

HCS SCS SB 1038 -- BANKING

SPONSOR: Yeckel (Luetkemeyer)

COMMITTEE ACTION: Voted "do pass" by the Committee on Financial Services by a vote of 16 to 3.

This substitute changes the laws regarding financial services. It expands the college tuition savings plan, 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 receive state income tax benefits only when using the state-sponsored plan, known as the Missouri Higher Education Savings Program. The substitute establishes 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 into these accounts. The deposit program is to be administered in the same fashion as the current savings program. The provisions of the program will expire six years from the effective date.

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 changes the laws governing how and when a lender must provide a deed of release when a mortgage is paid off. Current law requires the lender to issue a release to the borrower within 15 business days. The substitute lengthens this to 45 calendar days and allows the lender to have the document recorded, rather than mailed 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. 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, plus court costs and attorney fees.

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

- (1) Increases from \$6 to \$15 the maximum amount which may be charged as an expediter fee, which 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.

The substitute gives the Board of Fund Commissioners and the State Board of Public Buildings the authority to issue and refinance existing financial instruments, converting them into variable rate issuances and other financial arrangements. The variable rate issuances may not exceed 20% of the state's outstanding debt.

The substitute also clarifies the venue for criminal prosecutions and civil suits of identity theft.

FISCAL NOTE: Estimated Cost to General Revenue Fund of Unknown in FY 2005, \$20,640 to Unknown in FY 2006, and \$28,779 to Unknown in FY 2007. Unknown expected to exceed \$100,000. No impact on Other State Funds in FY 2005, FY 2006, and FY 2007.

PROPOSERS: Supporters say that the Missouri Higher Education Savings Program offers a financially conservative option for people whose children are close to college age. For those people buying stocks, even through a mutual fund, may not be a prudent investment, because of the volatility of the stock market and the relatively short term of the investment. Purchasing certificates of deposit through a local bank not only provides a risk-free investment opportunity, but also keeps that money in Missouri.

Testifying for the bill were Senator Yeckel; and Missouri Bankers Association.

OPPOSERS: There was no opposition voiced to the committee.

Richard Smreker, Senior Legislative Analyst