

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0845S.02C  
Bill No.: SCS for SB 187  
Subject: Banks and Financial Institutions; Department of Commerce and Insurance;  
Attorney General; Fees  
Type: Original  
Date: February 21, 2023

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Bill Summary: This proposal creates the Commercial Financing Disclosure Act.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- 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.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>FY 2026</b>
<b>Local Government</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>	<b>\$0 or Unknown</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Department of Commerce and Insurance (DCI)** assume the proposal would not fiscally impact their agency. DCI assumes there are very few companies that would register with the state (less than five), resulting in a non-material amount of registration revenue and administrative expense.

Officials from the **Attorney General’s Office (AGO)** assume no fiscal impact from the proposal.

In response to a previous version, officials from the **Office of the Secretary of State** assumed many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State’s office 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 fiscal note to Secretary of State’s office for Administrative Rules is less than \$5,000. The Secretary of State’s office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, they also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what their office can sustain with their core budget. Therefore, they reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Joint Committee on Administrative Rules** assume no fiscal impact from the proposal.

**Oversight** also notes §427.300.6 requires that any person who violates this section shall be punished by a fine of \$500 per incident, not to exceed \$20,000 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.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
<b>SCHOOL DISTRICTS</b>			
<u>Fine Revenue</u> – to school districts - \$427,300.6	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>	<u>\$0 or Unknown</u>
<b>ESTIMATED NET EFFECT TO SCHOOL DISTRICTS</b>	<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; and
- 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.

The act requires registration with the Division of Finance prior to engaging in business as a commercial financial broker. Specifically, the act requires filing a registration form, submitting a fee of \$100, and obtaining a surety bond in the amount of \$10,000. A registration renewal is required every year, not later than January 31.

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.

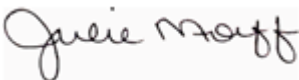
This act contains various exemptions.

The registration and disclosure requirements of this act take effect either (1) 6 months after the Division of Finance finalizes promulgating rules, if the Division intends to promulgate rules; or (2) February 28, 2024, if the Division does not intend to promulgate rules.

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  
Attorney General's Office  
Office of the Secretary of State  
Joint Committee on Administrative Rules



Julie Morff  
Director  
February 21, 2023



Ross Strope  
Assistant Director  
February 21, 2023