

HB 2571 -- FINANCIAL SERVICES (Owen)

COMMITTEE OF ORIGIN: Standing Committee on Financial Institutions

MISSOURI WORKPLACE RETIREMENT SAVINGS PLAN (Sections 285.1000 to 285.1055)

This bill establishes the "Missouri Workplace Retirement Savings Plan", which is a multiple-employer retirement saving plan treated as a single plan under Title I of The Employee Retirement Income Security Act of 1974 (ERISA) under 401(a), 401(k), and 413(c) of the Internal Revenue Code, in which multiple employers may voluntarily choose to participate regardless of whether any relationship exists between and among the employers other than their participation in the plan.

The bill establishes the "Missouri Workplace Retirement Savings Board" in the office of the State Treasurer. The Board consists of nine members, including three members appointed by the Speaker of the House of Representatives, and three members appointed by the President Pro Tem of the Senate, with the State Treasurer serving as the chair. The Board shall design, develop and implement the Plan as outlined in the bill. The Board shall establish the Plan so that individuals can begin making contributions to the Plan no later than September 1, 2024. Any employer joining the Plan shall not be liable for an employee's decision to participate in or opt out of the Plan, the employee's decision on which investments to choose, or the administration, investment, investment returns, or investment performance of the Plan.

DIVISION OF FINANCE (Sections 361.020, 361.098, 361.106, 361.160, 361.260, 361.262, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, 408.500)

This bill grants the Division of Finance (DOF), within the Department of Commerce and Insurance the authority over the laws relating to persons and entities engaged in the following:

- (1) Banks, trust companies and the banking business. Currently the Division has regulatory authority over these entities.
- (2) Mortgage loan business;
- (3) Any other financial-services-related business over which the Division is granted express authority.

This bill grants the Director discretionary authority to issue bulletins regulating the businesses, which do not have the force or effect of law and are not regarded as statements of general

applicability for rule promulgation. In addition, the Division is granted discretionary authority to issue industry letters in response to written requests from an individual and entity on the application of law, that includes certain information detailed in the bill.

This bill allows the Director, based upon an examination or investigation, to issue notice of charges against any corporation for violations described in the bill.

#### COMMERCIAL FINANCING DISCLOSURE LAW (Section 427.300)

This bill creates the "Commercial Financing Disclosure Law". Under this bill, a "provider", which is a person or entity, who consummates more than five commercial financing products, as defined in the bill, to a business located in this state in a calendar year is required to make certain disclosures to the business with regard to the product. 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, derived by subtracting the total amount of funds provided from the total payments;
- (5) The manner, frequency, and amount of each payment;
- (6) A statement of whether there are any costs or discounts associated with prepayment of the commercial financing product including a reference to the paragraph in the agreement that creates the contractual rights of the parties related to prepayment; and
- (7) A statement of whether the provider will pay compensation directly to a broker in connection with the commercial financing product and the amount of compensation.

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 punishable by 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. This 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.

This bill contains various exemptions.

#### PROPERTY EXEMPT FROM ATTACHMENT (Section 513.430)

This bill provides bankruptcy protection for the Missouri Education Savings Program and the Missouri Higher Education Deposit Program also known commonly as 529 education savings accounts. The bill limits the protection to proceedings filed or on appeal after January 1, 2022 and only for designated beneficiaries that are lineal descendants of the account owner. Contributions within a one year period before a judgment will not qualify for the exemption.

#### OFFENSES INVOLVING TELLER MACHINES (Sections 569.010, 569.100, 569.190, 570.010 and 570.030)

This bill adds damaging or making a "teller machine", as defined in the bill, inoperable to the offense of property damage in the first degree. This offense is a class D felony; a class C felony if committed for the purpose of executing any scheme or artifice to defraud or obtain any property that exceeds \$750 or the damage to the teller machine exceeds \$750; and a class B felony if the damage committed was to obtain the personal financial credentials of another person.

This bill describes the offense of tampering with a teller machine and makes it a class D felony, unless the offense is for the purpose of executing any scheme to defraud or obtain any property valued at \$1000 or more or damage to the teller machine of \$1000 or more, in which case it is a class C felony.

The bill also provides that the offense of stealing is a Class C felony if the property is a teller machine or the contents of a

teller machine regardless of the value or amount of cash.

OFFENSE OF MONEY LAUNDERING (Section 574.105)

This bill modifies the statute related to the offense of money laundering. It adds a definition for "cryptocurrency" which is a digital currency in which transactions are verified and records are maintained by a decentralized system using cryptography. The bill replaces the definitions of "currency" with one for "monetary instruments" and it adds definitions for "financial transaction" and "transaction". The definition of "financial transaction" involves the movement of funds by wire or other means, including blockchain, and involves the use of a financial institution as defined under federal law. The bill also replaces the term "currency transaction" with "financial transaction" in the factors establishing the offense.