

HCS HB 2087 -- FINANCIAL TRANSACTIONS

SPONSOR: O'Donnell

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Financial Institutions by a vote of 13 to 0. Voted "Do Pass" by the Standing Committee on Rules- Regulatory Oversight by a vote of 9 to 0.

The following is a summary of the House Committee Substitute for HB 2087.

BOND CLEAN-UP (Section 108.170).

The bill specifies that bonds, notes, or other forms of indebtedness may be issued in book-entry rather than bearer form and bear interest at the current rate of 10% or at a rate up to 250 basis points above the longest maturity United States Treasury bond, whichever is greater. Such bonds may be sold at a competitive market yield not less than 50% rather than the current 95% of the par value. Such bonds may bear interest at 14% or at a rate up to 250 basis points above the longest maturity United States Treasury bond, whichever is greater, if sold at the lowest true interest cost bid received. The bill specifies similar requirements for industrial development revenue bonds, bonds issued by any housing authority, and revenue bonds issued for airport purposes. The bill repeals the current language which provides for a political subdivision to have an unenhanced bond rating of AA+ or higher or comparable rating, and replaces it with a bond rating that is one of the two highest long-term ratings or the highest short-term rating issued by a nationally recognized rating agency on its outstanding general obligation. The principal amount of general obligation bonds, currently \$12.5 million, is increased to \$20 million.

GREEN BONDS (Section 108.371)

Under the provisions of this bill, to be rated as a green bond, at least 85% of the bond proceeds should be used for eligible green projects, and interest on income from such bonds is exempt from income tax. Capital gains taxes on such bonds are not exempt from income taxation.

An "eligible green project" is a project or activity that supports a positive environmental impact that includes assets, investments and other related expenditures that relate to categories such as renewable energy, energy efficiency, pollution prevention and

control, environmentally sustainable management of living natural resources and land use, clean transportation, terrestrial and aquatic biodiversity, climate change adaptation, circular economy adapted products, sustainable water and wastewater management and green buildings.

The bill specifies that a municipality that issues a municipal green bond shall establish a green bond holder protection fund separate from the municipality's debt service reserve fund or an equivalent fund upon a finding by the State Auditor that a bond does not meet the percentage required. The amount in the fund must be equal to at least the amount of interest paid each year multiplied by the top state income tax rate applicable to individuals under Section 143.011.

ELECTRONIC PAYMENT OF ELECTION EXPENSES AND FEES (Sections 130.011 to 130.041)

This bill allows the use of electronic payment systems, such as credit and debit cards, by specified election-related committees, provided that expenditures are paid through the official depository account. Credit card statements and records that provide a written record of all transactions shall be maintained by the treasurer or person responsible for record keeping for the committee. Records shall be made available for inspection by the Missouri Ethics Commission. Expenditure reports under Section 130.041 must include the total of expenditures made by electronic methods.

MODERN MONEY TRANSFER (Sections 361.900, 361.903 and 361.1032)

This bill establishes the "Money Transmission Modernization Act of 2024" (MTMA) which replaces existing money transmission laws and ensures that states coordinate in areas of regulation and licensing to eliminate unnecessary regulatory burden, protect the public from financial crime, and protect customer funds. The bill provides for uniformity with respect to the subject matter with other states that have enacted the MTMA.

DEFINITIONS AND EXEMPTIONS (Sections 361.906 and 361.909)

The MMTA defines several terms, including "money", "outstanding money transmission obligations", "control", "average daily money transmission liability", "multistate licensing process", "passive investor", "payment instrument", and "payroll processing services". The exemptions include but are not limited to an operator of a payment system that provides processing, clearing, or settlement

services between persons who are exempted under the bill; a person appointed as an agent of a payee to collect and process a payment from a payer to the payee for goods and services, other than money transmission itself; a person who acts as an intermediary between an entity and sender; the United States government; State, county, city or governmental agency of subdivision; Federally insured depository financial institution; and person registered as a securities broker-dealer under Federal or State securities laws.

DIRECTOR'S POWERS AND AUTHORITY (Sections 361.912, 361.915, 361.918 and 361.921)

The bill tasks the Director of the Division of Finance within the Missouri Department of Commerce and Insurance with overseeing the claimed exemptions; entering into agreements with government officials; adopting analytical software systems; and accepting from other Federal and State government agencies licensing, examination, or investigative reports and audit reports. The Director also has broad administrative authority as detailed in the bill. Further, the bill protects the confidentiality of the information and explains the requirements on what information is regarded as protected and confidential. The Director is authorized to administer and enforce the provisions of the MTMA. The Director is also authorized to participate in multistate supervisory processes between the states and coordinated through the Conference of State Bank Supervisors and Money Transmitter Regulators Association.

CONFLICT OF LAWS (Sections 361.927 and 361.1035)

Inconsistencies between the provisions of MTMA and Federal law governing money transmission shall be governed by Federal law. A person licensed in Missouri to engage in the business of money transmission is not subject to the requirements of MTMA to the extent that they conflict with current law or establish new requirements not imposed under current law, until such time as the licensee renews the licensee's current license.

LICENSING (Sections 361.930 to 361.954, 361.978 and 361.1011)

As specified in the bill, a person shall not engage in the business of money transmission or advertise, solicit, or hold itself out as providing money transmission unless the person is licensed. A license is not transferable or assignable. The bill enables multistate licensing, and the Director is encouraged to establish relationships and contracts with the Nationwide Multistate Licensing System and Registry (NMLS) for all aspects of licensing,

and utilize its forms, processes, and functionalities accordingly. The Director is required to develop the form and provide a medium for the applicants to apply for a license. The contents of the application form are detailed in the bill. A nonrefundable application fee and license fee should accompany the license application. The Director is authorized to waive the licensing requirements or allow an applicant to submit other information in lieu of the required information.

The bill details the items that any individual in control of a licensee, any individual seeking to acquire control of a licensee, and each key individual is required to supply to the Director through NMLS. The bill contains time periods for when the Director shall approve or deny a license. The bill also provides for the term and expiration time period of the license. A license is renewed annually as specified in the bill. The bill also addresses the suspension or revocation of the license.

Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain the written approval of the Director prior to acquiring control as fully detailed and explained in the bill.

A licensee adding or replacing any key individual shall follow the requirements set forth in the bill. A licensee is prohibited from conducting the business of money transmission with an unlicensed or nonexempt person.

A licensee and an authorized delegate shall file all reports required by Federal currency reporting, record keeping, and suspicious activity reporting requirements as set forth in the Bank Secrecy Act and other Federal and State laws pertaining to money laundering.

REPORTS FILED BY THE LICENSEE (Sections 361.957, 361.960, 361.963, 361.966, 361.969 and 361.972)

A licensee is required to submit a report of condition, which includes information as specified in the bill, within 40 days of the end of the calendar quarter or within any extended time prescribed by the Director. Further, the licensee is required to submit within 90 days after the end of each fiscal year an audited financial statement prepared by an independent certified public accountant as specified in the bill. The licensee must submit a report of authorized delegate within 45 days of the end of the calendar quarter. A licensee is also required to file a report with the Director within one business day after the licensee has

knowledge of petitions filed for bankruptcy or reorganization, receivership, revocation, or suspension of license.

A licensee and an authorized delegate shall file all reports required by Federal currency reporting, record-keeping, and suspicious activity reporting requirements as set forth in the Bank Secrecy Act and other Federal and State laws pertaining to money laundering. A licensee is required to maintain records for at least three years evidencing compliance with the MTMA.

CONDUCTING BUSINESS THROUGH AN AUTHORIZED DELEGATE (Sections 361.975 and 361.981)

Various provisions that apply to a licensee conducting business through an authorized delegate are contained in the bill. Further, the bill references civil actions that a licensee can bring against an authorized delegate for failure to remit money.

A cause of action filed by a licensee in circuit court allows the court to grant equitable or legal relief, including prohibiting the authorized delegate to act as an authorized delegate for any licensee in the State and the payment of restitution, damages, or other monetary relief if the court finds that the delegate failed to remit money as specified in Section 361.981. The bill also includes misdemeanor and felony actions against a delegate who knowingly fails to remit moneys as mentioned in the bill.

MONEY RECEIVED FOR TRANSMISSION (Sections 361.984, 361.987 and 361.990)

Every licensee shall forward all money received for transmission in accordance with the terms of the agreement between the licensee and the sender unless certain conditions apply as detailed in the bill. Every licensee shall refund to the sender within 10 days of receipt of the sender's written request for a refund any and all money received for transmission unless certain conditions occur as indicated in the bill. Every licensee or its authorized delegate shall provide the sender a receipt, as defined in the bill, for money received for transmission that contains certain information specified in the bill.

LICENSEE PROVIDING PAYROLL PROCESSING SERVICES (Section 361.996)

The bill provides for the issuance of reports to clients detailing client payroll obligations in advance of the funds being deducted and making worker payroll stubs available. The bill specifies when

the requirements are inapplicable to a licensee providing payroll processing services.

FINANCIAL MATTERS (Sections 361.999, 361.1002, 361.1005 and 361.1008)

A licensee is required to maintain tangible net worth of the greater of \$100,000 or 3% of total assets for the first \$100 million; 2% of additional assets for \$100 million to \$1 billion; and .05% of additional assets for over \$1 billion. Further, a licensee is required to provide a surety bond in the form satisfactory to the Director. A licensee is also required to maintain permissible investments that have a market value computed under the generally accepted accounting principles of not less than the aggregate amount of all of its outstanding money transmission obligations. The bill includes several detailed provisions relating to permissible investments.

DIRECTOR'S ORDERS (Sections 361.1014, 361.1017, 361.1020 and 361.1029)

The bill specifies several instances when the Director may issue an order including but not limited to:

(1) The Director's order relating to suspension or revocation of an authorized delegate's designation based upon certain findings (Section 361.1014);

(2) The Director's order for a licensee or authorized delegate to cease and desist based upon violations of the MTMA that cause immediate and irreparable harm (Section 361.1017);

(3) The Director may resolve matters through a consent order (Section 361.1020); and

(4) The Director may issue an order to show cause (Section 361.1029).

FINES AND PENALTIES (Sections 361.1023 and 361.1026)

The bill outlines the penalties associated with intentionally making a false statement, misrepresentation, or false certification of a record or false entry in the record. The Director may assess a civil penalty for violations under MTMA in an amount not to exceed \$1,000 per day for each day the violation is outstanding, plus costs, expenses, and attorney's fees.

LOAN FEES (408.035, 408.140, 442.210)

This bill removes the ability of the parties to agree in writing to any rate of interest, fees, and other terms and conditions relating to loans of less than \$5,000 secured by real estate used for an agricultural activity. The bill also authorizes the charge for the cost of the credit report as indicated in Section 408.140. Currently, if a married woman joins her husband in the execution of an instrument of acknowledgment relating to conveyances or written instruments of real estate, in the approved forms she is described in the acknowledgment as his wife, and no separate examination of a married woman in respect to the execution of a release or dower affecting real property is required. The bill repeals this provision.

COMMERCIAL FINANCING DISCLOSURE (Section 427.300)

This bill establishes the "Commercial Financing Disclosure Law". The bill defines a "provider" as a person who consummates more than five commercial financing products to a business located in Missouri in a calendar year. As specified in the bill, the provider is required to make certain disclosures to the business with regard to the product. The disclosures are required at or before the consummation of the transaction. Specifically, the provider is required to disclose the following:

- (1) The total amount of funds provided to the business under the terms of the commercial financing product;
- (2) 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;
- (3) The total amount to be paid to the provider pursuant to the commercial financing product agreement;
- (4) The total dollar cost of the commercial financing product under the terms of the agreement, obtained by subtracting the total amount of funds provided from the total of payments;
- (5) The manner, frequency and amount of each payment; and
- (6) A statement of whether there are any costs or discounts associated with prepayment of the commercial financing product.

The bill contains various exemptions and includes provisions requiring all persons engaged in business as a commercial financing broker within the State to file a registration and post a surety bond in the amount of \$10,000 with the Division of Finance. Brokers must renew their registration on or before January 31st of each year. Violations of this bill 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 bill after receiving written notice of a prior violation from the Attorney General shall be subject to 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 bill. Violation of any provision of this bill does not affect the enforceability or validity of the underlying agreement. The bill does not create a private cause of action against any person or entity based upon noncompliance with this bill. The Attorney General is given authority to enforce the provisions of this bill. The provisions requiring a provider to file a disclosure regarding a commercial financing transaction and a registration will be effective six months after the Division finalizes promulgating rules or February 28, 2025, if the Division does not intend to promulgate rules.

METHODS OF REIMBURSEMENT TO HEALTH CARE PROVIDERS (Section 376.1345)

Currently, if a health carrier initiates or changes the method used to reimburse a health care provider to a method that requires the provider to pay a fee or remit some other form of remuneration, the carrier must notify the provider of the cost, provide clear instructions as to how to select an alternative payment method, and use that alternative method if requested by the provider.

This bill requires the health carrier or entity acting on its behalf to first receive approval from the health care provider before reimbursing the health care provider with such payment method.

If a health carrier is currently reimbursing a health care provider with a payment method, the health care provider can send one notice to the health carrier for all the health care provider's patients covered by such health carrier stating that the health care provider declines to be reimbursed with a payment method.

The notice will remain in effect for the duration of the contract unless the health care provider requests otherwise. All payments made by the health carrier to the health care provider after

receipt of the notice declining to be reimbursed with a payment method cannot require the health care provider to pay a fee, discount the amount of the provider's claim for reimbursement, or remit any other form of remuneration in order to redeem the amount of the provider's claim for reimbursement.

This bill contains portions of HB 2087, HB 1478, HB 1504, HB 1725, HB 1726, HB 2063, and HB 2087.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that health care practitioners, mostly dental, were getting paid through a prepaid debit or credit card, but they had up to a 3% charge to redeem it. Companies got around an earlier version of the opt-out by requiring an opt-out of each patient for each payment. This bill gives the provider a choice upfront on how to receive reimbursement.

Testifying in person for the bill were Representative O'Donnell; Missouri State Medical Association; Association of Dental Support Organizations; and the Missouri Dental Association.

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 Testimony on the bill page on the House website.