

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0515.01 Thomas Morris x4218

HOUSE BILL 16-1270

HOUSE SPONSORSHIP

Lee,

SENATE SPONSORSHIP

(None),

House Committees
Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE LIMITATION OF LAWS GOVERNING SECURITY**
102 **INTERESTS TO AN OWNER'S INTEREST IN A BUSINESS ENTITY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under current law, the "Uniform Commercial Code" (Code) invalidates contractual limits on the transferability of some assets that can be subject to a security interest. In 2006, the "Colorado Corporations and Associations Act" (Act) was amended to clearly and broadly exempt an owner's interest in a business entity from these Code provisions to effectuate the "pick your partner" principle that allows small businesses

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

to control their ownership. **Section 3** of the bill narrows the exemption in the Act to that necessary for "pick your partner", and **sections 1 and 2** codify this narrowed exemption in the Code.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 4-9-406, **amend**
3 (d) introductory portion and (k) introductory portion; and **add** (l) as
4 follows:

5 **4-9-406. Discharge of account debtor - notification of**
6 **assignment - identification and proof of assignment - restrictions on**
7 **assignment of accounts, chattel paper, payment intangibles, and**
8 **promissory notes ineffective.** (d) Except as otherwise provided in
9 subsections (e), and (k), AND (l) of this section and sections 4-2.5-303,
10 4-9-407, 8-80-103, 8-42-124, 13-64-210, and 24-4.1-114, C.R.S., and
11 subject to subsection (h) of this section, a term in an agreement between
12 an account debtor and an assignor or in a promissory note is ineffective
13 to the extent that it:

14 (k) Subsection (d) of this section does not apply to the assignment
15 OR THE transfer OF, or THE creation of a security interest in:

16 (l) AS SPECIFIED IN SECTION 7-90-104, C.R.S., SUBSECTIONS (d) TO
17 (f) OF THIS SECTION DO NOT APPLY TO THE ASSIGNMENT OR THE TRANSFER
18 OF, OR THE CREATION OF A SECURITY INTEREST IN, AN OWNER'S INTEREST
19 AS DEFINED IN SECTION 7-90-102 (44), C.R.S.

20 **SECTION 2.** In Colorado Revised Statutes, 4-9-408, **amend** (f)
21 introductory portion; and **add** (g) as follows:

22 **4-9-408. Restrictions on assignment of promissory notes,**
23 **health-care-insurance receivables, and certain general intangibles**
24 **ineffective.** (f) Subsections (a) and (c) of this section do not apply to the

1 assignment OR THE transfer OF, or THE creation of a security interest in:

2 (g) AS SPECIFIED IN SECTION 7-90-104, C.R.S., THIS SECTION DOES
3 NOT APPLY TO THE ASSIGNMENT OR THE TRANSFER OF, OR THE CREATION
4 OF A SECURITY INTEREST IN, AN OWNER'S INTEREST AS DEFINED IN SECTION
5 7-90-102 (44), C.R.S.

6 **SECTION 3.** In Colorado Revised Statutes, **amend** 7-90-104 as
7 follows:

8 **7-90-104. Nonapplication of uniform commercial code to**
9 **owner's interest.** ~~Sections~~ SUBSECTIONS (d) TO (f) OF SECTION 4-9-406
10 and SECTION 4-9-408, C.R.S., ~~shall~~ DO not apply to THE ASSIGNMENT OR
11 THE TRANSFER OF, OR THE CREATION OF A SECURITY INTEREST IN, an
12 owner's interest.

13 **SECTION 4. Act subject to petition - effective date -**
14 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
15 the expiration of the ninety-day period after final adjournment of the
16 general assembly (August 10, 2016, if adjournment sine die is on May 11,
17 2016); except that, if a referendum petition is filed pursuant to section 1
18 (3) of article V of the state constitution against this act or an item, section,
19 or part of this act within such period, then the act, item, section, or part
20 will not take effect unless approved by the people at the general election
21 to be held in November 2016 and, in such case, will take effect on the
22 date of the official declaration of the vote thereon by the governor.

23 (2) This act applies to conduct occurring on or after the applicable
24 effective date of this act.