

SCS SB 13 -- MODIFIES PROVISIONS RELATING TO FINANCIAL INSTITUTIONS

SPONSOR: Crawford

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Financial Institutions by a vote of 10 to 0. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 5 to 0 with 1 Present.

AUTHORITY OF THE DIVISION OF FINANCE (Section 361.020)

The bill provides that the Division of Finance is in charge of the execution of the laws relating to banks, trust companies, and the banking business of the state; laws relating to persons and entities engaged in the small loan or consumer credit business in the state; the laws relating to persons and entities engaged in the mortgage business in the state; and the laws relating to persons and entities engaged in any other financial services related to business over which the Division of Finance is granted express authority.

RESPONSIBILITIES OF THE DIVISION OF FINANCE - STATE BANKING AND SAVINGS AND LOAN BOARD (Section 361.098)

The bill provides that the compensation and necessary travel and other expenses of the members of the State Banking and Savings and Loan Board shall be paid out of the Division of Finance Fund.

Current law provides that a majority of the members of the State Banking and Savings and Loan Board constitutes a quorum. This bill provides that three members of the board shall constitute a quorum.

The Division is permitted to provide administrative services to the Board to assist the Board with fulfilling its statutory responsibilities.

BULLETINS AND INDUSTRY LETTERS ISSUED BY DIVISION OF FINANCE (Section 361.106)

The bill permits the Division to issue bulletins addressing the business of individuals and entities licensed, chartered, or regulated by the Division. Bulletins do not have the force or effect of law and should not be considered statements of general applicability.

The bill also permits the Division to issue industry letters. Industry letters may be issued, in the discretion of the Director of the Division, at the request of an individual or entity licensed, chartered, or regulated by the Division, and that seeks

the Division's position on an application of law. The bill details the requirements that must be met in issuing an industry letter. Industry letters are binding on the Division and the requesting party shall not be subject to any administrative proceeding or penalty for any acts or omissions done in reliance on an industry letter, provided there is no change in any material fact or law or the discovery of a material misrepresentation or omission made by the requesting party.

REPORTS OF EXAMINATIONS OF BANKS AND TRUST COMPANIES (Section 361.160)

The bill repeals an obsolete requirement that the result of all examinations of banks and trust companies during a biennial period be embodied in a report made by the Director of the Department of Commerce and Insurance to the General Assembly, such reporting requirement having previously been repealed.

NOTICES OF CHARGES AND CEASE AND DESIST ORDERS (Section 361.260)

The bill clarifies the requirements for issuing a notice of charges with respect to a director, officer, employee, agent, or other person participating in the affairs of a bank or trust company regulated by the Division under Chapter 361, RSMo. Specifically, whenever the Director has reason to believe from any examination or investigation made by the Director or his or her examiners, that any such corporation, foreign corporation, or director, officer, employee, agent, or other person participating in the conduct of the affairs of such corporation is engaging in, has engaged in, or is about to engage in:

- (1) An unsafe or unsound practice in conducting the business of such corporation;
- (2) A violation of law, rule, or director-imposed written condition;
- (3) A violation of any written agreement entered into with the director; or
- (4) A violation of the corporation's charter.

The Director may issue and serve upon the corporation or such director, officer, employee, agent, or other person a notice of charges in respect thereof.

Any cease and desist order issued by the Division in response to one of the above-described charges is subject to the following:

(1) It may require the corporation or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such corporation to cease and desist from such actions, violations, or practices;

(2) It may require the corporation or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such corporation to take affirmative action to correct the conditions resulting from any such actions, violations, or practices;

(3) It shall require that, if the Director determines that the capital of the corporation is impaired, the corporation make good the deficiency forthwith or within a time specified in the order;

(4) It may, if the Director determines that the corporation does not keep adequate records, determine and prescribe such books of account as the Director, in his or her discretion, shall require of the corporation for the purpose of keeping accurate and convenient records of the transactions and accounts; and

(5) It shall, if the Director determines that wrong entries or unlawful uses of the funds of the corporation have been made, order that the entries shall be corrected, and the sums unlawfully paid out be restored by the person or persons responsible for the wrongful or illegal payment thereof.

NOTICE OF REMOVAL FROM OFFICE (Section 361.262)

This bill modifies the process for serving a notice of intention to remove a person from office in a bank or trust company regulated by the Division under Chapter 361.

FEES COLLECTED BY DIVISION OF FINANCE (Sections 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, 408.500)

The bill modifies the following fees collected by the Division of Finance:

(1) From \$300 to \$400, the annual fee paid by persons seeking a license to issue checks (Section 361.715.2);

(2) From \$300 to \$400, the maximum fee that may be charged for any application to amend and reissue an existing license to issue checks (Section 361.715.3);

(3) From \$500 to \$600, the annual license fee for each place of business of a financial institution licensed under state law (Section 364.030);

(4) From \$500 to \$600, the annual registration fee for a premium finance company (Section 364.105.2);

(5) From \$500 to \$600, the annual license fee for each place of business of a sales finance company (Section 365.030.3);

(6) From \$500 to \$600, the fee paid by lenders of consumer credit loans when filing an application for certificate of registration (Section 367.140.1);

(7) From \$300 to \$400, the maximum fee that may be charged a credit services organization when filing a registration statement with the Director of the Division (Section 407.640.5); and

(8) From \$500 to \$600, the annual license fee charged to lenders, other than banks, trust companies, credit unions, savings banks, and savings and loan companies, in the business of making unsecured loans of \$500 or less (Section 408.500.1).

ISSUANCE OF CREDIT CARDS BY LENDERS (Section 408.145)

Under current law, lenders issuing credit cards in Missouri are permitted to contract for, charge and collect fees for credit cards that are allowed in a contiguous state. This bill modifies that provision by enabling issuance of credit cards under the same terms and conditions that are allowed in a contiguous state, rather than limiting the provision to only fees.

This bill is similar to SB 1096 (2022)

PROPOSERS: Supporters say that the bill enhances the Division of Finance's operations by giving it the authority to issue official guidance to the industry which has a safe harbor built in for reliance upon written guidance; increases the consumer lending license fees by \$100 to cover costs for oversight; and repeals obsolete portions of the banking code statutes. Originally Senate Bills 12 and 13, (2023) were together and SB 12 (2023) had a portion that relates to a provision in Section 408.145 that was enacted in 1998 which had a competitive advantage when institutions offered credit cards to compete equitably with national banks and credit unions in contiguous states. The Division of Finance collects the fees to pay for the examinations which ultimately helps consumers.

Testifying in person for the bill were Senator Crawford; Missouri Credit Union Associates; Mortgage Bankers Association of Missouri; Missouri Installment Lenders Association; Missouri Bankers Association; and Mick Campbell, Division of Finance.

OPPONENTS: There was no opposition voiced to the committee.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under House Testimony on Senate Bills on the House website.