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House Bill 5328 (Substitute H-3 as reported without amendment)
House Bill 5329 (Substitute H-1 as reported without amendment)
Sponsor: Representative Tupac Hunter (H.B. 5328)
Representative David Palsrok (H.B. 5329)
House Committee: Banking and Financial Services
Senate Committee: Banking and Financial Institutions

CONTENT

House Bill 5328 (H-3) would create the "Money Transmission Services Act" to:

- Prohibit a person from providing "money transmission services" without a license under the proposed Act or a Class I license under the Consumer Financial Services Act, subject to certain exceptions.
- Specify requirements for application and licensure under the proposed Act, including maintaining a net worth of at least \$100,000 plus \$25,000 for each location or authorized delegate or \$1 million, whichever was less, and filing with the Commissioner of the Office of Financial and Insurance Services (OFIS) a surety bond of \$500,000 to \$1.5 million, depending on the number of locations and authorized delegates.
- Authorize the Commissioner to establish fees for applicants and licensees under the proposed Act that would generate funds sufficient to pay, but not exceed, OFIS's reasonably anticipated costs of administering the Act.
- Authorize the Commissioner to conduct examinations or investigations of licensees and their authorized delegates.
- Require a licensee to maintain permissible investments that had a market value of not less than the aggregate amount of all of its outstanding payment instruments issued or sold and money transmitted by the licensee.
- Regulate agreements and relationships between licensees and their authorized delegates.
- Authorize the Commissioner to impose sanctions on licensees.
- Specify a felony penalty of imprisonment for up to five years and/or a maximum fine of \$100,000 for intentionally making a false statement, misrepresentation, or certification in a document; engaging in criminal fraud in the conduct of a money transmission services business; or engaging in activity requiring a license under the Act, without a license.

"Money transmission services" would mean selling or issuing payment instruments or stored value devices or receiving money or monetary value for transmission. The term would not include the provision solely of delivery, online, or telecommunications services or network access. An "authorized delegate" would be a person that a licensee designated to provide money transmission services in Michigan on the licensee's behalf.

House Bill 5329 (H-1) would amend the Code of Criminal Procedure to add felony violations of the proposed Money Transmission Services Act to the sentencing guidelines, as Class E offenses against the public trust, subject to a statutory maximum of five years.

MCL 777.14p (H.B. 5329)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 5328 (H-3) would increase the responsibilities of the Office of Financial and Insurance Services within the Department of Labor and Economic Growth to the extent that licensees regulated as money transmission services exceeded those regulated under the Sale of Checks Act, which would be repealed. The duties of the OFIS Commissioner would include reviewing license applications, setting and assessing license fees, conducting investigations, and performing enforcement activities. Fees would be determined annually at rates sufficient to fund entirely the regulation of money transmission services. In addition, licensees would pay separately for the cost of investigations. It is estimated that 4.0 additional FTEs would be required at a cost of approximately \$350,000, funded by license fees.

Penal fines levied pursuant to the bill would go to county treasurers for distribution to public libraries. Civil fines would be retained by OFIS for the administrative expenses of the office.

The criminal penalties under House Bills 5328 (H-3) and 5329 (H-1) would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed offenses. Data on misdemeanor convictions for violating the Sale of Checks Act are unavailable. An offender convicted of the Class E offenses under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months. To the extent that the bills would increase incarceration time, local governments would incur increased costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.