



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

### From the Colorado Secretary of State

### On the Operation of the Filing Office

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

I, Scott Gessler, 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 07, 2011.

A. Responsibility. The filing office operates within the Business and Licensing Division of the Secretary of State's office. The Secretary of State's duties relating to the Uniform Commercial Code (UCC) involve filing and indexing financing statement records, 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 of Article 9 of Title 4, C.R.S.

B. Status of Operations. As of June 09, 2011, the status of operations was as follows:

1. Filing and indexing (or refusal) of records. All records presented for filing through June 06, 2011, had been examined, filed, and indexed (or acceptance had been refused, in accordance with section 4-9-520, C.R.S.).

2. Search Services. All requests for searches had been satisfied through June 07, 2011.

C. Rules and Rulemaking. The Filing Office Rules are in substantial harmony with the rules of filing offices in other jurisdictions that have enacted Part 5 of Article 9 of the UCC. 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 UCC and thus the Filing Office Rules are not in harmony with the rules of other filing offices.

Additionally, several issues regarding the appropriateness and utility of certain administrative rules, particularly with regard to standard search logic, have come to the attention of my staff and those of other jurisdictions. 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 during IACA's Annual Conference, the Secured Transaction

Section of IACA adopted amended model administrative rules ("MARs"). IACA further amended the MARs in 2008 and 2009. Staff participated in the adoption of the amended MARs in 2007, 2008 and 2009. The Filing Office Rules for Colorado have not been amended since 2003, but those Rules remain in harmony with the MARs as the 2007, 2008, and 2009 amendments made only minor revision to the MARs. However, as a result of those amendments and other operational developments, my staff are determining whether amendments are necessary to bring the Filing Office Rules substantially into harmony with the most recent version of the MARs. Finally, the appropriateness and utility of certain model rules are being examined by my staff and may result in nonconforming modifications of the Filing Office Rules. These modifications may become increasingly important and necessary as the Business and Licensing Division progresses with the redesign of its computerized system for managing and maintaining UCC and related records.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Gessler". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Scott Gessler  
Colorado Secretary of State  
June 07, 2011