HCS HB 221 -- BANKING

SPONSOR: Luetkemeyer

COMMITTEE ACTION: Voted "do pass" by the Committee on Financial Services by a vote of 19 to 0.

This substitute makes several changes to the laws governing banking. The substitute:

(1) Allows the Missouri Higher Education Loan Authority (MOHELA) to originate PLUS loans (Parent Loans for Undergraduate Students) and increases the term of the bonds the loan authority may sell from 30 years to 40 years;

(2) Allows the Division of Finance to obtain information filed with federal regulatory agencies, rather than requiring banks to file reports of condition directly with the division;

(3) Allows the division access to the work papers used in a certified public accountant’s audit of a bank and requires the certified public accountant to maintain these records for three years after the report to the bank is issued;

(4) Requires banks to get prior approval from the division when the bank seeks to purchase real property for an amount that exceeds its loan limit or when the bank seeks to purchase property from an officer, shareholder, or other person with a similar relationship to the bank;

(5) Prohibits the division and the State Banking Board from setting conditions or requirements on deposit account fees or service charges assessed by financial institutions that are more restrictive than those allowed by federal law;

(6) Creates the business entity called “trust holding company”;

(7) Sets forth a process for establishing the entity under state law;

(8) Clarifies that these entities will not be subject to Federal Reserve examination;

(9) Requires any acquisition of a nondepository trust company by a trust holding company to be first approved by the division;

(10) Allows the division to pursue joint actions and investigations of trust holding companies with other state and federal regulatory authorities;

(11) Amends the Uniform Commercial Code so that transactions that comply with Articles 3, 4, and 9 will not be subject to any common law claims and, instead, will be subject only to statutory provisions specifically provided for in the chapter;

(12) Clarifies that when there exists a conflict between provisions found in Articles 3 and 4, the more specific provision governs;

(13) Amends Article 3 so that transactions that comply with the article will not be subject to common law claims, as long as the bank has acted in good faith for the benefit of the bank's customers;

(14) Amends Article 9 so that, in defaults of a secured transaction, consumer transactions are governed by the same rules as other transactions. Current law allows the court to determine appropriate rules in these consumer transactions;

(15) Allows creditors to convert a contract into a different loan contract or a times sales agreement when the debtor requests an extension of credit or refinancing;

(16) Clarifies the process required for the proper release of a deed of trust;

(17) Repeals several sections of law setting forth requirements and restrictions on variable-rate unsecured loans;

(18) Repeals the provision requiring a lender to provide notice to the borrower before disposing of property that was given as collateral for the loan;

(19) Repeals the limit on fees that financial institutions may charge for check overdrafts;

(20) Gives priority to Article 9 securities over liens on deeds of trust and other instruments affecting real property, in first classification counties which have two recorders' offices, for the time period from June 30, 2001 to August 28, 2003;

(21) Adds $1 to the $5 additional recording fee that recorders charge for every deed or other document regarding real property recorded;

(22) Adds $1 to the recording fee for marriage certificates, birth certificates, and official bonds required by law. Additional moneys are to be sent to the county employees' retirement fund or to the general revenue fund of charter counties without a county employees' retirement fund;

(23) Abolishes the Uniform Commercial Code Transition Fee Trust Fund; and

(24) Allows electronic filing with the Office of the Secretary of State of certain filings of initial financing statements and establishes a $5 fee for these filings. The substitute contains an effective date of July 1, 2003, for this section.

FISCAL NOTE: No impact on state funds.

PROPONENTS: Supporters say that the bill is primarily clean-up and clarifying language requested by the Division of Finance and several financial institutions. The changes to the Uniform Commercial Code are needed to comply with a recent court decision. Access to the work papers of certified public accountants is necessary to get a complete analysis of a bank's financial status. The bill also repeals provisions governing some types of variable rate loans that are not made anymore, because of changes in the industry.

Testifying for the bill were Representative Luetkemeyer; Missouri Bankers Association; Missouri Independent Bankers Association; Missouri Society of Certified Public Accountants; Missouri Higher Education Loan Authority; and Missouri Credit Union Association.

OPPONENTS: There was no opposition voiced to the committee.

Richard Smreker, Senior Legislative Analyst