

1 HB178
2 173076-2
3 By Representative Hill (M)
4 RFD: Ways and Means General Fund
5 First Read: 11-FEB-16

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8 SYNOPSIS: Under existing law, funds deposited in the
9 Uniform Commercial Code Fund must be expended for
10 the purpose of carrying out the provisions of law
11 authorizing the collection of the funds; funds in
12 the Secretary of State's Information Bulk Sales
13 Fund may be used for any purpose; and funds in the
14 Secretary of State Entity Fund may be used for any
15 purpose, provided the funds are allotted and
16 budgeted in accordance with law.

17 This bill would authorize the Uniform
18 Commercial Code Fund, the Secretary of State's
19 Information Bulk Sales Fund, and the Secretary of
20 State Entity Fund to be used for the administration
21 of the Office of the Secretary of State.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 Relating to the Office of the Secretary of State; to
2 amend Sections 7-9A-523, 7-9A-525, and 10A-1-4.31 Code of
3 Alabama 1975, by authorizing the Uniform Commercial Code Fund,
4 the Secretary of State's Information Bulk Sales Fund, and the
5 Secretary of State Entity Fund to be used for the
6 administration of the Office of the Secretary of State.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 7-9A-523, 7-9A-525, and
9 10A-1-4.31 of the Code of Alabama 1975, are amended to read as
10 follows:

11 "§7-9A-523.

12 "(a) Acknowledgment of filing written record. If a
13 person that files a written record requests an acknowledgment
14 of the filing, the filing office shall send to the person an
15 image of the record showing the number assigned to the record
16 pursuant to Section 7-9A-519(a)(1) and the date and time of
17 the filing of the record. However, if the person furnishes a
18 copy of the record to the filing office, the filing office may
19 instead:

20 "(1) note upon the copy the number assigned to the
21 record pursuant to Section 7-9A-519(a)(1) and the date and
22 time of the filing of the record; and

23 "(2) send the copy to the person.

24 "(b) Acknowledgment of filing other record. If a
25 person files a record other than a written record, the filing
26 office shall communicate to the person an acknowledgment that
27 provides:

1 "(1) the information in the record;

2 "(2) the number assigned to the record pursuant to
3 Section 7-9A-519(a) (1); and

4 "(3) the date and time of the filing of the record.

5 "(c) Communication of requested information. The
6 filing office shall communicate or otherwise make available in
7 a record the following information to any person that requests
8 it:

9 "(1) whether there is on file on a date and time
10 specified by the filing office, but not a date earlier than
11 three business days before the filing office receives the
12 request, any financing statement that:

13 "(A) designates a particular debtor or, if the
14 request so states, designates a particular debtor at the
15 address specified in the request;

16 "(B) has not lapsed under Section 7-9A-515 with
17 respect to all secured parties of record; and

18 "(C) if the request so states, has lapsed under
19 Section 7-9A-515 and a record of which is maintained by the
20 filing office under Section 7-9A-522(a);

21 "(2) the date and time of filing of each financing
22 statement; and

23 "(3) the information provided in each financing
24 statement.

25 "(d) Medium for communicating information. In
26 complying with its duty under subsection (c), the filing
27 office may communicate information in any medium. However, if

1 requested, the filing office shall communicate information by
2 issuing its written certificate.

3 "(e) Timeliness of filing office performance. The
4 filing office shall perform the acts required by subsections
5 (a) through (d) at the time and in the manner prescribed by
6 filing-office rule. The filing office should perform the
7 required acts within a reasonable period of time, and after
8 January 1, 2003, not later than two business days after the
9 filing office receives the request.

10 "(f) Public availability of records. The Secretary
11 of State shall adopt a rule pursuant to the Alabama
12 Administrative Procedure Act which provides a procedure and
13 reasonable fees for the sale or licensing to the public on a
14 nonexclusive basis, in bulk, of copies of all records filed in
15 the office of the Secretary of State under this part. There is
16 hereby created in the State Treasury a fund to be known as the
17 Secretary of State's Information Bulk Sales Fund. Section
18 7-9A-525 or any other law to the contrary notwithstanding, all
19 funds, fees, charges, costs and collections accruing to or
20 collected by the office of the Secretary of State under the
21 provisions of this section shall be deposited into the State
22 Treasury to the credit of this fund and ~~shall not be expended~~
23 ~~for any purpose whatsoever unless the same shall~~ may be
24 expended for any purpose whatsoever related to the
25 administration of the Office of the Secretary of State as
26 determined by the Secretary of State, provided the funds have
27 been allotted and budgeted in accordance with the provisions

1 of Article 4 of Chapter 4 of Title 41, and only in the amounts
2 and for the purposes provided by the Legislature in the
3 general appropriation bill or this section.

4 "(g) The Secretary of State shall develop and
5 implement a central indexing system containing the information
6 filed with his or her office pursuant to subsection (f) of
7 Section 7-9A-320. Under this system, the Secretary of State
8 shall record the date and time of filing and compile the
9 information into a master list organized according to farm
10 products. The list shall be organized within each farm product
11 category in alphabetical order according to the last name of
12 the debtor, or in the case of debtors doing business other
13 than as individuals, the first word in the name of such
14 debtor, in numerical order according to the Social Security or
15 taxpayer identification number of the debtor, geographically
16 by county, and by crop year. The master list also shall
17 contain the name and address of the secured party, the name
18 and address of the debtor, a description of the farm products,
19 including amount where applicable, subject to the security
20 interest and a reasonable description of the real estate,
21 including the county, where the farm products are located.

22 "(h) The Secretary of State shall maintain a list of
23 all buyers of farm products, commission merchants, and selling
24 agents who register with the Secretary of State indicating an
25 interest in receiving the lists described in subsection (i).

26 "(i) The Secretary of State shall distribute at
27 regular intervals as determined by him or her, to each buyer,

1 commission merchant, and selling agent registered under
2 subsection (h) a copy in written or printed form or, if
3 elected by the buyer, commission merchant, or selling agent in
4 accordance with procedures established by the Secretary of
5 State, in electronic form, of those portions of the master
6 list which the buyer, commission merchant, or selling agent
7 has indicated an interest in receiving. The charge for a
8 printed copy of the entire or any portion of the master list
9 and any supplements to that list shall be a fee established by
10 the Secretary of State of up to twenty-five cents (\$.25) per
11 page, but no buyer, commission merchant, or selling agent
12 shall be obligated to pay more than two thousand dollars
13 (\$2,000) per year in charges for a printed copy of each
14 distributed master list or portion thereof. The charge for
15 receiving the entire or any portion of the master list in
16 electronic form shall be a fee established by the Secretary of
17 State of up to one hundred dollars (\$100) annually.

18 "(j) Upon request of any person, the Secretary of
19 State shall provide, within 24 hours, an oral confirmation of
20 whether there is on file, on the date and hour stated, any
21 presently effective financing statement naming a particular
22 debtor to be followed by a written confirmation. The fee for
23 confirming an oral search shall be twenty dollars (\$20) plus
24 two dollars (\$2) for each financing statement and for each
25 statement of assignment reported therein.

26 "§7-9A-525.

1 "(a) Initial financing statement or other record:
2 General rule. Except as otherwise provided in subsection (e),
3 and except that no filing fee is required for the filing of a
4 termination statement pursuant to Section 7-9A-513, the fee
5 for filing and indexing a record under this part is:

6 "(1) ~~\$20.00~~ Twenty dollars (\$20) if the record is
7 communicated in writing and consists of one or two pages;

8 "(2) ~~\$20.00~~ Twenty dollars (\$20) plus ~~\$2.00~~ two
9 dollars (\$2) for each page more than two if the record is
10 communicated in writing and consists of more than two pages;
11 and

12 "(3) ~~\$15.00~~ Fifteen dollars (\$15) if the record is
13 communicated by another medium authorized by filing-office
14 rule.

15 "(b) Initial financing statement:
16 Manufactured-housing transactions: Section 7-9A-502(c). Except
17 as otherwise provided in subsection (c), the fee for filing
18 and indexing an initial financing statement of the kind
19 described in Section 7-9A-502(c) is ~~\$10.00~~ ten dollars (\$10)
20 if the financing statement indicates that it is filed in
21 connection with a manufactured-home transaction.

22 "(c) Number of names. The number of names required
23 to be indexed does not affect the amount of the fee in
24 subsection (a) or (b) of this section.

25 "(d) Response to information request. The fee for
26 responding to a request for information from the filing
27 office, including for issuing a certificate showing whether

1 there is on file any financing statement naming a particular
2 debtor, is:

3 "(1) ~~\$20.00~~ Twenty dollars (\$20) if the request is
4 communicated in writing; and

5 "(2) ~~\$15.00~~ Fifteen dollars (\$15) if the request is
6 communicated by another medium authorized by filing-office
7 rule.

8 "The fees described in subdivisions (1) and (2)
9 shall apply to each debtor named submitted in the request
10 where the request seeks information on more than one debtor.
11 An additional fee of ~~\$100.00~~ one hundred dollars (\$100) shall
12 be required where the request for information requests
13 expedited response by the Secretary of State.

14 "(e) Record of mortgage. This section does not
15 require a fee with respect to a mortgage which is effective as
16 a financing statement filed as a fixture filing or as a
17 financing statement covering as-extracted collateral or timber
18 to be cut under Section 7-9A-502(c). However, the recording
19 and satisfaction fees that otherwise would be applicable to
20 the mortgage apply.

21 "(f) Use of non-standard form. A fee of ~~\$5.00~~ five
22 dollars (\$5) shall be required in addition to the fees set
23 forth in subsections (a), (b), and (d) where the filing or
24 request is submitted in a non-standard form.

25 "(g) Proration of fees.

26 "(1) If the first mailing address of the debtor or
27 debtors on the initial finance statement is located in a

1 county in Alabama, ~~\$5.00~~ five dollars (\$5) of the filing fee
2 associated with the filing of the financing statement in the
3 office of the Secretary of State shall be rebated to the
4 probate judge of the county where the address is located. This
5 rebate shall begin January 1, 2002, and lapse after December
6 31, 2011.

7 "(2) The balance of the fee shall be paid to the
8 General Fund of the State of Alabama, a portion to be
9 allocated to the office of the Secretary of State as provided
10 in subsection (j).

11 "(h) Uniform Commercial Code Fund. There is hereby
12 created in the State Treasury a fund to be known and
13 designated as the Uniform Commercial Code Fund. All funds,
14 fees, charges, costs, and collections accruing to or collected
15 by the office of the Secretary of State under the provisions
16 of this section, except fees rebated to probate judges
17 pursuant to subsection (g), shall be deposited into the State
18 Treasury to the credit of the Uniform Commercial Code Fund
19 except as provided in subsection (j).

20 "(i) Use of funds. All funds now or hereafter
21 deposited in the State Treasury to the credit of the Uniform
22 Commercial Code Fund shall be expended for the purpose of
23 carrying out the provisions of the law authorizing the
24 collection of such funds and shall be payable from said fund
25 on the requisition of the Secretary of State; provided,
26 however, commencing in the fiscal year beginning October 1,
27 ~~2003~~ 2016, and in subsequent fiscal years, ~~no funds shall be~~

1 ~~withdrawn nor expended for any purpose whatsoever unless the~~
2 ~~same shall~~ and in addition to the authority herein conferred,
3 funds may be expended for any purpose whatsoever related to
4 the administration of the Office of the Secretary of State as
5 determined by the Secretary of State, provided the funds have
6 been allotted and budgeted in accordance with the provisions
7 of Article 4 of Chapter 4 of Title 41, and only in the amounts
8 and for the purposes provided by the Legislature in the
9 general appropriation bill.

10 "(j) Allocation of fees. ~~From July 1, 2001, through~~
11 ~~December 31, 2001, 81 percent of all fees collected in~~
12 ~~accordance with this section by the Secretary of State shall~~
13 ~~be deposited to the credit of the State General Fund for the~~
14 ~~credit of the Secretary of State to use for the implementation~~
15 ~~of this article. There shall be no change in fees collected by~~
16 ~~the office of the judge of probate from July 1, 2001, through~~
17 ~~December 31, 2001.~~

18 "~~From January 1, 2002, through September 30, 2002,~~
19 ~~and in subsequent fiscal years, 81~~ Eighty-one percent of total
20 funds collected in accordance with this section or any fees
21 collected in direct relation to the Uniform Commercial Code
22 during that period shall be deposited to the credit of the
23 State General Fund.

24 "§10A-1-4.31.

25 "(a) The judge of probate or the Secretary of State,
26 as the case may be, shall collect the following fees when the

1 filing instruments described in this title are delivered to
2 him or her for filing:

	FEE FOR STATE OF	FEE FOR THE JUDGE OF
	ALABAMA	PROBATE
3 "FILING INSTRUMENT		
4		
5 "(1) Certificate of forma-		
6 tion and restated certifi-		
7 cate of formation	\$100	\$50
8 "(2) Amendment to certifi-		
9 cate of formation	\$50	\$25
10 "(3) Name reservations		
11 "A. less than 24 hours	\$25	No fee
12 "B. 24 hours or more	\$10	No fee
13 "(4) Certificate of termi-		
14 nation	\$100	\$50
15 "(5) Certificate of		
16 merger; articles of con-		
17 solidation or share ex-		
18 change	\$100	\$50
19 "(6) Foreign entity regis-		
20 tration including regis-		
21 tration of foreign limited		
22 liability partnership	\$150	No fee
23 "(7) Certificate of exis-		

1	tence		
2	"A. Less than 24 hours	\$25	No fee
3	"B. 24 hours or more	\$10	No fee
4	"(8) Registered limited		
5	liability partnership		
6	registration	\$100	\$50
7	"(9) Registered limited		
8	liability partnership an-		
9	nual report	\$100	No fee
10	(10) Partnership statement		
11	(filing or certifying)	\$25	\$25
12	(11) Any other filing in-		
13	strument required or per-		
14	mitted to be filed under		
15	this title	\$25	\$25

16 "(b) When appropriate, two checks shall accompany a
17 filing instrument delivered to the judge of probate or the
18 Secretary of State for filing, one payable to the judge of
19 probate for all charges for the judge of probate, and one
20 payable to the State of Alabama covering all charges for the
21 Secretary of State. In the case of any filing instrument
22 delivered for filing to the judge of probate accompanied by a
23 check for the charges for the Secretary of State, the check
24 for the Secretary of State shall be forwarded by the judge of

1 probate to the Secretary of State. In the case of any filing
2 instrument delivered for filing to the Secretary of State
3 accompanied by a check for the judge of probate, the check for
4 the judge of probate shall be forwarded by the Secretary of
5 State to the judge of probate.

6 "(c) There is hereby established in the State
7 Treasury a fund to be known and designated as the Secretary of
8 State Entity Fund. All funds, fees, charges, costs, and
9 collections accruing to or collected by the Secretary of State
10 under the foregoing provisions of this section or any other
11 fees collected by the Secretary of State relating to entities
12 shall be deposited into the State Treasury to the credit of
13 the Secretary of State Entity Fund except as so provided in
14 subsection (e).

15 "(d) All funds now or hereafter deposited in the
16 State Treasury to the credit of the Secretary of State Entity
17 Fund ~~shall not be expended for any purpose whatsoever unless~~
18 ~~the same shall~~ may be expended for any purpose whatsoever
19 related to the administration of the Office of the Secretary
20 of State as determined by the Secretary of State, provided the
21 funds have been allotted and budgeted in accordance with the
22 provisions of Article 4 of Chapter 4 of Title 41, and only in
23 the amounts and for the purposes provided by the Legislature
24 in the general appropriation bill or this section.

25 "(e) Seventy percent of funds collected by the
26 Secretary of State in relation to entities during the fiscal

1 year shall be deposited to the credit of the State General
2 Fund.

3 "(f) The fees herein imposed for the office of the
4 judge of probate shall be charged and paid into the
5 appropriate county treasury or to the judge of probate as may
6 be authorized or required by law.

7 "(g) The Secretary of State shall collect the
8 following fees for copying and certifying the copy of any
9 filing instrument relating to a domestic or foreign entity:

10 "(1) One dollar fifty cents (\$1.50) a page for
11 copying; and

12 "(2) Five dollars (\$5) for the certificate.

13 "(h) The judge of probate shall collect the
14 following fees for copying and certifying the copy of any
15 filing instrument relating to an entity:

16 "(1) One dollar fifty cents (\$1.50) a page for
17 copying; and

18 "(2) Five dollars (\$5) for the certificate.

19 "(i) For requests of immediate expedition of
20 documents to be obtained in less than 24 hours, other than
21 name reservations and certificates of existence, by the
22 Secretary of State regarding document filings, certifications,
23 and certificates in addition to required fees, a one hundred
24 dollar (\$100) surcharge shall be imposed."

25 Section 2. This act shall become effective
26 immediately following its passage and approval by the
27 Governor, or its otherwise becoming law.

