

1 HOUSE BILL NO. 477

2 INTRODUCED BY S. STEWART PEREGOY, J. WINDY BOY, J. SMALL, E. STAFMAN, D. HAWK, T.

3 FRANCE, E. MATTHEWS, P. GREEN

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO RECOGNITION OF FOREIGN
6 BUSINESS ENTITIES TO INCLUDE ENTITIES FORMED UNDER LAWS OF A FEDERALLY RECOGNIZED
7 INDIAN TRIBE; PROVIDING A FEE FOR RECORDING RECORDS WITH THE SECRETARY OF STATE
8 RELATED TO CERTAIN TRANSACTIONS WITHIN AN INDIAN RESERVATION IN CERTAIN
9 CIRCUMSTANCES; AMENDING SECTIONS 30-9A-525, 35-14-125, 35-14-140, AND 35-14-403, MCA; AND
10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 **Section 1.** Section 30-9A-525, MCA, is amended to read:

15 **"30-9A-525. Fees.** (1) Except as otherwise provided in ~~subsection~~ subsections (2) and (3), the fee for
16 each of the following must be set and deposited by the secretary of state as prescribed in 2-15-405:

17 (a) filing and indexing a record under this part, other than an initial financing statement filed in
18 connection with a public-finance transaction or a manufactured-home transaction;

19 (b) filing and indexing an initial financing statement of the kind described in 30-9A-502(3); and

20 (c) responding to a request for information from the filing office, including for communicating
21 whether there is on file any financing statement naming a particular debtor.

22 (2) This section does not require a fee with respect to a record of mortgage that is effective as a
23 financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber
24 to be cut under 30-9A-502(3). However, the recording and satisfaction fees that otherwise would be applicable
25 to the record of mortgage apply.

26 (3) The secretary of state shall charge a fee ~~of \$25 commensurate with current filing fees~~ to file
27 and index a financing statement or related record for a transaction that involves collateral that is located within

1 the boundaries of an Indian reservation and that is subject to the laws of the governing body of the tribe or
2 tribes of the Indian reservation."

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4 **Section 2.** Section 35-14-125, MCA, is amended to read:

5 **"35-14-125. Filing duty -- secretary of state.** (1) If a document delivered to the office of the
6 secretary of state for filing satisfies the requirements of 35-14-120, the secretary of state shall file it.

7 (2) The secretary of state files a document by recording it as filed on the date and time of receipt.
8 After filing a document, the secretary of state shall return to the person who delivered the document for filing a
9 copy of the document with an acknowledgment of the date and time of filing.

10 (3) If the secretary of state refuses to file a document, it must be returned to the person who
11 delivered the document for filing within 10 days after the document was delivered, together with a brief, written
12 explanation of the reason for the refusal.

13 (4) The secretary of state's duty to file documents under this section is ministerial. The secretary of
14 state's filing or refusing to file a document does not create a presumption that:

15 (a) the document does or does not conform to the requirements of this chapter; or

16 (b) the information contained in the document is correct or incorrect.

17 (5) The secretary of state may correct errors caused by a filing officer. The error and the correction
18 must be retained in the file containing the document in which the error appeared. For the purposes of this
19 subsection, a filing officer is a person employed in a filing office as defined in 30-9A-102.

20 (6) The secretary of state shall file a document that otherwise complies with the requirements of
21 35-14-120 and this section for any entity that originated under the laws of entity formation of a federally
22 recognized Indian tribe."

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24 **Section 3.** Section 35-14-140, MCA, is amended to read:

25 **"35-14-140. General definitions.** For the purposes of this chapter, unless otherwise specified, the
26 following definitions apply:

27 (1) "Articles of incorporation" means the articles of incorporation described in 35-14-202, all