

Fiscal Analysis

Notification of Filing Financing Statements



Bill/Sponsor
House Committee

HOUSE BILL 5148 (H-3), REP. SHACKLETON
Government Operations

Analysis

Summary

House Bill 5148 (H-3) would amend the Uniform Commercial Code to require the Secretary of State to provide written notification of the filing of a financing statement to the debtor named in the financing statement, if they are an individual. The Secretary of State would be authorized to determine the form of the written notice, but the notice would be required to contain at least all of the following: debtor's name and address; secured party's name and address; and remedies available to the debtor if he/she believes the financing statement to be erroneously or fraudulently filed. The Secretary of State would be required to provide a copy or image of the filed financing statement and any attachments to the debtor at no charge. The debtor would be required to pay a fee for additional copies or searches.

The bill would prohibit a person from knowingly or intentionally filing a false or fraudulent financing statement. Violation would constitute a misdemeanor, punishable by imprisonment for not more than 93 days and/or a fine of not more than \$2,500, in addition to any other penalty provided by law. In the event of a violation, the court would be authorized to find the financing statement ineffective and to order the Secretary of State to terminate the financing statement. Also, in the event of a violation, the debtor named in the financing statement would be authorized to file an action against the person who filed the false or fraudulent financing statement seeking appropriate equitable relief or damages, including, but not limited to, an order declaring the financing statement ineffective and ordering the Secretary of State to terminate the financing statement.

HB 5148 (H-3) would increase the fee for filing and indexing a record from \$10.00 to \$15.00, would eliminate certain other fee provisions, would authorize no fee for filing and indexing a correction statement filed by an individual named as a debtor, and would include a fee of \$100.00 for filing and indexing a financing statement where the debtor is a transmitting utility.

Fiscal Impact

House Bill 5148 (H-3) would not have a fiscal impact on the Department of State. Due to administrative efficiencies - the elimination of some of the filing and search fees and increases in the amounts of other filing and search fees - it is anticipated that the bill would be revenue neutral to the Department of State.

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The bill would have an indeterminate impact on local units of government. Correctional costs could increase, depending on the number of convictions. Any increase in the collection of penal fine revenues would go to local libraries, which are the constitutionally-dedicated recipients of such revenues.

Analyst(s)

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FLOOR ANALYSIS - 1/21/04

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