and establish services and fees therefor.

(4) (Deleted by amendment, L. 2003, p. 1672, § 6, effective July 1, 2003.)

(5) Revenues collected by the central filing officer pursuant to this article 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.

(6) Repealed.

SECTION 11. Appropriation - adjustments to the 2006 long bill. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund created in section 24-21-104 (3) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2006, the sum of six hundred fifty-six thousand three hundred thirty-three dollars (\$656,333), or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, the appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 2006, to the department of state, administration, for personal services, is reduced by 1.0 FTE and the appropriation to the department of state, information and technology services, for personal services, is increased by 0.5 FTE.

SECTION 12. Effective date. This act shall take effect ninety days following certification in writing by the secretary of state to the revisor of statutes that approval of changes to the central filing system enacted in S.B. 06-188, enacted at the second regular session of the sixty-fifth general assembly, has been obtained from the United States department of agriculture, and the secretary of state has implemented the necessary computer system to publish and distribute the master list electronically and is able to do so.

SECTION 13. 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 25, 2006