

HCS HB 1702 -- FINANCIAL INSTRUMENTS

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- Legislative Oversight by a vote of 9 to 0.

The following is a summary of the House Committee Substitute for HB 1702.

This bill relates to financial instruments.

LINKED DEPOSITS

Currently, the State Treasurer must create an investment policy that includes an asset allocation plan that limits the total amount of state moneys that may be invested in a particular investment. The asset allocation plan must also set diversification limits that include a restriction limiting the total amount of time deposits (not including linked deposits) of state money placed with any one single banking institution to no more than 10% of all time deposits of state money. This bill changes that limit to 15% of all time deposits of state money authorized under the asset allocation plan (Section 30.260, RSMo).

Currently, it is required that market rate is to be determined at least once a month by the State Treasurer using a process that gives consideration of prevailing rates offered for certificate of deposits by well-capitalized Missouri financial institutions and the advance rate established by the Federal Home Loan Bank of Des Moines. This bill requires the treasurer to also give consideration to any other calculation based on current market investment indicators determined by the State Treasurer (Section 30.260).

Currently, the State Treasurer may invest in linked deposits; however the total amount deposited at any one time may not exceed, in the aggregate, \$720 million and no more than \$110 million of the aggregate shall be used for link deposits to small businesses. This bill changes those limits to \$800 million and \$190 million, respectively (Section 30.753).

This bill requires the State Treasurer to give priority to the funding of renewed linked deposit applications over the funding of new linked deposit applications (Section 30.758).

This provision is the same as SCS SB 599 (2020) and similar to HB

2206 (2020) and HB 1029 and SB 439 (2019).

CREDIT INSURANCE

Currently, insurance written in connection with a loan or other credit transaction with a duration of more than 10 years is not subject to regulation. This bill increases the time period from 10 years to 15 years (Section 385.015).

This provision is the same as HB 1543 (2020) and HB 815 and SB 256 (2019).

SECURITIES

This bill adds broker-dealers and investment advisors (or investment advisor representatives) to the individuals covered under the Senior Savings Protection Act (Sections 409.605 to 409.630).

Broker-dealers and investment advisors may notify the Department of Health and Senior Services, the Commissioner of Securities, or an immediate family member of his or her reasonable belief that financial exploitation of a vulnerable person has occurred or is being attempted. The department or commissioner may provide information on the vulnerable person to the reporting individual upon request (Section 409.610).

In the instance of a reasonable belief of financial exploitation, the bill allows a broker-dealer, investment advisor, or associated person to refuse a transaction from the account of the vulnerable person for a maximum of 10 business days. To refuse a transaction or disbursement, the broker-dealer, investment advisor, or associated person must send written notice to the vulnerable person, along with contact information for the Investor Protection Hotline. Following the refusal of a transaction or disbursement, the Commissioner or department may enter an order to extend the refusal for the time necessary to protect the vulnerable person, but the agency issuing the order must review the circumstances every 30 days (Section 409.615).

The bill specifies a broker-dealer or investment advisor who complies with the Senior Savings Protection Act will be immune to civil liability (Section 409.620).

A broker-dealer or investment advisor must provide access to records relevant to the suspected financial exploitation to the department, the Commissioner, or law enforcement (Section 409.625).

The commissioner must update their training website to include

resources to assist broker-dealers and investment advisors in the prevention and detection of financial exploitation (Section 409.630).

The bill allows a rule to be adopted to require a notice filing by an issuer to include a:

- (1) Copy of the Form 1-A or other forms required by the Securities and Exchange Commission;
- (2) Consent of service of process and a payment of a fee of \$100; and
- (3) Payment of \$50 fee for any late filing (Section 409.3-302).

This bill raises the maximum civil penalty under the Senior Savings Protection Act from \$5,000 to \$25,000 for each violation. The bill also raises the maximum penalty after a hearing from \$1,000 to \$25,000 for each violation and the penalty for a finding of a violation against an elderly or disabled person from \$5,000 to \$15,000 for each violation (Sections 409.4-412 and 409.6-604).

This provision is the same as HB 1736 (2020) and similar to HB 354 (2019).

MORTGAGE LOAN ORIGINATORS

Currently, mortgage loan originators have prelicensing education requirements of at least 20 hours. This bill states that a prelicensing education course completed by an applicant will not satisfy the education requirement if the course precedes an application by a certain time period, as determined by the Nationwide Mortgage Licensing System and Registry (NMLSR) (Section 443.717).

The bill requires certain persons, as outlined in the bill, related to a mortgage loan originator to furnish their fingerprints to the NMLSR for submission to the Federal Bureau of Investigation and any governmental agency for a state, national, and international criminal history background check. The bill allows the Director of the Division of Finance to use the NMLSR as an agent for transmitting information to and from the Federal Department of Justice or any other governmental agency (Section 443.825).

The bill removes a requirement that advertisements by a mortgage loan originator contain the name and address on record with the Director (Section 443.855).

Currently, the law requires that each residential mortgage loan

broker maintain at least one full-service office in Missouri. The bill allows this requirement to be waived for persons exclusively engaged in the business of loan processing or underwriting (Section 443.857).

This provision is similar to HB 2092 (2020) and HB 757 (2019).

FINANCIAL INSTRUMENTS

This bill prohibits a court from dividing securities among multiple recipients in such a way that negotiable securities become nonnegotiable securities. However, a court may divide securities into increments equal to a multiple of the allowable tradeable amount or denomination accepted by the industry, as defined in the official statement or offering document of the original security.

If these provisions prevent the distribution of property as another law requires, a court may:

(1) Distribute securities and other property in a way so that the total value of property each recipient receives is as close to the proper proportion as practicable;

(2) Liquidate the securities and distribute the resulting money among recipients; or

(3) Take any other action within its power, including a combination of the options above (Section 476.419).

This provision is the same as HB 1702 (2020) and HCS HB 1083 (2019).

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 this bill will address negative impacts to the liquidity of securities. The bill helps the consumer and assists in the operation of capital formation.

Testifying for the bill were Representative O'Donnell and David M. Minnick, Missouri Secretary of State's Office.

OPPONENTS: There was no opposition voiced to the committee.