

HCS SB 148 -- BUSINESS REGULATIONS

SPONSOR: Parson (Jones)

COMMITTEE ACTIONS: Voted "Do Pass with Amendments" by the Standing Committee on Emerging Issues by a vote of 9 to 0. Voted "Do Pass with HCS" by the Select Committee on General Laws by a vote of 7 to 1.

This bill changes laws regarding business regulations. In its main provisions, the bill:

(1) Allows the county commission or a county officer designated by the county commission to take or process applications for passports, or their renewal, if the court clerk in the circuit in which the county is located does not offer the services. Fees charged for the service must be retained by the county office that provides the service (Section 49.130, RSMo);

(2) Adds specified financial documents and contracts regarding leases, agreements, contracts or subleases for space, usage, or services in any convention center or related facility owned or operated by a regional convention and visitors commission to the exceptions to the Open Records and Meetings Law, commonly known as the Sunshine Law, when the disclosure may endanger the competitiveness of the business or prospects of the commission or provide an unfair advantage to its competitors (Section 67.617);

(3) Prohibits a municipal advisor who is involved with any sale of bonds from underwriting the issue and requires him or her to be independent of the underwriter of that issue of securities. The Office of Administration may provide assistance regarding the issuance of bonds, notes, or other indebtedness in order to obtain the lowest possible net interest costs to a political corporation or subdivision if it makes a request (Sections 108.140, 108.170 and 108.171);

(4) Adds the existing use of the property, including any restrictions or limitations on the use of the property resulting from state and federal rules and regulations; existing covenants or restrictions in deed dedicating the property to a particular use; and rent limitations, operational requirements, and any other restrictions imposed upon the property in connection with the property being eligible for any income tax credits or any other state or federal subsidies provided with respect to use of the property as residential rental property to the list of items that must be considered by a county assessor in evaluating the value of property for tax purposes (Section 137.076);

(5) Changes the laws regarding specified filing fees collected by the Secretary of State. The bill:

(a) Repeals the provision requiring the filing fee for filing articles of incorporation to be the same as the fee for filing an amendment to articles of incorporation;

(b) Repeals the provisions requiring the Secretary of State to collect a \$5 filing fee upon the filing of articles of correction;

(c) Repeals the provision requiring the fee for filing an amended certificate of registration to be \$20;

(d) Repeals the provisions requiring the Secretary of State to charge and collect specified fees for certain corporation filings;

(e) Allows the Secretary of State to collect a \$5 fee in lieu of each fee that is being removed and to collect a \$5 fee on each and every fee required under Chapter 347, RSMo, as of August 28, 2015. These provisions will expire on December 31, 2021;

(f) Specifies that all fees required under Chapter 347 as of August 1, 2015, must be published on the website of the Secretary of State;

(g) Repeals the provision requiring a corporation to include an additional \$20 fee when it changes the filing month of its corporate registration report;

(h) Repeals the provision requiring a corporation choosing to biennially file a corporate registration report to pay an \$80 fee if the report is filed in a written format and \$30 if the report is filed via a prescribed electronic format and requires the Secretary of State to collect a \$10 fee for each biennial corporate registration report filed;

(i) Repeals the provisions requiring a corporation to pay a \$40 fee for its corporate registration if it is filed in a written format and \$15 if it is filed via a prescribed electronic format;

(j) Repeals the provision establishing a \$20 filing fee for a request for termination by a dissolved corporation;

(k) Repeals the provision requiring a foreign corporation to pay a \$150 fee for the issuance of a certificate of authority to do business in the state;

(l) Repeals the provision requiring the Secretary of State to charge a \$5 fee for furnishing a person or governmental agency an

abstract of a corporate or registration record of any business entity registered in the Office of the Secretary of State;

(m) Reduces, from \$50 to \$20, the maximum fee that the Secretary of State may charge for a preclearance examination and report on any document proposed to be filed with him or her;

(n) Repeals the provision requiring a \$100 fee for a cooperative filing articles of organization;

(o) Specifies that if any statement in an application for a certificate of authority by a foreign cooperative was false when made or any arrangements or other facts have changed, making the application inaccurate in any respect, the foreign cooperative must promptly file with the Secretary of State a certificate to that effect authenticated by the proper officer of the state or country under the laws of which the foreign cooperative is organized;

(p) Requires the Secretary of State to collect a \$20 fee for an application for reinstatement following administrative dissolution;

(q) Repeals the provision specifying that the filing fee for a voluntarily dissolved corporation filing articles of termination is \$5; and

(r) Repeals a provision regarding the waiver of fees to register as a limited liability partnership if a general partner of the partnership is a member of the Missouri National Guard or any other active duty military, resides in the State of Missouri, and provides proof of the service to the Secretary of State (Sections 274.190, 347.055 - 359.653, 392.010, and 417.016 - 417.175);

(6) Allows any person who is licensed to sell intoxicating liquor in the original package at retail under Section 311.200 to sell between 32 to 128 ounces of draft beer to customers in containers filled by an employee of the retailer on the premises for consumption off the retail premises. Specifications for the labeling and sealing of the containers, compliance with federal law, and health and safety regulations for filling and refilling containers are specified in the bill. An employee filling or refilling containers with draft beer must be 21 years of age or older. Any provision of law or rule of regulation of the Supervisor of Alcohol and Tobacco Control in the Department of Public Safety cannot be interpreted to allow any manufacturer, wholesaler, or distributor of intoxicating liquor to provide dispensing or cooling equipment or containers to any person who is licensed to sell intoxicating liquor in the original package at retail (Section 311.201);

(7) Creates the Division of Alcohol and Tobacco Control Fund into which 70% of revenue from liquor permits and licenses must be deposited. The fund must be used, upon appropriation, solely for the administration of alcohol and tobacco regulations including prohibiting the sale of tobacco to minors (Sections 311.730 and 311.735);

(8) Specifies that except in cases of fraud or misrepresentation on the application for coverage, an owner or operator of an underground storage tank cannot be denied insurance benefits by the Petroleum Storage Tank Insurance Fund or other provider of financial responsibility solely because the owner or operator's claim comes from a release of a regulated petroleum substance or motor fuel deemed incompatible with the motor fuel storage tank system. Any motor vehicle manufacturer, distributor, or dealer or refiner, supplier, wholesaler, distributor, retailer, or other vendor of motor fuel that contains or is blended with any amount of ethanol, biodiesel, or other renewable fuel or biofuel that complies with labeling and motor fuel quality laws cannot be liable for any damages related to a customer's purchase of the motor fuel from the vendor so long as the selection of motor fuel was made by the customer and not the vendor. Motor fuel that contains or is blended with a renewable fuel cannot be considered a defective product if the fuel complies with motor fuel quality laws (Sections 319.114, 414.036, and 414.255);

(9) Changes the laws regarding limited liability companies. Currently, limited liability companies in Kansas City that own or rent real property or own unoccupied property within the city are required to file an affidavit with the city clerk specifying the name and address of a person with management control or responsibility for the real property. The bill clarifies that it must be a street address and must be a natural person. The limited liability company must file a successor affidavit within 30 days of a change in the natural person with management control or responsibility for the real property. The city cannot charge a fee for the filing of the affidavit or successor affidavit. If a limited liability company fails or refuses to file the affidavit, any person adversely affected by the failure or refusal, or the city, may petition the circuit court in the county where the property is located to direct the execution and filing of the affidavit (Section 347.048);

(10) Waives a farm corporation or a family farm corporation from the requirement to file an annual registration report with the Office of the Secretary of State if its information has not changed since its incorporation or most recent registration report, whichever is applicable (Section 351.120);

(11) Prohibits any licensed insurance company from delivering or issuing for delivery in this state any policy or certificate of long-term care insurance unless the classification of risks and the premium rates have been filed with and approved by the Director of the Department of Insurance, Financial Institutions and Professional Registration and prohibits the rates for long-term care insurance from being excessive, inadequate, or unfairly discriminatory. In no event can the rates charged to any policyholder or certificate holder increase by more than 10% during any annual period unless the insurer clearly documents a material and significant change in the risk characteristics of all its in-force long-term care insurance policies or certificates (Section 376.1110);

(12) Specifies that a title insurer, title agency, or title agent may perform escrow or closing services in a residential real estate transaction by giving notice to affected persons that their interests are not protected by the title insurer, agency, or agent in situations where the title insurance policy is not being issued by the title insurer, agency, or agent performing the escrow or closing services. In situations where title insurers, agencies, and agents are exclusively performing escrow, settlement, or closing services, it is unlawful for the entities to do so unless they clearly disclose to the sellers, buyers, and lenders involved in the escrows, settlements, or closings that no title insurer is providing any protection for closing or settlement funds. The bill also specifies that a qualified spousal trust can include without limitation a discretionary power to distribute trust property to a person in addition to a settlor. All property at any time held in a qualified spousal trust, without regard to how the property was titled prior to it being so held, must have the same immunity from the claims of a separate creditor of either settlor as if the property were held outside the trust by the settlors as tenants by the entirety, unless otherwise provided in writing by the settlor or settlors who transferred the property to the trust, and the property must be treated for that purpose, including without limitation, federal and state bankruptcy laws, as tenants by entirety property. Property held in a qualified spousal trust must cease to receive immunity from the claims of creditors upon dissolution of marriage of the settlors by the court. The respective rights of settlors who are married to each other in any property for purposes of a dissolution of the settlors' marriage must not be affected or changed by reason the transfer of that property to, or its subsequent administration as an asset of, a qualified spousal trust during the marriage of the settlors unless both settlors expressly agree otherwise in writing. A transfer to a qualified spousal trust cannot avoid or defeat the Missouri Uniform Transfer Act, and any transfer of an asset to a trustee of a trust, to the trust itself, or to a share of the trust in a

manner that is reasonably calculated to identify the trust or that share of the trust subjects that asset to the terms of the trust or that share (Sections 381.022, 381.058, 456.950, and 456.1-113);

(13) Specifies that the judge rendering judgment in any cause for the purpose of restoring possession in a landlord tenant action may issue execution at any time after judgment, but the execution must not be levied until after the expiration of the time allowed for the taking of an appeal except execution for the purpose of restoring possession must be issued no sooner than 10 days after the judgment. However, the execution must be stayed pending an appeal if the losing party posts an appeal bond. If it appears to the officer having charge of the execution that the defendant is about to remove, conceal, or dispose of his or her property, damages and costs may be levied before the expiration of the time allowed for taking an appeal. A landlord and tenant may agree in the rental agreement to withhold from the security deposit an amount or fee for specific services that may be required to return the rental premises to its condition at the commencement of the tenancy. Currently, a landlord is authorized to withhold only the amount that is reasonably necessary to restore the dwelling unit to its condition at the commencement of the tenancy, ordinary wear and tear excepted (Sections 534.350 - 535.300);

(14) Reestablishes common law sovereign immunity, except as waived in Section 537.600, as it existed in this state prior to September 12, 1977, for specified persons and entities involved with a public streetcar transit system in Kansas City. The restoration of immunity is for tort actions where the injury occurred on or after the effective date of the bill (Section 537.601);

(15) Prohibits any comprehensive state energy plan developed by the Division of Energy from being adopted and implemented and any expenditures of funds being made by any executive department or state agency to implement a state energy plan until the plan is approved by the General Assembly by concurrent resolution (Section 620.3150);

(16) Establishes the Joint Interim Legislative Committee on Human Investment and Social Impact Bonds. The commission must include six members of the House of Representatives, four appointed by the Speaker of the House and two by the Minority Floor Leader. The remaining member appointments are specified in the bill as well as the commission's responsibilities (Section 660.755); and

(17) Specifies that any individual who holds an occupational license issued by the Missouri Gaming Commission as an unarmed security guard on an excursion gambling boat or adjacent facility must be exempt from any other political subdivision's licensing

requirements for unarmed security guards (Section 1).

The provisions of the bill regarding the Joint Interim Legislative Committee on Human Investment and Social Impact Bonds will expire on January 30, 2020.

The provisions of the bill regarding the adoption of a state energy plan contain an emergency clause.

PROPONENTS: Supporters say that the bill will prevent excess duplication of work for farm corporations.

Testifying for the bill were Senator Parson; Missouri Soybean Association; Office of the Secretary of State; Missouri Corn Growers Association; and Missouri Farm Bureau.

OPPONENTS: There was no opposition voiced to the committee.