



Revised Statement of Basis, Purpose, and Specific Statutory Authority

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

May 24, 2013

I. Basis and Purpose

This statement is about amendments to the Colorado Secretary of State's UCC Filing Office Rules.¹ The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado's Uniform Commercial Code² 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- Rules 100 and 101, containing the initial codification statement of purpose and policy, are repealed as they are unnecessary and duplicative of the statute.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 1.1.16 (formerly Rule 102.17) removes an improper statutory reference.
- Amendments to Rule 1.8.2 (formerly Rule 109.3) indicate that the IRS may make payment by electronic funds transfer (EFT). This exception 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.
- 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.

¹ 8 CCR 1505-7.

² Article 9 of Title 4, C.R.S. (2012).

- Amendment to Rule 2.4 (formerly Rule 203) eliminates an erroneous statutory reference.
- 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.
- 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.]”