

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0845S.02P
Bill No.: Perfected SCS for SB 187
Subject: Banks and Financial Institutions; Department of Commerce and Insurance; Attorney General; Fees
Type: Original
Date: February 22, 2023

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

FISCAL SUMMARY

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

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
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 2024	FY 2025	FY 2026
Local Government	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown

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 (SOS)** assumed 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 fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
SCHOOL DISTRICTS			
<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>
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; 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.

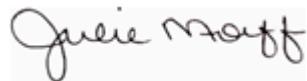
This act contains various exemptions.

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 22, 2023



Ross Strope
Assistant Director
February 22, 2023