

## **Office of the Colorado Secretary of State:**

Rules Amending “Filing Office Rules Adopted by the Secretary of State for the Implementation of Colorado’s Uniform Commercial Code, Article 9, Secured Transactions, of Title 4, Colorado Revised Statutes, Colorado’s Central Filing of Effective Financing Statement Act, Article 9.5 of Title 4, Colorado Revised Statutes, and Related Colorado Laws”, repealing or relocating certain “Rules Pertaining to the Design, Implementation, and Operation of the Central Information System” and the repeal of “Colorado Central Indexing System Board Rules.”

## **Statement of Findings and Reasons for Temporary Adoption**

The Colorado Secretary of State finds that immediate adoption and prompt effectiveness of these Rules are imperatively necessary to comply with law, and that compliance with the full requirements of § 24-40103, C.R.S., would therefore be contrary to public interest, for the following reasons:

Pursuant to the above-cited statute, a permanent rule cannot take effect sooner than “twenty days after publication of the rule as finally adopted” (§ 24-4-103(5), C.R.S.), while a temporary rule can “become effective on adoption or on such later date as is stated in the rule” (§24-4-103(6), C.R.S.). These rules must therefore be adopted on a temporary basis because they are necessary for the implementation of S.B. 03-041, which was enacted during the 2003 Regular Legislative Session, which was signed into law by the Governor on May 14, 2002 and which has an effective date of July 1, 2002. S.B. 03-041 provides for the “sunset” of the Central Information System Board effective July 1, 2003. These rules repeal and relocate the rules pertaining to the Central Information System Board and the Central Information System. These rules also address resolutions adopted by the International Association of Commercial Administrators (IACA) pertaining to the Model Administrative Rules. Pursuant to § 4-9-526, C.R.S., the Secretary of State must adopt and publish rules, taking into consideration filing offices of other jurisdictions and the model rules promulgated by IACA. IACA passed resolutions amending section 208 and 405 of the Model Administrative Rules in June 2003. The Secretary of State is adopting these amended rules having taken into consideration the resolutions adopted by IACA and incorporating said resolutions into these amended rules.

## **FILING-OFFICE RULES**

### **Section 1 -- General Provisions**

**100** Policy statement. The administration of the 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 international, interstate and multi-state transactions pursuant to the UCC requires that the administration of the UCC 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 enact substantially the UCC.

As provided in § 9-526 of the UCC, the interpretation and implementation of the filing office's duties and responsibilities shall be expressed in a written set of administrative rules, which the public shall have a voice in creating. Such rules have the following purposes:

To simplify and improve the administration of the UCC by promoting uniform UCC filing procedures in the jurisdictions that enact substantially part 5 of the UCC;

To simplify the public's ability to discover and understand the UCC filing procedures of the various jurisdictions by establishing a uniform framework for describing the procedures;

To increase public access to information;

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

To increase public accountability of the filing officer.

**101** Definitions. The following terms shall have the respective meanings provided in this rule. Terms not defined in this rule which are defined in the UCC shall have the respective meanings accorded such terms in the UCC.

101.1 "Amendment" means a UCC document that purports to amend the information contained in a financing statement. Amendments include assignments, continuations and terminations.

101.2 "Assignment" is an amendment that purports to reflect an assignment of all or a part of a secured party's power to authorize an amendment to a financing statement.

101.3 "Computer-readable form" means a form in which information or data may be stored and/or accessed by a computer including but not limited to tangible storage media such as floppy disks or CD-ROMs, or information or data which is made available by direct computer access, or any other appropriate electronic information storage form, format or medium as determined by the Secretary of State.

101.4 "Continuation" means an amendment that purports to continue the effectiveness of a financing statement.

101.5 "Correction statement" means a UCC document that purports to indicate that a financing statement is inaccurate or wrongfully filed.

101.6 "Debtor" means a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor; a seller of accounts, chattel paper, payment intangibles, or promissory notes; or a consignee. Instead of the term "debtor", the terms "consignee", "bailee", "lessee", "licensee", "owner", "seller", or other words of similar import may be used in the filing of a UCC document.

101.7 "Direct computer access" means remote access by computer to information or data available in computer-readable form or format including but not limited to information available on the series of inter-related Internet pages on the Secretary of State's web site, and by ftp download.

101.8 "EFS" means Effective Financing Statement.

101.9 The "EFS Act" means the Central Filing of Effective Financing Statement Act, § § 4-9.5-10.1, et seq., C.R.S.

101.10 "Electronic filing" means a UCC document filing effectuated utilizing the Secretary of State's web site and in accordance with rules 106.5 and 371.

101.11 "File number" means the unique identifying information assigned to an initial financing statement by the filing officer for the purpose of identifying the initial financing statement and UCC documents relating to the initial financing statement in the filing officer's information management system. On or after January 1, 2000, a file number includes two segments; the year of filing expressed as a four-digit number, followed by a unique seven-digit number. As soon after July 1, 2001 as is practicable, a file number may include a one-digit verification number assigned by the filing office but mathematically derived from the numbers in the first two segments. A file number bears no relation to the time of filing and is not an indicator of priority.

101.12 "Filing office" and "central filing office" mean the Colorado Secretary of State's

office. "Filing officer" and "central filing officer" mean the Colorado Secretary of State.

101.13 "Financing statement" means a record or records composed of an initial financing statement and any filed record(s) relating to the initial financing statement.

101.14 "Individual" means a human being, or a decedent in the case of a debtor that is such decedent's estate.

101.15 "Initial financing statement" means a UCC document that does not identify itself as an amendment or a correction statement or identify an initial financing statement to which it relates, as required by UCC § 9-512, 9-514 or 9-518.

101.16 "Online services" means the interactive computer applications for UCC document filing and search functions, including direct computer access, available on or through the series of inter-related web pages which comprise the Secretary of State's web site on the global network of computers known as the Internet.

101.17 "Organization" means a legal person who is not an individual under rule 101.10.

101.18 "Remitter" means a person who tenders a UCC document to the Secretary of State for filing, whether the person is a filer or an agent of a filer responsible for tendering the document for filing. "Remitter" does not include a person responsible merely for the delivery of the document to the Secretary of State's office, such as the postal service or a courier service but does include a service provider who acts as a filer's representative in the filing process.

101.19 "Secured party" means a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding; a person that holds an agricultural lien; a consignor, a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold; or a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for. Instead of the term "secured party", the terms "consignor", "bailor", "lessor", "licensor", "registered owner", "buyer" or other words of similar import may be used in the filing of a UCC document.

101.20 "Secured party of record" means, with respect to a financing statement, a person whose name is provided as the name of a secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under UCC § 9-514(a), the assignee named in the initial financing statement is a secured party of record with respect to the financing statement. If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under UCC § 9-514(b), the assignee named in the amendment is a secured party of record. A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

101.21 "Termination" means an amendment intended to indicate that the related financing statement has ceased to be effective with respect to the secured party authorizing the termination.

101.22 "UCC" means the Uniform Commercial Code - Secured Transactions, codified at §§4-9-101, *et seq.*, C.R.S., as adopted in this state and in effect from time to time.

101.23 "UCC document" means an initial financing statement, an amendment, an

assignment, a continuation, a termination or a correction statement. The word “document” in the term “UCC document” shall not be deemed to refer exclusively to paper or paper-based writings; it being understood that UCC documents may be expressed or transmitted electronically or through media other than such writings. (Note: this definition is used for the purpose of these rules only. The use of the term “UCC document” in these rules has no relation to the definition of the term “document” in UCC §9-102(a)(30).)

**102** Singular and plural forms. Singular nouns shall include the plural form, and plural nouns shall include the singular form, unless the context otherwise requires.

**103** Place to file. The Secretary of State's office is the office for filing UCC documents relating to all types of collateral except for timber to be cut, as-extracted collateral (UCC §9-102(a)(6)) and, when the relevant financing statement is filed as a fixture filing, goods which are or are to become fixtures. Regardless of the nature of the collateral, the Secretary of State's office is the office for filing all UCC documents where the debtor is a transmitting utility.

**104** Filing office identification. In addition to the promulgation of these rules, the Secretary of State's office will disseminate information of its location, mailing address, telephone and fax numbers, and its Internet and other electronic “addresses” through usual and customary means.

104.1 Online information services. The Secretary of State offers online information and electronic filing and search services through the web site of the Secretary of State at <http://www.sos.state.co.us>. A description of services is available from the Secretary of State,

**105** Office hours. Although the Secretary of State's office maintains regular office hours, it receives transmissions electronically and by telefacsimile 24 hours per day, 365 days per year, except for scheduled maintenance and unscheduled interruptions of service. Electronic communications may be retrieved and processed periodically (but no less often than once each day the Secretary of State's office is open for business) on a batch basis.

105.1 “Business day” means any business day of the central filing office, Monday through Friday, excluding state-recognized legal holidays.

105.2 “Business hours”, “business day hours”, or “office hours” means the business hours of the central filing office, 7:30 a.m. to 5:00 p.m

**106** UCC document delivery. UCC documents may be communicated to the Secretary of State's office as follows.

106.1 Personal delivery, to the Secretary of State's street address during business hours. The file time for a UCC document delivered by this method is when the UCC document is received by the Secretary of State's office (even though the UCC document may not yet have been accepted for filing) unless the UCC document is subsequently rejected.

106.2 Express Mail delivery, to the Secretary of State's street address. The file time for a UCC document delivered by this method is, notwithstanding the time of delivery, at the earlier of the time the UCC document is first examined by a filing officer for processing (even though the UCC document may not yet have been accepted for filing and may be subsequently rejected), or the next close of business following the time of delivery. A UCC document delivered after regular business hours or on a day the Secretary of State is not open for business, if not examined for processing sooner, will have a filing time of the close of business on the next day the Secretary of State is open for business.

106.3 Postal service delivery, to the Secretary of State's mailing address. The file time for a UCC document delivered by this method is, notwithstanding the time of delivery, at the earlier of the time the UCC document is first examined by a filing officer for processing (even though the UCC document may not yet have been accepted for filing and may be subsequently rejected), or the next close of business following the time of delivery.

106.4 Telefacsimile delivery, to the Secretary of State's fax filing telephone number. The file time for a UCC document delivered by this method is, notwithstanding the time of delivery, at the earlier of the time the UCC document is first examined by a filing officer for processing (even though the UCC document may not yet have been accepted for filing and may be subsequently rejected), or the next close of business following the time of delivery. A UCC document delivered after regular business hours or on a day the Secretary of State's office is not open for business, if not examined for processing sooner, will have a filing time of the close of business on the next day the Secretary of State's office is open for business.

106.4.1 Reserved

106.5 Electronic filing. UCC documents may be transmitted electronically by online data entry as described in rules 371. The file time for a UCC document delivered by this method is the time that the Secretary of State's system analyzes the relevant transmission and determines that all the required elements of the transmission have been received in a required format and are machine-readable. UCC documents may also be transmitted using standards developed by the Secretary of State for electronic transmission of documents for filing.

106.5.1 Electronic Mail. Electronic mail shall not be used for delivering or communicating UCC documents to the Secretary of State.

107 Search request delivery. UCC search requests may be delivered to the Secretary of State's office by electronic mail and by any of the means by which UCC documents may be delivered to the Secretary of State's office, other than electronic filing. Requirements concerning search requests are set forth in rule 501. UCC search requests upon a debtor named on an initial financing statement may be made by an appropriate indication on the face of the initial financing statement form if the form is entitled to be filed. The relevant search fee may be tendered with the initial financing statement, or may be paid upon receipt of an invoice from the Secretary of State's office.

108 Approved forms. Forms for UCC documents that conform to the requirements of these rules will be acceptable by the Secretary of State, provided, however, the Secretary of State reserves the right, after notice, to require that all written documents be exclusively on forms approved by the Secretary of State. In the event the Secretary of State requires the exclusive use of forms approved by the Secretary of State, notice of such requirement and such forms shall be published on the Secretary of State's web site and shall otherwise be made available on request.

108.1 Statutory forms. Reserved.

108.2 IACA forms approved. Reserved.

108.3 Secretary of State-approved. A form for the relevant UCC document approved by the office of the Secretary of State will be acceptable. Copies of all such forms shall be made available to prospective filers and remitters upon request.

108.4 Electronic filings. A UCC document transmitted electronically pursuant to online data entry procedures set forth in rules 370 *et seq.*, or transmitted electronically

according to standards developed by the Secretary of State will be acceptable.

109 Form - UCC search. The forms that are provided on the Secretary of State's web site, or are provided by the Secretary of State, will be acceptable for requesting a UCC search.

110 Forms suppliers. Reserved.

111 Fees. Fees for processing UCC documents, 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 on request and from the web site of the Secretary of State.

111.1 Filing fee. Reserved.

111.2 Additional fees. Reserved.

111.3 UCC search fee. Reserved.

111.4 UCC search - copies. Reserved.

112 Expedited services. Expedited processing of UCC documents and searches is not available.

112.1 Reserved.

112.1.1 Acceptance and Refusal Process. Reserved.

112.1.2 Responding to UCC search request. Reserved.

112.2 How to request expedited service. Reserved.

112.2.1 Acceptance and refusal process. Reserved.

112.2.2 Responding to UCC search request. Reserved.

113 Methods of payment. Filing fees and fees for public records services may be paid by the following methods:

113.1 Cash. The Secretary of State discourages cash payment unless made in person to the cashier at the Secretary of State's office.

113.2 Checks. Checks made payable to the Secretary of State, including checks in an amount to be filled in by the Secretary of State but not to exceed a particular amount, will be accepted for payment.

113.3 Electronic funds transfer. Reserved.

113.4 Prepaid account. Information, instructions, and applications are available on request and from the web site of the Secretary of State.

113.5 Debit cards. Reserved.

113.6 Credit card. Information regarding credit card usage is available on request and from the web site of the Secretary of State.

113.7 Other account. Reserved.

#### 114 Overpayment and underpayment policies.

114.1 Overpayment. The Secretary of State shall refund an overpayment only upon the written request of the remitter.

114.2 Underpayment. Upon receipt of a document with an insufficient fee, the Secretary of State shall do the following:

114.2.1 Reserved.

114.2.2 The document shall be returned to the remitter as provided in rule 205 and the amount tendered may be applied to any applicable reject fee.

#### 115 Public records services. Public records services are provided on a non-discriminatory basis to any member of the public on the terms described in these rules. The following methods are available for obtaining copies of UCC documents and copies of data from the UCC information management system.

115.1 Individually identified documents. Copies of individually identified UCC documents are available in the following forms:

115.1.1 Manually filed documents are made available as either paper copies of the original documents, or as summary descriptions of the documents electronically filed as retrieved from the UCC Information Management System as described in Section 3 of these rules.

115.2 Bulk copies of documents. Reserved.

115.2.1 Reserved.

115.3 Data from the information management system. A list of available data elements from the UCC information management system, and the file layout of the data elements, is available from the Secretary of State upon request. Data from the information management system is available as follows:

115.3.1 Full extract. A bulk data extract of information from the UCC information management system is available on a weekly basis.

115.3.2 Update extracts. Reserved.

115.3.3 Format. Extracts from the UCC information management system are currently available in computer-readable CD-ROM format, by direct computer access, and may be made available in other or additional formats by the Secretary of State from time to time. Individuals should check with the Secretary of State from time to time to determine which formats, including file or computer system formats, are currently available.

115.4 Direct online services. UCC data and images are available online. A description of services is available from the Secretary of State.

#### 116 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 on request and from the web site of the Secretary of State.

116.1 Paper copies of individual documents. Reserved.

116.2 Bulk copies of documents. Reserved.

116.3 Data from the information management system. Reserved.

116.4 Third-party online services. Reserved.

**117** New practices and technologies. The Secretary of State is authorized to adopt practices and procedures to accomplish receipt, processing, maintenance, retrieval and transmission of, and remote access to, UCC filing data by means of electronic, voice, optical and/or other technologies, and, without limiting the foregoing, to maintain and operate, in addition to or in lieu of a paper-based system, a non-paper-based UCC filing system utilizing any of such technologies. In developing and utilizing technologies and practices, the Secretary of State shall, to the greatest extent feasible, take into account compatibility and consistency with, and whenever possible be uniform with, technologies, practices, policies and regulations adopted in connection with UCC filing systems in other states.

Numbers 118 through 199 are reserved.

## **Section 2 -- Acceptance and Refusal of Documents**

**200** Policy statement. The duties and responsibilities of the Secretary of State with respect to the administration of the UCC are ministerial. In accepting for filing or refusing to file a UCC document pursuant to these rules, the Secretary of State is not required, obligated, or expected to do any of the following:

200.1 Determine the legal sufficiency or insufficiency of a document.

200.2 Determine that a security interest in collateral exists or does not exist.

200.3 Determine that information in the document is correct or incorrect, in whole or in part.

200.4 Create a presumption that information in the document is correct or incorrect, in whole or in part.

**201** Duty to file. Provided that there is no ground to refuse acceptance of the document under rule 202, a UCC document is filed upon its receipt by the Secretary of State with the filing fee and the Secretary of State shall promptly assign a file number to the UCC document and index it in the information management system.

**202** Grounds for refusal of UCC document. The following grounds are the sole grounds for the Secretary of State's refusal to accept a UCC document for filing. As used herein, the term "legible" is not limited to refer only to written expressions on paper: it requires a machine-readable transmission for electronic transmissions and an otherwise readily decipherable transmission in other cases.

202.1 Debtor name and address. An initial financing statement or an amendment that purports to add a debtor shall be refused if the document fails to include a legible debtor name and address for a debtor, in the case of an initial financing statement, or for the debtor purporting to be added in the case of such an amendment. If the document contains more than one debtor name or address and some names or addresses are missing or illegible, the Secretary of State shall index the legible name and address pairings, and provide a notice to the remitter containing the file number of the document, identification of the debtor name(s) that was (were) indexed, and a statement that debtors with illegible or missing names or addresses were not indexed.

202.2 Additional debtor identification. An initial financing statement or an amendment

adding one or more debtors shall be refused if the document fails to identify whether each named debtor (or each added debtor in the case of such an amendment) is an individual or an organization, if the last name of each individual debtor is not identified, or if, for each debtor identified as an organization, the document does not include in legible form the organization's type, state of organization and organization number (if it has one) or a statement that it does not have one.

202.3 Secured party name and address. An initial financing statement, an amendment purporting to add a secured party of record, or an assignment, shall be refused if the document fails to include a legible secured party (or assignee in the case of an assignment) name and address. If the document contains more than one secured or assigned party name or address and some names or addresses are missing or illegible, the Secretary of State shall index the legible name and address pairings, and provide a notice to the remitter containing the file number of the document, identification of the secured party and/or assigned party name(s) that was (were) indexed, and a statement that secured and assigned parties with illegible or missing names or addresses were not indexed.

202.4 Lack of identification of initial financing statement. A UCC document other than an initial financing statement shall be refused if the document does not provide a legible file number of a financing statement in the UCC information management system that has not lapsed, and the date that the initial financing statement was filed, and, for an amendment to an initial financing statement filed on or prior to December 31, 1999, an indication of the filing office in which the initial financing statement was filed.

202.5 Identifying information. A UCC document that does not identify itself as an amendment or identify an initial financing statement to which it relates, as required by UCC §9-512, 9-514 or 9-518, is an initial financing statement.

202.6 Timeliness of continuation. A continuation shall be refused if it is not received during the six-month period concluding on the day upon which the related financing statement would lapse.

202.6.1 First day permitted. The first day on which a continuation may be filed is the date of the month corresponding to the date upon which the financing statement would lapse, six months preceding the month in which the financing statement would lapse. If there is no such corresponding date during the sixth month preceding the month in which the financing statement would lapse, the first day on which a continuation may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse, although filing by certain means may not be possible on such date if the Secretary of State's office is not open on such date.

202.6.2 Last day permitted. The last day on which a continuation may be filed is the date upon which the financing statement lapses.

202.7 Fee. A document shall be refused if the document is accompanied by less than the full filing fee tendered by a method described in rule 113.

202.8 Means of communication. UCC documents communicated to the Secretary of State's office by a means of communication not authorized by the Secretary of State for the communication of UCC documents shall be refused.

202.9 EDI refusal. Reserved.

**203** Grounds not warranting refusal. The sole grounds for the Secretary of State's refusal to accept a UCC document for filing are enumerated in rule 202. The following are examples of defects that do not constitute grounds for refusal to accept a document. They are not a comprehensive enumeration of defects outside the scope of permitted grounds for refusal to accept a UCC document for filing.

203.1 Errors. The UCC document contains or appears to contain a misspelling or other apparently erroneous information.

203.2 Incorrect names.

203.2.1 The UCC document identifies or appears to identify a debtor incorrectly.

203.2.2 The UCC document identifies or appears to identify a secured party or a secured party of record incorrectly.

203.3 Extraneous information. The UCC document contains additional or extraneous information of any kind.

203.4 Insufficient information. The UCC document contains less than the information required by Article 9 of the UCC, provided that the document contains the information required in rule 202.1 through 202.5.

203.5 Collateral description. The UCC document incorrectly identifies collateral, or contains an illegible or unintelligible description of collateral, or appears to contain no such description.

203.6 Excessive fee. The document is accompanied by funds in excess of the full filing fee.

**204** Time limit. The Secretary of State shall determine whether criteria exist to refuse acceptance of a UCC document for filing not later than the fifth business day after the date the document would have been filed had it been accepted for filing and shall index a UCC document not so refused within the same time period.

**205** Procedure upon refusal. If the Secretary of State finds grounds under rule 202 to refuse acceptance of a paper or paper-based UCC document, the Secretary of State shall return the document to the remitter. The Secretary of State's office shall send a notice that contains the date and time the document would have been filed had it been accepted for filing (unless such date and time are stamped on the document), and a brief description of the reason for refusal to accept the document under rule 202. The notice shall be sent to a secured party or the remitter as provided in rule 401.3.2 no later than the fifth business day after the Secretary of State's office receives the document. The amount of the filing fee tendered, if any, may be applied to any applicable reject fee. If the Secretary of State finds grounds to refuse acceptance of a UCC document not filed in paper or paper-based form, the online filing system shall not allow the filer to submit the filing. The online system shall inform the filer of the problem with the filing, and shall keep acceptable information until the filing is either successfully completed or the filer logs off the electronic filing system, however the online filing system may or may not include a description of the reason for refusal to accept the document under rule 202.

**206** Acknowledgment. At the request of a filer or remitter who files a paper or paper-based UCC document, the Secretary of State shall either (i) send to said filer or remitter an image of the record of the UCC document showing the file number assigned to it and the date and time of filing or, (ii) if such filer or remitter provides a copy of such UCC document, note the file number and the date and time of filing on the copy and deliver or send it to said filer or remitter. For UCC documents not filed in paper or paper-based form, the Secretary of State shall communicate to the filer or remitter the information in the filed document, the file number and the date and time of filing.

207 Other Notices. Nothing in these rules prevents the Secretary of State from communicating to a filer or a remitter that the Secretary of State noticed apparent potential defects in a UCC document, whether or not it was filed or refused for filing. However, the Secretary of State's office is under no obligation to do so and may not, in fact, have the resources to do so or to identify such defects. **THE RESPONSIBILITY FOR THE LEGAL EFFECTIVENESS OF FILING RESTS WITH FILERS AND REMITTERS AND THE SECRETARY OF STATE'S OFFICE BEARS NO RESPONSIBILITY FOR SUCH EFFECTIVENESS.**

208 Refusal errors. If a secured party or a remitter demonstrates to the satisfaction of the Secretary of State that a UCC document that was refused for filing should not have been refused under rule 202, the Secretary of State will file the UCC document as provided in these rules as of the filing date and time when the UCC document was originally communicated for filing. The Secretary of State will also file a statement that states that the effective date and time of filing is the date and time the UCC document was originally communicated for filing, and sets forth such date and time. The statement shall be preserved for so long as the record of the initial financing statement is preserved in the UCC information management system.

Numbers 209 through 299 are reserved.

### **Section 3 -- UCC Information Management System**

300 Policy statement. The Secretary of State uses an information management system to store, index, and retrieve information relating to financing statements. The information management system includes an index of the names of debtors named on financing statements which have not lapsed. The roles in this section describe the UCC information management system.

301 Primary data elements. The primary data elements used in the UCC information management system are the following.

#### 301.1 Identification numbers.

301.1.1 Each initial financing statement is identified by its file number as described in rule 101.7. Identification of the initial financing statement is stamped on written UCC documents or otherwise permanently associated with the record maintained for UCC documents in the UCC information management system. A record is created in the information management system for each initial financing statement and all information comprising such record is maintained in such system. Such record is identified by the same information assigned to the initial financing statement.

301.1.2 A UCC document other than an initial financing statement is identified by a unique file number assigned by the Secretary of State. In the information management system, records of all UCC documents other than initial financing statements are linked to the record of their related initial financing statement.

301.2 Type of document. The type of UCC document from which data is transferred is identified in the information management system from information supplied by the remitter.

301.3 Filing date and filing time. The filing date and filing time of UCC documents are stored in the information management system. Calculation of the lapse date of an initial financing statement is based upon the filing date.

301.4 Identification of parties. The names and addresses of debtors and secured parties are transferred from UCC documents to the UCC information management system using one or more data entry or transmittal techniques.

301.5 Status of financing statement. In the information management system, each financing statement has a status of active or inactive.

301.6 Page count. The total number of pages in a UCC document is maintained in the information management system.

301.7 Lapse indicator. An indicator is maintained by which the information management system identifies whether or not a financing statement will lapse and, if it does, when it will lapse. The lapse date is determined as provided in rule 404.

**302** Names of debtors who are individuals. For the purpose of this rule, "individual" means a human being, or a decedent in the case of a debtor that is such decedent's estate. This rule applies to the name of a debtor or a secured party on a UCC document who is an individual.

302.1 Individual name fields. The names of individuals are stored in files that include only the names of individuals, and not the names of organizations. Separate data entry fields are established for first (given), middle (given), and last names (surnames or family names) of individuals. A filer should place the name of a debtor with a single name (e.g., "Cher") in the last name field. The Secretary of State assumes no responsibility for the accurate designation of the components of a name but will accurately enter the data in accordance with the filer's designations.

302.2 Titles and prefixes before names. Titles and prefixes, such as "doctor," "reverend," "Mr.," and "Ms.," should not be entered in the UCC information management system. However, as provided in rule 407, when a UCC document is submitted with designated name fields, the data will be entered in the UCC information management system exactly as it appears.

302.3 Titles and suffixes after names. Titles or indications of status such as "M.D." and "esquire" are not part of an individual's name and should not be provided by filers in UCC documents. Suffixes that indicate which individual is being named, such as "senior," "junior," "I," "II," and "III," are appropriate. In either case, as provided in rule 407, they will be entered into the information management system exactly as received.

302.4 Truncation - individual names. Personal name fields in the UCC database are fixed in length. Although filers should continue to provide full names on their UCC documents, a name that exceeds the fixed length is entered as presented to the Secretary of State, up to the maximum length of the data entry field. The length of data entry name fields are as follows.

302.4.1 First name: 35 characters.

302.4.2 Middle name: 35 characters.

302.4.3 Last name: 35 characters.

302.4.4 Suffix: 10 characters.

**303** Names of debtors that are organizations. This rule applies to the name of an organization who is a debtor or a secured party on a UCC document.

303.1 Single field. The names of organizations are stored in files that include only the names of organizations and not the names of individuals. A single field is used to store an organization name.

303.2 Truncation - organization names. The organization name field in the UCC database is fixed in length. The maximum length is 120 characters. Although filers should continue to provide full names on their UCC documents, a name that exceeds the fixed length is entered as presented to the Secretary of State, up to the maximum length of the data entry field.

304 Estates. Although they are not human beings, estates are treated as if the decedent were the debtor under rule 302.

305 Trusts. If the trust is named in its organic document(s), its full legal name, as set forth in such document(s), is used. Such trusts are treated as organizations. If the trust is not so named, the name of the settlor is used. If a settlor is indicated to be an organization, the name is treated as an organization name. If the settlor is an individual, the name is treated as an individual name. A UCC document that uses a settlor's name should include other information provided by the filer to distinguish the debtor trust from other trusts having the same settlor and all financing statements filed against trusts or trustees acting with respect to property held in trust should indicate the nature of the debtor. If this is done in, or as part of, the name of the debtor, it will be entered as if it were a part of the name under rules 407 and 408.

306 Initial financing statement. Upon the filing of an initial financing statement, the status of the parties and the status of the financing statement shall be as follows.

306.1 Status of secured party. Each secured party named on an initial financing statement shall be a secured party of record, except that if the UCC document names an assignee, the secured party/assignor shall not be a secured party of record and the secured party/assignee shall be a secured party of record.

306.2 Status of debtor. The status of a debtor named on the document shall be active and shall continue as active until one year after the financing statement lapses.

306.3 Status of financing statement. Reserved.

307 Amendment. Upon the filing of an amendment, the status of the parties and the status of the financing statement shall be as follows.

307.1 Status of secured party and debtor. An amendment shall affect the status of its debtor(s) and secured party(ies) as follows:

307.1.1 Collateral amendment or address change. An amendment that amends only the collateral description or one or more addresses has no effect upon the status of any debtor or secured party. If a statement of amendment is authorized by less than all of the secured parties (or, in the case of an amendment that adds collateral, less than all of the debtors), the statement affects only the interests of each authorizing secured party (or debtor).

307.1.2 Debtor name change. An amendment that changes a debtor's name has no effect on the status of any debtor or secured party, except that the related initial financing statement and all UCC documents that include an identification of such initial financing statement shall be cross-indexed in the UCC information management system so that a search under either the debtor's old name or the debtor's new name will reveal such initial financing statement and such related UCC documents. Such a statement of amendment affects only the rights of its authorizing secured party(ies).

307.1.3 Secured party name change. An amendment that changes the name of a secured party has no effect on the status of any debtor or any secured party,

but the new name is added to the index as if it were a new secured party of record.

307.1.4 Addition of a debtor. An amendment that adds a new debtor name has no effect upon the status of any party to the financing statement, except the new debtor name shall be added as a new debtor on the financing statement. The addition shall affect only the rights of the secured party(ies) authorizing the statement of amendment.

307.1.5 Addition of a secured party. An amendment that adds a new secured party shall not affect the status of any party to the financing statement, except that the new secured party name shall be added as a new secured party on the financing statement.

307.1.6 Deletion of a debtor. An amendment that deletes a debtor has no effect on the status of any party to the financing statement, even if the amendment purports to delete all debtors.

307.1.7 Deletion of a secured party. An amendment that deletes a secured party of record has no effect on the status of any party to the financing statement, even if the amendment purports to delete all secured parties of record.

307.2 Status of financing statement. An amendment shall have no effect upon the status of the financing statement, except that a continuation may extend the period of effectiveness of a financing statement.

### 308 Assignment of powers of secured party of record.

308.1 Status of the parties. An assignment shall have no effect on the status of the parties to the financing statement, except that each assignee named in the assignment shall become a secured party of record.

308.2 Status of financing statement. An assignment shall have no effect upon the status of the financing statement.

### 309 Continuation.

309.1 Continuation of lapse date. Upon the timely filing of one or more continuations by any secured party(ies) of record, the lapse date of the financing statement shall be postponed for five years.

309.2 Status of parties. The filing of a continuation shall have no effect upon the status of any party to the financing statement.

309.3 Status of financing statement. Upon the filing of a continuation statement, the status of the financing statement remains active.

### 310 Termination.

310.1 Status of parties. The filing of a termination shall have no effect upon the status of any party to the financing statement.

310.2 Status of financing statement. A termination shall have no effect upon the status of the financing statement and the financing statement shall remain active in the information management system until one year after it lapses, unless the termination relates to a

financing statement that indicates it is filed against a transmitting utility, in which case the financing statement will become inactive one year after it is terminated with respect to all secured parties of record.

### 311 Correction statement.

311.1 Status of parties. The filing of a correction statement shall have no effect upon the status of any party to the financing statement.

311.2 Status of financing statement. A correction statement shall have no effect upon the status of the financing statement.

312 Procedure upon lapse. If there is no timely filing of a continuation with respect to a financing statement, the financing statement lapses on its lapse date but no action is then taken by the Secretary of State's office.

Numbers 313 through 370 are reserved.

### 371 Electronic document filing procedures.

371.1 Direct electronic filing and search services are available to any person with Internet access. Online services may require payment via credit card or a prepaid account, as described in Rule 113. Instructions on how to file and conduct searches are provided on request and from the web site of the Secretary of State.

371.2 Record filing procedures. Initial financing statements and amendments may be communicated electronically. A record which is created by the filer in this manner is subject to all of the provisions of law as if it were a paper record submitted to the Secretary of State's office, except that attachments may not be submitted. Instructions on how to file are provided on request and from the web site of the Secretary of State.

Numbers 372 through 399 are reserved,

## Section 4 -- Filing and Data Entry Procedures

400 Policy statement. This section contains rules describing the filing procedures of the Secretary of State upon and after receipt of a UCC document. It is the policy of the Secretary of State to file promptly a document that conforms to these rules. Except as provided in these rules, data are transferred from a UCC document to the information management system exactly as the data are set forth in the document. Personnel who create reports in response to search requests type search criteria exactly as set forth on the search request. No effort is made to detect or correct errors of any kind.

### 401 Document indexing and other procedures before archiving.

401.1 Date and time stamp. The date and time of receipt are noted on the document or otherwise permanently associated with the record maintained for a UCC document in the UCC information management system at the earliest possible time.

401.2 Filing fee. Prepayment of all transactions is required. Acceptable payment options are listed in rule 113.

401.3 Document review. The Secretary of State's office determines whether a ground exists to refuse the document under rule 202.

401.3.1 File number; date; time. A unique identification number and the filing

date and time are permanently associated with the record of the document maintained in the UCC information management system. The sequence of the identification number is not an indication of the order in which the document was received.

401.3.2 Correspondence. If there is a ground for refusal of the document, notification of refusal to accept the document is prepared as provided in rule 205. If there is no ground for refusal of the document, an acknowledgment of filing is prepared as provided in rule 206. If the UCC document was tendered in person, notice of refusal or acknowledgment of the filing may be given to the remitter by personal delivery or mail. If the UCC document was tendered by electronic document filing procedures, such notice or acknowledgment is transmitted to the remitter by online response by transmitting an identification known to the remitter of the UCC document filed as well as the information required by rule 205 or rule 206. Acknowledgment of filing or notice of refusal of a UCC document tendered by means other than personal delivery or online transmission is sent to the secured party (or the first secured party if there are more than one) named on the UCC document or to the remitter if the remitter so requests by regular mail or by overnight courier if the remitter provides a prepaid waybill or access to the remitter's account with the courier.

401.4 Data entry. Paper documents are entered into the UCC information management system and scanned and the image retained.

402 Filing date. The filing date of a paper-based UCC document is the date the UCC document is received with the proper filing fee if the Secretary of State's office is open to the public on that date or, if the Secretary of State's office is not so open on that date, the filing date is the next date the Secretary of State's office is so open, except that, in each case, UCC documents received after 5:00 P.M. shall be deemed received on the following day. The Secretary of State may perform any duty relating to the document on the filing date or on a date after filing date. The file date for an electronically filed UCC document is the date that the Secretary of State's system analyzes the relevant transmission and determines that all the required elements of the transmission have been received in a required format and are machine-readable.

403 Filing time. The filing time of a UCC document is determined as provided in rule 106.

404 Lapse date and time. A lapse date is calculated for each initial financing statement (unless the debtor is indicated to be a transmitting utility). The lapse date is the same date of the same month as the filing date in the fifth year after the filing date or relevant subsequent fifth anniversary thereof if timely continuation statement is filed, but if the initial financing statement indicates that it is filed with respect to a manufactured-home transaction, the lapse date is the same date of the same month as the filing date in the thirtieth year after the filing date. The lapse takes effect at midnight at the end of the lapse date. The relevant anniversary for a February 29 filing date shall be the March 1 in the fifth year following the year of the filing date.

405 Errors of the filing officer. The Secretary of State's office may correct the errors of Secretary of State personnel in the UCC information management system at any time. If the correction is made after the Secretary of State has issued a certification date that includes the filing date of a corrected document, the Secretary of State shall proceed as follows. The Secretary of State shall file a statement relating to the relevant initial financing statement in the UCC information management system stating the date of the correction and explaining the nature of the corrective action taken. The statement shall be preserved for so long as the record of the initial financing statement is preserved in the UCC information management system.

406 Errors other than filing office errors. An error by a filer is the responsibility of such filer. A filer may file an amendment or a correction statement to correct or disclose such an error.

407 Data entry of names - designated fields/no designated fields. A filing should designate whether a name is a name of an individual or an organization and, if an individual, also designates the first, middle and last names and any suffix. When this is done, the following rules shall apply.

407.1 Organization names. Organization names are entered into the UCC information management system exactly as set forth in the UCC document, even if it appears that multiple names are set forth in the document or if it appears that the name of an individual has been included in the field designated for an organization name.

407.2 Individual names. On a form that designates separate fields for first, middle, and last names and any suffix, the Secretary of State enters the names into the first, middle, and last name and suffix fields in the UCC information management system exactly as set forth on the form.

407.3 Designated fields encouraged. The Secretary of State encourages the use of forms that designate separate fields for individual and organization names and separate fields for first, middle, and last names and any suffix. Such forms diminish the possibility of Secretary of State's office error and help assure that filers' expectations are met. However, filers should be aware that the inclusion of names in an incorrect field or failures to transmit names accurately to the Secretary of State may cause filings to be ineffective. All documents submitted through direct data entry or through EDI will be required to use designated name fields.

407.4 No designated name fields. The following rules apply to documents where names are stated without designated name fields.

407.4.1 "Last Name First". Where it is apparent that an individual debtor name in a document is stated "last name, first name", the first name stated shall be entered as the debtor's last name. *[e.g., where a form instructs that the name be stated "Last Name, First Name" or substantially similarly, and the document states the name as "Frank, Thomas" or "Frank, Thomas Q.", the name "Frank" shall be entered as the last name; and where a form instructs that the name be stated "Last Name, First Name" or substantially similarly, and the document states the name as "Thomas Frank" or "Thomas Q. Frank", the name "Thomas" shall be entered as the last name]*

407.4.2 Multiple Names. Where multiple names are stated for a party in a document, the document shall be refused by the Secretary of State as indecipherable. *[e.g., where the document states a name as "Frank, Thomas and Mary" or "Thomas and Mary Frank", the document shall be refused as indecipherable]*

407.4.3 "Trade Names", "Division Names", "d/b/a's", "a/k/a's", "f/k/a's", Aliases, Etc." Where a name in a document includes an apparent "trade name", "division name", so-called "d/b/a", "a/k/a", or "f/k/a", an alias or any other supplemental words, all of the words of the name shall be entered exactly as stated, as a single name. *[e.g., where a name of a debtor, secured party, assigned party, etc. is stated as "Frank Co., a division of Thomas, Inc.", the name shall be entered exactly as stated as "Frank Co., a division of Thomas, Inc." and no separate entry is made regarding the apparent division name; and where a name is stated as "Frank, Thomas Q., doing business as Thomas Co.", the name shall be entered exactly as stated as "Frank, Thomas Q., doing business as Thomas Co.", and no separate entry is made regarding the apparent trade name or so-called "d/b/a"; and where a name is stated as "Frank, Mary f/k/a Smith, Mary", the name shall be entered exactly as stated as "Frank, Mary f/k/a Smith, Mary" and no separate entry is made regarding the so-called "formerly known as"]*

*name]*

407.4.4 Indecipherable Names Generally. Where a name is unclear in a document, the document shall be refused by the Secretary of State as indecipherable.

**408** Data entry of names - no designated fields. A UCC document that is an initial financing statement or an amendment that adds a debtor to a financing statement and that fails to specify whether the debtor is an individual or an organization shall be refused by the Secretary of State.

408.1 Identification of organizations. Reserved.

408.2 Identification of individuals. Reserved.

408.3 Individual and organization names on a single line. Reserved.

408.4 Individual names. Reserved.

408.4.1 Freestanding initials. Reserved.

408.4.2 Combined initials and names. Reserved.

408.4.3 Multiple individual names on a single line. Reserved.

408.4.4 One word names. Reserved.

408.4.5 Nicknames. Reserved.

**409** Verification of data entry. The Secretary of State uses the following procedures to verify the accuracy of data entry tasks.

409.1 Double key entry is not employed for data entered.

409.2 Reserved.

409.2.1 Reserved.

409.2.2 Reserved.

**410** Initial financing statement. A new record is opened in the UCC information management system for each initial financing statement that bears the file number of the financing statement and the date and time of filing.

410.1 The name and address of each debtor that are legibly set forth in the financing statement are entered into the record of the financing statement. Each such debtor name is included in the searchable index and is not removed. Debtor addresses might not be included in the searchable index except to the extent the Secretary of State offers or intends to offer limited searches or limited copy requests as provided in rule 502.

410.2 The name and address of each secured party that are legibly set forth in the financing statement are entered into the record of the financing statement.

410.3 The record is indexed according to the name of the debtor(s) and is maintained for public inspection.

410.4 A lapse date is established for the financing statement, unless the initial financing statement indicates it is filed against a transmitting utility, and the lapse date is maintained as part of the record.

411 Amendment. A record is created for the amendment that bears the file number for the amendment and the date and time of filing.

411.1 The record of the amendment is associated with the record of the related initial financing statement in a manner that causes the amendment to be retrievable each time a record of the financing statement is retrieved.

411.2 The name and address of each additional debtor and secured parties are entered into the UCC information management system in the record of the financing statement. Each such additional debtor name is added to the searchable index and is not removed. Debtor addresses might not be included in the searchable index except to the extent the Secretary of State offers or intends to offer limited searches or limited copy requests as provided in rule 502.

411.3 If the amendment is a continuation, a new lapse date is established for the financing statement and maintained as part of its record.

412 Correction statement. A record is created for the correction statement that bears the file number for the correction statement and the date and time of filing. The record of the correction statement is associated with the record of the related initial financing statement in a manner that causes the correction statement to be retrievable each time a record of the financing statement is retrieved.

413 Global filings. Global filings are not permitted.

413.1 Reserved.

413.2 Reserved.

414 Archives - general.

414.1 Paper UCC documents.

414.1.1 Storage. Paper records are destroyed after they have been scanned for images and a record is created in the UCC information management system.

414.1.2 Retention. Reserved.

414.2 Reductions.

414.2.1 Storage. Paper records are scanned for images and processed through data entry in accordance with procedures adopted by the Secretary of State.

414.2.2 Retention. Records are retained until five years from the date of lapse.

414.3 Databases.

414.3.1 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.

414.3.2 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.

**415** Archives - data retention. Data in the UCC information management system relating to financing statements that have lapsed are retained indefinitely.

**416** Archival searches. Searches of lapsed filings are conducted in the same manner as searches of active filings.

**417** Notice of bankruptcy. The Secretary of State takes no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding involving a debtor named in the UCC information management system. Accordingly, financing statements will lapse as scheduled unless properly continued.

Numbers 418 through 499 are reserved.

## **Section 5 -- Search Requests and Reports**

**500** General requirements. The Secretary of State maintains for public inspection a searchable index for all records of UCC documents that provides for the retrieval of a record by the name of the debtor and by the file number of the initial financing statement to which the record relates and which associates with one another each initial financing statement and each filed UCC document relating to the initial financing statement.

**501** Search requests. Search requests shall contain the following information.

501.1 Name searched. A search request should set forth the full correct name of a debtor or the name variant desired to be searched and must specify whether the debtor is an individual or an organization. The full name of an individual shall consist of a first name, a middle name or initial, and a last name, although a search request may be submitted with no middle name or initial and, if only a single name is presented (e.g., "Cher") it will be treated as a last name. The full name of an organization shall consist of the name of the organization as stated on the articles of incorporation or other organic documents in the state or country of organization or the name variant desired to be searched. A search request will be processed using the name in the exact form it is submitted.

501.2 Requesting party. The name and address of the person to whom the search report is to be sent.

501.3 Fee. The appropriate fee may be enclosed, payable by a method described in rule 113, or shall be paid upon receipt of an invoice from this office.

501.4 Search request with filing. If a filer requests a search at the time a UCC document is filed, by checking the box on the form set forth in UCC §9-521 or otherwise, the name to be searched will be the debtor name as set forth on the form, the requesting party will be the remitter of the UCC document, and the search request will be deemed to request a search that would be effective to retrieve all financing statements filed on or prior to the date the UCC document is filed.

**502** Optional information. A UCC search request may contain any of the following information.

502.1 A request that copies of documents referred to in the report be included with the report. The request may limit the copies requested by limiting them by reference to [the address of the debtor,] the city of the debtor, the date of filing (or a range of filing dates) or the identity of the secured party(ies) of record on the financing statements located by

the related search. The request may ask for copies of UCC documents identified on the primary search response.

502.2 A request that the search of a debtor name be limited to debtors in a particular city or a particular address. A report created by the Secretary of State in response to such a request shall contain the following statement:

“A search limited to a particular address may not reveal all filings against the debtor searched and the searcher bears the risk of relying on such a search.”

502.3 Instructions on the mode of delivery requested, if other than by ordinary mail, which request will be honored if the requested mode is then made available by the Secretary of State's office.

**503** Rules applied to search requests. Search results are created by applying standardized search logic to the name presented to the Secretary of State by the person requesting the search. Human judgment does not play a role in determining the results of the search. The following, and only the following rules are applied to conduct searches.

503.1 There is no limit to the number of matches that may be returned in response to the search criteria.

503.2 No distinction is made between upper and lower case letters.

503.3 Punctuation marks and accents are disregarded.

503.4 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 International Association of Corporation Administrators as from time to time, are disregarded (e.g., company, limited, incorporated, corporation, limited partnership, limited liability company or abbreviations of the foregoing).

503.5 The word “the” at the beginning of the search criteria is disregarded.

503.6 All spaces are disregarded.

503.7 For first and middle names of individuals, initials are treated as the logical equivalent of all names that begin with such initials, and no middle name or initial is equated with all middle names and initials. For example, a search request for “John A. Smith” would cause the search to retrieve all filings against all individual debtors with “John” as the first name, “Smith” as the last name, and with the initial “A” or any name beginning with “A” in the middle name field. If the search request were for “John Smith” (first and last names with no designation in the middle name field), the search would retrieve all filings against individual debtors with “John” as the first name, “Smith” as the last name and with any name or initial or no name or initial in the middle name field.

503.8 After taking the preceding rules into account to modify the name of the debtor requested to be searched and to modify the names of debtors contained in active financing statements in the UCC information management system, the search will reveal only names of debtors that are contained in active financing statements and, as modified, exactly match the name requested, as modified.

**504** Search responses. Reports created in response to a search request shall include the following:

504.1 Filing officer. Identification of the filing officer and the certification of the filing

officer required by the UCC.

504.2 Report date. The date the report was generated.

504.3 Name searched. Identification of the name searched.

504.4 Certification date. The certification date applicable to the report; i.e., the date and time through the search is effective to reveal all relevant UCC documents filed on or prior to that date.

504.5 Identification of initial financing statements. Identification of each unexpired initial financing statement filed on or prior to the certification date and time corresponding to the search criteria, by name of debtor, by identification number, and by file date and file time.

504.6 History of financing statement. For each initial financing statement on the report, a listing of all related UCC documents filed by the filing officer on or prior to the certification date.

504.7 Copies. Copies of all UCC documents revealed by the search and requested by the searcher.

504.8 Certification of UCC documents, copies, printouts, and reports.

504.8.1 Documents recorded with the Secretary of State's office. Documents properly recorded with the Secretary of State's office may be certified by the Secretary of State in response to a search request as required by the UCC.

504.8.2 Documents not recorded with the Secretary of State's office. Documents not recorded with the Secretary of State's office, including any documents filed or recorded solely at county filing offices under any former filing or indexing system, cannot be certified by the Secretary of State.

Numbers 505 through 599 are reserved.

## **Section 6 -- Other Notices of Liens**

**600** Policy statement. The purpose of rules in this section is to describe records of liens maintained by the Secretary of State created pursuant to statutes other than the UCC that are treated by the Secretary of State in a manner substantially similar to UCC documents and are included on request with the reports described in rule 504.

**601** Notice of federal tax lien. Processed in accordance with §38-25-104, C.R.S.

**602** Notice of state tax lien. Reserved.

**603** Notice of other lien in favor of a governmental body. Reserved.

**604** Agricultural liens. Reserved.

**605** Notice of lien in favor of a private individual. Reserved.

Numbers 606 through 699 are reserved.

## **Section 7 -- Rule Making Procedure**

**700** Policy statement. Rule Making shall be conducted in accordance with the Colorado Administrative Procedures Act.

Numbers 701 through 799 are reserved.

## **Section 8 -- EFS Filings**

**800** Incorporation of prior sections. Sections 1 through 7 of these rules apply to filings and other actions made under the EFS Act to the extent not inconsistent with the EFS Act and this Section 8.

**801** Farm product codes. The following farm products shall be identified code products under the EFS Act:

### **801.1 Livestock and Livestock Products:**

Cattle & calves; Angora; Beefalo; Buffalo; Chickens; Ducks; Eggs; Elk; Emus; Fish (with specification by secured party); Fur animals (with specification by secured party); Geese; Hogs; Horses; Llamas; Milk; Mules; Ostriches; Pheasants; Quail; Semen (with specification by secured party); Sheep & lambs; Turkeys; and Wool.

### **801.2 Field Crops:**

Hay; Barley; Corn; Dry beans; Flax seed; Honey; Legumes; Millet; Oats; Popcorn; Rye; Safflower; Seed crops (with specification by secured party); Silage; Sorghum grain; Soybeans; Sugar beets; Sunflower seeds; Tree (with specification by secured party); Triticale; Vetch; and Wheat.

### **801.3 Fruits:**

Apples; Apricots; Cantaloupe; Cherries; Grapes; Honeydew melon; Nectarines; Peaches; Pears; Plums; Pumpkins; Strawberries; Raspberries; Muskmelon; and Watermelon.

### **801.4 Vegetables:**

Artichokes; Asparagus; Broccoli; Cabbage; Carrots; Cauliflower; Celery; Cucumbers; Eggplant; Green peas; Green beans; Lettuce; Okra; Onions; Pecans; Peppers; Potatoes; Radishes; Snap beans; Squash; Sweet corn; Tomatoes; Turnips; and Walnuts.

**801.5** Other farm products, not set forth above, may be included on the EFS by listing a specific product name in the appropriate "other" category, and shall be categorized by the Secretary of State under the farm product code groupings identified in rule 805.1.2 for inclusion in standardized partial master lists.

**801.6** Inclusion of additional products. Program participants may propose from time to time farm products to the Secretary of State for inclusion in the identified product code list.

**801.7** Numerical codes established. The numerical codes for these farm products shall be established by the Secretary of State, shall be utilized to enter information on the EFS, and are available on request from the Secretary of State.

**801.8** Numerical codes required. If at any time numerical codes for farm products are required for implementing the EFS Act, the codes adopted by the Secretary of State shall apply.

801.9 Numerical codes amended. These codes, and the farm products groups, may be amended from time to time as the Secretary of State deems necessary.

802 Responsibility for information. The accuracy and completeness of information filed is ultimately the responsibility of the secured party. Forms submitted to the central filing office by secured parties will be entered as received. Neither the central filing officer nor the central filing office will not be responsible for omitted or inaccurate information filed with the central filing office.

### 803 EFS filings.

803.1 The EFS must be filed in a filing office by close of business on the *list* business day of the preceding period to be included on the next master list.

803.2 If a material change occurs in the information contained in an EFS, the secured party shall file an EFS Amendment Statement with a filing office. A “material change” is a change which will render the master list no longer informative as to what is subject to the security interest in question.

### 804 EFS forms.

804.1 The initial financing statement shall be completed by secured parties seeking to notify, pursuant to the EFS Act, buyers, commission merchants, or selling agents of a lien on farm products. In order for EFS information to be accessible to buyers of farm products, commission merchants, and selling agents, the EFS must be filed with the central filing office. Said form shall consist of any UCC-1 form acceptable to said filing office for lien perfection purposes plus an addendum prescribed and distributed by the central filing officer, if necessary to provide all required EFS information.

804.2 Any UCC-3 form acceptable to the central filing office for filing purposes, plus an addendum prescribed and distributed by the central filing officer, if necessary to provide all required EFS information, shall be used for amendments, continuations, partial releases, assignments and terminations of information filed on an EFS. Partial releases and assignments shall be treated as amendments.

804.3 The EFS forms will allow identification of farm products other than those set forth in section 801 above. The secured party may enter a specific name of a farm product. Any entry shall be specific, for example, “reptile” will be unacceptable as too general but “alligator” would be acceptable.

804.4 The EFS form requires the secured party to specify certain farm products under certain general categories. For example, the specific type of fish or fur bearing animal must be entered by the secured party, such as “trout” or “mink”, respectively.

804.5 If an amount of farm product or reasonable description of the property is necessary for a buyer to identify what property owned by a person is subject to the lien and what property owned by the person is not, that information shall be entered in the space provided on the EFS form.

804.6 If an amount of any product is not entered, the interpretation shall be that all of such product is subject to the security interest.

804.7 If a county code is entered without further description, the interpretation shall be that all named products in the particular county or counties are subject to the security interest.

804.8 If no crop year is specified, the interpretation shall be that the product is subject to the security interest for every year the EFS is effective.

## 805 EFS Master List Distributions and Buyer Registration.

### 805.1 EFS Master list distributions:

805.1.1 Each subsequent master list and/or partial master list (s) shall be distributed on an annual basis, with at least three quarterly cumulative supplements, or more frequent supplements may be issued as determined by the central filing officer,, reflecting all new filings, changes and terminations since the last list.

805.1.2 The following product code groupings shall be considered standardized partial master lists:

805.1.2.1 Livestock and Livestock Products;

805.1.2.2 Field Crops;

805.1.2.3 Fruits and Vegetables.

805.1.3 The products set forth in section 801 above constitute the product code groupings and corresponding products.

805.1.4 The following county groupings are standardized geographic groupings pertaining to the standardized product groups above:

805.1.4.1 Group 1, northwestern Colorado: Moffat, Routt, Grand, Rio Blanco, Garfield, Eagle, Summit, and Pitkin;

805.1.4.2 Group 2, western Colorado: Mesa, Delta, Gunnison, and Montrose;

805.1.4.3 Group 3, southwestern Colorado: Ouray, San Miguel, Hinsdale, Saguache, Dolores, San Juan, Mineral, Rio Grande, Alamosa, Montezuma, La Plata, Archuleta, Conejos, and Costilla;

805.1.4.4 Group 4: north central Colorado: Jackson, Larimer, Boulder, Gilpin, Clear Creek, Jefferson, Denver, Adams, Broomfield and Arapahoe;

805.1.4.5 Group 5: Weld county;

805.1.4.6 Group 6, northeast Colorado: Morgan, Logan, Sedgwick, and Phillips;

805.1.4.7 Group 7, eastern Colorado: Washington, and Yuma;

805.1.4.8 Group 8, central Colorado: Lake, Park, Douglas, Chaffee, Teller, El Paso, Fremont, Pueblo, Custer, and Huerfano;

805.1.4.9 Group 9, eastern central Colorado: Elbert, Lincoln, Kit Carson, Cheyenne, and Crowley;

805.1.4.10 Group 10, southeastern Colorado: Kiowa, Otero, Bent, Prowers, Las Animas, and Baca.

805.1.5 The county groups may be amended from time to time as the Secretary of State deems necessary.

805.1.6 A standardized paper partial master list order shall be Livestock and Livestock Products and/or Field Crops from any or all of the 10 county groupings set forth above. A standardized paper partial master list for Fruits and Vegetables shall include the entire state. Out-of-state filings will be included in each list.

805.1.7 A standardized partial master list in computer-readable or direct computer access form order shall be:

805.1.7.1 Livestock and Livestock Products and/or Field Crops from any or all of the following county group combinations:

805.1.7.1.1 Groups 1,2 and 3;

805.1.7.1.2 Groups 4 and 5;

805.1.7.1.3 Groups 6 and 7;

805.1.7.1.4 Groups 8, 9, and 10.

The county groups may be amended from time to time as the Secretary of State deems necessary. Out-of-state filings will be included in each county group combination.

805.1.7.2 A standardized partial master list in computer- readable or direct computer access form for Fruits and Vegetables shall include the entire state. Out-of-state filings will be included. A state map indicating county groupings is available from the Secretary of State.

805.1.8 The master list recipient may request preparation of one or more special lists, other than those described above. Fees for processing EFS documents, 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 on request and from the web site of the Secretary of State.

805.1.9 Master lists and partial master lists may be obtained on paper, in computer-readable form, or by direct computer access. Computer disks are currently available for IBM, or IBM compatible systems. The master list recipient should check from time to time with the central filing officer to see if other file or system formats are available.

805.1.10 A Partial Master List Order form, available from the central filing officer, shall be utilized by the buyer, commission merchant, or selling agent in selecting portions of the master list for distribution. Said form shall be filed with the central filing officer.

805.2 Buyer registration.

805.2.1 Any buyer of Colorado farm products, commission merchant, or selling agent who wishes to register with or subscribe to the master list must complete a

buyer registration form and file it with the central filing officer. The form is available upon request from the central filing officer and may be completed at any time. A buyer, commission merchant or selling agent who uses either of the online services, dial-up modem or the Internet, to access the master list will be considered to have registered once a logon name and password have been issued by the central filing officer.

805.2.2 The buyer shall notify the central filing officer in writing of any change in name, address, telephone number or like information. Said notice of change shall be made within 30 days of said changes(s). Notification of such changes is not necessary for those buyers, commission merchants or selling agents who utilize the online access to the master list.

805.2.3 Buyers. of Colorado farm products, commission merchants, and selling agents shall renew their registrations or subscriptions to the master list provided for in the EFS Act annually. All buyer registrations expire June 30 of each year.

805.3 Assisted access to EFS information. The central filing officer may provide one or more human operators to receive inquiries by telephone, fax, mail, or cither means approved by the central filing officer regarding the EFS master file and conduct searches therein for authorized parties during business day hours of the central filing office.

**806** EFS Filing Fees and EFS Master List Fees. Fees for processing EFS documents, 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 on request and from the web site of the Secretary of State.

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