

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4402S.01I
Bill No.: SB 963
Subject: Consumer Protections; Contracts and Contractors
Type: Original
Date: March 21, 2022

Bill Summary: This proposal creates new provisions requiring the disclosure of information pertaining to certain commercial financing products.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
General Revenue *	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on General Revenue	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

*Oversight has not received a fiscal impact response from the Attorney General's Office (AGO); therefore, Oversight has reflected a potential cost to the AGO to administer the Commercial Financing Disclosure Law but does not believe it will meet the \$250,000 threshold.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2023	FY 2024	FY 2025
Local Government	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown

FISCAL ANALYSIS

ASSUMPTION

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

Officials from the Attorney General's Office (AGO) did not respond to **Oversight's** request for fiscal impact.

Oversight notes the proposal gives authority to the AGO to enforce the provisions of the Commercial Financing Disclosure Act. Without input from the AGO, Oversight is unsure if the AGO will be able administer the act with existing resources. Therefore, Oversight will assume a potential administrative cost of \$0 to (Unknown) for the AGO.

Oversight also notes §427.300.5 allows for any person who violates this section shall be punished by a fine of \$500 per incident, not to exceed \$25,000 for all aggregated violations. Any person who violates this section after receiving written notice of prior violation from the AGO shall be punished by a fine of \$1,000 per incident, not to exceed \$50,000 for all aggregated violations. Oversight will assume any potential fine revenue generated from this subsection will be distributed to local school districts instead of being credited to the state's Merchandising Practices Revolving Fund. For simplicity, Oversight will reflect a \$0 or Unknown amount of fine revenue received by school districts. Oversight notes these amount may act as a deduction in the following year school funding formula; however, Oversight will simply reflect a possible positive impact to schools from the fine revenue.

Upon the receipt of the AGO's fiscal impact response, Oversight will review to determine if an updated fiscal note should be prepared and seek approval to publish a new fiscal note.

<u>FISCAL IMPACT – State Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
GENERAL REVENUE FUND			
<u>Costs</u> – AGO – to administer the Commercial Financing Disclosure Act	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

<u>FISCAL IMPACT – Local Government</u>	FY 2023 (10 Mo.)	FY 2024	FY 2025
SCHOOL DISTRICTS			
<u>Fine Revenue</u> – to school districts - §427.300.5	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
ESTIMATED NET EFFECT TO SCHOOL DISTRICTS	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

This act creates the "Commercial Financing Disclosure Act". Under this act, any person who consummates more than 5 commercial financing products, as defined in the act, to a business located in this state in a calendar year is required to make certain disclosures to the business with regard to the product. Specifically, the provider is required to disclose the following:

- The total amount of funds provided to the business under the terms of the commercial financing product;
- The total amount of funds disbursed to the business under the terms of the commercial financing product, if less than the total amount of funds provided, as a result of any fees deducted or withheld at disbursement and any amount paid to a third party on behalf of the business;
- The total amount to be paid to the provider pursuant to the commercial financing product agreement;
- The total dollar cost of the commercial financing product under the terms of the agreement, derived by subtracting the total amount of funds provided from the total of payments;
- The manner, frequency and amount of each payment;
- A statement of whether there are any costs or discounts associated with prepayment of the commercial financing product including a reference to the paragraph in the agreement that creates the contractual rights of the parties related to prepayment;
- A statement of whether the provider will pay compensation directly to a broker in connection with the commercial financing product and the amount of compensation.

Violations of this act are punishable by a fine of \$500 per incident, not to exceed \$20,000 for all aggregated violations. Any person who violates any provision of this act after receiving written

notice of a prior violation from the Attorney General shall be punishable by a fine of \$1,000 per incident, not to exceed \$50,000 for all aggregated violations arising from the use of the transaction documentation or materials found to be in violation of this act.

Violation of any provision of this act does not affect the enforceability or validity of the underlying agreement.

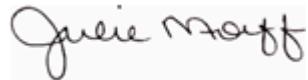
This act does not create a private cause of action against any person or entity based upon noncompliance with this act.

The Attorney General is given authority to enforce the provisions of this act.

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

Department of Commerce and Insurance



Julie Morff
Director
March 21, 2022



Ross Strope
Assistant Director
March 21, 2022