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BILL ANALYSIS

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House Bill 5148 (Substitute S-3 as reported)
Sponsor: Representative Scott Shackleton
House Committee: Government Operations
Senate Committee: Economic Development, Small Business and Regulatory Reform

CONTENT

The bill would amend Article 9 of the Uniform Commercial Code, which governs secured transactions, to do the following:

- Make it a felony (punishable by up to five years' imprisonment and/or a maximum fine of \$2,500) for a person to file a false or fraudulent financing statement.
- Require the Secretary of State to give notice to an individual who was named as a debtor on a financing statement.
- Allow a debtor named in a false or fraudulent financing statement to bring an action against the person who filed it.
- Set a fee of \$15 for filing and indexing a record, and eliminate the current fee of \$10 plus additional amounts for particular records.
- Waive the fee for an individual debtor filing a correction statement.

The bill would take effect on January 1, 2005, and is tie-barred to Senate Bill 1260 (which would include the proposed felony in the sentencing guidelines.)

MCL 440.9501 & 440.9525

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The \$5 increase in the fee for filing and indexing a record would generate approximately \$890,000 annually. The elimination of fees for particular records and certificates would result in the annual loss of approximately \$20,000. The Department of State would incur indeterminate costs related to notifications required under the bill. The fee increases would cover additional costs, subject to annual appropriations.

The proposed 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 the proposed felony offense. Offenders would receive a sentencing guidelines minimum sentence recommendation from 0-3 months to 24-38 months. Local units of government would incur the costs of intermediate sanctions or incarceration in a local facility, both of which vary by county. The State would incur the costs of felony probation at an average annual cost of \$1,800, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000. Public libraries would benefit from any additional penal fine revenue.

Date Completed: 6-8-04

Fiscal Analyst: Bill Bowerman/Bethany Wicksall

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

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