

ENGROSSED LEGISLATIVE BILL 835

Introduced by Jacobson, 42.

A BILL FOR AN ACT relating to the Secretary of State; to amend sections 52-1001, 52-1003, 52-1312, 52-1313, and 52-1602, Reissue Revised Statutes of Nebraska, sections 33-101 and 77-3903, Revised Statutes Cumulative Supplement, 2024, and sections 9-523 and 9-525, Uniform Commercial Code, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to fees, notices of liens under the Uniform Federal Lien Registration Act and the Uniform State Tax Lien Registration and Enforcement Act, the central filing system, effective financing statements, the master lien list, and filed records under the Uniform Commercial Code; to harmonize provisions; to repeal the original sections; and to outright repeal section 52-1313.01, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 33-101, Revised Statutes Cumulative Supplement, 2024, is amended to read:

33-101 There shall be paid to the Secretary of State the following fees:

(1) For requesting a certificate or exemplification with seal, a nonrefundable fee of ten dollars;

(2) For copies of records, for each page, a fee of one dollar;

(3) For accessing business entity records by electronic means:

(a) For batch requests of business entity information, fifteen dollars for up to one thousand business entities accessed and an additional fifteen dollars for each additional one thousand business entities accessed over one thousand;

(b) For an electronically transmitted certificate indicating whether a business is properly registered with the Secretary of State and authorized to do business in the state, six dollars and fifty cents;

(c) For the entire contents of the database regarding business entities,

but excluding electronic images, three hundred dollars weekly subscription rate, one thousand dollars monthly subscription rate for a twice-monthly service, and eight hundred dollars monthly subscription rate;

(d) For images of business entity records accessed over the Internet, forty-five cents for each page or image of a page; and

(e) For the entire contents of the image database regarding business entities, eight hundred dollars monthly subscription rate;

(4)(a) For bulk data requests of Uniform Commercial Code database information including records filed pursuant to the Uniform Commercial Code, Chapter 52, article 2, 5, 7, 9, 10, 11, 12, 13, or 14, Chapter 54, article 2, the Uniform Federal Lien Registration Act, or the Uniform State Tax Lien Registration and Enforcement Act, a nonrefundable fee of:

(i) Eight hundred dollars for an initial file;

(ii) Eight hundred dollars for a monthly update file; and

(iii) Three hundred dollars for a weekly update file.

(b) Effective financing statement data accessed through bulk data requests shall be for informational purposes only and shall not provide the protection afforded a buyer registered pursuant to section 52-1312;

(5) For images of Uniform Commercial Code database information records accessed over the Internet, forty-five cents for each page or image of a page;

(6) For filings by for-profit corporations and associations required or permitted by law to file articles of incorporation or organization with the Secretary of State, the fees provided in section 21-205 unless otherwise specifically provided by law; and

(7) For filings by nonprofit corporations and associations required or permitted by law to file articles of incorporation or organization with the Secretary of State or for such a filing by any entity declared to be a corporation under section 21-608, the fees provided in section 21-1905 unless otherwise specifically provided by law.

The Secretary of State shall remit all fees collected pursuant to subdivisions (1), (2), and (4) through (7) of this section to the State

Treasurer for credit to the Secretary of State Cash Fund. The Secretary of State shall remit all fees collected pursuant to subdivision (3) of this section to the State Treasurer for credit to the Records Management Cash Fund, and such fees shall be distributed as provided in any agreements between the State Records Board and the Secretary of State.

Sec. 2. Section 52-1001, Reissue Revised Statutes of Nebraska, is amended to read:

52-1001 (1) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be presented in the office of the Secretary of State and may be presented by electronic means. Such notices of liens and certificates and notices affecting the liens shall be provided by the Secretary of State to and filed in the office of the register of deeds by the register of deeds of the county or counties in which the real property subject to the lien is situated as designated in the notice of lien or certificate or notice affecting the lien. A lien subject to this subsection shall be effective upon real property when filed by the register of deeds as provided in this subsection.

(2) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the Secretary of State and may be filed by electronic means.

Sec. 3. Section 52-1003, Reissue Revised Statutes of Nebraska, is amended to read:

52-1003 (1)(a) If a notice of federal lien upon real property, a refiling of a notice of federal lien upon real property, or a notice of revocation of any certificate described in subdivision (2)(a) of this section is provided to the register of deeds, he or she shall endorse thereon his or her identification and the date and time of receipt and forthwith file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the serial number of the district director or title and address of the official or

entity certifying the lien, and the total amount appearing on the notice of lien.

(b) If a notice of federal lien upon personal property, a refiling of a notice of federal lien upon personal property, or a notice of revocation of any certificate described in subdivision (2)(b) of this section is filed in the office of the Secretary of State, he or she shall endorse thereon his or her identification and the date and time of receipt and forthwith file it in an index.

(2)(a) If a refiled notice of federal lien referred to in subdivision (1)(a) of this section is provided for filing to the register of deeds as specified in subsection (1) of section 52-1001, he or she shall file the refiled notice or the certificate with the original notice of lien and shall enter the refiled notice or the certificate with the date of filing in an alphabetical lien index on the line where the original notice of lien is entered.

(b) If a refiled notice of federal lien referred to in subdivision (1)(b) of this section is filed in the office of the Secretary of State as specified in subsection (2) of section 52-1001, he or she shall file the refiled notice or the certificate and cross reference the original notice of lien on the state's central index system and shall enter the refiled notice or the certificate with the date of filing in the lien index.

(3)(a) Upon request of any person, the register of deeds shall issue his or her certificate showing whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien, filed under the Uniform Federal Tax Lien Registration Act on or after January 1, 1970, or under the Uniform Federal Lien Registration Act on or after July 9, 1988, 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. The fee for a certificate shall be one dollar and fifty cents. Upon request the register of deeds shall furnish a copy of any notice of federal lien or notice or certificate affecting a federal lien for a fee of one dollar per page.

(b) Upon the request of any person, the Secretary of State shall provide information as provided in the Uniform Commercial Code and charge such fees provided in section 9-525, Uniform Commercial Code, on any notice of lien or certificate or notice affecting any lien filed under the Uniform Federal Lien Registration Act on or after July 1, 1999.

(4) The register of deeds and his or her employees or the Secretary of State and his or her employees or agents shall be exempt from all personal liability as a result of any error or omission in providing information as required by this section except in cases of willful misconduct or gross negligence.

Sec. 4. Section 52-1312, Reissue Revised Statutes of Nebraska, is amended to read:

52-1312 The Secretary of State shall design and implement a central filing system for effective financing statements. The Secretary of State shall be the system operator. The system shall provide a means for filing effective financing statements or notices of such financing statements on a statewide basis. The system shall include requirements:

(1) That an effective financing statement or notice of such financing statement shall be filed in the office of the Secretary of State. A debtor's residence shall be presumed to be the residence shown on the filing. The showing of an improper residence shall not affect the validity of the filing. The filing officer shall mark the statement or notice with a consecutive file number and with the date and hour of filing and shall hold the statement or notice or a microfilm or other digital copy thereof for public inspection. In addition, the filing officer shall index the statements and notices according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement;

(2) That the Secretary of State compile information from all effective financing statements or notices filed with the Secretary of State into a master list (a) organized according to farm product, (b) arranged within each such product (i) in alphabetical order according to the last name of the individual

debtors or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors, (ii) in numerical order according to the approved unique identifier of the debtors, (iii) geographically by county, and (iv) by crop year, and (c) containing the information referred to in subdivision (4) of section 52-1307;

(3) That the Secretary of State cause the information on the master list to be published in lists (a) by farm product arranged alphabetically by debtor and (b) by farm product arranged numerically by the debtor's approved unique identifier. If a registered buyer so requests, the list or lists for such buyer may be limited to any county or group of counties where the farm product is produced or located or to any crop year or years or a combination of such identifiers;

(4) That all buyers of farm products, commission merchants, selling agents, and other persons may register with the Secretary of State to receive or obtain lists described in subdivision (3) of this section. Any buyer of farm products, commission merchant, selling agent, or other person conducting business from multiple locations shall be considered as one entity. Such registration shall be on an annual basis. The Secretary of State shall provide the form for registration which shall include the name and address of the registrant and the list or lists described in subdivision (3) of this section which such registrant desires to receive or obtain. A registration shall not be completed until the form provided is properly completed and received by the Secretary of State accompanied by the proper registration fee set by the Secretary of State.

For access to the master lien list which contains the lists described in subdivision (3) of this section, the registration fee shall be an amount determined by the Secretary of State not to exceed two hundred dollars per year.

The Secretary of State shall maintain a record of the registrants and the lists and contents of the lists received or obtained by the registrants for a period of five years;

(5) That the lists as identified pursuant to subdivision (4) of this section be distributed or published by the Secretary of State not more often than once every month and not less often than once every three months as determined by the Secretary of State. The Secretary of State may provide for the distribution or publication of the lists on any medium and establish reasonable charges for such lists, not to exceed the fee provided for in subdivision (4) of this section.

The Secretary of State shall, by rule and regulation, establish the dates upon which the distributions or publications will be made, the dates after which a filing of an effective financing statement will not be reflected on the next distribution or publication of lists, and the dates by which a registrant must complete a registration to receive or obtain the next list; and

(6) That the Secretary of State remove lapsed and terminated effective financing statements or notices of such financing statements from the master list prior to preparation of the lists required to be distributed or published by subdivision (5) of this section.

Effective financing statements or any amendments or continuations of effective financing statements originally filed in the office of the county clerk that have been indexed and entered on the Secretary of State's central filing system need not be retained by the county filing office and may be disposed of or destroyed.

The Secretary of State shall apply to the Secretary of the United States Department of Agriculture for (a) certification of the central filing system and (b) approval of the system or method of selecting an approved unique identifier.

The Secretary of State shall remit any funds received pursuant to subdivision (4) or (5) of this section to the State Treasurer for credit to the Secretary of State Cash Fund.

Sec. 5. Section 52-1313, Reissue Revised Statutes of Nebraska, is amended to read:

52-1313 (1) Presentation for filing of an effective financing statement

and the acceptance of the statement by the Secretary of State constitutes filing under sections 52-1301 to 52-1322.

(2) The nonrefundable fee for presenting an effective financing statement, an amendment, or a continuation statement for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing of an effective financing statement, an amendment, or a continuation statement shall be fourteen dollars if the record is communicated in writing and eleven dollars if the record is communicated by another medium authorized by the Secretary of State. There shall be no fee for the filing of a termination statement.

(3) The Secretary of State shall remit any fees received pursuant to this section to the State Treasurer for credit to the Secretary of State Cash Fund.

Sec. 6. Section 52-1602, Reissue Revised Statutes of Nebraska, is amended to read:

52-1602 (1) The master lien list prescribed in section 52-1601 shall be distributed or published by the Secretary of State not more often than once every month and not less often than once every three months on the date corresponding to the date on which the lists provided pursuant to sections 52-1301 to 52-1322 are distributed or published.

(2) Any person may register with the Secretary of State to receive or obtain the master lien list prescribed in section 52-1601. Such registration shall be on an annual basis. The Secretary of State shall provide the form for registration. A registration shall not be completed until the form provided is properly completed and received by the Secretary of State accompanied by the proper registration fee set by the Secretary of State. For access to the master lien list, the registration fee shall be an amount determined by the Secretary of State not to exceed two hundred dollars per year. The Secretary of State may provide for the distribution or publication of master lien lists on any medium and may establish reasonable charges for such lists, not to exceed the charges provided for in this subsection.

(3) The Secretary of State, by rule and regulation, shall establish the

dates after which a filing of liens will not be reflected on the next distribution or publication of the master lien list and the date by which a registrant shall complete a registration in order to receive or obtain the next master lien list.

(4) The Secretary of State shall remit any funds received pursuant to subsection (2) of this section to the State Treasurer for credit to the Secretary of State Cash Fund.

Sec. 7. Section 77-3903, Revised Statutes Cumulative Supplement, 2024, is amended to read:

77-3903 (1)(a) A notice of lien provided for in the Uniform State Tax Lien Registration and Enforcement Act upon real property shall be presented in the office of the Secretary of State. Such notice of lien shall be provided by the Secretary of State to and filed in the office of the register of deeds by the register of deeds of the county or counties in which the real property subject to the lien is situated as designated in the notice of lien. The register of deeds shall enter the notice in the alphabetical state tax lien index, showing on one line the name and residence of the person liable named in such notice, the last four digits of the social security number or the federal tax identification number of such person, the Tax Commissioner's or Commissioner of Labor's serial number of such notice, the date and hour of filing, and the amount due. Such presentments to the Secretary of State may be made by direct input to the Secretary of State's database or by other electronic means. All such notices of lien shall be retained in numerical order in a file designated state tax lien notices, except that in offices filing by the roll form of microfilm pursuant to section 23-1517.01, the original notices need not be retained. A lien subject to this subsection shall be effective upon real property when filed by the register of deeds as provided in this subsection.

(b) A notice of lien provided for in the Uniform State Tax Lien Registration and Enforcement Act upon personal property shall be filed in the office of the Secretary of State. The Secretary of State shall enter the notice in the state's central tax lien index. Such filings with the Secretary of State

may be filed by direct input to the Secretary of State's database or by other electronic means.

(2) The uniform fee, payable to the Secretary of State, for presenting for filing, releasing, continuing, or subordinating or for filing, releasing, continuing, or subordinating each tax lien pursuant to the Uniform State Tax Lien Registration and Enforcement Act shall be two times the fee required for recording instruments with the register of deeds as provided in section 33-109. There shall be no fee for the filing of a termination statement. The uniform fee for each county more than one designated pursuant to subdivision (1)(a) of this section shall be the fee required for recording instruments with the register of deeds as provided in section 33-109. The Secretary of State shall remit each fee received pursuant to this subsection to the State Treasurer for credit to the Secretary of State Cash Fund, except that of the fees received pursuant to this subsection, the Secretary of State shall remit the fee required for recording instruments with the register of deeds as provided in section 33-109 to the register of deeds of a county for each designation of such county in a filing pursuant to subdivision (1)(a) of this section.

(3) The Secretary of State shall bill the Tax Commissioner or Commissioner of Labor on a monthly basis for fees for documents presented to or filed with the Secretary of State. No payment of any fee shall be required at the time of presenting or filing any such lien document.

Sec. 8. Section 9-523, Uniform Commercial Code, Reissue Revised Statutes of Nebraska, is amended to read:

9-523 Information from filing office; sale or license of records.

(a) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to section 9-519(a)(1) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

(1) note upon the copy the number assigned to the record pursuant to section 9-519(a)(1) and the date and time of the filing of the record; and

(2) send the copy to the person.

(b) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

(1) the information in the record;

(2) the number assigned to the record pursuant to section 9-519(a)(1); and

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

(c) The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

(1) 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 filing office receives the request, any financing statement that:

(A) designates a particular debtor;

(B) has not lapsed under section 9-515 with respect to all secured parties of record; and

(C) if the request so states, has lapsed under section 9-515 and a record of which is maintained by the filing office under section 9-522(a);

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

(3) the information provided in each financing statement.

(d) In complying with its duty under subsection (c), the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate.

(e) The filing office shall perform the acts required by subsections (a) through (d) at the time and in the manner prescribed by filing-office rule, but not later than two business days after the filing office receives the request.

(f) The Secretary of State shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in the office of the Secretary of State under this part, in every medium from time to time available to the filing office.

Sec. 9. Section 9-525, Uniform Commercial Code, Reissue Revised Statutes of Nebraska, is amended to read:

9-525 Fees.

(a) The nonrefundable fee for submitting a record for filing and indexing under this part is:

(1) Except as provided in subdivision (a)(3) of this section, fourteen dollars if the record is communicated in writing;

(2) Except as provided in subdivision (a)(3) of this section, eleven dollars if the record is communicated by another medium authorized by filing-office rule; and

(3) One hundred dollars if the debtor is a transmitting utility and the filing so indicates.

(b) The number of names required to be indexed does not affect the amount of the fee in subsection (a).

(c) There is no fee for the filing of a termination statement.

(d)(1) The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is five dollars if the request is communicated in writing.

(2) The fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor, is four dollars and fifty cents if the request is communicated by another medium authorized by filing-office rule.

(e) The Secretary of State shall remit the fees received by the Secretary of State pursuant to this section to the State Treasurer for credit to the Secretary of State Cash Fund.

Sec. 10. Original sections 52-1001, 52-1003, 52-1312, 52-1313, and 52-1602, Reissue Revised Statutes of Nebraska, sections 33-101 and 77-3903, Revised Statutes Cumulative Supplement, 2024, and sections 9-523 and 9-525, Uniform Commercial Code, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 11. The following section is outright repealed: Section 52-1313.01, Reissue Revised Statutes of Nebraska.

PRESIDENT OF THE LEGISLATURE

THIS IS TO CERTIFY that the within LB 835 was passed by the One Hundred Ninth Legislature of Nebraska at its Second Session on the day of 20.....

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR