

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4317-04
Bill No.: Perfected SS for SCS for SB 892
Subject: Banks and Financial Institutions; Consumer Protections; Credit and Bankruptcy;
Mortgages and Deeds; Motor Vehicles; Boats and Watercraft; Manufactured
Housing; Revenue Dept
Type: Original
Date: April 4, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	(\$4,572 to Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue Fund	(\$4,572 to Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$1,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

SECTION 143.471, 148.655, 146.657

Officials from the **Department of Insurance** assume the proposal would not fiscally impact their agency.

Officials from the **Office of Administration - Budget and Planning (BAP)** state this legislation will allow tax credits for the total franchise tax due from a Sub-Chapter S Corporation (S-Corp). An S-Corp is a partnership operating as a corporation throughout the year. At the end of the year, and for tax purposes, the S-Corp reverts back to a partnership for distribution of tax

ASSUMPTION (continued)

liability. This legislation will grant tax credits to the individual partners of an S-Corp equal to the taxes due of the S-Corp. Because this legislation deals with a financial institution, said institution is required to pay franchise taxes in lieu of corporate income taxes. Franchise taxes are calculated by taking 7% of the S-Corporations net income (Section 148.620, RSMo.)

BAP does not know the number of filers that may qualify for the proposed credit. This proposal would lower general and total state revenues by an unknown amount. BAP notes that \$2.7 million in gross bank franchise taxes and \$116.7 million of gross corporate franchise taxes were collected in FY 2005.

Officials from the **Department of Revenue (DOR)** state this legislation creates a tax credit for shareholders of S corporation savings and loan associations with a carry-forward provision of five years. DOR assumes the proposal would reduce the amount of tax due, therefore, reducing the amount of state revenues.

DOR assumes this legislation expands an existing credit to individuals who are shareholders of the S corporation. Personal Tax would need 1 Tax Processing Technician for every 4,000 credits claimed, since there are carry-forward provisions and this credit is administered by DOR. Since DOR does not expect to receive 4,000 returns of this nature, the credit will be processed using existing resources.

The Bank Tax Credit for S Corporation Shareholders has had tax credits redeemed of \$1.1 million in FY 2003, \$1.2 million in FY 2004 and \$941,460 in FY 2005. Oversight assumes this proposal will increase the amount of tax credits utilized in a given year, but can not estimate an amount. Therefore **Oversight** will state that the proposal will potentially result in a loss to the General Revenue fund of an unknown amount.

SECTIONS 301.215, 306.435, 700.385

Officials from the **Department of Revenue (DOR)** state this legislation will modify the requirements for issuing repossession titles for motor vehicles pursuant to section 301.215, for issuing repossession title for boats pursuant to 306.435 and for manufactured homes pursuant to section 700.385. For motor vehicles the lienholder must have a notice of lien on file with the director of revenue in addition to the current security agreement or contract for security. The applicant for repossession title must submit the repossession application, a notice of lien or the original certificate of ownership reflecting the holder's lien and an affidavit regarding legal process or notice. The lienholder must give 10 days prior notice to all owners or lienholders on the last certificate of title at the address on such title or at the most recent address on the

ASSUMPTION (continued)

lienholder's records that an application for repossession title will be made or the lienholder may use the UCC notice, with the required information regarding repossession, ten days prior to applying for a repossession title.

For boats, outboard motors, and manufactured homes, this proposal makes the repossession title process/requirements consistent with those for motor vehicles and trailers as outlined above.

DOR assumes the legislation will require their department to revise policies, procedures and notify dealers and lienholders of this new requirement. DOR assumes they will incur the cost for the notices, envelopes and postage at approximately \$4,572.

Officials from the **Department of Public Safety - State Water Patrol** and the **Department of Economic Development - Public Service Commission** each assume the proposal would not fiscally impact their respective agencies.

SECTIONS 361.711, 361.715, 362.275, 362.445

Officials from the **Office of State Courts Administrator** assume there will be no fiscal impact on the Courts.

Officials from the **Department of Revenue** and the **Department of Insurance** state this proposal has no fiscal impact to their respective agencies.

Officials from the **Department of Economic Development - Division of Credit Unions** state this proposal will have no fiscal impact on their agency.

Officials from the **Department of Economic Development - Division of Finance** assume this proposal would require additional effort on the Division of Finance; however, they believe this can be done with existing staff and resources. Very little fee income, if any, would be generated by the optional fee for applications to amend and reissue licenses. There are only two to five license application/renewals per year. Regarding the fee increase for copy of process, the service of process is only done three or four times a year, therefore is not a significant source of revenue.

SECTION 408.555

Officials from the **Office of State Courts Administrator** assume there will be no fiscal impact on the Courts.

ASSUMPTION (continued)

Officials from the **Department of Economic Development - Division of Finance** and **Division of Credit Unions** stated this proposal would have no fiscal impact on their respective agencies

This proposal will reduce Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
GENERAL REVENUE			
<u>Costs</u> - Department of Revenue			
Notices, envelopes and postage (Sections 301.215, 306.435, 700.385)	<u>(\$4,572)</u>	\$0	\$0
<u>Loss</u> - Tax credits for S corporations that are associations or credit institutions (Sections 143.471, 148.655, 146.657)	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>	\$0 to <u>(Unknown)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$4,572 TO (UNKNOWN)</u>	<u>\$0 TO (UNKNOWN)</u>	<u>\$0 TO (UNKNOWN)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2007	FY 2008	FY 2009
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

Small businesses that qualify for the tax credit outlined in Sections 143.471, 148.655, and 148.657 could be fiscally impacted by this proposal.

The proposal will impact financial institutions or other lienholders who perfect liens on motor vehicles, boats or manufactured homes and then have a need to repossess the vehicles.

DESCRIPTION

SECTIONS 143.471; 148.655; 148.657

This proposal provides for an income tax credit for shareholders of S corporation savings and loan association holding companies and credit institutions based on the pro rata share of corporate franchise tax paid by such association or institution.

SECTIONS 301.215

This proposal modifies the law that governs the process of obtaining a repossession title. In order to obtain a title to a motor vehicle, trailer, motorboat or vessel that has been legally repossessed, the debt holder must submit a notice of lien receipt or the original certificate of ownership reflecting the holder's lien. The act provides that a lienholder may give notice that it is seeking a repossession title to a motor vehicle owner and other lienholders by complying with Uniform Commercial Code notice provisions.

SECTION 306.435

The proposal provides that a person seeking a repossession title to a motorboat, vessel or watercraft must present a notice of lien receipt or the original certificate of ownership reflecting the holder's lien. The act removes the requirement that the lienholder must present the original or photostatic copy of the security agreement. Instead, the act requires presentation of an affidavit that the lienholder has the written consent of all owners or lienholders of record to repossess the vessel, motorboat or watercraft or has provided such parties with written notice of the repossession. The act also imposes specific notice requirements upon the lienholder that are similar to the requirements for persons repossessing motor vehicles. The lienholder must give 10 days written notice by 1st class U.S. mail to the owners and other lienholders.

SECTION 700.385

The proposal provides that a person seeking a repossession title to a manufactured home must present a notice of lien receipt or the original certificate of ownership reflecting the holder's lien. The act removes the requirement that the lienholder must present the original or photostatic copy of the security agreement. Instead, the act requires presentation of an affidavit that the lienholder has the written consent of all owners or lienholders of record to repossess the manufactured home or has provided such parties with written notice of the repossession. The act also imposes specific notice requirements upon the lienholder that are similar to the requirements for persons repossessing motor vehicles. The lienholder must give 10 days written notice by 1st class U.S. mail to the owners and other lienholders. The lienholder may also comply with the notice

DESCRIPTION (continued)

provision by giving notice under the Uniform Commercial Code provisions.

SECTION 361.711

Under current law, applicants for licensure to issue or sell checks must post a twenty-five thousand dollar corporate surety bond. This proposed legislation raises that amount to one hundred thousand dollars. The bond may be used to pay costs incurred by the Division of Finance to remedy breaches of obligations by the applicant or pay examination costs not paid by the applicant.

For all licensees selling payment instruments or stored value cards, the required amount of the bond for renewal of the license shall be five times the high outstanding balance from the previous year with a minimum of one hundred thousand dollars and a maximum of one million dollars.

For all licensees receiving money for transmission, the required amount of the bond for renewal of the license shall be five times the greatest amount transmitted in a single day during the previous year with a minimum of one hundred thousand dollars and a maximum of one million dollars.

SECTION 361.715

The Director of Finance may, when necessary, examine any licensee and the cost shall be paid by the licensee.

The director shall investigate the character and fitness of each licensee before initial licensure and renewal. The director may charge up to \$100 for applications to amend and reissue licenses.

SECTION 362.275

Under current law, financial institutions must submit a list showing all paper past due thirty days or more at their monthly meetings. This proposal allows the institutions, in the alternative, to submit a list of the total past due ratio for loans that are thirty days or more past due, nonaccrual loans divided by the total loans, and a list of past due loans in excess of a minimum amount set by the board not to exceed five percent of the bank's legal loan limit but the minimum amount may not be less than ten thousand dollars. Collateral to the indebtedness does not have to be described as of the date of the lists.

DESCRIPTION (continued)

SECTION 362.445

The proposal specifies that financial institutions shall be served process according to the Missouri Rules of Civil Procedure describing service of corporations. State or federally chartered banks, trust companies, and thrift institutions may appoint a service agent and register that person with the Director of Finance.

The proposal allows the Director of Finance to receive service of process for out-of-state banks or trust companies. Currently, the Director of Revenue shall collect \$2 for each copy of process; this proposal raises the amount to be collected by the director to \$10.

SECTION 408.555

This proposed legislation provides that a debtor is not entitled to receive notice of the right to cure, in the case of a second mortgage loan, after the third default before the lender can enforce the security interest. Upon the third default, the debtor may no longer cure.

This proposal also adds late charges and expenses of foreclosures incurred by the lender to the definition of "current obligation of the debtor", which must be paid to cure a default on a second mortgage loan.

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 Administration
 Division of Budget and Planning
Office of State Courts Administrator
Department of Economic Development
 Division of Finance
 Division of Credit Unions
 Public Service Commission
Department of Revenue
Department of Insurance
Office of the Secretary of State
Department of Public Safety
 State Water Patrol



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