

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0610-06
Bill No.: Truly Agreed and Finally Passed HS for HCS for SCS for SB 186
Subject: Banks & Financial Institutions; Business & Commerce;
 Department of Economic Development; Insurance-General
Type: Original
Date: May 23, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds*	\$0	\$0	\$0

***Does not include revenue losses of \$3.3 million annually which could be realized due to repeal of the franchise tax.**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials with the **Department of Economic Development–Division of Finance** and **Division of Credit Unions**, the **Department of Insurance**, the **Office of the Secretary of State** and the **Office of the Attorney General** assume the proposal will have no fiscal impact on their agencies.

Officials with the **Office of State Courts Administrator** assume there would be no impact to the judiciary. The **Office of Prosecution Services** responded to previous similar legislation that any costs could likely be absorbed with existing resources.

Officials with the **Department of Revenue** assume no administrative impact would result from the passage of this proposal, based on an assumption that the number of tax credits filed would not significantly increase. The Department assumes there would be a revenue loss to the state should this legislation pass along with a repeal of the franchise tax.

Officials with the **Office of Administration–Division of Budget & Planning** assume there will be an impact to state revenues due to the proposal. The Office defers to the Department of Revenue for an estimate of the amount.

Currently, banks reduce their bank tax liability for any franchise tax paid, and also receive a 50% credit. Thus, repealing the franchise tax alone would eliminate the credit of 50% of the franchise tax received by banks. According to officials with DOR, the amount of franchise tax paid by Missouri banks is \$6,598,000. **Oversight** assumes this proposal would result in a cost to General Revenue, if enacted along with a repeal of the franchise tax.

Officials with the **City of Saint Louis** responded to similar previous legislation that the provision exempting financial institutions managing property tax payments from escrow accounts from any installment property tax payment requirements should have no fiscal impact. **Oversight** assumes little or no fiscal impact, as the exemption would be only from the county's payment schedule.

<u>FISCAL IMPACT - State Government*</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

***Does not include revenue losses of \$3.3 million annually which could be realized due to repeal of the franchise tax.**

FISCAL IMPACT - Local Government

FY 2002
(10 Mo.)

FY 2003

FY 2004

\$0

\$0

\$0

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact on small businesses financial institutions, title lenders, and insurance companies

DESCRIPTION

This bill amends various laws dealing with small consumer credit loans and title loans. In its main provisions, the bill:

- (1) Redefines "consumer credit loans" to mean loans for personal, family, or household uses that are made in amounts of \$500 or more. The loans are also often referred to as "small loans." (Provision shall take effect 1/1/02.);
- (2) Allows consumer credit lenders to renew their licenses by posting a surety bond or an irrevocable letter of credit for \$100,000, in lieu of conducting the annual audit otherwise required by law;
- (3) Removes personal dwellings from the definition of "titled personal property" for purposes of determining property eligible to be collateral for title loans;
- (4) Clarifies that all information submitted by a title lender to the Division of Finance is confidential;
- (5) Requires title lenders to be licensed by the division. Current law only requires title lenders to be registered;
- (6) Removes the residency requirement for title lenders;
- (7) Eliminates the requirement that a title loan borrower must pay fees upon renewal of any title loan agreement;

(8) Requires title loan borrowers to reduce the principal of the loan by 10% of the total principal upon the third renewal or any renewal subsequent to the third renewal. Current law only requires a principal reduction of 10% of the original principal;

DESCRIPTION (continued)

- (9) Provides title loan borrowers with the same notice and opportunity to cure defaults that is provided to other borrowers and eliminates the existing requirement whereby title loan borrowers are required to deliver the property described in the loan to the borrower at the end of the first loan period;
- (10) Allows title lenders to charge only those interests and fees allowed to other small loan lenders. Small loan lenders may charge any interest agreed to by the parties, but may only charge fees on the initial loan contract, and those fees cannot exceed 5% of the principal or \$50, whichever is less;
- (11) Requires certain additional disclosures and forms for all title loans, including informational notices to borrowers, the potential consequences of default, and the maximum rates charged by the lender;
- (12) Mandates that title lenders keep records on the loans and notices given to their customers for at least 2 years;
- (13) Requires all title lenders to be examined by the Division of Finance prior to ceasing business;
- (14) Limits title lenders to the same procedures for collection on defaulted loans as is provided for other small lenders;
- (15) Establishes penalties for title lenders who violate the provisions of the bill, including license suspension or revocation, civil penalties of up to \$1,000 per day, or cease and desist orders;
- (16) Makes all lenders in the business of making unsecured loans under \$500, with exceptions for certain types of loans, comply with the same bonding, principal reduction, notice and opportunity to cure, interest and fee limitations, disclosures and forms, record-keeping, examination, default collection, and penalty provisions that are applied to title lenders throughout the bill, except that (a) the principal reduction requirements for lenders making unsecured loans under \$500 do not apply until the fifth renewal, and (b) no surety bond is required of these lenders.
- (17) Defines "consumer installment lender" and "consumer installment loan" to mean loans, and persons making such loans, of any amount that are paid in installments of no less than 4 installments over no less than 120 days; and

DESCRIPTION (continued)

(18) Requires consumer installment lenders to be licensed and to follow the notice, opportunity to cure, and collection procedures established for other lenders.

This bill amends various provisions relating to banking law. In its main provisions, the bill:

(1) States that, (a) if the corporate franchise tax is repealed for Missouri corporations other than financial institutions, then financial institutions will be granted a tax credit, in lieu of the existing tax credit, of 1.5% of net income. S corporations can pass this tax credit through to their shareholders; and (b) all taxes and tax credits on S corporations will be passed through to the shareholders, with certain exceptions;

(2) Allows not-for-profit corporations with civil, charitable, or educational purposes to be chartered or branched in Missouri as banks insured by the Federal Deposit Insurance Corporation;

(3) Modifies bank stockholders' meetings laws to allow transaction of business at one annual meeting by unanimous written consent;

(4) Allows state bank and trust companies to (a) be passive investors in business entities owned by other financial institutions; and (b) lend money on real estate and handle real estate closings and escrows;

(5) Allows certain bank and trust companies in communities with sufficiently small populations, as established by rule of the Division of Finance, to keep the additional powers granted to them for 5 years after they exceed the allowable population;

(6) Allows state bank and trust companies to offer any product or service that a national bank can offer, as long as the state bank follows federal law while conducting these practices and provides notice to the Division of Finance;

(7) Expands the capital investment allowances granted to state banks to include holding companies authorized to do business in this state;

(8) Clarifies that certain investment prohibitions in the bill are limited only to other allowable investments;

(9) Allows bank and trust stockholders to appoint a chief executive officer or a president. Current law only allows presidents to be appointed;

DESCRIPTION (continued)

(10) Allows bona fide fees to be collected on residential real estate loans for any actual and necessary services associated with the loan;

(11) Allows late payment charges not to exceed 5% of the payment due or \$50, whichever is less, on small loans overdue for 15 days or more;

(12) Prohibits any regulation regarding the charging of insurance commissions on credit insurance from being more restrictive on financial institutions than regulations are on insurance agents.

(13) Exempts up to \$150,000 of accrued dividend or interest of un-matured life insurance contracts from attachment & execution. Current law exempts only \$5,000.

(14) Clarifies procedures for perfection of a subordinate lien.

(15) Exempts financial institutions from any requirement for installment payment of property taxes for escrow customers.

The bill subjects commercial property and casualty insurance policies to the same rate and form filing requirements as other insurers, except that the filings are only for informational purposes and are not subject to approval by the director. In the event a casualty or property insurance provider requires a premium increase of 25% or more, certain notification must be given to the insured (Sections 379.316, 379.321, 379.425, and 379.888).

The bill allows insurers, insurance producers, agents, or brokers to charge additional incidental fees for services allowed by law, as long as the fees are disclosed in writing (Section 379.356) and prohibits insurers, their agents, or representatives from requiring applicants or policyholders to divulge if they have had an insurance claim denied (Section 1).

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 Economic Development
 Division of Finance
 Division of Credit Unions
Department of Insurance
Office of the Attorney General
Department of Revenue
Office of Administration
 Division of Budget & Planning
Office of the Secretary of State
Office of Prosecution Services
Office of State Courts Administrator
City of Saint Louis



Jeanne Jarrett, CPA
Director

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