

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4884-02
Bill No.: Perfected HCS for HB 1858
Subject: Counties; Mortgages and Deeds; Courts; Crimes and Punishment
Type: Original
Date: April 13, 2016

Bill Summary: This proposal establishes provisions relating to filings with the recorder of deeds and establishes the crime of false filings.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(\$114,354)	(\$138,294)	(\$139,375)
Total Estimated Net Effect on General Revenue	(\$114,354)	(\$138,294)	(\$139,375)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Technology Trust Fund (0266)	(\$80,000)	\$0	\$0
Total Estimated Net Effect on Other State Funds	(\$80,000)	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	3 FTE	3 FTE	3 FTE
Total Estimated Net Effect on FTE	3 FTE	3 FTE	3 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Secretary of State (SOS)** state more than 155,000 UCC filings are filed per year, so additional staff would be needed to conduct the additional review this proposal requires. SOS anticipates two new FTE would need to be created with salaries at \$29,000 per year. Missouri law requires SOS to file UCC filings within three business days of receipt. SOS would have to prioritize this additional review to comply with these guidelines. RSMo § 400.9-519(h).

SOS anticipates a cost of \$80,000 to change the current software operated by the Business Services Division. The estimate for one-time IT costs (\$80,000) is based on previous experiences contracting with vendors to make changes to existing software. The estimate that two additional full-time employees would be needed is based upon the estimate of how many UCC filings would be reviewed per year (150,000).

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crime of intentionally filing a fraudulent financing statement or any financing statement with the Secretary of State with the intent to harass or defraud any other person. This offense would be a new Class D Felony.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases where the right to counsel attaches.

Oversight assumes the State Public Defender's Office can absorb the additional caseload that may result from this proposal.

Officials from the **Office of Prosecution Services** assume that the creation of a new crime creates additional responsibilities for county prosecutors which may in turn result in additional costs which are difficult to determine.

Officials from the **Attorney General's Office (AGO)** assume that any potential costs arising from this proposal can be absorbed with existing resources. The AGO may seek additional appropriations if the proposal results in a significant increase in cases.

ASSUMPTION (continued)

Officials from the **Department of Insurance, Financial Institutions and Professional Registration, Department of Public Safety - Missouri Highway Patrol, Office of State Courts Administrator** and **Cole County Sheriff's Department** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version, officials from the **Boone County Sheriff's Department, Department of Corrections** and **Springfield Police Department** each assumed the proposal would not have a fiscal impact on their respective organizations.

House Amendment 1

Oversight notes this amendment removes the provision that the petitioner will not incur any costs when a filing is ruled invalid at an initial hearing. The amendment also states the receiving entity shall waive all filing or recording fees associated with the filing or recording of the court ruling document.

Oversight assumes there will be no fiscal impact from House Amendment 1.

House Amendment 2

In response to a similar proposal from this year (HB 2724), officials from the **Office of the Secretary of State (SOS)** noted Section 486.285.1 requires manufacturers of notary seals to register with the Secretary of State's office. We assume the registration would be with the Commissions Unit. The registration would require a database be created that contains the registration information along with the communication from the manufacturer that they issued a notary seal to a Missouri notary and information on the approval of the notary seal, which is approved by the Commissions Unit, from the manufacturer.

Each year we receive thousands of notary filings that would require a new notary seal or an issuance of a new notary seal (due to a lost notary seal etc.). To verify the manufacturer is registered and then approve each notary seal, within 10 days, that the manufacturer has issued would require additional staff. We anticipate 1 FTE would be need to be created with a salary of \$26,000 per year. The SOS assumes a total cost for the 1 FTE to be approximately \$43,000 per year to the General Revenue Fund.

Officials from the **Office of State Courts Administrator, Department of Corrections, Office of Prosecution Services, Department of Public Safety - Missouri Highway Patrol** and **Department of Insurance, Financial Institutions and Professional Registration** each assume the amendments to the proposal will have no fiscal impact on their respective organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE FUND			
<u>Costs - SOS (HA 2)</u>			
Personal Service (1 FTE)	(\$21,667)	(\$26,260)	(\$26,523)
Fringe Benefits	(\$14,329)	(\$17,266)	(\$17,338)
Expense and Equipment	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Costs - SOS (HA 2)</u>	(\$35,996)	(\$43,526)	(\$43,861)
FTE Change - SOS	1 FTE	1 FTE	1 FTE
 <u>Cost - SOS</u>			
Personal Services	(\$48,333)	(\$58,580)	(\$59,166)
Fringe Benefits	<u>(\$30,025)</u>	<u>(\$36,188)</u>	<u>(\$36,348)</u>
<u>Total Cost - SOS</u>	<u>(\$78,358)</u>	<u>(\$94,768)</u>	<u>(\$95,514)</u>
FTE Change - SOS	2 FTE	2 FTE	2 FTE
 ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	 <u>(\$114,354)</u>	 <u>(\$138,294)</u>	 <u>(\$139,375)</u>
 Estimated Net FTE change to General Revenue Fund	 3 FTE	 3 FTE	 3 FTE
 TECHNOLOGY TRUST FUND			
<u>Cost - SOS</u>			
Equipment & Expense	(\$80,000)	<u>\$0</u>	<u>\$0</u>
 ESTIMATED NET EFFECT TO THE TECHNOLOGY TRUST FUND	 <u>(\$80,000)</u>	 <u>\$0</u>	 <u>\$0</u>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2017 (10 Mo.)	FY 2018	FY 2019
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Small Business</u>			

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal specifies that if a person files a document with the recorder of deeds and fails to comply with the standard filing form, the filing will be treated as a provisional filing. If no objection is lodged, the filing is no longer a provisional filing and is treated as any other valid filing. If an objection is made in court, notice of the objection, along with a court date, must be sent to all owners of record, the individual that made the filing, and all parties to the filing.

The proposal creates the offense of filing a false document if he or she files, causes to be filed, or attempts to file, creates, uses as genuine, transfers or has transferred, presents, or prepares with knowledge or belief that it will be filed, presented, or transferred to the secretary of state or his or her designee, any county recorder of deeds or his or her designee, any municipal, county, district, or state government entity or office, or any credit bureau or financial institution specified documents. For the first offense, filing a false document is a class D felony until December 31, 2016, and a class E felony beginning January 1, 2017. Filing false documents is a class C felony in certain specified instances.

This bill specifies that the Secretary of State must maintain a database that includes information contained on each notary public's seal or any lost seal of a notary public. A manufacturer of a notary public seal is required to register with the Secretary of State and notify the Secretary of State when a seal is issued. The Secretary of State must approve any seal issued by the manufacturer within 10 days. A copy of the commission must be maintained by the manufacturer and if a manufacturer violates this provision, they are subject to a \$1,000 fine for each violation.

The bill increases the penalty for acting as, or willfully impersonating a notary public while not lawfully appointed and commissioned to perform notarial acts from a misdemeanor to a class D felony.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Department of Insurance, Financial Institutions and Professional Registration
Department of Public Safety
 Missouri State Highway Patrol
Department of Corrections
Office of State Courts Administrator
Boone County Sheriff's Department
Office of Prosecution Services
Springfield Police Department
State Public Defender's Office
Office of Secretary of State
Attorney General's Office



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