

House Bill 3472

Sponsored by Representative HOLVEY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Increases fees for specified business registry filings, Uniform Commercial Code secured transaction record filings and applications for notary public commissions.

Creates Secretary of State Technology Account. Requires that portion of increased fees be deposited in account. Continuously appropriates amounts in account to Secretary of State for purpose of improving electronic services provided by Secretary of State to public.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to fees collected by Secretary of State; creating new provisions; amending ORS 56.041, 56.140, 79.0525 and 194.020; appropriating money; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

Be It Enacted by the People of the State of Oregon:

BUSINESS REGISTRY FILINGS

SECTION 1. ORS 56.140 is amended to read:

56.140. (1) **The Secretary of State shall collect a nonrefundable fee of \$75 for each of the following documents delivered to the Secretary of State for filing:**

(a) **Articles of incorporation delivered for filing under ORS 60.051.**

(b) **Articles of organization delivered for filing under ORS 63.051.**

(c) **Annual reports delivered for filing under ORS 60.787 and 63.787 by domestic corporations or by domestic limited liability companies, as those terms are defined in ORS 60.001.**

(2) **The Secretary of State shall collect a nonrefundable fee of \$150 for each of the following documents delivered to the Secretary of State for filing:**

(a) **Applications for authority to transact business in this state delivered under ORS 60.707 and 63.707.**

(b) **Annual reports delivered for filing under ORS 60.787 and 63.787 by foreign corporations or by foreign limited liability companies, as those terms are defined in ORS 60.001.**

[(1)] (3) **For documents other than those specified in subsections (1) and (2) of this section, the Secretary of State shall collect a nonrefundable fee of \$50 for each document delivered for filing to the Secretary of State as part of the secretary's business registry functions described in ORS 56.022.**

[(2)] (4) The Secretary of State by rule may establish fees, in addition to those provided for in *[subsection (1)]* **subsections (1), (2) and (3)** of this section, for:

(a) Copying any public record maintained by the secretary and relating to the secretary's business registry functions, and for certifying the copy; and

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) Certifying to other facts of record, including certificates of existence, relating to the secre-
 2 tary's business registry functions.

3 [(3)] (5) The Secretary of State shall collect a nonrefundable fee of \$20 each time process **that**
 4 **is related to the Secretary of State's business registry functions** is served on the Secretary of
 5 State [*and the process relates to the secretary's business registry functions*].

6 [(4)] (6) The Secretary of State may waive collection of any fee, charge or interest[,] or portion
 7 of a fee, charge or interest[,] that is collectible by the Secretary of State as part of the secretary's
 8 business registry functions.

9 [(5)] (7) The Secretary of State by rule shall establish and collect reasonable fees for the fol-
 10 lowing services relating to the secretary's business registry functions:

11 (a) Computer generated lists on electronic data processing media.

12 (b) Terminal access to the files of the office.

13 (c) Microfilm records of the files of the office.

14 (d) Microfilm processing and development services.

15 (e) Copies of the programs and files on paper or electronic data processing media.

16 **SECTION 2. The amendments to ORS 56.140 by section 1 of this 2009 Act apply only to**
 17 **documents filed with the Secretary of State on or after the effective date of this 2009 Act.**

18 **SECTION 3.** ORS 56.041 is amended to read:

19 56.041. (1) The Operating Account is established in the General Fund of the State Treasury.

20 (2) The net amount accruing to the Secretary of State from all fees, charges, interest, fines,
 21 penalties and miscellaneous revenues from all sources relating to business registry functions, and
 22 moneys received by the Secretary of State under ORS chapters 79 and 194 and ORS 80.100 to 80.130,
 23 87.246, 87.767 and 87.806 to 87.831 shall, after deduction of refunds, be paid over to the State
 24 Treasurer and deposited at least monthly in the Operating Account.

25 (3) Moneys deposited to the credit of the Operating Account are continuously appropriated to
 26 **the Secretary of State** for the expenses of carrying out the functions and duties of the Secretary
 27 of State relating to business registry, and the functions and duties of the Secretary of State under
 28 ORS chapters 79 and 194 and ORS 80.100 to 80.130, 87.246, 87.767 and 87.806 to 87.831.

29 [(4) *At the end of each month:*]

30 [(a) *The Secretary of State shall determine for that month the number of business registry filings*
 31 *for which the Secretary of State collected the fee described in ORS 56.140; and]*

32 [(b) *An amount equal to \$30 for each business registry filing described in paragraph (a) of this*
 33 *subsection shall be transferred to the General Fund and shall become available for general govern-*
 34 *mental expenses.*]

35 **(4) At the end of each month, the Secretary of State shall determine the number of**
 36 **business registry filings for which the Secretary of State collected fees under ORS 56.140**
 37 **during the month. From those fees, the Secretary of State shall:**

38 **(a) Deposit in the General Fund an amount equal to \$30 for each business registry filing**
 39 **for which a fee was collected during the month under ORS 56.140; and**

40 **(b) Deposit in the Secretary of State Technology Account an amount equal to \$6 for each**
 41 **business registry filing for which a fee was collected during the month under ORS 56.140.**

42 (5) As of July 1 of each year, any unexpended and unobligated balance in the Operating Account
 43 that is in excess of the amount that is necessary to administer the functions and duties of the Sec-
 44 retary of State as described in subsection (3) of this section for two months, as certified by the
 45 Secretary of State, shall be transferred to the General Fund and shall become available for general

1 governmental expenses.

2 **SECTION 4. The amendments to ORS 56.041 by section 3 of this 2009 Act first apply to**
3 **the first full calendar month following the effective date of this 2009 Act.**

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5 **UNIFORM COMMERCIAL CODE FILINGS**

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7 **SECTION 5.** ORS 79.0525 is amended to read:

8 79.0525. (1) Except as otherwise provided in subsection (4) of this section, the nonrefundable fee
9 for filing and indexing a record under ORS 79.0501 to 79.0528 may not exceed [~~\$10~~] **\$15.**

10 (2) The number of names required to be indexed does not affect the amount of the fee in sub-
11 section (1) of this section.

12 (3) The nonrefundable fee for responding to a request for information from the filing office, in-
13 cluding for communicating whether there is on file any financing statement naming a particular
14 debtor, may not exceed:

15 (a) \$10 for each distinct debtor name to be searched;

16 (b) \$5 for copies of Uniform Commercial Code documents relating to each distinct debtor name
17 to be searched, in addition to the fee in paragraph (a) of this subsection; and

18 (c) \$5 for each request by document number for copies of Uniform Commercial Code documents.

19 (4) This section does not require a fee with respect to a record filed or recorded in the filing
20 office described in ORS 79.0501 (1)(a). However, the recording and satisfaction fees that otherwise
21 would be applicable to the record apply.

22 (5) The Secretary of State shall adopt rules prescribing fees for providing summaries and com-
23 pilations that are not debtor specific and for providing copies of records, as described in ORS
24 79.0523 (6), that are not debtor specific.

25 **(6) At the end of each month, the Secretary of State shall determine the number of re-**
26 **records filed and indexed during the month under ORS 79.0501 to 79.0528 for which the Secre-**
27 **tary of State collected a fee under subsection (1) of this section. From those fees the**
28 **Secretary of State shall deposit in the Secretary of State Technology Account \$5 for each**
29 **record filed and indexed during the month under ORS 79.0501 to 79.0528.**

30 **SECTION 6. (1) The amendments to ORS 79.0525 (1) by section 5 of this 2009 Act apply**
31 **only to records filed under ORS 79.0501 to 79.0528 on or after the effective date of this 2009**
32 **Act.**

33 **(2) ORS 79.0525 (6) first applies to the first full calendar month following the effective**
34 **date of this 2009 Act.**

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36 **NOTARY COMMISSION APPLICATIONS**

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38 **SECTION 7.** ORS 194.020 is amended to read:

39 194.020. (1) To defray costs incurred by the Secretary of State to process the application made
40 under ORS 194.014, each applicant for appointment as a notary public shall pay in advance to the
41 Secretary of State a nonrefundable application fee not to exceed [~~\$20~~] **\$40.**

42 (2) Any fee received by the Secretary of State under subsection (1) of this section shall be de-
43 posited in the State Treasury and credited to the Operating Account under ORS 56.041, and is in
44 lieu of any fee charged under ORS 177.130.

45 **(3) At the end of each month, the Secretary of State shall determine the number of ap-**

1 applications made during the month under ORS 194.014 for which the Secretary of State col-
2 lected a fee under subsection (1) of this section. From those fees the Secretary of State shall
3 deposit in the Secretary of State Technology Account \$20 for each application made during
4 the month under ORS 194.014.

5 SECTION 8. (1) The amendments to ORS 194.020 (1) by section 7 of this 2009 Act apply
6 only to applications made under ORS 194.014 on or after the effective date of this 2009 Act.

7 (2) ORS 194.020 (3) first applies to the first full calendar month following the effective
8 date of this 2009 Act.

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10 **SECRETARY OF STATE TECHNOLOGY ACCOUNT**

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12 SECTION 9. (1) The Secretary of State Technology Account is established in the General
13 Fund. The account consists of moneys deposited in the account under ORS 56.041 (4), 79.0525
14 (6) and 194.020 (3).

15 (2) All moneys in the Secretary of State Technology Account are continuously appropri-
16 ated to the Secretary of State for the purpose of improving electronic services provided by
17 the Secretary of State to the public.

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19 **UNIT CAPTIONS**

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21 SECTION 10. The unit captions used in this 2009 Act are provided only for the conven-
22 ience of the reader and do not become part of the statutory law of this state or express any
23 legislative intent in the enactment of this 2009 Act.

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25 **EFFECTIVE DATE**

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27 SECTION 11. This 2009 Act takes effect on the 91st day after the date on which the
28 regular session of the Seventy-fifth Legislative Assembly adjourns sine die.

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