

STATE OF COLORADO

Department of State

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Report to the Governor and General Assembly of the State of Colorado

From the Colorado Secretary of State

Pursuant to Section 4-9-527, Colorado Revised Statutes

To the Governor and Legislature of the State of Colorado, Greetings:

Pursuant to section 4-9-527, Colorado Revised Statutes, I, Bernie Buescher, Colorado Secretary of State, make the following report to the Governor and General Assembly of the State of Colorado on the operation of the office of the Colorado Secretary of State as a "filing office" under Part 5 of Article 9 of Title 4 (Colorado's Uniform Commercial Code) of the Colorado Revised Statutes, ("C.R.S."), as of June 22, 2009.

A. Responsibility. The filing office is operated within the Business Division of the Secretary of State's office. The duties, functions, policies, procedures, and practices of the Business Division relative to Part 5, Article 9, Title 4 are explained in numerous publications available on the Business Center link on the Secretary of State's website, <http://www.sos.state.co.us/>. Generally, these duties involve filing and indexing Uniform Commercial Code records presented to the Secretary of State for filing, managing and maintaining those records, making those records accessible and searchable, issuing search reports and providing certified copies and certificates, all in accordance with the provisions of Part 5.

B. Status of Operations. As of June 22, 2009, the status of operations was as follows:

1. Filing and indexing (or refusal) of records. All records presented for filing through June 18, 2009, had been examined, filed, and indexed (or acceptance has been refused, in accordance with section 4-9-520, C.R.S.).

2. Search Services. All requests for searches had been satisfied through June 17, 2009.

C. Rules and Rulemaking. Staff of the Business Division monitor, via listserv participation and otherwise, the rule-adoption processes of filing offices in other jurisdictions, participate in multi-jurisdictional conferences, and in general are knowledgeable about the rules adopted by other jurisdictions. Except as noted below, the Filing Office Rules are substantially in harmony with the rules of filing offices in other jurisdictions that have enacted Part 5 of Revised Article 9 of the Uniform Commercial Code. Any variations are necessary to accommodate circumstances that may be unique to Colorado law. For instance, from July 1, 1996 to January 1, 2000, Colorado law permitted de-centralized filing of financing statements and related records, which

is not in conformity with the Uniform Commercial Code and thus the Filing Office Rules are not in harmony with the rules of other filing offices.

Additionally, Staff and other interested jurisdictions have been alerted to several issues regarding the appropriateness and utility of certain administrative rules, particularly with regard to standard search logic. Many of the jurisdictions have undertaken efforts to ameliorate these issues, both independently and collectively through participation in the International Association of Commercial Administrators ("IACA"). On May 17, 2007, the Secured Transaction Section of IACA adopted amended model administrative rules ("MARs") during its 2007 Annual Conference. Staff participated in the adoption of the amended MARs at the 2007 IACA conference. As a result of those amendments and other operational development, Staff are reviewing the current Filing Office Rules and drafting appropriate amendments to bring the Filing Office Rules substantially into harmony with the most recent version of the MARs promulgated by IACA. Furthermore, the appropriateness and utility of certain model rules are being examined by Staff and may result in nonconforming modifications of the Filing Office Rules. These modifications may become increasingly important and necessary as the Business Division progresses with the redesign of its computerized system for managing and maintaining UCC and related records.

Sincerely,



Bernie Buescher
Colorado Secretary of State
June 22, 2009