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BILL



ANALYSIS

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Senate Bill 520 (as enacted)  
Sponsor: Senator Darwin Booher  
Senate Committee: Regulatory Reform  
House Committee: Commerce and Trade

**PUBLIC ACT 175 of 2017**

Date Completed: 4-5-18

**CONTENT**

**The bill amended 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 subscribes to receive the images or data.**

The bill took effect on November 17, 2017.

Previously, under Part 5 of Article 9, at least weekly, at the per-record rate under Section 9525, a filing office was required to 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, requires the Secretary of State, 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 must charge a \$500 monthly subscription fee to a person that subscribes to receive images or data under these provisions.

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 will have a small positive fiscal impact on the Department of State. Previously, the Department received an estimated \$3.6 million annually in fees collected for Uniform Commercial Code filings for data images. The legislation allows additional companies to purchase the images in bulk and will raise an estimated \$18,000 in additional revenue on an annual basis. The Department previously stated that no additional costs were anticipated under the bill, as the system necessary to comply with the changes is already in place and is 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.