



## Notice of Adoption

### Office of the Secretary of State UCC Filing Office Rules 8 CCR 1505-7

June 17, 2013

#### I. Adopted Rule Amendments

As authorized by the Colorado Uniform Commercial Code<sup>1</sup> and the State Administrative Procedure Act<sup>2</sup>, the Colorado Secretary of State gives notice that the following amendments to the UCC Filing Office Rules<sup>3</sup> are adopted on a permanent basis.

The Secretary of State considered the following rules at the May 30, 2013 rulemaking hearing in accordance with the State Administrative Procedure Act<sup>4</sup>.

(SMALL CAPS indicate proposed additions to the current rules. Stricken type indicates proposed deletions from current rules. The follow may include *Annotations/publication notes*):

#### *Amendments to 8 CCR 1505-7:*

##### **Section 1. General Provisions**

##### **RULE 1. GENERAL PROVISIONS**

~~100 — Statement of Purpose. The Secretary of State adopts these UCC Filing office Rules for the implementation of Article 9, Uniform Commercial Code — Secured Transactions, of Title 4, C.R.S.; Article 9.5, Central Filing of Effective Financing Statement Act, of Title 4, C.R.S.; Article 9.7, the Colorado Statutory Lien Registration Act, of Title 4, C.R.S.; Part 3, Redaction of Tax Identification Numbers, of Article 21 of Title 24, C.R.S., and federal laws.~~

~~101 — Policy statement. The administration of the Uniform Commercial Code (“UCC”) has an important impact on the economy and upon the rights of the public, in this State, in the United States, and internationally. The volume of interstate, multi-state, and international transactions under the UCC and other commercial transaction laws requires that the administration of these laws be conducted in a manner that promotes both local and multi-jurisdictional commerce by striving for uniformity in policies and procedures among the various jurisdictions that substantially enact the UCC and other related commercial transaction laws.~~

<sup>1</sup> Article 9 of Title 4, C.R.S. (2012).

<sup>2</sup> Section 24-4-103(3)(a), C.R.S. (2012).

<sup>3</sup> 8 CCR 1505-7.

<sup>4</sup> Section 24-4-103(3)(a), C.R.S. (2012).

~~101.1 As provided in sections 4-9-526, 4-9-5-110(2), 4-9-7-109, and 24-21-302(5), C.R.S., the interpretation and implementation of the Secretary of State's duties and responsibilities will be expressed in a written set of administrative rules, which the public will have a voice in creating. The rules have the following purposes:~~

~~101.1.1 To simplify and improve the administration of the UCC and other commercial laws by promoting uniformity;~~

~~101.1.2 To help the public discover and understand the Secretary of State's filing procedures of the;~~

~~101.1.3 To increase public access to information;~~

~~101.1.4 To increase public participation in the formulation of administrative policy and procedures; and~~

~~101.1.5 To increase the Secretary of State's public accountability.~~

102-1.1 Definitions. The following terms are used as defined in this rule. Terms not defined in this rule, which are defined in the UCC, the Central Filing of Effective Financing Statement Act, the Colorado Statutory Lien Registration Act, or section 24-21-301, C.R.S., are used as defined in the applicable Act or section.

~~102-1-1.1.1~~ "Address" means either:

~~(i)(A) a~~ A street address, route number (may include box), or post office box number plus the city, state, and zip code; or

~~(ii)(B) an~~ AN address that purports to be a mailing address outside the United States of America.

~~102-2-1.1.2~~ "Assignment" means an amendment that purports to reflect a transfer of all or a part of a secured party's or claimant's power to authorize an amendment of a secured transaction record.

~~102.3 "Correction statement" means a UCC record that indicates that a financing statement is inaccurate or wrongfully filed.~~

[Current Rule 102.3 is amended and relocated to New Rule 1.1.11]

~~102-4-1.1.3~~ "Direct computer access" means access by computer to information or data available on the series of ~~inter-related~~ INTERRELATED Internet pages on the Secretary of State's website, and by other means of data transfer.

~~102-5-1.1.4~~ "EFS" means effective financing statement AS THAT TERM IS USED IN THE EFS ACT.

~~102-6-1.1.5~~ The "EFS Act" means the Central Filing of Effective Financing Statement Act, Article 9.5 of Title 4, C.R.S.

- ~~102.7~~1.1.6 “Electronic filing” means a filing method that utilizes THE Secretary of State’s electronic filing application available through the Secretary of State’s website or the system-to-system transfer method.
- ~~102.8~~1.1.7 “Electronic filing application” means the web-based computer application that is used to file a secured transaction record with the Secretary of State.
- ~~102.9~~1.1.8 “Electronic searching application” means the web-based computer application that is used to search the secured transaction records maintained by the Secretary of State.
- ~~102.10~~1.1.9 “File number” means the unique identifying number the Secretary of State assigns to a secured transaction record.
- ~~102.11~~1.1.10 “Filer” means a person who completes and submits a secured transaction record to the Secretary of State for filing, whether or not the person is an agent of a person authorized to submit the record for filing.
- 1.1.11 “INFORMATION STATEMENT” MEANS A UCC RECORD CLAIMING THAT A FINANCING STATEMENT OR RECORD COMPRISING PART OF A FINANCING STATEMENT IS INACCURATE OR WRONGFULLY FILED.
- ~~102.12~~1.1.12 “Initial financing statement” means a UCC record that does not identify itself as an amendment or a ~~correction~~-INFORMATION statement, or does not identify an initial financing statement to which it relates.
- ~~102.13~~1.1.13 “Lapsed” or “Lapsed record” means a master record whose period of effectiveness has expired.
- ~~102.14~~1.1.14 “Lien Registration Act” means the Colorado Statutory Lien Registration Act, Article 9.7 of Title 4, C.R.S.
- ~~102.15~~1.1.15 “Master record” means a record opening document and any amendment or correction related to the record opening document.
- ~~102.16~~1.1.16 “Online services” means the electronic filing application, the electronic searching application, the secured transactions information management system, and any other direct computer access that is available on or accessed through the Secretary of State's website.
- ~~102.17~~1.1.17 “Record opening document” means an initial financing statement, an ~~effective financing statement~~-EFS, A notice of lien, or other record that creates a new master record. The use of the term “record opening document” in these rules has no relation to the definition of the term “document” in ~~UCC §9-102(a)(30). Section~~ SECTION 4-9-102(a)(30), C.R.S.
- ~~102.18~~1.1.18 “Secured transactions information management system” means the computer system used by the Secretary of State to record, index, provide public access to, and otherwise manage secured transaction records.
- ~~102.19~~1.1.19 “Secured transaction record” means any record that is required or permitted to be filed with the Secretary of State under the UCC, THE EFS Act, or the Lien Registration Act, except any lien filed under federal law.

- ~~402.20~~ 1.1.20 “System-to-system transfer method” means the electronic communication standard authorized by the Secretary of State for the transfer of secured transaction records from a filer to the Secretary of State. This type of transfer is often referred to as XML filing.
- ~~402.21~~ 1.1.21 “Taxpayer identification number” means a social security number, an employer identification number, or an individual taxpayer identification number.
- ~~402.22~~ 1.1.22 “UCC” means the Uniform Commercial Code - Secured Transactions, codified at Article 9 of Title 4, C.R.S., as adopted in this state.
- ~~402.23~~ 1.1.23 “UCC record” means an initial financing statement, an amendment, an assignment, a continuation, a termination, or a ~~correction~~ AN INFORMATION statement filed under the UCC. The use of the term “UCC record” in these rules has no relation to the definition of the term “record” in section 4-9-102(a)(72), C.R.S.
- ~~402.24~~ 1.1.24 “Unique Identifier-IDENTIFIER” means the ~~ten digit~~ TEN-DIGIT number used to identify a debtor named in an EFS or an EFS amendment.
- ~~402.25~~ 1.1.25 “Unlapsed” or “Unlapsed record” means a master record on file with the Secretary of State whose period of effectiveness has not expired.
- ~~403.1.2~~ Delivery of secured transaction records. ~~The Secretary of State authorizes electronic filing as the sole method of communication for the filing of secured transaction records.~~ Filers must ~~communicate~~ DELIVER secured transaction records to the Secretary of State through the electronic filing application or by transmission using the system-to-system transfer method. The Secretary of State will refuse to accept any secured transaction records delivered by other ~~non-authorized~~ UNAUTHORIZED methods of communication, including but not limited to personal delivery, express mail delivery, postal delivery, and telefacsimile.
- ~~403.1~~ 1.2.1 Filing time. The ~~file~~ FILING time for a secured transaction record ~~delivered by this method~~ is the time that the Secretary of State’s system analyzes the relevant transmission and determines that IT RECEIVED all the required elements of the transmission ~~have been received~~ in a-THE required format.
- ~~403.2~~ 1.2.2 Hardship delivery. In the case of hardship or other good cause, the Secretary of State may, at its discretion, allow for the communication of a secured transaction record by a method of communication other than electronic filing. Hardship delivery may only occur after the filer has received prior approval from the Secretary of State. Requirements concerning the filing and data entry of a hardship delivery are set forth in ~~Rule 414~~ RULE 4.15.
- ~~403.3~~ 1.2.3 Delivery of federal liens and records. Any lien or record created in accordance with federal law may be delivered to the Secretary of State by any method of communication authorized by federal law or by arrangement between the Secretary of State and the United States Government. The RECORDED filing time ~~for a record delivered by this method is, notwithstanding the time of delivery, at the earlier of the time the record is first examined by a filing officer for processing (even though the record may not yet have been accepted for filing and may be subsequently rejected)~~ IS THE EARLIEST TIME AT WHICH THE SECRETARY HAS RECEIVED BOTH THE FEE PAYMENT AND THE PAPER RECORD.

~~104-1.3~~ Search request delivery. ~~Search request delivery.~~ The electronic searching application ~~will be~~ IS the sole method of ~~delivering~~ CONDUCTING a search request and obtaining ~~the results of a search request~~ RESULTS. An individual conducting a search or requesting certified search results will only be able to do so through the electronic searching application of the Secretary of State's website. Requirements concerning search requests are set forth in ~~Rule 501~~ RULE 5.2.

~~104.1-1.3.1~~ Hardship search requests. In the case of hardship, the Secretary of State may allow for the communication of a secured transaction search request by a method other than the electronic searching application. Hardship search requests may only occur after the searcher has received prior approval from the Secretary of State. Requirements concerning processing of a hardship search request are set forth in ~~Rule 507~~ RULE 5.8.

~~105-1.4~~ Approved forms. THE SECRETARY OF STATE APPROVES THE USE OF THE FOLLOWING FORMS TO FILE A WRITTEN FINANCING STATEMENT WITH A ~~A~~ filing office that accepts written records; in accordance with the UCC, ~~may accept a written financing statement that is presented on a form and format authorized by this rule.:~~

~~105.1-1.4.1~~ IACA forms. ~~The use of each~~ UCC forms promulgated by the International Association of Commercial Administrators (IACA), or a substantial equivalent, ~~are approved by the Secretary of State and may be filed in a filing office that accepts written records.~~

~~105.2-1.4.2~~ Secretary of State forms. ~~The use of a printed copy of the image of a record that is generated by the electronic filing application is approved by the Secretary of State and may be filed in a filing office that accepts written records.~~ PRINTED COPIES OF RECORD IMAGES THAT ARE GENERATED BY THE ELECTRONIC FILING APPLICATION.

~~106-1.5~~ Secured transactions search ~~Application~~ APPLICATION. Searches of the secured transactions information management system are performed by utilizing the electronic searching application. Electronic searching is the sole method used to search the secured transactions information management system and the Secretary of State does not accept written search requests.

~~107-1.6~~ Fees. ~~Fees will be adopted and published by the~~ THE Secretary of State ~~from time to time.~~ Information, instructions, and a fee schedule are available WILL POST FEES AND FEE SCHEDULE INFORMATION on the Secretary of State's website. FEES ARE SUBJECT TO CHANGE.

~~108-1.7~~ Expedited services. Expedited processing of UCC records and searches is not available.

~~109-1.8~~ Methods of payment. Filing fees and fees for public records services may be paid in accordance with the following rules:

1.8.1 THE SECRETARY OF STATE WILL ONLY ACCEPT CREDIT, DEBIT, OR PREPAID ACCOUNT PAYMENTS FOR SECURED TRANSACTION SERVICES. INFORMATION REGARDING USAGE IS AVAILABLE UPON REQUEST AND ON THE SECRETARY OF STATE'S WEBSITE.

1.8.2 THE SECRETARY OF STATE WILL ACCEPT CASH, CHECK, OR ELECTRONIC TRANSFER PAYMENTS FROM THE IRS.

~~109.1~~ Cash. ~~The Secretary of State does not accept cash payment for secured transaction services.~~

~~109.2 Checks. The Secretary of State does not accept payment by check for secured transaction services.~~

~~109.3 Electronic funds transfer. The Secretary of State does not accept payment by electronic funds transfer for secured transaction.~~

~~109.4 Prepaid account. Information regarding prepaid account usage is available upon request and on the Secretary of State's website.~~

~~109.5 Debit Cards. Information regarding debit card usage is available upon request and on the Secretary of State's website.~~

~~109.6 Credit card. Information regarding credit card usage is available upon request and on the Secretary of State's website.~~

~~109.7 1.8.3 Hardship payment method. In the case of hardship, the Secretary of State may allow for the payment of fees by an alternative method of payment authorized by the Secretary of State. Hardship payment may only occur after the filer has received prior approval from the Secretary of State.~~

#### ~~110-1.9~~ Overpayment and underpayment policies.

~~110.1-1.9.1~~ Overpayment. Information regarding the refund of an overpayment is available upon request and on the Secretary of State's website.

~~110.2-1.9.2~~ Underpayment. The electronic filing application and the system-to-system transfer method will not allow a FILER TO SUBMIT A record ~~to be submitted~~ with insufficient fee PAYMENT.

~~111-1.10~~ Public records services are provided on a ~~non-discriminatory~~-NONDISCRIMINATORY basis to any member of the public on the terms described in these rules. The following methods are available for obtaining copies of secured transaction records and copies of data from the secured transactions information management system:

~~111.1-1.10.1~~ Individually identified records. Images of individually identified secured transaction records ~~will be made~~ ARE available, when possible, ~~by using~~-VIA the electronic searching application.

~~111.2-1.10.2~~ Bulk ~~Images~~-IMAGES of secured transaction records. The Secretary of State will provide a bulk image subscription service.

~~111.3-1.10.3~~ Data from the information management system. The Secretary of State will provide a bulk data subscription service. A list of available data elements from the secured transactions information management system, ~~and~~-WITH the file layout ~~of the data elements~~, is available from the Secretary of State upon request.

~~111.4-1.10.4~~ ~~Direct online~~-ONLINE services. Secured transactions data and images are available online from the Secretary of State's website. The SECRETARY OF STATE MAY LIMIT THE size and number of data or images ~~may be limited by the Secretary of State in~~ order to address any technical limitation or to maintain continuity of service.

~~112 Fees for public records services. Fees for public records services will be adopted and published by the Secretary of State from time to time. Information, instructions, and a fee schedule is available upon request and on the Secretary of State's website.~~

~~113-1.11 Liens~~ EXCEPT AS PROVIDED IN RULES 1.2.3, 1.8.3, AND 6.2, LIENS created under federal law ~~will be~~ ARE recorded, indexed, and managed in the same ~~fashion~~ MANNER as secured transaction records.

## **Section 2. Acceptance and Refusal of Records**

### **RULE 2. ACCEPTANCE AND REFUSAL OF RECORDS**

~~200-2.1~~ Role of the filing office. The duties and responsibilities of the Secretary of State with respect to the administration of the UCC, the EFS Act, and THE Lien Registration Act are ministerial. In accepting for filing or refusing to file a secured transaction record in accordance with these rules, the Secretary of State ~~does not do any of the following~~ WILL NOT:

~~200.1-2.1.1~~ Determine the legal sufficiency or insufficiency of a record;

~~200.2-2.1.2~~ Determine ~~that~~ WHETHER a security interest in collateral exists ~~or does not exist~~;

~~200.3-2.1.3~~ Determine that information in the record is correct or incorrect, in whole or in part; OR

~~200.4-2.1.4~~ Create a presumption that information in the record is correct or incorrect, in whole or in part.

~~201-2.2~~ Duty to file. A record that does not have a ground for refusal is filed upon receipt by the Secretary of State with the applicable filing fee. The Secretary of State will assign a file number to the secured transaction record upon receipt and promptly index the record in the secured transactions information management system.

~~202-2.3~~ Grounds for refusal of a UCC record. ~~The reasons set forth in~~ IN ACCORDANCE WITH section 4-9-516(b), C.R.S., ~~are the sole grounds for the Secretary of State to refuse~~ WILL REFUSE to file a UCC record. ~~These reasons are elaborated below in this rule.~~ FOR THE FOLLOWING REASONS:

~~202.1-2.3.1~~ Some or all of the information provided in the UCC record is illegible. Legibility is not limited to written expressions on paper. A FILER MUST SUBMIT A legible record ~~must be submitted~~ in the form, ~~and~~ format, and ~~using the~~ medium required by the Secretary of State.

~~202.2-2.3.2~~ Lack of identification of initial financing statement. ~~An~~ THE SECRETARY OF STATE WILL REFUSE AN amendment or ~~correction~~ INFORMATION statement ~~will be refused~~ if the record does not provide:

(A) ~~a~~ A file number of a financing statement in the secured transactions information management system that has not lapsed;

(B) ~~the~~ THE date that the initial financing statement was filed; and;

- (C) ~~for~~FOR an amendment to an initial financing statement filed on or ~~prior to~~ BEFORE December 31, 1999, an indication of the filing office in which the initial financing statement was filed.

~~202.3-2.3.3~~ Timeliness of continuation. ~~A~~THE SECRETARY OF STATE WILL REFUSE A continuation statement ~~will be refused~~ if it is received more than ~~six months~~SIX MONTHS before the financing statement's lapse date or IF IT IS RECEIVED after the financing statement's lapse date. THE SECRETARY OF STATE WILL ACCEPT A CONTINUATION STATEMENT FILING AS FOLLOWS:

~~202.3.1~~(A) First day permitted. The first day on which a continuation statement may be filed is the day of the sixth month preceding the month in which the financing statement would lapse that corresponds to the day of the month on which the financing statement would lapse. If there is no such corresponding date, the first day on which a continuation statement may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse. Filing may not be possible on any date that the electronic filing application is unavailable, such as during ~~time of~~ regular system maintenance PERIODS.

~~202.3.2~~(B) Last day permitted. The last day on which a continuation statement may be filed is the date on which the financing statement lapses, although filing may not be possible on any date that the electronic filing application is unavailable, such as during ~~time of~~ regular system maintenance PERIODS.

~~202.3.3~~(C) Means of communication. ~~UCC records communicated to the Secretary of State by a means of communication not authorized by the Secretary of State in Rule 103 will be refused.~~ THE SECRETARY OF STATE WILL ONLY ACCEPT UCC RECORDS COMMUNICATED BY AN AUTHORIZED MEANS IN ACCORDANCE WITH RULE 1.2.

~~202.4-2.3.4~~ Indecipherable. The Secretary of State will refuse an indecipherable UCC record that cannot be indexed. An indecipherable record may include, but is not limited to, a record that contains a special character outside of the character set provided in ~~Rule 313~~ RULE 3.14, or an amendment that fails to indicate the type of amendment.

~~202.5-2.3.5~~ The Secretary of State will provide a notice to the filer indicating the missing, indecipherable, or invalid information, and that the filer ~~will be required to~~MUST provide the missing information in order to file the record.

~~203-2.4~~ Grounds for refusal of an EFS record. The Secretary of State will refuse to accept an EFS or EFS amendment only for those reasons found in the UCC and in ~~Rule 202~~RULE 2.3 ~~Application of the UCC to the EFS Act. A record that purports to be an EFS or EFS amendment, but does not meet the requirements of the EFS Act, will be filed according to the UCC.~~

~~204-2.5~~ Grounds for refusal of a ~~Notice of Lien or Notice of Amendment~~NOTICE OF LIEN OR NOTICE OF AMENDMENT. In addition to the reasons set forth in section 4-9.7-105, C.R.S., the Secretary of State will refuse to accept a notice of lien or notice of amendment for the following reasons:-

~~204.1-2.5.1~~ Fee. ~~A~~THE SECRETARY OF STATE WILL REFUSE A notice of lien or notice of amendment ~~will be refused~~ if the record is submitted with less than the full filing fee and the fee is not tendered by a method authorized in ~~Rule 109~~RULE 1.8.

~~204.2-2.5.2~~ Means of communication. ~~A-THE SECRETARY OF STATE WILL REFUSE A notice of lien or notice of amendment communicated to the Secretary of State by a means of communication not authorized by the Secretary of State for the communication in Rule 103-RULE 1.2-will be refused.~~

~~204.3-2.5.3~~ Indecipherable. The Secretary of State will refuse a notice of lien or notice of amendment that is indecipherable and cannot be indexed. An indecipherable record may include, but is not limited to, a record that contains a special character outside of the character set provide in ~~Rule 313-RULE 3.14~~, or a notice of amendment that fails to indicate the type of amendment.

~~205-2.6~~ Grounds for refusal of a record submitted via the system-to-system transfer method. The sole grounds for the Secretary of State's refusal to accept a secured transaction record for filing submitted via the system-to-system transfer method are enumerated in ~~Rules 202, 203, and 205~~ RULES 2.3 AND 2.4.

~~206-2.7~~ Procedure upon refusal. During the submission process, the electronic filing application will indicate any deficiencies and will prompt the filer to provide all required information necessary to complete filing. The system will not accept a filing until all required information is provided.

~~207-2.8~~ Acknowledgment.

~~2.8.1~~ Upon completing the filing process through the electronic filing application, the Secretary of State will provide acknowledgment by providing an image of the filed secured transaction record that includes the information in the record, the file number and the filing date and time. WHEN A FILER COMPLETES THE ELECTRONIC FILING APPLICATION, THE SYSTEM WILL DISPLAY AN IMAGE OF THE SECURED TRANSACTION RECORD INCLUDING THE RECORD INFORMATION, FILE NUMBER, AND THE FILING DATE AND TIME.

~~2.8.2~~ Upon completing the filing process through the system to system transfer method, the Secretary of State will provide acknowledgment by providing the information in the record, the file number and the filing date and time. WHEN A FILER COMPLETES A SYSTEM-TO-SYSTEM TRANSFER, THE SYSTEM WILL DISPLAY THE RECORD INFORMATION, FILE NUMBER, AND THE FILING DATE AND TIME.

~~208-2.9~~ Refusal errors. If a filer demonstrates to the satisfaction of the Secretary of State that a record was refused in error, the Secretary of State will file the record as of the filing date and time when the record was originally communicated for filing with a statement that the record was refused in error. The statement will be preserved for so long as the master record is preserved in the secured transactions information management system.

### ~~Section 3. Secured Transactions Information Management System~~

#### ~~RULE 3. SECURED TRANSACTIONS INFORMATION MANAGEMENT SYSTEM~~

~~300-3.1~~ General. The Secretary of State uses an information management system to store, index, and retrieve information relating to secured transaction records. The information management system includes an index of the names of debtors/owners named on secured transaction records. The FOLLOWING rules ~~in this section~~ describe the secured transactions information management system-:

301-3.2 Primary data elements. The primary data elements used in the secured transactions information management system are the following:-

301.1-3.2.1 Identification numbers.

301.1.1(A) Each secured transaction record is identified by a unique file number. The file number is permanently inscribed on the record image generated by the secured transactions information management system and is permanently associated with each secured transaction record that is stored and maintained in the secured transactions information management system. When a record is initially filed, a master record is created.

301.1.2(B) An amendment or a correction to a secured transaction master record is linked to the related master record in the secured transactions information management system.

301.2-3.2.2 Type of record. The type of secured transaction record is identified in the secured transactions information management system.

301.3-3.2.3 Filing date and filing time. The filing date and time are the date and time the record is filed in the secured transactions information management system. The filing date and time of a secured transaction record are stored in the secured transactions information management system and are noted on the image of a secured transaction record.

301.4-3.2.4 Identification of parties. The names and addresses of all parties, as provided by the filer, are stored and maintained in the secured transactions information management system.

301.5-3.2.5 Status of secured transaction record. Each master record has a status of unexpired or expired.

301.6-3.2.6 Page count. The total number of pages in a secured transaction record is indicated on the image of the secured transaction record.

301.7-3.2.7 Lapse indicator. If a secured transaction record has a limited period of effectiveness, the system will calculate and maintain the lapse date of the record. The lapse date is determined as provided in ~~Rule 402~~-RULE 4.3. The lapse date is indicated in the electronic searching application and stored in the secured transactions information management system.

302-3.3 Names of individuals. This rule applies to the name of a debtor, an owner, a claimant, or a secured party provided on a secured transaction record who is an individual.

302.1-3.3.1 Individual name fields. The secured transactions information management system will provide separate fields for the first, middle, and last names of individuals. A filer should place the name of a debtor with a single name (e.g., "Cher") in the last name field. All individual name information will be recorded in the secured transactions information management system exactly as the data was entered in the electronic filing application or as transmitted by the system-to-system transfer method.

~~302.2.3.3.2~~ ~~Truncation—individual~~ INDIVIDUAL names - TRUNCATION. Individual name fields are fixed in length. THE APPLICATION WILL TRUNCATE NAMES LONGER THAN THE ALLOWED FIXED LENGTH. The lengths of the corresponding fields available in the electronic filing application and the system-to-system transfer method are as follows:

~~302.2.1~~(A) First name: 255 characters.

~~302.2.2~~(B) Middle name: 255 characters.

~~302.2.3~~(C) Last name: 255 characters.

~~302.2.4~~(D) Suffix: The secured transactions information management system will only accept the following suffixes: Jr., Sr., II, III, IV, V, VI, VII, VIII, IX, and X.

~~303-3.4~~ Names of organizations. This rule applies to the name of an organization that is a debtor, an owner, a claimant, or a secured party provided on a secured transaction record.

~~303.1-3.4.1~~ Single field. The secured transactions information management system will provide a single field for an organization name.

~~303.2-3.4.2~~ ~~Truncation—organization~~ ORGANIZATION names - TRUNCATION. The organization name field is fixed in length. THE APPLICATION WILL TRUNCATE NAMES LONGER THAN THE ALLOWED FIXED LENGTH. The length of the corresponding fields available in the electronic filing application and the system-to-system transfer method is 255 characters.

~~304-3.5~~ Estates. The electronic filing application will provide a method to indicate, ~~that a debtor is a decedent's estate~~ SEPARATE FROM THE IDENTIFICATION OF THE DEBTOR, THAT A PERSONAL REPRESENTATIVE OF A DECEDENT IS ADMINISTERING THE COLLATERAL.

~~305-3.6~~ Trusts OTHER THAN REGISTERED ORGANIZATIONS. The electronic filing application will provide a method to indicate, SEPARATE FROM THE IDENTIFICATION OF THE DEBTOR, ~~that a debtor is a trust or trustee acting with respect to property held in trust~~ THE COLLATERAL IS HELD IN TRUST AND TO INCLUDE, IF APPLICABLE, ADDITIONAL INFORMATION TO DISTINGUISH THE TRUST FROM OTHER TRUSTS HAVING ONE OR MORE OF THE SAME SETTLORS OR THE SAME TESTATOR.

~~306-3.7~~ Record opening document. Upon the filing of a record opening document, ~~the status of the parties and the status of the record will be as follows~~ A MASTER RECORD IS CREATED WITH AN UNLAPSED STATUS. THE STATUS OF THE MASTER RECORD AND THE STATUS OF THE FOLLOWING PARTIES ARE RECORDED IN THE SECURED TRANSACTIONS INFORMATION MANAGEMENT SYSTEM AND RETAINED IN ACCORDANCE WITH RULE 4.14:

~~306.1-3.7.1~~ Status of secured party. Each secured party named on an initial financing statement or EFS ~~will be maintained~~ IS RECORDED ~~in the secured transactions information management system and will not be removed before two years after the secured transaction record has lapsed.~~

~~306.2-3.7.2~~ Status of claimant. Each claimant named on a notice of lien ~~will be maintained~~ IS RECORDED ~~in the secured transactions information management system and will not be removed before two years after the notice has lapsed.~~ Each claimant identified in a notice will be maintained in the secured ~~transaction~~ TRANSACTIONS information management system as if the claimant were a secured party of record.

- ~~306.3-3.7.3~~ Status of assignee and assignor. If a record opening document includes an assignment, the assignee and the assignor will each be indexed as a secured party of record.
- ~~306.4-3.7.4~~ Status of debtor. A debtor named on an initial financing statement or EFS ~~will be maintained~~ IS RECORDED in the secured transactions information management system and ~~will not be removed before two years after the master record has lapsed.~~
- ~~306.5-3.7.5~~ Status of owner. An owner named on a notice of lien ~~will be maintained~~ IS RECORDED in the secured transactions information management system and ~~will not be removed before two years after the notice has lapsed.~~ Each owner identified in a notice will be maintained in the secured ~~transaction~~ TRANSACTIONS information management system as if the owner were a debtor.
- ~~306.6~~ Status of record opening document. Upon the filing of a record opening document, a master record will be created and the status of the master record will be unexpired.
- 307-3.8 Amendment. Upon the filing of an amendment, the status of the parties and the status of the secured transaction record will be as follows:
- ~~307.1-3.8.1~~ Status of secured party and debtor. An amendment will affect the status of the NAMES OF THE debtor(s) and THE secured party(ies) name in the related master record as follows:
- ~~307.1.1(A)~~ Collateral amendment or address change. An amendment that amends only the collateral description or one or more addresses will ~~have no effect upon~~ NOT AFFECT the status of any debtor or secured party.
- ~~307.1.2(B)~~ Debtor name change. An amendment that changes a debtor's name will ~~have no effect on~~ NOT AFFECT the status of any other debtor or any secured party, except that the related initial financing statement or EFS and all UCC records that include an identification of such initial financing statement will be cross-indexed in the secured transactions information management system so that a search under either the debtor's old name or the debtor's new name will reveal the initial financing statement or EFS and any related records.
- ~~307.1.3(C)~~ Secured party name change. An amendment that changes the name of a secured party will ~~have no effect on~~ NOT AFFECT the status of any debtor or any other secured party, but the new name will be added to the secured transactions information management system as if it were a new secured party of record.
- ~~307.1.4(D)~~ Addition of a debtor. An amendment that adds a new debtor name will ~~have no effect upon~~ NOT AFFECT the status of any other debtor or any secured party, except the new debtor name will be added to the secured transactions information management system as a new debtor.
- ~~307.1.5(E)~~ Addition of a secured party. An amendment that adds a new secured party will not affect the status of any debtor or other secured party, except that the new secured party name will be added to the secured transactions information management system as a new secured party of record.

~~307.1.6~~(F) Deletion of a debtor. An amendment that deletes a debtor will ~~have no effect on any~~ NOT AFFECT A debtor or secured party stored in the secured transactions information management system.

~~307.1.7~~(G) Deletion of a secured party. An amendment that deletes a secured party of record will ~~have no effect on any~~ NOT AFFECT A debtor or secured party stored in the secured transactions information management system.

~~307.2.3.8.2~~ Status of claimant and owner. A notice of amendment ~~will affect~~ AFFECTS the status of a claimant or owner in the same ~~fashion~~ MANNER as an amendment filed in accordance with ~~Rule 307.1~~ RULE 3.8.1.

~~307.3.3.8.3~~ Status of master record. An amendment ~~will have no effect upon~~ WILL NOT AFFECT the status of the master record, except as provided in ~~Rules 309 and 310~~ RULES 3.10 AND 3.11.

~~308.3.9~~ Assignment of powers of secured party of record.

~~308.1.3.9.1~~ Status of the parties. An assignment ~~will have no effect on~~ WILL NOT AFFECT the status of the parties to the financing statement, except that each assignee named in the assignment will become a secured party of record.

~~308.2.3.9.2~~ Status of master record. An assignment will ~~have no effect upon~~ NOT AFFECT the status of the master record.

~~309.3.10~~ Continuation.

~~309.1.3.10.1~~ Continuation of lapse date. Upon the timely filing of one or more continuations, the lapse date of the master record will be extended by the appropriate period in accordance with the applicable substantive statute.

~~309.2.3.10.2~~ Status of parties. The filing of a continuation will ~~have no effect upon~~ NOT AFFECT the status of any party included in the master record.

~~309.3.3.10.3~~ Status of master record. Upon the filing of a continuation, the status of the master record will remain unexpired.

~~310.3.11~~ Termination.

~~310.1.3.11.1~~ Status of parties. The filing of a termination will ~~have no effect upon~~ NOT AFFECT the status of any party included in a master record.

~~310.2.3.11.2~~ Status of UCC master record. A termination will ~~have no effect upon~~ NOT AFFECT the status of the master record. If the termination relates to a financing statement filed against a transmitting utility, then the master record will lapse upon the filing of the termination statement with respect to all secured parties of record.

~~310.3.3.11.3~~ Status of EFS. A termination or an amendment that purports to remove EFS master list notification will cause the EFS identified in the termination or amendment and any related EFS amendments to be removed from the master lists published and distributed by the Secretary of State ~~subsequent to~~ AFTER the termination. An amendment that removes EFS master list notification will ~~have no effect upon~~ NOT AFFECT the status

or otherwise impair the perfection of any security interest perfected by the EFS for purposes of Article 9 of Title 4, C.R.S.

~~310.4-3.11.4~~ Status of ~~Notice of Lien~~-NOTICE OF LIEN. A notice of amendment that purports to terminate a notice of lien will cause the notice of lien to lapse.

~~311-3.12~~ ~~Correction~~-INFORMATION statement.

~~311.1-3.12.1~~ Status of parties. ~~The filing of a correction~~-FILING AN INFORMATION statement will ~~have no effect upon~~-NOT AFFECT the status of any party to the financing statement.

~~311.2-3.12.2~~ Status of financing statement. ~~A correction~~-AN INFORMATION statement will ~~have no effect upon~~-NOT AFFECT the status of the financing statement.

~~312-3.13~~ Procedure upon lapse. If there is no timely filing of a continuation STATEMENT IN ACCORDANCE with respect to RULE 4.3, a master record, ~~the record lapses on its lapse date~~. The Secretary of State will ~~maintain~~-RETAIN all lapsed secured transaction records ~~for two years after the lapse date~~. ~~Two years after the lapse date, the Secretary of State will no longer maintain, in any form, and will remove secured transaction records from the secured transaction information management system~~ IN ACCORDANCE WITH RULE 4.14.

~~313-3.14~~ The secured transactions information management system will only support ASCII characters 32-126. Information regarding ASCII characters 32-126 is available upon request and on the Secretary of State's website.

~~314-3.15~~ Electronic Procedures.

~~314.1-3.15.1~~ Direct electronic filing and searching services. The secured transactions information management system will include an electronic filing application and an electronic searching application that are available to any person with Internet access. Instructions on how to file and conduct searches are available on the Secretary of State's website.

~~314.2-3.15.2~~ Filing procedures. All secured transaction records will be communicated to the Secretary of State for filing by the electronic filing application or by utilizing the system-to-system transfer method authorized by the Secretary of State. Instructions on how to file are available on the Secretary of State's website.

#### ~~Section 4. Filing and Records Management Procedures~~

#### ~~RULE 4. FILING AND RECORDS MANAGEMENT PROCEDURES~~

~~400-4.1~~ Duties and Authority of the Secretary of State. The Secretary of State will promptly file a record that conforms to these rules and will maintain and index all data exactly as the filer ~~inputted~~ ENTERED the data in the electronic filing application OR THE SYSTEM-TO-SYSTEM TRANSFER METHOD. ~~The~~-IT IS NOT WITHIN THE Secretary of State STATE'S ~~does not have the~~ authority to determine the legal effectiveness of a secured transaction record. The filing of or refusal to file a record does not affect the validity of the record or relate to the correctness of the information in the record.

~~401-4.2~~ Record indexing and other procedures for the electronic filing application or system-to-system transfer method.

- ~~401.1~~4.2.1 Record review. The Secretary of State only determines if one or more grounds for refusal exist. If a ground for refusal exists, the electronic filing application will not allow the record to be submitted.
- ~~401.2~~4.2.2 Electronic attachments. The electronic filing application and system-to-system transfer method will allow a filer to include electronic attachments when filing a secured transaction record. The Secretary of State does not review the contents of electronic attachments and will not index or make the contents of electronic attachments searchable.
- 402-4.3 Lapse date and time. A lapse date is calculated for each record opening document. The lapse date is the same day of the same month as the filing date in the final year of the initial statutorily determined period of effectiveness or subsequent statutorily determined period of effectiveness if a timely continuation statement is filed. A master record lapses at 12:00 AM of the day immediately following the lapse date. The lapse date for a record opening document filed on February 29 will be February 28 in the final year of the statutorily determined period of effectiveness.
- ~~403~~4.4 Verification of data entry. The Secretary of State is neither permitted nor authorized to provide legal advice or to make any judgment regarding the effectiveness or sufficiency of a secured transaction record. ~~Entered~~ENTERING data into the electronic filing application and determining whether the information included in a record is legally sufficient is the sole responsibility of the filer.
- 404-4.5 Errors of the filing officer. The Secretary of State may correct errors made by filing office personnel when entering information in the secured transactions information management system at any time. If a correction is made, the Secretary of State will file a filing officer correction relating to the relevant master record stating the date of the correction and explaining the nature of the corrective action taken. The correction will be preserved for so long as the related master record is preserved in the secured transactions information management system.
- 405-4.6 Errors other than filing office errors. Filer errors are the responsibility of the filer. A filer may file an amendment TO CORRECT AN ERROR or a ~~correction~~AN INFORMATION statement to ~~correct or~~ disclose an error. The accuracy and completeness of information that is filed is ultimately the responsibility of the filer.
- ~~406~~4.7 Data entry of names - no designated fields. Only names entered in a designated name field in the electronic filing application or received in a designated name field through the system-to-system transfer method will be recorded as a name in the secured transactions information management system. This applies to all parties associated with a secured transaction record.
- ~~407~~4.8 Record opening document. A new master record will be created in the secured transactions information management system for each record opening document that is filed. The master record will use the file number of the financing statement and the date and time of filing of the record opening document.
- ~~407.1~~4.8.1 Debtor or owner information. The name and address of each debtor or owner that are legibly set forth in a secured transaction record will be entered into the related master record.
- ~~407.2~~4.8.2 Secured party or claimant information. The name and address of each secured party or claimant that is legibly set forth in a secured transaction record will be entered into the related master record.

- ~~407.3~~4.8.3 Indexing. Each master record will be indexed according to the name of the debtor(s) or owner(s) indicated on the secured transaction record and will be available for public inspection through the electronic searching application.
- 408-4.9 Amendment. Each amendment that is filed will be indexed in the secured transactions information management system and will be linked to the related master record.
- ~~408.1~~4.9.1 Indexing of an amendment. An amendment is associated with a master record so that the amendment can be retrieved by searching for the file number of the amendment, searching for a debtor or secured party designated in the amendment, or by searching for the related record opening document through the electronic searching application.
- ~~408.2~~4.9.2 Names and addresses. The name and address of each debtor/owner and secured party/claimant designated in an amendment will be entered into the secured transactions information management system and associated with the related master record.
- ~~408.3~~4.9.3 If the amendment is a continuation, a new lapse date will be established for the related master record. If no lapse date is associated with a master record, then the continuation will be made part of the master record and no other action will be taken.
- 409-4.10 ~~Correction~~-INFORMATION statement. Each ~~correction~~-INFORMATION statement that is filed will be indexed in the secured transactions information management system. The ~~correction~~ INFORMATION statement will be associated with the related master record in a manner that causes the ~~correction~~-INFORMATION statement to be retrievable by searching for the file number of the ~~correction~~-INFORMATION statement or by searching for the related record opening document.
- 410-4.11 Master amendments. An amendment or ~~correction~~-INFORMATION statement that would change or affect multiple secured transaction records with one filing is not possible; at this time.
- 411-4.12 ~~Paper records storage. Paper records are destroyed after the paper records have been scanned, electronic images of the paper records have been created, the electronic images have been stored in the secured transactions information management system, and the correct scanning of the images has been verified.~~—TREATMENT OF PAPER RECORDS. THE SECRETARY OF STATE WILL SCAN A PAPER RECORD TO CREATE AND STORE AN ELECTRONIC IMAGE OF THE RECORD IN THE SECURED TRANSACTIONS INFORMATION MANAGEMENT SYSTEM. ONCE THE SECRETARY VERIFIES THAT THE IMAGE IS CORRECTLY SCANNED, THE SECRETARY WILL DESTROY THE PAPER RECORD.
- 412-4.13 Database backups. THE SECRETARY OF STATE WILL MAKE BOTH DAILY INCREMENTAL BACKUPS AND WEEKLY FULL BACKUPS OF THE DATABASE USING MAGNETIC TAPE OR OTHER APPROPRIATE DATA BACKUP OR DATA STORAGE SYSTEM.
- ~~412.1 Daily backups. Daily incremental backups will be made using magnetic tape or other appropriate backup or data storage system as determined by the Secretary of State.~~
- ~~412.2 Weekly backups. Weekly full backups will be made using magnetic tape or other appropriate data backup or data storage system as determined by the Secretary of State.~~
- 413-4.14 Records ~~Retention~~-RETENTION. THE SECRETARY OF STATE WILL RETAIN DATA, INCLUDING ELECTRONIC IMAGE RECORDS, IN THE SECURED TRANSACTIONS INFORMATION MANAGEMENT SYSTEM FOR AT LEAST TWO YEARS AFTER LAPSE.

~~413.1 Data retention. Data relating to secured transaction records are retained in the secured transactions information management system.~~

~~413.2 Image retention. Electronic images of secured transaction records are retained in the secured transactions information management system.~~

414.4.15 Hardship policy and procedures. A hardship filing by a method of communication other than electronic filing will be processed only if the request was preapproved by the Secretary of State, and the request is tendered with the appropriate fee. The Secretary of State will determine the policy and procedure used to accept and ~~data enter~~ PROCESS a secured transaction record under a hardship request.

415.4.16 Notice of bankruptcy. The Secretary of State takes no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding. Accordingly, secured transaction records will lapse as scheduled unless properly continued.

## ~~Section 5. Search Requests and Reports~~

### ~~RULE 5. SEARCH REQUESTS AND REPORTS~~

~~500-5.1~~ General requirements. The Secretary of State maintains a searchable index of all master records and liens created under the UCC, the EFS Act, the Lien Registration Act, and applicable federal law. This searchable index allows records to be retrieved by searching for the name of a debtor, owner, or taxpayer or by the file number of a secured transaction record.

~~501-5.2~~ Search requests. Search requests can be submitted and processed only by using the electronic searching application. A searcher may perform a search of the secured transactions information management system using the following types of search requests:

~~501-1-5.2.1~~ Standard ~~Search~~—SEARCH. A standard search is a search of the secured transactions information management system using the standard search logic provided for in ~~Rule 503~~—RULE 5.4. A searcher may perform a standard search of all unlapsed records by providing the name of a debtor, owner, or taxpayer. The standard search will return any unlapsed secured transaction records and any federal lien that designates a debtor, owner, or taxpayer name that matches the name entered into the electronic searching application.

~~501.1.1(A)~~ Lapsed records. A standard search may include all lapsed secured transaction records which name a debtor, owner, or taxpayer that matches the name entered into the electronic searching application.

~~501.1.2(B)~~ Certification of a standard search. The results of a standard search will be certified by the Secretary of State upon request, with the provision of information identifying the requestor, and payment of any applicable fee.

~~502-5.3~~ Optional search request criteria. The Secretary of State may allow searches of the secured transactions information management system using search criteria beyond the name of a debtor, owner, or taxpayer. The results of these search requests will include secured transaction records and federal liens that match the search criteria entered into the electronic searching application by the searcher.

~~502-1~~5.3.1 Certification. The Secretary of State will not certify the results of any searches performed using the optional search criteria.

~~503-5.4~~ Rules applied to standard search requests. Search results are created by applying standardized search logic to the name a searcher enters in a standard search function of the electronic searching application. Human judgment does not play a role in determining the results of the search. The following, ~~and only the following~~, ARE THE SOLE rules ~~are~~ applied to conduct searches:

~~503-1~~5.4.1 Search result limits. Search results are limited to 500 matching records.

~~503-2~~5.4.2 Standard Search Logic SEARCH LOGIC - organization name normalization. The standard search logic of the Secretary of State will normalize an organizational name as follows:

~~503-2.1~~(A) All letters will be converted to upper case.

~~503-2.2~~(B) An ampersand (“&”) will be converted to “and”.

~~503-2.3~~(C) All articles, such as “the”, “a”, and “an”, that precede or follow the name will be removed.

~~503-2.3.1~~(1) The character “a” will be considered an article if followed by a space and two or more characters unless the characters following the space are “and [space]”.

~~503-2.3.2~~(2) If “[space] a” is the last character in a name, “a” will be considered an article.

~~503-2.4~~(D) All characters, including punctuation, outside of 0-9 and A-Z will be replaced with a single space.

~~503-2.5~~(E) Any and all leading and trailing spaces will be removed.

~~503-2.6~~(F) All multiple consecutive spaces within the name will be reduced to one space.

~~503-2.7~~(G) Words and abbreviations at the end of a name that indicate the existence or nature of an organization as set forth in the “Ending Noise Words” list as promulgated and adopted by the Secretary of State ~~as~~ from time to time, are disregarded (e.g., “company”, “limited”, “incorporated”, “corporation”, “limited partnership”, “limited liability company”, or abbreviations of the foregoing). The “Ending Noise Words” list is available upon request and on the Secretary of State's website.

~~503-2.8~~(H) All spaces will be removed from the name in order to concatenate the name.

~~503-3~~5.4.3 Standard Search Logic - individual name normalization. The standard search logic of the Secretary of State will normalize an individual name as follows:

~~503-3.1~~(A) Only the last, first, and middle names will be used.

- 503.3.2(B) A last name must be provided.
- 503.3.3(C) All letters will be converted to upper case.
- 503.3.4(D) All characters, including punctuation, outside of 0-9 and A-Z will be replaced by a space.
- 503.3.5(E) All spaces in a last name, first name, or middle name will be removed.
- 503.3.6(F) An individual name may be searched using any of the following combinations:
  - 503.3.6.1(1) Last name;
  - 503.3.6.2(2) Last name, first initial;
  - 503.3.6.3(3) Last name, first initial, middle initial;
  - 503.3.6.4(4) Last name, first initial, middle name;
  - 503.3.6.5(5) Last name, first name;
  - 503.3.6.6(6) Last name, first name, middle initial; and
  - 503.3.6.7(7) Last name, first name, middle name.

503.4-5.4.4 A normalized name as a null value. A normalized name may be a null value.

503.5-5.4.5 Standard Search Logic results. The standard search logic will use the normalized name to search the secured transactions information management system and to produce search results.

503.5.1(A) Normalized organization names. Only names that are an exact match of the normalized name will be included in the search results.

503.5.2(B) Normalized individual names. Only last names that are an exact match of the normalized last name will be included in the search results.

503.5.3(C) Only a last name is provided. If a search is conducted using only a last name, the search results will include debtors on record with only a last name.

503.5.4(D) Individual first and middle names. The results of a search using a first name, middle name, or both will include the normalized first name, normalized middle name, or both with trailing wildcards.

5045.5 Search responses. Upon submitting a search request using the electronic searching application, a list of results matching the search criteria will be provided. If no information matching the search criteria is returned, the electronic searching application will indicate that the search criteria does not return any results. A report of the search results will be available. Reports created in response to a search request will include the following:

- 504.1-5.5.1 Filing office identification. The Secretary of State will be identified as the report provider.
- 504.2-5.5.2 Processed through date. Each report will indicate ~~the date through which the Secretary of State has processed all records that have been received, accepted, and filed.:~~
- (A) THE MOST RECENT DATE THROUGH WHICH THE SECRETARY OF STATE HAS PROCESSED PAPER FILINGS IN ACCORDANCE WITH RULE 1.2.3; AND
  - (B) THE MOST RECENT DATE AND TIME THROUGH WHICH THE SECRETARY OF STATE HAS RECEIVED ELECTRONIC FILINGS.
- 504.3-5.5.3 Search criteria. The report will indicate the data that was used to generate the report. Search criteria that may be used include the following:
- 504.3.1(A) Debtor name. The debtor, owner, or taxpayer name used to conduct the search will be indicated.
  - 504.3.2(B) Exact match. The report will indicate if the search results are limited to an exact match of the debtor name used to conduct the search.
  - 504.3.3(C) Normalized ~~organization~~ name. The normalized name used to conduct a standard search ~~for an organization~~ will be indicated.
  - 504.3.4(D) Debtor city. The report will indicate if the search results are limited to a debtor's city.
  - 504.3.5(E) Debtor state. The report will indicate if the search results are limited to a debtor's state.
  - 504.3.6(F) Debtor ZIP/Postal code. The report will indicate if the search results are limited to a debtor's ZIP/Postal code.
  - 504.3.7(G) Secured party name. The REPORT WILL INDICATE THE secured ~~party or claimant~~ PARTY'S OR CLAIMANT'S name used to conduct the search ~~will be indicated.~~
  - 504.3.8(H) Exact match. The report will indicate if the search results are limited to an exact match of the secured party name used to conduct the search.
  - 504.3.9(I) Secured party city. The report will indicate if the search results are limited to a secured party's city.
  - 504.3.10(J) Secured party state. The report will indicate if the search results are limited to a secured party's state.
  - 504.3.11(K) Secured party ZIP/Postal code. The report will indicate if the search results are limited to a secured party's ZIP/Postal code.
  - 504.3.12(L) Date range. The report will indicate if the search results are limited to a date range.

~~504.3.13~~(M) Record type. The report will indicate if the search results are limited to one or more types of records.

~~504.3.14~~(N) Lapsed records. The report will indicate if the search results include lapsed records.

~~504.4.5.5.4~~ Report date and time. The date and time the report was generated will be indicated.

~~504.5.5.5.5~~ Identification of record opening documents. Any record opening document matching the search criteria will be retrieved and identified by the record's file number and file date.

~~504.6.5.5.6~~ Record history. For each record opening document identified on the report, a list of all related records and corrections filed or entered on or ~~prior to~~ BEFORE the processed through date will be identified with the record opening document.

~~504.7.5.5.7~~ Identification of master record information. Master record information on file with the Secretary of State will include the following:

~~504.7.1~~(A) Record opening document file number.

~~504.7.2~~(B) Record opening document filing date and time.

~~504.7.3~~(C) Type of record.

~~504.7.4~~(D) Each debtor's name and address.

~~504.7.5~~(E) Each secured party's name and address.

~~504.7.6~~(F) Amendment file number.

~~504.7.7~~(G) Amendment filing date and time.

~~504.7.8~~(H) Type of amendment.

~~504.7.9~~(I) ~~Correction~~-INFORMATION statement file number.

~~504.7.10~~(J) ~~Correction~~-INFORMATION statement filing date and time.

~~504.7.11~~(K) Filing officer correction date.

~~504.7.12~~(L) Lapse date. For each record opening document identified on the report, a lapse date will be indicated, unless no lapse date exists.

~~505.5.6~~ Copies. Upon request and subject to availability, the Secretary of State will provide an image of a record that is on file with the Secretary of State and retrieved through the electronic searching application.

~~506.5.7~~ Certification of secured transaction records and reports.

~~506.1-5.7.1~~ Secured transaction records recorded with the Secretary of State. Secured transaction records that are available through the secured transactions information management system may be certified by the Secretary of State in response to a search request as required by applicable law.

~~506.1-1(A)~~ Secured transaction records certified by the Secretary of State. The unredacted image of the original secured transaction record will be provided in response to a request for a certified record.

~~506.2-5.7.2~~ Reports. Reports generated from the results of a standard search may be certified by the Secretary of State as required by applicable law.

~~506.2-1(A)~~ Certification identification number. The Secretary of State will assign a unique identifying number to each certified report.

~~506.3-5.7.3~~ Medium of ~~Certified Records and Reports~~—CERTIFIED RECORDS AND REPORTS. A certified report or record produced or generated by the Secretary of State will be communicated in an electronic medium.

~~506.3-1(A)~~ Hardship ~~Certification~~—CERTIFICATION. In the case of hardship, the Secretary of State may, at its discretion, allow for the communication of a certified report or record in a medium other than an electronic medium. Hardship certification requests will only be accepted after the requester has received prior approval from the Secretary of State.

~~507-5.8~~ Hardship search requests. A hardship search request will be processed only if the request was preapproved by the Secretary of State and is tendered with any applicable fee. The Secretary of State will determine the policy and procedure used to accept a secured transaction search request under hardship.

#### ~~Section 6. Other Notices of Liens~~

#### **RULE 6. OTHER NOTICES OF LIENS**

~~600-6.1~~ Policy statement. This rule describes records of liens that the Secretary of State maintains according to statutes other than the UCC that the Secretary of State treats in a manner substantially similar to UCC records and that are included in search results obtained through the electronic searching application.

~~601-6.2~~ Notice of federal tax lien. All notices of federal tax lien are processed in accordance with Article 25 of Title 38, C.R.S.

#### ~~Section 7. EFS Filings~~

#### **RULE 7. EFS FILINGS**

~~700-7.1~~ Incorporation of prior ~~sections~~—RULES. ~~Sections 1 through 8 of these rules~~—RULES 1 THROUGH 9 apply to filings and other actions made under the EFS Act to the extent not inconsistent with the EFS Act and this ~~Section 7~~—RULE 7.

~~701-7.2~~ Farm products. The list of farm ~~product~~—PRODUCTS is found in the Federal Register and is posted on the Secretary of State's website.

~~701.1~~7.2.1 ~~The~~ EACH OF THE farm products contained in the list of farm products ~~are~~ IS considered a separate and distinct farm product.

~~701.2~~7.2.2 Inclusion and removal of additional products. A person may request that a farm product be included or removed from the farm products list. However, the ~~secretary of state~~ SECRETARY OF STATE cannot change the list without the United States Department of ~~Agriculture~~ AGRICULTURE'S approval.

#### ~~702~~7.3 EFS filings.

~~702.1~~7.3.1 EFS. The electronic filing application will allow the capture of all information required by the EFS Act and all information necessary to perfect a UCC security interest.

~~702.1.1~~(A) Master list notification and records submitted for filing. An EFS is the only record that will create a master list notification.

~~702.2~~7.3.2 EFS Amendment. The electronic filing application will allow an EFS to be amended.

~~702.3~~7.3.3 Master list compilation. The EFS master list is compiled with the information contained in each EFS and EFS amendment.

~~702.3.1~~(A) Master list notification. To be included the monthly master list, ~~An~~ A FILER MUST ELECTRONICALLY FILE AN EFS or an EFS amendment ~~must be electronically filed~~ on or before 11:59 p.m. ~~mountain time~~ MOUNTAIN STANDARD TIME on the last day of the previous month.

#### ~~703~~7.4 EFS master list compilation and distribution.

~~703.1~~7.4.1 Compilation month and distribution month. For the purpose of ~~this section~~ RULE 7, the following terms are defined:

~~703.1.1~~(A) "Compilation month" means the calendar month for which the master list is compiled.

~~703.1.2~~(B) "Distribution month" means the month immediately following a compilation month and the month in which the master list is distributed to master list registrants. For example, December is the distribution month for the master list compiled for November, which would include each effective EFS and EFS amendment filed on or before 11:59 p.m. on November 30th.

~~703.2~~7.4.2 Monthly compilation. The Secretary of State will compile the EFS master list on a monthly basis. ~~An EFS and EFS amendment that has lapsed or been terminated on or before the last day of the compilation month will not in the master list.~~ THE MASTER LIST WILL NOT INCLUDE AN EFS AND ANY RELATED EFS AMENDMENT THAT LAPSED OR TERMINATED ON OR BEFORE THE LAST DAY OF THE COMPILATION MONTH.

~~703.2.1~~(A) Compilation deadline. The Secretary of State will compile the monthly master list no later than the tenth day of the distribution month.

703.2.2(B) Organization of the master list. The master list may be organized and distributed as multiple lists arranged by debtor name, debtor unique identifier, county, and crop year.

#### 703.3-7.4.3 EFS master list distribution.

703.3.1(A) Monthly distribution of the master list. The master list is distributed on a monthly basis.

703.3.2(B) Distribution method. A master list registrant may obtain the master list electronically. The master list may be downloaded from the Secretary of State's website or it may be searched using the Secretary of State's website. Upon request and payment of all applicable fees, a master list registrant may receive a paper copy of the master list.

703.3.3(C) Custom list distribution. A person may only obtain a custom list by searching the EFS master list through the Secretary of State's website and then downloading the search results. Custom list criteria may be entered to limit EFS master list search and the system will return all matching master list results.

703.3.4(D) Distribution deadline. Each monthly master list will be available no later than the fifteenth day of the distribution month. Once THE MONTHLY MASTER LIST IS distributed, custom lists will also be available.

703.4-7.4.4 Debtor name custom lists. A custom list of all farm products in all counties sorted by debtor name is available for download from the Secretary of State's website.

703.5-7.4.5 Failure to complete compilation and distribution by the deadline. If the SECRETARY OF STATE CANNOT COMPLETE THE compilation and distribution of the master list ~~cannot be completed by~~ the fifteenth day of the distribution month, ~~then~~ the Secretary of State will communicate the fact of and reason for such failure to all master list registrants and on the Secretary of State's website.

#### 704-7.5 Master list registration.

704.1-7.5.1 Registration. Registration is not necessary to download or search the master list through the Secretary of State's website. A person may become a master list registrant by registering to receive email notification that the master list has been published and distributed. Registration is completed by creating an account through the Secretary of State's website and choosing to receive notification. A person who requests a paper copy of the master list must contact the Secretary of State's office, complete a registration form, and pay all applicable fees.

704.2-7.5.2 Registration changes. A master list registrant is responsible for changing the registrant's contact information. Changes are completed through the Secretary of State's website.

704.3-7.5.3 Duration. Master list registrations ~~will be~~ ARE effective ~~annually~~ FOR ONE YEAR.

704.4-7.5.4 Renewal. Master list registrations will automatically be renewed unless a registrant cancels the registration. The Secretary of State will notify each registrant in

June that the registrant's registration will ~~be renewed~~-AUTOMATICALLY RENEW on July 1 automatically.

705-7.6 EFS Filing Fees and EFS Master List Fees. Fees for processing EFS records, searches, copies and other services will be adopted and published by the Secretary of State from time to time. Information, instructions, and a fee schedule are available upon request and on the Secretary of State's website.

### **Section 8. Lien Registration Act**

#### **RULE 8. LIEN REGISTRATION ACT**

~~800-8.1~~ Incorporation of prior sections. ~~Sections 1 through 6 of these rules~~-RULES 1 THROUGH 7 AND RULE 9 apply to filings and other actions made under the Lien Registration Act to the extent such rules are not inconsistent with the Lien Registration Act and this ~~Section 8~~-RULE 8.

~~801-8.2~~ Lapse date. A notice of lien, other than a restitution lien or child support lien, will not indicate a lapse date in the secured transactions information management system; unless a notice of lien has been terminated.

~~801.1-8.2.1~~ Restitution lien. A notice of lien for a restitution lien is effective for 12 years. A lapse date is calculated in accordance with ~~Rule 402~~-RULE 4.3.

~~801.2-8.2.2~~ Child support lien. A notice of lien for a child support lien is effective for 12 years. A lapse date is calculated in accordance with ~~Rule 402~~-RULE 4.3.

~~801.3-8.2.3~~ Lapse date of a terminated ~~Notice of Lien~~-NOTICE OF LIEN. The lapse date of a terminated notice of lien is the date that the notice of amendment terminating the notice of lien was filed.

~~801.4-8.2.4~~ Continuation of effectiveness. A filer may submit one or more notices of amendment continuing the effectiveness of a notice of lien.

~~802-8.3~~ Additional information or record. The electronic filing application and the system-to-system transfer method will accept an electronic attachment.

### **Section 9. Redaction of Tax Identification Numbers**

#### **RULE 9. REDACTION OF TAX IDENTIFICATION NUMBERS**

~~900-9.1~~ Redaction authority. The Secretary of State may redact any tax identification number contained in a secured transaction record in accordance with section 24-21-302(1), C.R.S.

~~901-9.2~~ Redaction ~~Method~~-METHOD. The Secretary of State processes each secured transaction record using automated redaction software to identify and redact any tax identification number.

~~901.1-9.2.1~~ Verification of automated redaction software results. The Secretary of State may review processed images and restore information determined not to be a tax identification number.

- ~~901.2~~-9.2.2 Availability of secured transaction record images. An image of a secured transaction record is made available as soon as practicable after being processed by the redaction software.
- ~~901.2.1~~(A) Acknowledgment. Upon completion of the filing process, the filer receives an acknowledgment copy of the image of the filed secured transaction record. The acknowledgment copy ~~are~~ IS not processed through the automated redaction software.
- ~~901.3~~-9.2.3 Application and retrieval process for an unredacted original secured transaction record. The procedures to retrieve an unredacted original secured transaction record are available upon request or on the Secretary of State's website.
- ~~902~~-9.3 Requesting the redaction of a tax identification number. If the Secretary of State fails to redact a tax identification number, a party may submit a request to the Secretary of State to redact the tax identification number.
- ~~902.1~~-9.3.1 Redaction request guidelines. The procedures for submitting a request to redact a tax identification number are available from the Secretary of State upon request.
- ~~903~~-9.4 Restoration of redacted information that is not the social security number or individual taxpayer identification number of an individual identified in an image of a secured transaction record. If information contained in an image of a secured transaction record was redacted in error, a party may request the restoration of the redacted information by submitting a request to the Secretary of State.
- ~~903.1~~-9.4.1 Restoration request guidelines. The procedures for submitting a request to restore redacted information in an image of a secured transaction record are available from the Secretary of State upon request.

**II. Basis, Purpose, and Specific Statutory Authority**

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

**III. Effective Date of Adopted Rules**

These new rules will become permanently effective twenty days after publication in the Colorado Register.<sup>5</sup>

Dated this 17<sup>th</sup> day of June, 2013,



Suzanne Staiert  
Deputy Secretary of State

For

Scott Gessler  
Colorado Secretary of State

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<sup>5</sup> Section 24-4-103(5), C.R.S. (2012).





## Statement of Basis, Purpose, and Specific Statutory Authority

### Office of the Secretary of State UCC Filing Office Rules 8 CCR 1505-7

June 17, 2013

#### I. Basis and Purpose

This statement is about amendments to the Colorado Secretary of State's UCC Filing Office Rules.<sup>1</sup> The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado's Uniform Commercial Code<sup>2</sup> and the secured transactions program as follows:

- Rules 100 and 101, containing the initial codification statement of purpose and policy, are repealed as they are unnecessary and duplicative of the statute.
- Rules that include the term "correction statement" are revised to implement changes made by House Bill 12-1262. In accordance with the statutory change, a "correction statement" is now referred to as an "information statement."
- Amendment to Rule 1.1.4 (formerly Rule 102.5) clarifies the definition of a term.
- New Rule 1.1.11 defines the term "information statement" in accordance with changes made by House Bill 12-1262.
- Amendment to Rule 1.1.16 (formerly Rule 102.17) removes an improper statutory reference.
- Amendments to Rule 1.2.3 (formerly Rule 103.3) clarify when a federal lien or record is considered filed with the Secretary of State.
- Amendments to Rule 1.8 (formerly Rule 109) reorganize and streamline the methods of payment summary. Additionally, New Rule 1.8.2 clarifies that the IRS may make payment by cash, check, or electronic funds transfer (EFT). This distinction is necessary because: (1) although federal liens are not secured transactions, the Secretary of State generally processes the liens in the same manner as secured transactions, and (2) in 2009, the IRS instituted EFT payments for all recording offices for the filing of federal tax liens and related documents.
- Amendments to Rule 1.10.3 (formerly Rule 111.3) clarify that if a person requests a list of available data elements from the secured transactions information management system, the list will automatically include a file layout.

<sup>1</sup> 8 CCR 1505-7.

<sup>2</sup> Article 9 of Title 4, C.R.S. (2012).

- Amendment to Rule 1.10.4 (formerly Rule 111.4) removes the unnecessary word “direct” for consistency with Rule 1.1.15 (formerly Rule 102.16).
- Former Rule 112 is excised as duplicative of Rule 1.6 (formerly Rule 107.1).
- Amendment to Rule 1.11 (formerly Rule 113) clarifies that while the Secretary of State generally treats federal liens in the same manner as secured transaction records, the Rules contain three specific exceptions.
- Amendments to Rule 2.3.3 (formerly Rule 202.3) clarify the Secretary of State will accept a continuation statement filing.
- Amendments to Rule 2.4 (formerly Rule 203) eliminate an erroneous statutory reference and an incorrect filing restriction.
- Amendments to Rule 2.8 (formerly Rule 207) clarify acknowledgment of the filing process.
- Amendments to Rules 3.3.2 and 3.4.2 (formerly Rules 302.2 and 303.2) clarify that the secured transaction information management system application will truncate individual and organization names if they are longer than the allowed fixed length.
- Amendments to Rules 3.5 and 3.6 (formerly Rules 304 and 205) correspond to statutory revisions implemented by House Bill 12-1262.
- Amendments to Rule 3.7 (formerly Rule 306) remove redundant information that is provided under Rule 4.14 (formerly Rule 413).
- Amendments to Rule 3.13 (formerly Rule 312) remove redundant information and provide cross-references to the appropriate rules.
- Amendment to Rule 4.1 (formerly Rule 400) clarifies the two authorized forms of electronic filing.
- Amendments to Rule 4.14 (formerly Rule 413) clarify how long the Secretary of State will retain data and electronic images of lapsed secured transaction records.
- Amendments to Rule 5.5.2 (Formerly Rule 504.2) clarify the processed through date for electronic filings and for federal lien/record paper filings.
- Other changes to rules not specifically listed are entirely nonsubstantive. Some words and phrases are changed to simply or clarify, but the meaning is not intended to be altered unless described above. Cross-references in the rules are also corrected or updated. Renumbering the rules is necessary for consistency with Department rulemaking format/style.

## **II. Rulemaking Authority**

The rule revisions and amendments are proposed in accordance with the following statutory provisions:

1. Section 4-9-526, C.R.S., (2012), which requires the Secretary of State to “adopt and publish rules to implement [Article 9 of Title 4, C.R.S.]”
2. Section 4-9.5-110(2), C.R.S., (2012), which authorizes the Secretary of State to adopt “rules as are necessary to carry out the provisions of [Article 9.5 of Title 4, C.R.S.]...”
3. Section 4-9.7-109, C.R.S., (2012), which requires the Secretary of State to “adopt and publish any rules necessary to implement [Article 9.7 of Title 4, C.R.S.]”