

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Frivolous filings.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to administration of the government;
2 establishing a procedure for the secretary of state and the
3 county clerks to decline to accept frivolous filings;
4 providing for notice and reconsideration; providing for
5 judicial review; providing immunity; amending the Uniform
6 Commercial Code to provide additional situations where
7 filings for secured transactions do not occur; specifying
8 applicability; and providing for an effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

1 **Section 1.** W.S. 9-1-309 and 18-3-403 are created to
2 read:

3

4 **9-1-309. Frivolous filings.**

5

6 (a) As used in this section:

7

8 (i) "Filing" means any document submitted by any
9 person for filing with the secretary of state pursuant to:

10

11 (A) This article;

12

13 (B) Title 17 of the Wyoming statutes,
14 including securities filings;

15

16 (C) Title 22 of the Wyoming statutes for
17 filings related to lobbyist registration and campaign
18 finance. This subparagraph shall not include candidate
19 filings, ballot measure filings or other filings that are
20 not related to lobbyist registration or campaign finance;

21

22 (D) Title 32 of the Wyoming statutes;

23

1 (E) Chapters 1 and 2 of Title 40 of the
2 Wyoming statutes;

3

4 (F) Other Wyoming statutes when the filing
5 is required by law to be submitted to the secretary of
6 state. This subparagraph shall not apply to a Uniform
7 Commercial Code filing except to the extent provided by
8 W.S. 34.1-9-516 and 34.1-9-520.

9

10 (ii) "Frivolous" means a document that satisfies
11 one (1) or more of the following conditions:

12

13 (A) The document is materially false or
14 fraudulent;

15

16 (B) The document lacks an arguable basis in
17 law or in fact;

18

19 (C) The document is filed with the intent
20 to harass or defraud; or

21

22 (D) In the case of a document purporting to
23 create, evidence or give notice of a lien, claim, judgment

1 or encumbrance against real property, the lien, claim,
2 judgement or encumbrance is not provided for by a specific
3 Wyoming or federal statute, is not consensual and is not
4 imposed by an order, judgment or decree of a court of
5 competent jurisdiction.

6
7 (iii) "Public official" means any judicial
8 officer, district attorney, county and prosecuting
9 attorney, attorney general or public defender acting in an
10 official capacity, sheriff, deputy sheriff or peace officer
11 as defined in W.S. 6-1-104, correctional officer or
12 employee of a state or county correctional facility, an
13 elected official of the state or any political subdivision
14 of the state or an employee of any official under this
15 paragraph.

16
17 (b) The secretary of state may decline to accept any
18 filing the secretary of state reasonably believes to be
19 frivolous. A filing declined under this subsection shall be
20 held without filing, pending the completion of the
21 procedures provided in subsections (c) through (g) of this
22 section. Nothing in this section shall be construed to

1 create a duty of the secretary of state to determine
2 whether any filing is frivolous.

3

4 (c) If the secretary of state declines to accept a
5 filing under subsection (b) of this section, the secretary
6 of state shall provide written notice to the person seeking
7 to file the filing not later than five (5) business days
8 after declining the filing. The notice under this
9 subsection shall:

10

11 (i) State the grounds for the determination that
12 the filing may be frivolous;

13

14 (ii) Inform the person of the right to request
15 reconsideration of the determination; and

16

17 (iii) Provide instructions for submitting
18 supporting documentation demonstrating that the filing is
19 not frivolous.

20

21 (d) Except as otherwise provided in subsection (f) of
22 this section, not later than thirty (30) days after
23 receiving notice under subsection (c) of this section, the

1 person seeking to file the filing may submit a written
2 request for reconsideration with supporting documentation
3 demonstrating that the filing is not frivolous.

4

5 (e) Except as otherwise provided in subsection (f) of
6 this section, not later than thirty (30) days after
7 receiving a request for reconsideration under subsection
8 (d) of this section, or not later than thirty (30) days
9 after the expiration of the response period under
10 subsection (d) of this section if no request for
11 reconsideration is received, the secretary of state shall
12 issue a final written determination either accepting or
13 rejecting the filing. If the secretary of state accepts the
14 filing, it shall be deemed filed as of the original
15 submission date.

16

17 (f) The thirty (30) day timelines specified in
18 subsections (d), (e) and (h) of this section shall be
19 reduced to ten (10) days for any filing if the secretary of
20 state finds that the filing includes one (1) or more of the
21 following elements:

22

1 (i) Names a public official as a debtor and the
2 filing relates to or is in retaliation to the performance
3 of the public official's official duties;

4
5 (ii) Is submitted by or on behalf of a person
6 incarcerated in a state, federal or county correctional
7 facility;

8
9 (iii) Names the same person as both the debtor
10 and secured party, claims the status of a transmitting
11 utility without documentation reasonably substantiating
12 that status or contains other facially patent indicators of
13 a frivolous filing as identified by rule;

14
15 (iv) Affects title to real property.

16
17 (g) A person aggrieved by a final determination under
18 subsections (e) or (h) of this section may, not later than
19 thirty (30) days after the final determination is issued,
20 file an action in the district court of Laramie County to
21 reverse the determination. An action under this subsection
22 shall be the exclusive means of judicial review of a

1 determination under this section and shall be conducted in
2 accordance with the following:

3
4 (i) No filing fee shall be required;

5
6 (ii) Review shall be conducted on the
7 administrative record, with leave to introduce additional
8 evidence on a showing of good cause;

9
10 (iii) The burden of proof shall be on the person
11 seeking acceptance of the filing to demonstrate by a
12 preponderance of the evidence that the filing is not
13 frivolous;

14
15 (iv) If the court orders acceptance of the
16 filing, the filing shall be deemed filed as of the original
17 submission date; and

18
19 (v) A person who substantially prevails in a
20 review under this subsection may recover reasonable
21 attorney fees and costs from the secretary of state.

22

1 (h) The secretary of state may at any time initiate a
2 review of any filing on the secretary of state's own
3 initiative or upon receipt of an affidavit of wrongful
4 filing under this subsection, subject to the following:

5
6 (i) Any person who is named in the filing or a
7 successor in interest to that person may submit to the
8 secretary of state an affidavit of wrongful filing stating
9 the person's belief that the filing is frivolous, the
10 grounds for that belief and any supporting documentation;

11
12 (ii) Upon initiating review of a filing under
13 this subsection, the secretary of state shall provide
14 written notice to the person who submitted the original
15 filing, to the person who submitted an affidavit under
16 paragraph (i) of this subsection, if applicable, and to any
17 other person named in the record;

18
19 (iii) Except as otherwise provided in subsection
20 (f) of this section, not later than thirty (30) days after
21 receiving notice under paragraph (ii) of this subsection,
22 any person receiving notice under this subsection may

1 submit a written statement and supporting documentation
2 demonstrating that the filing is not frivolous;

3

4 (iv) Except as otherwise provided in subsection
5 (f) of this section, not later than thirty (30) days after
6 the expiration of the response period under paragraph (iii)
7 of this subsection, the secretary of state shall issue a
8 final written determination. If the secretary of state
9 determines the filing is frivolous, the secretary of state
10 may:

11

12 (A) Suppress the filing from standard
13 search results while retaining the original record for
14 archival, audit, evidentiary and judicial-review purposes;
15 or

16

17 (B) Affix to the record a prominent
18 notation indicating that the filing has been determined to
19 be frivolous and has no legal effect.

20

21 (v) The secretary of state shall not delete,
22 expunge or destroy any record in the course of taking any
23 action under this subsection.

1

2 (vi) Judicial review of a determination made
3 under this subsection shall proceed as provided in
4 subsection (g) of this section.

5

6 (j) Any filing rejected under subsection (e) of this
7 section, suppressed or notated under subsection (h) of this
8 section or determined to be frivolous by a district court,
9 shall have no legal effect, shall not provide constructive
10 notice to any person and shall not establish priority as
11 against any person. This subsection shall not be construed
12 to alter the rights of a bona fide purchaser or holder for
13 value who relied upon the filing in good faith before its
14 rejection, suppression or notation.

15

16 (k) The secretary of state, the secretary of state's
17 office and any employee or agent thereof acting within the
18 scope of his duty shall not be liable to any person for any
19 action taken or omitted in good faith under this section.
20 For purposes of this subsection, good faith shall be
21 presumed in the absence of clear and convincing evidence to
22 the contrary.

23

1 (m) This section shall not limit the authority of the
2 secretary of state under W.S. 9-1-308 or any other
3 provision of law. Filings governed by W.S. 34.1-9-516 and
4 34.1-9-520 shall be subject to the procedures of those
5 sections.

6
7 (n) The secretary of state may promulgate rules to
8 implement this section, including rules identifying
9 additional facially patent indicators of frivolous filings
10 as provided in paragraph (f)(iii) of this section.

11

12 **18-3-403. Frivolous filings.**

13

14 (a) As used in this section:

15

16 (i) "Frivolous" means a document that satisfies
17 one (1) or more of the following conditions:

18

19 (A) The document is materially false or
20 fraudulent;

21

22 (B) The document lacks an arguable basis in
23 law or in fact;

1

2 (C) The document is recorded with the
3 intent to harass or defraud; or

4

5 (D) In the case of a document purporting to
6 create, evidence or give notice of a lien, claim, judgment
7 or encumbrance against real property, the lien, claim,
8 judgement or encumbrance is not provided for by a specific
9 Wyoming or federal statute, is not consensual and is not
10 imposed by an order, judgment or decree of a court of
11 competent jurisdiction.

12

13 (ii) "Public official" means any judicial
14 officer, district attorney, county and prosecuting
15 attorney, attorney general or public defender acting in an
16 official capacity, sheriff, deputy sheriff or peace officer
17 as defined in W.S. 6-1-104, correctional officer or
18 employee of a state or county correctional facility, an
19 elected official of the state or any political subdivision
20 of the state or an employee of any official under this
21 paragraph;

22

1 (iii) "Record" means any document submitted by
2 any person for recording with the county clerk. "Record"
3 shall not include candidate filings, ballot measure
4 filings, petitions, voter registration or other filings
5 governed by statutory election deadlines under title 22 of
6 the Wyoming statutes.

7
8 (b) The county clerk may decline to record any
9 document the county clerk reasonably believes to be
10 frivolous. A document declined under this subsection shall
11 be held without recording, pending the completion of the
12 procedures provided in subsections (c) through (g) of this
13 section. Nothing in this section shall be construed to
14 create a duty of the county clerk to determine whether any
15 record is frivolous.

16
17 (c) If the county clerk declines to record a document
18 under subsection (b) of this section, the county clerk
19 shall date and stamp the document and provide written
20 notice to the person seeking to record the document not
21 later than five (5) business days after declining the
22 document. The notice under this subsection shall:

1 (i) State the grounds for the determination that
2 the document may be frivolous;

3

4 (ii) Inform the person of the right to request
5 reconsideration of the determination; and

6

7 (iii) Provide instructions for submitting
8 supporting documentation demonstrating that the document is
9 not frivolous.

10

11 (d) Except as otherwise provided in subsection (f) of
12 this section, not later than thirty (30) days after
13 receiving notice under subsection (c) of this section, the
14 person seeking to record the document may submit a written
15 request for reconsideration with supporting documentation
16 demonstrating that the document is not frivolous.

17

18 (e) Except as otherwise provided in subsection (f) of
19 this section, not later than thirty (30) days after
20 receiving a request for reconsideration under subsection
21 (d) of this section, or not later than thirty (30) days
22 after the expiration of the response period under
23 subsection (d) of this section if no request for

1 reconsideration is received, the county clerk shall issue a
2 final written determination either accepting or rejecting
3 the document. If the county clerk accepts the document, it
4 shall be deemed recorded. If the date the document is
5 recorded subordinates the position of the document, a court
6 shall honor the date stamped on the document by the clerk
7 at the time the document was originally submitted.

8
9 (f) The thirty (30) day timelines specified in
10 subsections (d), (e) and (h) of this section shall be
11 reduced to ten (10) days for any document if the county
12 clerk finds that the document includes one (1) or more of
13 the following elements:

14
15 (i) Names a public official as a debtor and the
16 document relates to or is in retaliation to the performance
17 of the public official's official duties;

18
19 (ii) Is submitted by or on behalf of a person
20 incarcerated in a state, federal or county correctional
21 facility;

22

1 (iii) Names the same person as both the debtor
2 and secured party, claims the status of a transmitting
3 utility without documentation reasonably substantiating
4 that status or contains other facially patent indicators of
5 a frivolous record as identified by rule of the secretary
6 of state under W.S. 9-1-309(n);

7
8 (iv) Affects title to real property.

9
10 (g) A person aggrieved by a final determination under
11 subsections (e) or (h) of this section may, not later than
12 thirty (30) days after the final determination is issued,
13 file an action in the district court of the county where
14 the county clerk is located to reverse the determination,
15 in accordance with the following:

16
17 (i) No filing fee shall be required;

18
19 (ii) Review shall be conducted on the
20 administrative record, with leave to introduce additional
21 evidence on a showing of good cause;

1 (iii) The burden of proof shall be on the person
2 seeking acceptance of the document to demonstrate by a
3 preponderance of the evidence that the document is not
4 frivolous;

5
6 (iv) If the court orders acceptance of the
7 document, the document shall be recorded by the clerk. If
8 the date the document is recorded subordinates the position
9 of the document, a court shall honor the date stamped on
10 the document by the clerk at the time the document was
11 originally submitted; and

12
13 (v) A person who substantially prevails in a
14 review under this subsection may recover reasonable
15 attorney fees and costs from the county.

16
17 (h) The county clerk may at any time initiate a
18 review of any record on the county clerk's own initiative
19 or upon receipt of an affidavit of wrongful filing under
20 this subsection, subject to the following:

21
22 (i) Any person who is named in the record or a
23 successor in interest to that person may submit to the

1 county clerk an affidavit of wrongful filing stating the
2 person's belief that the record is frivolous, the grounds
3 for that belief and any supporting documentation;

4

5 (ii) Upon initiating review of a record under
6 this subsection, the county clerk shall provide written
7 notice to the person who submitted the original record, to
8 the person who submitted an affidavit under paragraph (i)
9 of this subsection, if applicable, and to any other person
10 named in the record;

11

12 (iii) Except as otherwise provided in subsection
13 (f) of this section, not later than thirty (30) days after
14 receiving notice under paragraph (ii) of this subsection,
15 any person receiving notice under this subsection may
16 submit a written statement and supporting documentation
17 demonstrating that the record is not frivolous;

18

19 (iv) Except as otherwise provided in subsection
20 (f) of this section, not later than thirty (30) days after
21 the expiration of the response period under paragraph (iii)
22 of this subsection, the county clerk shall issue a final

1 written determination. If the county clerk determines the
2 record is frivolous, the county clerk may:

3

4 (A) Suppress the record from standard
5 search results while retaining the original record for
6 archival, audit, evidentiary and judicial-review purposes;
7 or

8

9 (B) Affix by recording a notation to the
10 original document indicating that the record has been
11 determined to be frivolous and has no legal effect.

12

13 (v) The county clerk shall not delete, expunge
14 or destroy any record in the course of taking any action
15 under this subsection.

16

17 (vi) Judicial review of a determination made
18 under this subsection shall proceed as provided in
19 subsection (g) of this section.

20

21 (j) Any document or record rejected under subsection
22 (e) of this section, suppressed or notated under subsection
23 (h) of this section or determined to be frivolous by a

1 district court, shall have no legal effect, shall not
2 provide constructive notice to any person and shall not
3 establish priority as against any person. This subsection
4 shall not be construed to alter the rights of a bona fide
5 purchaser or holder for value who relied upon the record in
6 good faith before its rejection, suppression or notation.

7
8 (k) The county clerk, the county clerk's office and
9 any employee or agent thereof acting within the scope of
10 his duty shall not be liable to any person for any action
11 taken or omitted in good faith under this section. For
12 purposes of this subsection, good faith shall be presumed
13 in the absence of clear and convincing evidence to the
14 contrary.

15
16 (m) This section shall not limit the authority of the
17 county clerk under any other provision of law. Records
18 governed by W.S. 34.1-9-516 and 34.1-9-520 shall be subject
19 to the procedures of those sections.

20
21 **Section 2.** W.S. 34.1-9-516(b) by creating new
22 paragraphs (viii) and (ix) and 34.1-9-520(a) and (b) are
23 amended to read:

1

2 **34.1-9-516. What constitutes filing; effectiveness of**
3 **filing.**

4

5 (b) Filing does not occur with respect to a record
6 that a filing office refuses to accept because:

7

8 (viii) The filing office determines, based on a
9 reasonable belief, that the record:

10

11 (A) Is not created pursuant to this
12 article;

13

14 (B) Is intended for an improper purpose
15 including to defraud, hinder, harass or wrongfully
16 interfere with a person; or

17

18 (C) Names a public official, as defined in
19 W.S. 9-1-309(a)(iii), as a debtor and the filing relates to
20 or is in retaliation for the performance of official
21 duties.

22

1 (ix) The same person is listed as both the
2 debtor and the secured party, the collateral described is
3 not within the scope of this article or the record is being
4 filed for a purpose other than a transaction within the
5 scope of this article.

6
7 **34.1-9-520. Acceptance and refusal to accept record.**

8
9 (a) A filing office shall refuse to accept a record
10 for filing for a reason set forth in ~~section 34.1-9-516(b)~~
11 paragraphs 34.1-9-516(b) (i) through (vii) and may refuse to
12 accept a record for filing ~~only~~ for a reason set forth in
13 ~~section 34.1-9-516(b)~~ paragraphs 34.1-9-516(b) (viii) or
14 (ix). Notwithstanding subsection (b) of this section, the
15 procedures specified in W.S. 9-1-309 shall apply to any
16 refusal by the secretary of state to accept a record under
17 paragraphs 34.1-9-516(b) (viii) or (ix) and the procedures
18 specified in W.S. 18-3-403 shall apply to any refusal by a
19 county clerk to accept a record under paragraphs 34.1-9-
20 516(b) (viii) or (ix).

21
22 (b) Except as otherwise provided in subsection (a) of
23 this section, if a filing office refuses to accept a record

1 for filing, it shall communicate to the person that
2 presented the record the fact of and reason for the refusal
3 and the date and time the record would have been filed had
4 the filing office accepted it. The communication must be
5 made at the time and in the manner prescribed by filing-
6 office rule but, in the case of a filing office described
7 in section 34.1-9-501(a)(ii), in no event more than two (2)
8 business days after the filing office receives the record.

9

10 **Section 3.** This act is effective July 1, 2027.

11

12 (END)