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COMCD4 Consent to Service of Process in Connection with Regulation D Exemption Notice Filings

R.C. *1707.11*

Removes the requirement that a person not organized under Ohio law, not licensed as a foreign corporation, or that does not have a principal place of business in Ohio submit a consent to service of process when filing for an exemption for a security offered or sold in reliance on Regulation D of the Securities Act of 1933.

Fiscal effect: Conforms Ohio to the majority of states that have discontinued this requirement. Reduces the number of forms required to be filed with the Division of Securities.

COMCD5 Waiver of Certain Securities Investment License, Renewal, and Notice Filing Fees

R.C. *1707.17*

Permits the Division of Securities to waive, in part or in whole, certain license, renewal, and notice filing fees for dealers, salespersons, investment advisors, investment advisor representatives, state retirement system investment officers, or Bureau of Workers' Compensation chief investment officers involved in securities investment if the waiver is in the public interest and protects securities investors.

Fiscal effect: Minimal loss in revenue to the Division of Securities Fund (Fund 5500). This provision, though it applies to a broad range of circumstances, provides the Division the flexibility to waive fees in circumstances where a registrant would be forced to pay a double fee, for example. One such circumstance results from a provision in the federal Dodd/Frank Financial Reform Act of 2010. Effective July 21, 2011, that act requires states to be the primary regulator of investment advisors having up to $100 million in assets under management. Currently, states regulate investment advisors with up to $30 million in assets under management and the Securities and Exchange Commission (SEC) regulates entities above that threshold. As a result of the federal law, some investment advisors will be switching from regulation by the SEC to regulation by the Division and thus must pay a filing fee of $100. According to COM, investment advisor firms switching to Ohio regulation already had to pay a $100 filing fee at the beginning of this year to operate in Ohio even though they were regulated by the SEC. This provision would be applied to allow the additional filing fee for firms switching regulators to be waived.

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COMCD6 Increase in Credit Union Share Guaranty Corporation Annual Fee

R.C. *1761.04*

Increases the maximum annual fee placed on credit union share guaranty corporations from $5,000 to $50,000 (unchanged is the basis for the fee, which is 0.5% of a corporation's guarantee fund as shown by the corporation's last annual financial report).

Fiscal effect: Gain in revenue to the Credit Unions Fund (Fund 5520) of up to $45,000. Currently, there is only one credit union share guaranty corporation operating in Ohio, American Share Insurance (ASI). Increasing the maximum fee that may be charged is intended to make a credit union share guarantee corporation's assessment more comparable to what credit unions of similar size and complexity pay to the Division of Financial Institutions.

COMCD7 Prevailing Wage Law Modifications

R.C. *4115.03, 4115.032 (repealed), 4115.033, 4115.034, 4115.04, 4115.10, and 4115.16*

(1) Increases the current statutory monetary thresholds for determining when the Prevailing Wage Law applies to public improvements other than roads, sewers, ditches, and other related projects from $78,258 (the inflation-adjusted statutory baseline threshold of $50,000) to $5 million for new construction and from $23,447 (the inflation-adjusted statutory baseline threshold of $15,000) to $5 million for reconstruction. Requires these amounts to be adjusted biennially by the Director of Commerce, as under current law.

(2) Retains the Prevailing Wage Law thresholds at their current, inflation-adjusted levels for roads, sewers, ditches, and other related projects.

(3) Exempts from the Prevailing Wage Law public improvements undertaken by, or under contract for, state institutions of higher education.

(4) Prohibits a public authority from applying prevailing wage requirements to a public improvement that is undertaken by, or under contract for, a state institution of higher education, a school district, or an education service center.

(5) Excludes from the definition of "public improvement" an improvement that is neither constructed by a public authority nor constructed for the benefit of a public authority, even if the improvement uses or receives financing, grants, or in-kind support from a public authority.

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(6) Repeals a provision of the Prevailing Wage Law that deemed certain projects to be public improvements and required all contractors and subcontractors on those projects to comply with the Prevailing Wage Law

(7) Removes the right of an interested party to sue regarding a violation of the Prevailing Wage Law when the Director of Commerce fails to rule on the merits of an administrative complaint within 60 days after the party files that complaint with the Director.

Fiscal effect: Uncertain. On the one hand, these provisions could lower the cost of a public improvement project falling under the proposed threshold amounts. On the other hand, it may be that any savings in labor costs are put toward expanding the scope of the project. A reduction in labor costs may also result in certain tax effects that are difficult to quantify. Uncertain effect on prevailing wage enforcement carried out by the Department's Labor and Wage Section (LAWS), but the change in (7) above could eliminate duplication of effort if an interested party files in court before LAWS has made a determination.

COMCD8 Prevailing Wage Funds

R.C. *4115.10, 4115.101, Section 512.70*

(1) Abolishes the Penalty Enforcement Fund (Fund 5K70) and instead requires that moneys received from prevailing wage penalties be deposited into the Labor Operating Fund (Fund 5560).

(2) Requires the Director of Commerce, if the Director determines that any back wages in the Prevailing Wage Custodial Fund are not returnable to employees, to certify to the Treasurer of State the amount of the funds that are not returnable. Requires the Treasurer, upon receipt of such certification, to transfer the certified amount of the funds from the Prevailing Wage Custodial Fund to Fund 5560.

(3) Requires the Director of OBM to transfer the cash balance of Fund 5K70 to Fund 5560 on July 1, 2011, or as soon as possible thereafter. Abolishes Fund 5K70 upon completion of the transfer.

Fiscal effect: Potential gain in revenue to Fund 5560 from the transfer of cash from Fund 5K70 and from any back wages certified as non-returnable to employees. As of the end of FY 2010, the cash balance of Fund 5K70 was approximately $132,000. Currently, the cash balance is approximately $54,700.

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COMCD9 Transfer of Spirituous Liquor Distribution System to Jobs Ohio

R.C. *4313.02, 4313.01, 4301.12*

(1) Authorizes the state to transfer to JobsOhio all or a portion of the enterprise acquisition project for a transfer price payable by JobsOhio to the state, and requires any such transfer to be treated as an absolute conveyance and true sale of the interest in the enterprise acquisition project.

(2) Defines the "enterprise acquisition project" as all or any portion of the capital or other assets of the Liquor Control Commission or the Division of Liquor Control, including inventory, warehouses, the exclusive right to manage and control spirituous liquor distribution and sales in the state and to sell spirituous liquor in the state, and the assets and liabilities of the existing Facilities Establishment Fund.

(3) Specifies that any real or personal property of JobsOhio that is acquired, leased, or subleased under the bill and the purchase and sale of that property must be exempt from value added, sales, use, and franchise taxes and to zoning, planning, and building regulations and fees to the same extent and in the same manner as if title to that property was in the name of the Division of Liquor Control. In addition, exempts all income of JobsOhio from taxation in Ohio to the same extent and in the same manner as if received by the Division.

(4) States that the proceeds of any transfer may be expended as provided in the transfer agreement for any one or more of the following purposes: (a) Funding, payment, or defeasance of outstanding bonds secured by a pledge of spirituous liquor profits, (b) deposit into the GRF, (c) deposit into certain specified funds used by the Department of Development, and (d) conveyance to JobsOhio for the purposes for which it was created.

(5) Requires any transfer of the enterprise acquisition project that is a lease or grant of a franchise to be for a term not to exceed 25 years or that is an assignment and sale, conveyance, or other transfer to contain a provision that the state has the option to purchase back or have conveyed or transferred back to it the enterprise acquisition project no later than 25 years after the original transfer was authorized.

(6) Permits the state to covenant, pledge, and agree in the transfer agreement, with and for the benefit of JobsOhio, that it will maintain statutory authority for the enterprise acquisition project and the revenues of the enterprise acquisition project and not otherwise materially impair any obligations supported by a pledge of revenues of the enterprise acquisition project.

(7) Allows the Governor, Director of Development, Director of Commerce, and the Director of OBM to take any action and execute any documents, including transfer agreements, necessary to effect the transfer and the acceptance of the transfer of the enterprise acquisition project. Permits these individuals to also retain or contract for the services of commercial appraisers, underwriters, investment bankers, and financial advisors, as are necessary in their judgment to effect the

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transfer agreement.

(8) Permits JobsOhio, the Director of OBM, the Director of Commerce, and the Director of Development, without the need for any other approval, to enter into a contract, which may be part of the transfer agreement, establishing the terms and conditions for the assignment of certain duties to, and the provision of advice, services, and other assistance by, the Division of Liquor Control with respect to the operation of the enterprise acquisition project, including providing for the necessary staffing and payment by JobsOhio of appropriate compensation to the Division.

(9) Authorizes revenue resulting from any contracts with the Department of Commerce pertaining to responsibilities and operations described in the Liquor Control Law to be credited to the Liquor Control Fund (Fund 7043). Allows the Director of OBM to transfer money from the GRF to Fund 7043 if the Director determines that the amount in Fund 7043 is insufficient.

Fiscal effect: The Governor's proposal envisions the transaction yielding at least $1.2 billion, though the final amount will depend on the terms of the transfer agreement. The transfer fee to the state would be funded through the issuance of revenue bonds by JobsOhio. Of the transfer proceeds, $700 million will be needed to pay off outstanding bonds backed by liquor profits. In addition, $500 million will be provided to the GRF to compensate the state for the loss of liquor profits. In addition, the agreement may also provide for annuity payments to the state beginning in FY 2014. The transfer agreement is expected to occur on or around January 1, 2012. As a result of the agreement, no FY 2013 appropriations have been provided to purchase spirituous liquor merchandise for resale or to pay the debt service on bonds backed by liquor profits.

COMCD10 Small Government Fire Departments

Section: *243.10*

Permits, notwithstanding R.C. 3737.17, GSF Fund 5F10 appropriation item 800635, Small Government Fire Departments, to be used to provide loans to private fire departments.

COMCD11 Unclaimed Funds Payments

Section: *243.10*

Requires GSF Fund 5430 appropriation item 800625, Unclaimed Funds-Claims, to be used to pay claims under R.C. 169.08 and appropriates additional amounts for this purpose if necessary, thereby ensuring that unclaimed funds owners receive the funds due them.

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COMCD12 Unclaimed Funds Transfers

Section: *243.10*

Requires the Director of Commerce to transfer up to $70 million of unclaimed funds to the GRF prior to June 30, 2012 and up to another $85 million of unclaimed funds to the GRF prior to June 30, 2013.

COMCD13 Fire Department Grants

Section: *243.10*

(1) Earmarks up to $1,647,140 each year from SSR Fund 5460 appropriation item 800639, Fire Department Grants, for grants to volunteer fire departments, fire departments that serve one or more small municipalities or small townships, joint fire districts comprised of fire departments that primarily serve small municipalities or small townships, local units of government responsible for such fire departments, and local units of government responsible for the provision of fire protection services for small municipalities or small townships.

(2) Requires the grants to be used to purchase firefighting or rescue equipment or gear or similar items, to provide full or partial reimbursement for the documented costs of firefighter training, or, at the discretion of the State Fire Marshal, to cover fire department costs for providing fire protection services in the grant recipient's jurisdiction.

(3) Limits grant awards for firefighting or rescue equipment or gear or fire department costs of providing fire protection services to $15,000 per fiscal year, or up to $25,000 per fiscal year if an eligible entity serves a jurisdiction in which the Governor declared a natural disaster during the preceding or current fiscal year in which the grant was awarded, and to $15,000 per fiscal year for full or partial reimbursement of the documented costs of firefighter training, which could be in addition to any grant funds awarded for equipment or fire protection services.

(4) Requires the State Fire Marshal to determine the total amounts to be allocated for each eligible purpose.

(5) Requires the State Fire Marshal to administer the grant program in accordance with rules adopted as part of the State Fire Code, which may further define eligible entities and establish criteria for the awarding and expenditure of grant funds.

(6) Permits any appropriations in excess of the amount allocated for the grants to be used to administer the grant program.

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COMCD14 Cash Transfers to the Division of Securities Investor Education and Enforcement Expense Fund

Section: *243.10*

Requires the Director of OBM, upon the request of the Director of Commerce, to transfer up to $485,000 in cash in each fiscal year from the Division of Securities Fund (Fund 5500) to the Division of Securities Investor Education and Enforcement Expense Fund (Fund 5GK0).

COMCD15 Increased Appropriation - Merchandising

Section: *243.10*

Specifies that the Division of Liquor Control must use LCF Fund 7043 appropriation item 800601, Merchandising, for operating expenses to pay for liquor products. Provides for additional appropriations that may be necessary.

COMCD16 Development Assistance Debt Service

Section: *243.10*

Establishes that LCF Fund 7043 appropriation item 800633, Development Assistance Debt Service, is to pay debt service and related financing costs on bonds issued to support the Chapter 166 loan program operated by the Department of Development and appropriates additional sums if necessary.

COMCD17 Revitalization Debt Service

Section: *243.10*

Requires that LCF Fund 7043 appropriation item 800636, Revitalization Debt Service, be used to pay debt service and related financing costs in FY 2012 on bonds issued for the urban revitalization component of the Clean Ohio bond program and appropriates additional amounts if necessary.

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COMCD18 Liquor Control Fund Transfers

Section: *243.10*

Authorizes the Director of OBM to transfer up to $10.6 million in FY 2012 and up to $21.4 million in FY 2013 from the GRF to the Liquor Control Fund (Fund 7043) to support the operations of the Department of Commerce, Liquor Control Commission, and the Department of Public Safety in carrying out the Liquor Control Law (Chapter 4301. of the Revised Code).

COMCD19 Administrative Assessments

Section: *243.10*

Specifies that the Division of Administration Fund (Fund 1630) is entitled to receive assessments from all operating funds of the Department, subject to OBM approval, in order to pay for centralized services (such as communications, fiscal administration, human resources, legal, legislative affairs, quality control, training, employee development, and support services).

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SOSCD11 Filing Fees for Transaction of Business, Mergers, and Consolidations

R.C. *1703.031, 1703.07*

Removes provisions in current law specifying a $100 fee that applies to banks transacting business in the state and a $10 filing fee for certificates of merger or consolidation for foreign corporations, and instead specifies that the fees that apply to these entities are those under the fee schedule in R.C. 111.16, which currently sets the fee for all of these filings at $125.

Fiscal effect: None, as the Secretary of State currently collects the higher fees.