

HCS HB 959 -- FINANCIAL SERVICES (Luetkemeyer)

This substitute makes changes to the laws regarding financial services.

The substitute expands the College Tuition Savings Plan (also known as a "529 Plan") by allowing Missouri residents to use any qualified 529 Plan from any state or political subdivision. Currently, Missouri residents can use only the state-sponsored plan, known as the Missouri Higher Education Savings Program. The substitute also establishes an additional savings plan, to be known as the Missouri Higher Education Deposit Program, which allows any bank in Missouri to establish savings accounts as part of a 529 Plan. State employees may request automatic payroll deductions for deposit into these accounts. The substitute requires the deposit program to be administered in the same fashion as the current savings program. The provisions governing this program will expire six years from the effective date of the substitute.

The substitute creates a cause of action for the deceptive use of the name of another financial institution. Any financial institution may sue any person or entity that creates a misleading advertisement or solicitation by including the name of the financial institution without consent. A plaintiff prevailing in this type of action will be entitled to \$10,000 in statutory damages, plus any proven actual damages; attorney fees; and court costs.

The substitute makes several changes to the law governing how and when a lender must provide a deed of release when a borrower has paid off a mortgage. Current law requires the lender to issue a release to the borrower within 15 business days. The substitute lengthens this time frame to 45 calendar days. The substitute also allows the lender to have the document recorded, rather than sending it to the borrower. If the document cannot be recorded for any reason, the lender will have an additional 60 days to file a document that can be recorded. Finally, the substitute limits the damages that may be awarded for noncompliance to \$300 per day or 10% of the amount of the loan, whichever is less.

The substitute makes changes to the laws regarding small loans. The substitute:

- (1) Increases from \$6 to \$15 the maximum amount which may be charged as an expediter fee. The expediter fee is money collected by a third party to expedite the retrieval of a debtor's motor vehicle title from the Department of Revenue;
- (2) Repeals a provision allowing a \$10 charge as a late payment

fee; and

(3) Allows lenders to collect a fee in advance for allowing the debtor to defer monthly loan payments on loans of \$600 or more. The fee may be between \$25 to \$50, but not more than 10% of the loan payments deferred. This provision does not apply to pre-computed loans.

Finally, the substitute expands the crime of false impersonation to include the providing of a false identity to a law enforcement officer upon arrest. If the false identity is not discovered until after the person is convicted, the prosecutor must file a motion to correct the arrest records and court records. The substitute also allows the court to order the expungement of the false arrest records for the person whose identity was used.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$57,738 to Unknown in FY 2005, \$54,785 to Unknown in FY 2006, and \$56,154 to Unknown in FY 2007. No impact on Other State Funds in FY 2005, FY 2006, and FY 2007.