



**Senate Fiscal Agency**  
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BILL



ANALYSIS

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Senate Bill 520 (as introduced 9-6-17)  
Sponsor: Senator Darwin Booher  
Committee: Regulatory Reform

Date Completed: 9-20-17

### **CONTENT**

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

- **Require the Secretary of State (SOS) to sell or license to the public, by subscription, bulk images of all records filed under Part 5 (Filing) of Article 9, or bulk data from the filed records.**
- **Require the SOS to charge a \$500 monthly subscription fee to a person that subscribed to receive the images or data.**
- **Permit the SOS to adjust the subscription fee amount to reflect changes in the consumer price index (CPI).**

Under Part 5 of Article 9, at least weekly, at the per-record rate under Section 9525, a filing office must offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under Part 5 in every medium from time to time available to the filing office.

(Under Section 9525, a filing office must charge a fee for responding to a request for a search of the records filed with a filing office concerning a debtor, including issuance of a certificate describing each presently effective record filed concerning the debtor if requested. The fee is \$6 plus one of the following, if applicable:

- \$25 if the person requests expediting the regular search process.
- \$2 if the person requests copies of the presently effective records disclosed by the search.
- \$6 if the filing office is the Secretary of State and the person requests the SOS to include an impression of the official seal of the SOS on the certificate.)

The bill, instead, would require the Secretary of State, beginning no later than January 1, 2018, to sell or license to the public on a nonexclusive basis, in bulk, by subscription, images of all records filed with it under Part 5 each month, or bulk data from the filed records, in a format established by the SOS and in one or more media available to the SOS. The Secretary of State would have to charge a \$500 monthly subscription fee to a person that subscribed to receive images or data under the bill.

For each calendar year after 2018, the SOS could adjust the amount of the subscription fee by an amount determined by the State Treasurer to reflect the cumulative percentage change in the CPI from October 1, 2017, to the October 1 immediately preceding that calendar year, using the most recent data available and rounded to the nearest dollar.

("Consumer price index" would mean the most comprehensive index of consumer prices available for the State from the Bureau of Labor Statistics of the U.S. Department of Labor.)

MCL 440.9523

## **BACKGROUND**

Article 9 of the Uniform Commercial Code governs transactions that create security interests in personal property and fixtures, including goods, inventory, equipment, accounts, documents, and instruments.

When a security interest is created, it must "attach". Attachment usually occurs when the parties' security agreement provides for attachment to occur. Additionally, a security interest must be "perfected". Perfection gives notice to other creditors that the secured party has priority in the property over the other creditors. Perfection typically occurs when a financing statement is filed with the appropriate filing office.

Article 9 also applies to an agricultural lien, which is an interest in farm products, other than a security interest, that meets specified requirements.

Article 9 specifies that, except as otherwise provided, the office in which to file a financing statement to perfect a security interest or agricultural lien is one of the following:

- The office designated for the filing or recording of a record of a mortgage on the related real property, if the collateral is as-extracted collateral or timber to be cut, or the financing statement is filed as fixture filing and the collateral is goods that are to become fixtures.
- The Secretary of State office in all other cases.

Legislative Analyst: Stephen Jackson

## **FISCAL IMPACT**

The bill would have a small positive fiscal impact on the Department of State. Currently, the Department receives an estimated \$3.6 million annually in fees collected for Uniform Commercial Code filings for data images. The proposed legislation would allow additional companies to purchase the images in bulk and would raise an estimated \$18,000 in additional revenue on an annual basis. The Department has stated that no additional costs are anticipated under the bill, as the system necessary to comply with the proposed changes is already in place and funded with current annual appropriations.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.