

BILL ANALYSIS

Senate Research Center

S.B. 1699
By: Fraser
Business & Commerce
9/1/2009
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, there is a lack of uniformity about filing requirements for certain transactions with the office of the secretary of state (SOS). Consistency among similar statutes administered by the same division at SOS eases the public's burden of compliance as well as the burden of administration for SOS.

S.B. 1699 amends provisions relating to certain filings with the office of the secretary of state.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 9.525(a) and (b), Business & Commerce Code, as follows:

(a) Provides that, except as otherwise provided in Subsections (b), (e) (relating to a fee with respect to a record of a mortgage), and (f) (relating to the fee for filing, indexing, and furnishing filing data), the fee for filing and indexing a record under this subchapter is a certain amount based on the medium and length of the record communication. Deletes existing text providing that an initial financing statement of the kind described in Subsection (b) is an exception to the fees under this subsection.

(b) Provides that except as otherwise provided in Subsection (e), the fee for filing and indexing an initial financing statement of certain kinds is \$60 if the debtor is a transmitting utility.

SECTION 2. Amends Section 9.526(b), Business & Commerce Code, to require the Secretary of State (SOS), to keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this subchapter, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this subchapter, so far as is consistent with the purposes, policies, and provisions of this chapter, in adopting, amending, and repealing filing-office rules, to consult the most recent version of the Model Administrative Rules promulgated by the International Association of Commercial Administrators, rather than the International Association of Corporation Administrators.

SECTION 3. Amends Section 9.527, Business & Commerce Code, to make a conforming change.

SECTION 4. Amends Section 261.009(b), Business & Commerce Code, to provide that the amount of the fee for a certificate under this section is the same as the amount of the fee provided by Section 9.525(d) (relating to the fee for responding to a request for information from the filing office), rather than \$10, if the request for the certificate is in the standard form prescribed by SOS, or \$25, if the request is not in the standard form.

SECTION 5. Amends Section 261.010(b), Business & Commerce Code, to provide that the fee for a copy under this section is in the amount provided by Section 405.031 (General Fees),

Government Code, rather than \$1.50 per page, but not less than \$5 or more than \$100 for each request concerning a particular utility.

SECTION 6. Amends Section 128.031(b), Agriculture Code, to provide that the amount of the fee for a certificate under Subsection (a) is the same as the amount of the fee provided by Section 9.525(d), Business & Commerce Code. Deletes existing text requiring that the fee for a certificate under Subsection (a) be established by SOS in an amount necessary to cover the cost of administering this section.

SECTION 7. Amends Section 128.032(b), Agriculture Code, to provide that the fee for a copy of a notice of claim of lien obtained under Subsection (a) is in the amount provided by Section 405.031, Government Code. Deletes existing text requiring that the fee for a copy of a notice of claim of lien obtained under Subsection (a) be established by SOS in an amount necessary to cover the cost of administering this section.

SECTION 8. Amends Section 188.031(b), Agriculture Code, to provide that the amount of the fee for a certificate under Subsection (a) is the same amount as the amount of the fee provided by Section 9.525(d), Business & Commerce Code. Deletes existing text requiring that the fee for a certificate under Subsection (a) be established by SOS in an amount necessary to cover the cost of administering this section.

SECTION 9. Amends Section 188.032(b), Agriculture Code, to provide that the fee for a copy of a notice of claim of lien obtained under Subsection (a) is the amount provided by Section 405.031, Government Code. Deletes existing text requiring that the fee for a copy of a notice of claim of lien obtained under Subsection (a) be established by SOS in an amount necessary to cover the cost of administering this section.

SECTION 10. Amends Section 14.004, Property Code, by amending Subsection (d) and adding Subsection (e), as follows:

(d) Requires the filing officer, upon request of any person, to issue his certificate showing whether there is on file, on a date and time specified by the filing office, but not a date earlier than three business days before the date the filing office receives the request, rather than on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this chapter or filed under the Uniform Federal Tax Lien Registration Act (Subchapter C, Chapter 113, Tax Code) on or after January 1, 1972, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. Provides that the amount of the fee for a certificate is the same as the amount of the fee provided by Section 9.25(d), Business & Commerce Code, rather than \$10. Provides that the fee for a copy furnished under this section is in the amount provided by Section 405.031, Government Code. Deletes existing text providing that a notice or certificate affecting a federal lien shall be furnished for a fee of \$1.50 per page.

(e) Provides that Section 9.523 (Information from Filing Office; Sale or License of Records), Business & Commerce Code, applies to a federal lien filed under this chapter.

SECTION 11. Effective date: September 1, 2009.