

# Fiscal Note & Local Impact Statement

124<sup>th</sup> General Assembly of Ohio

Ohio Legislative Service Commission  
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**BILL:** **Am. Sub. S.B. 74** **DATE:** **June 6, 2001**

**STATUS:** **As Enacted – Effective June 19, 2001** **SPONSOR:** **Sen. Blessing**  
**(Section 1 and 2 effective July 1, 2001)**

**LOCAL IMPACT STATEMENT REQUIRED:** **Yes**

**CONTENTS:** **Adopts revisions to Article 9, the secured transactions portion of the Uniform Commercial Code (UCC), that were recommended by the National Conference of Commissioners on Uniform State Laws; and declares an emergency**

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## State Fiscal Highlights

STATE FUND	FY 2002	FY 2003	FUTURE YEARS
<b>Corporate and Uniform Commercial Code Filing Fund (CUCCF)</b>			
Revenues	Gain from filing fees	Gain from filing fees	Gain from filing fees
Expenditures	Increase of approximately \$1.1 million or more	Potential increase	Potential increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2002 is July 1, 2001 – June 30, 2002.

- Increases fees for filing and indexing records and furnishing data in the Secretary of State's office.
- Secretary of State's expenses of approximately \$1.1 million for outsourced system upgrades to the SOS's filing system, making it compliant with the requirements proposed in SB 74.
- Unknown expenses to the Secretary of State for staff training and/or possible increase in staff necessitated by the provisions of SB 74.
- The bill outlines a method for the Secretary of State to reimburse county recorders in all 88 counties on a graduated scale for loss of revenue based on the UCC filings that each county filed in 1998.



## *Local Fiscal Highlights*

<b>LOCAL GOVERNMENT</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FUTURE YEARS</b>
<b>Counties</b>			
Revenues	Loss of revenue, partially offset by state reimbursement	Loss of revenue, partially offset by state reimbursement	Loss of revenue, partially offset by state reimbursement
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Loss of revenue to county recorders as a result of the elimination of most county lien filings. For the year 2000, on the county level, Ohio had approximately 270,000 UCC filings with statewide county revenue of \$2.5 million.
- Counties will be reimbursed by the Secretary of State based on the following percentages: 50% in state FY 2002, 40% in state FY 2003, 30% in state FY 2004, 20% in state FY 2005, and 10% in state FY 2006.

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## *Detailed Fiscal Analysis*

Article 9 of the Uniform Commercial Code involves secured transactions such as mortgages on loans involving collateral. As of 1999, 32 states had adopted Article 9.

### **Fiscal and Operational Impact on Secretary of State**

The Secretary of State will realize the following impacts from SB 74:

1.       **Two-day processing time.** The two-day turnaround timeline for entry of filing data at the Secretary of State could create a need for staff training and/or increase in staff number. Failure to adhere to the two-day processing time could result in civil liability to the Secretary of State's office.
2.       **Information Technology operating system upgrades.** Of the two basic types of searches, uncertified and certified, the revised certified search procedures proposed in SB 74 could cause the Secretary of State's current operating systems to need one-time adjustments and upgrades so that search results comply with legislated rules. Estimated costs to the Secretary of State amount to approximately \$1.1 million to bring the SOS's systems into compliance with Revised Article 9, as proposed in SB 74. Part of the upgrades would include modifications for weeding out bogus lien filings.
3.       **Increased workload to Secretary of State.** Four additional filings are proposed for addition to those already accepted by the Secretary of State. Two of these filings constitute (a) the transfer of all *original* agriculture lien filings, which are currently filed with county recorders, to the Secretary of State's filing system, and (b) the *removal* of the original agriculture lien filings when the original liens are paid off, which are also currently filed with the county Recorders. These two combined agricultural lien filings equal nearly 100,000 filings per year. This number is estimated to increase by approximately 5% in future years.
4.       **Production of records for sale in every medium and in bulk.** The Secretary of State may experience an increase in requests for records and subsequent increase in costs if records are made available for sale in *every* medium versus the current cost-effective CD-ROM availability of records, especially considering the reproduction costs of images. Under current law, the SOS may only charge "actual cost" for records. The additional volume in requests could add unrecoverable costs for processing and human resources. Likewise, filling requests for bulk quantities would add expenses to the Secretary of State's budget.
5.       **Reimbursement costs to county recorders.** The Secretary of State's graduated reimbursement of lost revenue associated with filings to the county recorders would constitute an expense to the Secretary of State. The reimbursable amount is not funded by the provisions of the proposed legislation and expenses to the Secretary

of State would accrue from the administrative costs and information technology costs associated with the assumption of these filings, as discussed in item 3.

6. **Increases in filing and indexing fees.** The bill generally increases the fees for filing and indexing a record, and furnishing filing data in the office of the Secretary of State in conformity with the fee structure in Am. Sub. H.B. 94.
- The fee for filing and indexing a record under R.C. 1309.501 to 1309.527 is \$12.
  - The fee for responding to a request from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor is \$20 if the request is communicated in writing and \$20 if the request is communicated by another medium authorized by the filing office rule.
  - The fee is \$5 if the request is limited to communicating only whether there is on file any financing statement naming a particular debtor and the name of the secured party on record relating to the statement.

### **Fiscal and Operational Impact on County Recorders**

1. **Reduction in workload.** Fewer filings would be processed at the county level (county recorder) due to the transfer of all filings for both the *original* and *removal* agricultural liens to the Secretary of State's filing system.
2. **Decrease in revenue.** The county recorder would lose filing fee revenue. These losses would be partially reimbursed by the Secretary of State based on a graduated percentage of revenue lost to individual counties as a result of the transfer of filings.

### **Unknown Factors**

The volume of revenue from filing fees that would be paid for corporations domiciled out of state, but that maintain their physical plant in Ohio is an unknown number. These filing fees fall under the UCC category, but are not based upon the number of companies. Rather, filing numbers are based upon the volume of secured transactions. There is no way to determine the number of corporations whose physical plant is outside Ohio with domicile in Ohio compared to those companies whose physical plant is in Ohio with domicile outside Ohio. Since SB 74 proposed doubling the filing fee for this UCC type of filing from its current \$9 per filing, an increase in revenue would be realized, but the amount is unknown.

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