

## CHAPTER 84

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**GOVERNMENT - STATE**


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**HOUSE BILL 08-1266**

BY REPRESENTATIVE(S) Witwer, Buescher, Garza-Hicks, Labuda, and Lambert;  
also SENATOR(S) Veiga.

**AN ACT**

**CONCERNING THE FILING OF NOTICES RELATED TO LIENS WITH THE SECRETARY OF STATE.**

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

**SECTION 1.** 4-9-518 (a), Colorado Revised Statutes, is amended, and the said 4-9-518 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**4-9-518. Claim concerning inaccurate or wrongfully filed record.** (a) (1) ~~ANY~~ **ANY** person NAMED AS A DEBTOR may file in the filing office a correction statement with respect to a record indexed there under the ~~person's~~ DEBTOR'S name if the person believes that the record is inaccurate or was wrongfully filed.

(2) ANY PERSON NAMED AS A SECURED PARTY MAY FILE IN THE FILING OFFICE A CORRECTION STATEMENT WITH RESPECT TO A RECORD FILED THERE IN WHICH THE PERSON IS IDENTIFIED AS A SECURED PARTY, CONSIGNOR, LESSOR, OR THE LIKE IF THE PERSON BELIEVES THE RECORD IS INACCURATE OR WAS WRONGFULLY FILED.

(3) ANY PERSON WHO INCORRECTLY FILES AN AMENDMENT AFFECTING A RECORD MAY FILE A CORRECTION STATEMENT WITH RESPECT TO THE RECORD.

(d) THE FILING OF A CORRECTION STATEMENT IS NOT EFFECTIVE AS AN AMENDMENT TO A FILED FINANCING STATEMENT AND IS NOT SUFFICIENT TO EFFECT A CHANGE IN THE MANNER IN WHICH THE FILING OFFICE HAS INDEXED A FINANCING STATEMENT OR INFORMATION CONTAINED IN A FINANCING STATEMENT.

**SECTION 2.** 4-9-523 (c), Colorado Revised Statutes, is amended to read:

**4-9-523. Information from filing office - sale or license of records.** (c) The

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

filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

(1) Whether there is on file on a date and time specified by the filing office, but not a date earlier than three business days before the filing office receives the request, any financing statement ~~or federal tax lien notice~~ that:

(A) Designates a particular debtor;

(B) Has not lapsed under section 4-9-515 with respect to all secured parties of record; and

(C) If the request so states, has lapsed under section 4-9-515 and a record of which is maintained by the filing office under section 4-9-522 (a);

(2) The date and time of filing of each financing statement; ~~and federal tax lien notice~~; and

(3) The information provided in each financing statement. ~~and federal tax lien notice~~.

**SECTION 3.** 4-9-525 (a), Colorado Revised Statutes, is amended to read:

**4-9-525. Fees.** (a) Except as otherwise provided in subsection (f) of this section and subject to section 24-75-402, C.R.S., fees for services rendered by the secretary of state under this part 5 shall be determined and collected pursuant to section 24-21-104, C.R.S. ~~except that if a record presented for filing is communicated to the secretary of state in writing, the fee for filing and indexing the record must be at least twice the amount of the fee for a record communicated by another medium authorized by the secretary of state.~~

**SECTION 4.** 4-9-526 (b) (2), Colorado Revised Statutes, is amended to read:

**4-9-526. Filing-office rules.** (b) To keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part 5, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part 5, the secretary of state, so far as is consistent with the purposes, policies, and provisions of this article, in adopting, amending, and repealing filing-office rules, shall:

(2) Consult the most recent version of the model rules promulgated by the international association of ~~corporate~~ COMMERCIAL administrators or any successor organization; and

**SECTION 5.** 4-9-527 (2), Colorado Revised Statutes, is amended to read:

**4-9-527. Duty to report.** The secretary of state shall report annually on or before June 30 to the governor and legislature on the operation of the filing office. The report must contain a statement of the extent to which:

(2) The filing-office rules are not in harmony with the most recent version of the model rules promulgated by the international association of ~~corporate~~ COMMERCIAL administrators, or any successor organization, and the reasons for these variations.

**SECTION 6.** 4-9-529 (a), (d), and (e), Colorado Revised Statutes, are amended to read:

**4-9-529. Electronic and other filings.** (a) ~~The secretary of state 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.~~

(d) To facilitate the filing of documents in the office of the secretary of state electronically, ~~or by facsimile transmission,~~ the secretary of state 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 commercially available software or the dissemination of software compatible with the secretary of state's reception, storage, and retrieval system. Where national standards are available and have been promulgated by a recognized professional organization, the secretary of state shall consider and may use such national standards as the basis for the rules.

(e) ~~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.~~

**SECTION 7.** 4-9.5-107 (1.5), Colorado Revised Statutes, as enacted by section 7 of chapter 249, Session Laws of Colorado 2006, is amended to read:

**4-9.5-107. Termination statement.** (1.5) A termination statement filed pursuant to either subsection (1) or SUBPARAGRAPH (I) OF 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.

**SECTION 8.** Title 4, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 9.7**  
**Colorado Statutory Lien Registration Act**

**4-9.7-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO STATUTORY LIEN REGISTRATION ACT".

**4-9.7-102. Scope.** (a) THIS ARTICLE SHALL APPLY TO THE FILING OF A RECORD RELATING TO A DESIGNATED STATUTORY LIEN.

(b) THIS ARTICLE SHALL NOT APPLY TO THE FILING OF:

(1) NOTICES, CERTIFICATES, OR OTHER RECORDS PERTAINING TO ANY LIEN CREATED PURSUANT TO THE LAWS OF THE UNITED STATES; OR

(2) A FINANCING STATEMENT OR OTHER RECORD FILED PURSUANT TO ARTICLE 9 OR 9.5 OF THIS TITLE OR ANY SUCCESSOR STATUTES.

(c) THIS ARTICLE SHALL NOT BE CONSTRUED TO CREATE A FILING REQUIREMENT FOR ANY LIEN WHERE THE APPLICABLE SUBSTANTIVE STATUTE DOES NOT REQUIRE FILING.

**4-9.7-103. Definitions.** (a) AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CLAIMANT" MEANS A PERSON IDENTIFIED AS A BENEFICIARY OR OWNER OF A DESIGNATED STATUTORY LIEN IN A NOTICE OF LIEN OR NOTICE OF AMENDMENT FILED IN THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO THIS ARTICLE.

(2) "CONTINUE" MEANS TO RENEW OR OTHERWISE EXTEND THE EFFECTIVENESS OF A NOTICE OF LIEN.

(3) "DESIGNATED STATUTORY LIEN" MEANS:

(A) A HARVESTER'S LIEN PURSUANT TO ARTICLE 24.5 OF TITLE 38, C.R.S.;

(B) AN AGISTOR'S LIEN PURSUANT TO PART 2 OF ARTICLE 20 OF TITLE 38, C.R.S.;

(C) A HOSPITAL LIEN PURSUANT TO ARTICLE 27 OF TITLE 38, C.R.S.;

(D) A RESTITUTION LIEN PURSUANT TO SECTION 16-18.5-104, C.R.S.;

(E) A CHILD SUPPORT LIEN PURSUANT TO SECTION 14-10-122, C.R.S.;

(F) A SECURITY INTEREST HELD BY A HOUSING AUTHORITY PURSUANT TO SECTION 29-4-712, C.R.S.; OR

(G) ANY OTHER LIEN PROVIDED FOR BY A STATUTE OF THIS STATE THAT REQUIRES OR EXPRESSLY PERMITS A NOTICE OR OTHER RECORD CREATING, EVIDENCING, OR PERFECTING THE LIEN TO BE FILED IN THE OFFICE OF THE SECRETARY OF STATE, EXCEPT AS PROVIDED IN SECTION 4-9.7-102 (b) AND (c).

(4) "NOTICE OF AMENDMENT" MEANS A RECORD FILED IN THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO THIS ARTICLE THAT CHANGES, CORRECTS, CONTINUES, TERMINATES, SUBORDINATES, OR OTHERWISE MODIFIES A NOTICE OF LIEN.

(5) "NOTICE OF LIEN" MEANS A RECORD FILED IN THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO THIS ARTICLE THAT IDENTIFIES ONE OR MORE CLAIMANTS WITH RESPECT TO A DESIGNATED STATUTORY LIEN; IDENTIFIES, TO THE EXTENT REQUIRED BY THE APPLICABLE SUBSTANTIVE STATUTE, THE PROPERTY ASSERTED TO BE SUBJECT TO THE LIEN; IDENTIFIES THE OWNER OR OWNERS OF THE PROPERTY; AND OTHERWISE COMPLIES WITH THE REQUIREMENTS OF THIS ARTICLE.

(6) "OWNER" MEANS A PERSON IDENTIFIED IN A NOTICE OF LIEN OR NOTICE OF AMENDMENT IN THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO THIS ARTICLE AS AN OWNER OF PROPERTY SUBJECT TO A DESIGNATED STATUTORY LIEN.

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

(8) "SUBSTANTIVE STATUTE" MEANS THE STATUTE CREATING, PROVIDING FOR, OR GIVING RISE TO A DESIGNATED STATUTORY LIEN.

(9) "TAXPAYER IDENTIFICATION NUMBER" MEANS A SOCIAL SECURITY NUMBER, AN EMPLOYER IDENTIFICATION NUMBER, OR AN INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER.

(10) "TERMINATE" MEANS TO RELEASE OR OTHERWISE EXTINGUISH THE EFFECTIVENESS OF A NOTICE OF LIEN.

**4-9.7-104. Contents of a notice of lien or notice of amendment.** (a) (1) A NOTICE OF LIEN SHALL STATE:

(A) THE NAME OF ONE OR MORE OWNERS;

(B) THE NAME OF ONE OR MORE CLAIMANTS;

(C) A CITATION TO THE SECTION OF THE SUBSTANTIVE STATUTE PURSUANT TO WHICH THE NOTICE OF LIEN IS FILED;

(D) TO THE EXTENT REQUIRED BY THE APPLICABLE SUBSTANTIVE STATUTE, AN IDENTIFICATION OF THE PROPERTY ASSERTED TO BE SUBJECT TO A DESIGNATED STATUTORY LIEN AND ANY OTHER INFORMATION THAT THE APPLICABLE SUBSTANTIVE STATUTE REQUIRES TO BE CONTAINED IN OR INCLUDED WITH THE NOTICE OF LIEN;

(E) THAT ANY OTHER INFORMATION OR RECORD REQUIRED TO BE FILED WITH THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO THE APPLICABLE SUBSTANTIVE STATUTE HAS BEEN INCLUDED WITH OR ATTACHED TO THE NOTICE OF LIEN; AND

(F) SUCH ADDITIONAL INFORMATION AS THE SECRETARY OF STATE MAY REQUIRE.

(2) A NOTICE OF LIEN MAY STATE:

(A) THE MAILING ADDRESS OF ONE OR MORE OWNERS; AND

(B) THE MAILING ADDRESS OF ONE OR MORE CLAIMANTS.

(b) (1) A NOTICE OF AMENDMENT SHALL STATE:

(A) THE ORIGINAL FILING NUMBER OF THE NOTICE OF LIEN TO WHICH THE NOTICE OF AMENDMENT RELATES;

(B) THAT ANY OTHER INFORMATION OR RECORD REQUIRED TO BE FILED WITH THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO THE APPLICABLE SUBSTANTIVE STATUTE HAS BEEN INCLUDED WITH OR ATTACHED TO THE NOTICE OF AMENDMENT; AND

(C) ANY ADDITIONAL INFORMATION THAT THE SECRETARY OF STATE REQUIRES.

(2) A NOTICE OF AMENDMENT MAY CONTAIN ANY INFORMATION NECESSARY TO INDICATE THE MANNER AND EXTENT TO WHICH THE NOTICE OF AMENDMENT AFFECTS THE NOTICE OF LIEN.

(c) A NOTICE OF LIEN SHALL REMAIN EFFECTIVE FOR THE PERIOD PROVIDED FOR BY THE APPLICABLE SUBSTANTIVE STATUTE OR UNTIL A NOTICE OF AMENDMENT THAT TERMINATES THE NOTICE OF LIEN IS FILED IN THE OFFICE OF THE SECRETARY OF STATE.

**4-9.7-105. Acceptance and refusal to accept for filing.** (a) THE SECRETARY OF STATE SHALL REFUSE TO ACCEPT A NOTICE OF LIEN OR NOTICE OF AMENDMENT FOR FILING IF:

(1) THE APPLICABLE FILING FEE IS NOT TENDERED;

(2) THE NOTICE IS NOT COMMUNICATED BY A METHOD OF COMMUNICATION AUTHORIZED BY THE SECRETARY OF STATE;

(3) THE NOTICE OF LIEN DOES NOT STATE THE NAME OF AN OWNER;

(4) THE NOTICE OF LIEN DOES NOT STATE THE NAME OF A CLAIMANT;

(5) THE NOTICE OF AMENDMENT DOES NOT INDICATE THE ORIGINAL FILE NUMBER OF THE NOTICE OF LIEN TO WHICH THE NOTICE OF AMENDMENT RELATES; OR

(6) THE NOTICE OF LIEN OR NOTICE OF AMENDMENT FAILS TO STATE ANY ADDITIONAL INFORMATION THAT THE SECRETARY OF STATE REQUIRES.

(b) THE SECRETARY OF STATE MAY REFUSE TO ACCEPT A NOTICE OF LIEN OR NOTICE OF AMENDMENT FOR FILING IF THE NOTICE OF LIEN OR NOTICE OF AMENDMENT DOES NOT INCLUDE THE ADDRESS OF ONE OR MORE CLAIMANTS.

(c) FILING DOES NOT OCCUR WITH RESPECT TO A NOTICE OF LIEN OR NOTICE OF AMENDMENT THAT THE SECRETARY OF STATE REFUSES TO ACCEPT FOR A REASON SET FORTH IN SUBSECTION (a) OR (b) OF THIS SECTION.

**4-9.7-106. Duties of filing officer.** (a) IF A NOTICE OF LIEN IS COMMUNICATED TO AND ACCEPTED BY THE SECRETARY OF STATE FOR FILING, THE SECRETARY OF STATE SHALL CAUSE THE NOTICE TO BE MARKED, MAINTAINED, AND INDEXED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 4-9-519 AS IF THE NOTICE WERE A FINANCING STATEMENT AND EACH OWNER IDENTIFIED IN THE NOTICE WERE A DEBTOR WITHIN THE MEANING OF SECTION 4-9-519.

(b) IF A NOTICE OF AMENDMENT IS COMMUNICATED TO AND ACCEPTED BY THE

SECRETARY OF STATE FOR FILING, THE SECRETARY OF STATE SHALL:

(1) CAUSE THE NOTICE OF AMENDMENT TO BE MARKED, MAINTAINED, AND INDEXED AS IF THE NOTICE WERE AN AMENDMENT OF A FINANCING STATEMENT WITHIN THE MEANING OF SECTION 4-9-512;

(2) IF THE NOTICE OF AMENDMENT TERMINATES A NOTICE OF LIEN, CAUSE THE NOTICE OF AMENDMENT TO BE MARKED, MAINTAINED, AND INDEXED AS IF THE NOTICE WERE A TERMINATION STATEMENT WITHIN THE MEANING OF SECTION 4-9-513; OR

(3) IF THE NOTICE OF AMENDMENT CONTINUES A NOTICE OF LIEN, CAUSE THE NOTICE OF AMENDMENT TO BE MARKED, MAINTAINED, AND INDEXED AS IF THE NOTICE WERE A CONTINUATION STATEMENT AS DEFINED IN SECTION 4-9-102 (27) AND EXTEND THE EFFECTIVENESS OF THE NOTICE OF LIEN BY THE APPROPRIATE PERIOD PURSUANT TO THE APPLICABLE SUBSTANTIVE STATUTE.

(c) IF THE SECRETARY OF STATE REFUSES TO ACCEPT A NOTICE OF LIEN OR NOTICE OF AMENDMENT FOR FILING, THE SECRETARY OF STATE SHALL COMMUNICATE TO THE PERSON THAT PRESENTED THE RECORD THE FACT OF AND REASON FOR THE REFUSAL. THE COMMUNICATION SHALL BE MADE AT THE TIME AND IN THE MANNER PRESCRIBED BY THE RULES ADOPTED BY THE SECRETARY OF STATE PURSUANT TO SECTION 4-9.7-109.

(d) THE SECRETARY OF STATE MAY REMOVE A NOTICE OF LIEN FROM THE RECORDS OF THE SECRETARY OF STATE ONE YEAR AFTER THE NOTICE EXPIRES IN ACCORDANCE WITH SECTION 4-9.7-104 (d).

(e) THE SECRETARY OF STATE SHALL COMMUNICATE OR OTHERWISE MAKE AVAILABLE IN A RECORD THE FOLLOWING INFORMATION TO ANY PERSON THAT REQUESTS THE INFORMATION:

(1) WHETHER THERE IS ON FILE ON A DATE AND TIME SPECIFIED BY THE SECRETARY OF STATE ANY NOTICE OF LIEN OR NOTICE OF AMENDMENT THAT:

(A) DESIGNATES A PARTICULAR OWNER; AND

(B) HAS NOT EXPIRED UNDER SECTION 4-9.7-104 (d); AND

(C) IF THE REQUEST SO STATES, HAS EXPIRED UNDER SECTION 4-9.7-104 (d) AND A RECORD OF WHICH IS MAINTAINED BY THE SECRETARY OF STATE UNDER SUBSECTION (d) OF THIS SECTION;

(2) THE DATE AND TIME OF FILING OF EACH NOTICE OF LIEN AND NOTICE OF AMENDMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION (e); AND

(3) THE INFORMATION PROVIDED IN EACH NOTICE OF LIEN AND NOTICE OF AMENDMENT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION (e).

**4-9.7-107. Fees.** SUBJECT TO SECTION 24-75-402, C.R.S., FEES FOR SERVICES RENDERED BY THE SECRETARY OF STATE UNDER THIS ARTICLE SHALL BE DETERMINED AND COLLECTED PURSUANT TO SECTION 24-21-104, C.R.S.

**4-9.7-108. Effect of filing.** A NOTICE OF LIEN OR NOTICE OF AMENDMENT THAT IS COMMUNICATED TO THE OFFICE OF THE SECRETARY OF STATE WITH TENDER OF THE FILING FEE, BUT WHICH THE SECRETARY OF STATE WRONGFULLY REFUSES TO ACCEPT, IS EFFECTIVE AS A FILED RECORD IN THE RECORDS OF THE SECRETARY OF STATE EXCEPT AS AGAINST A PURCHASER OF THE PROPERTY DESCRIBED IN THE NOTICE WHO GIVES VALUE IN REASONABLE RELIANCE UPON THE ABSENCE OF THE RECORD IN THE RECORDS OF THE SECRETARY OF STATE.

**4-9.7-109. Filing office - rules.** (a) THE SECRETARY OF STATE SHALL ADOPT AND PUBLISH ANY RULES NECESSARY TO IMPLEMENT THIS ARTICLE. THE RULES SHALL BE:

(1) CONSISTENT WITH THIS ARTICLE; AND

(2) ADOPTED AND PUBLISHED IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.

**SECTION 9. Effective date.** (1) Except as otherwise provided by subsection (2) of this section, this act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) Sections 6 through 9 of this act shall take effect simultaneously with Senate Bill 06-188, enacted at the Second Regular Session of the Sixty-fifth General Assembly; except that, if Senate Bill 06-188 takes effect during the ninety-day period after final adjournment of the general assembly, sections 6 through 9 of this act shall take effect in accordance with subsection (1) of this section.

Approved: March 31, 2008