

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 44.6.111, 44.6.112, 44.6.113) PROPOSED AMENDMENT
pertaining to fees charged by the)
Business Services Division and)
output relating to the Farm Bill Master)
List)

TO: All Concerned Persons

1. On May 2, 2013, at 9:30 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m. on April 25, 2013, to advise us of the nature of the accommodation that you need. Please contact Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 461-5173; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail jquintana@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

44.6.111 LIENS APPEARING ON THE FARM BILL MASTER LIST AND FEES FOR OBTAINING THE FARM BILL MASTER LIST (1) remains the same.

(2) The secretary of state shall charge and collect for the following fees for providing the farm bill master list:

- (a) ~~on CD-ROM~~ online access, per month \$ 20.00
- (b) on paper, per farm ~~product category~~ month ~~5.00~~ 20.00
(for any report over 50 pages, the buyer will pay the vendor directly for any third party printing and shipping costs).
- ~~(c) on microfiche, per farm product category~~ _____ 5.00

AUTH: 30-9A-526, MCA
IMP: 30-9A-525, MCA

REASON: The Secretary of State is in the process of implementing a more robust online database that will allow the Farm Bill Master List to be made available online through a web-based application. The Farm Bill Master List will no longer be provided on CD-ROM or microfiche, thereby necessitating the amendment to the rule. The new online application will allow multiple persons within an organization to

view the information from different desktops at the same time and the online lien information will be updated daily. This change addresses concerns expressed over the years from Montana buyers of farm products. The access fee to the Farm Bill Master List remains the same as the fee for the CD-ROM, but buyers will receive a much better product. The access fee for a paper copy of the Farm Bill Master List is modified so that it is the same as the access fee for the online version.

44.6.112 FARM BILL MASTER LIST (1) remains the same.

(2) The farm bill master list is published:

~~(a) on the fifteenth~~ 15th day of every month; ~~or,~~

~~(b) on the preceding business day if the fifteenth falls on a weekend or holiday.~~

(3) The farm bill master list is distributed to registered buyers no later than the ~~twentieth~~ 20th of each month.

AUTH: 30-9A-526, MCA

IMP: 30-9A-302, MCA

REASON: The amendments to the days of the month references in (2)(a) and (3) are simply style and format changes. Subsection (2)(b) is deleted in its entirety because it will no longer be applicable when the new web-based database for the Business Services Division is implemented.

44.6.113 DEFINITIONS AND REQUIREMENTS FOR ONLINE FILING

(1) The following definitions apply for filing Uniform Commercial Code liens and amendments online:

(a) "submitter" is a person or entity that files a Uniform Commercial Code lien document online;

(b) "compliance ~~officer~~ technician" is a person who works in the secretary of state's office who is qualified to certify that a lien document meets the requirements of ~~the law~~ state and federal laws;

~~(c) "registered user" is a person or entity who is registered with a private vendor to file liens using the on-line filing system available through internet technology.~~

(2) Fees and payment methods for online filing of Uniform Commercial Code liens are ~~published on-line by the private vendor~~ by credit and/or debit card.

(3) Liens documents filed through the use of internet technology are considered to be liens filed online.

(4) The following liens are acceptable for online filing:

(a) initial financing statements and associated amendments that meet the requirements of Title 30, chapter 9A, MCA;

(b) effective financing statements and associated amendments that meet the requirements of the federal Food Security Act of 1985.

(i) An effective financing statement lien and amendment may be filed electronically without the signature of the debtor and secured party.

(ii) If an original or reproduced paper document is filed, the lien must be ~~signed by the secured party and~~ authorized or authenticated by the debtor, and be filed by the secured party.

(5) The following liens are unacceptable for online filing:

~~(a) transmitting utility liens;~~

~~(b) (a) notice of child support liens;~~

~~(c) (b) notice of federal tax liens; and~~

~~(d) (c) Title 71, MCA, liens.~~

(6) Online filing is available ~~between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday~~ 24 hours a day, seven days a week except during predetermined system maintenance and then users will be notified online of maintenance schedule.

~~(7) On-line filing is not available on weekends or state holidays, or between 7:01 p.m. and 6:59 a.m. each working day.~~

~~(8) (7)~~ Submitters will be notified online if online filing is not available due to technology problems.

~~(9) (8)~~ The following requirements must be met in order to successfully complete an online lien filing:

(a) and (b) remain the same.

~~(10) (9)~~ A Uniform Commercial Code document that is successfully completed and submitted online will be considered filed upon receipt by the secretary of state's office. The online technology application will ~~insure~~ ensure the document is properly completed prior to acceptance. The submitter will be notified by an online message if required fields are not properly completed. A message confirming successful completion and acceptance will appear online when the filing is accepted.

~~(11) (10)~~ Submitters should print and retain their acknowledgement message as proof that the online filing was received by the secretary of state's office. The acknowledgement message will contain a unique filing number, filing date and time, filing type, debtor(s) information, secured party(ies) information, and filing language.

~~(12) (11)~~ The following online filings will be rejected:

(a) and (b) remain the same.

~~(13) (12)~~ The submitter will be notified by an online message if their document is rejected. If a filing is later determined to be improper under 30-9A-420, MCA, the secretary of state's office will notify the submitter of the rejection.

~~(14) (13)~~ The date and time a successfully submitted online filing is considered to be effective is the date and time the document was accepted online by the secretary of state's office.

AUTH: 30-9A-526, MCA
IMP: 30-9A-502, 71-3-125, MCA

REASON: The rule is amended to accommodate changes that will occur with the implementation of a new online web-based database. Language is added to allow the filing of amendments, specify the payment method of credit and/or debit cards, and expand the filing hours. Other minor amendments are to clarify that the filing officer is a "technician" rather than an "officer," to eliminate the definition for

"registered user," to substitute the words "authorized or authenticated" for "signed," delete "transmitting utility liens" as a lien that is unacceptable for online filing, insert "MCA" after Title 71 to conform to citing requirements for the Administrative Rules of Montana, and change "insure" to "ensure."

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Jorge Quintana, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801; telephone (406) 461-5173; fax (406) 444-4240; or e-mail jquintana@mt.gov, and must be received no later than 5:00 p.m., May 10, 2013.

5. Jorge Quintana, Secretary of State's Office, has been designated to preside over and conduct this hearing.

6. The Secretary of State maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the Secretary of State.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Dated this 1st day of April, 2013.