



Senate Fiscal Agency  
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## BILL ANALYSIS



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House Bill 5934 (Substitute H-2 as passed by the House)  
Sponsor: Representative Andy Coulouris  
House Committee: Banking and Financial Services

**CONTENT**

The bill would amend Article 9 (Secured Transactions) of the Uniform Commercial Code to:

- Allow a person identified as a debtor in a financing statement to file an affidavit with the filing office (the Secretary of State's office or a register of deeds office) stating that the financing statement was fraudulent, unless the financing statement had been filed by a regulated financial institution.
- Require the filing office to terminate the financing statement upon receiving the affidavit, and notify the person who filed the financing statement (the filer).
- Allow the filer to bring a court action to reinstate the financing statement if the filer believed in good faith that it was legally filed.
- Make it a felony, punishable by imprisonment for up to five years and/or a \$2,500 fine, to file a false or fraudulent affidavit.
- Allow a filing office to refuse to accept a record presented for filing or recording if the office had reasonable cause to believe that the record was materially false or fraudulent; if the record were intended for an improper purpose, such as to hinder, harass, or otherwise wrongfully interfere with a person; or under other specified circumstances.
- Allow the person who presented the rejected record to bring a court action to require the filing office to accept the record for filing or recording.
- Exempt a financing statement filed by a regulated financial institution from the provision allowing a filing office to refuse a record, but allow the filing office to request the financial institution to provide verification of regulation or licensure.
- Revise provisions concerning the duration of a financing statement involving a debtor that is a transmitting utility.

MCL 440.9515 et al.

Legislative Analyst: Suzanne Lowe

**FISCAL IMPACT**

Any administrative cost to the Department of State associated with the requirements under the bill should be minimal and thus absorbed within the Department's current funding level.

The criminal penalty would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of filing a fraudulent or false affidavit. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an average annual cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$32,000. Additional penal fine revenue would benefit public libraries.

Date Completed: 12-9-08

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Analysis available @ <http://www.michiganlegislature.org>

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