Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 322 of the 129th G.A. **Date**: May 22, 2012

Status: As Passed by the Senate **Sponsor**: Rep. Brenner

Local Impact Statement Procedure Required: No

Contents: Permits Ohio financial institutions to charge the same interest rates and other charges under a revolving credit agreement that the respective out-of-state financial institutions may charge Ohio revolving credit account holders

State Fiscal Highlights

- The bill expressly permits certain Ohio-chartered financial institutions to charge the same interest rates and other charges under a revolving credit agreement that out-of-state financial institutions may charge Ohio revolving credit account holders. Since some states allow financial institutions to charge higher interest rates and other fees than does Ohio, this permits Ohio-chartered financial institutions to charge rates and fees above Ohio's current statutory maximums.
- Allowing Ohio financial institutions to charge higher rates and fees under revolving credit agreements, in itself, would likely have little impact on receipts from the corporation franchise tax (CFT), which is assessed at 13 mills (1.3%) of a financial institution's net worth. CFT receipts are deposited into the GRF.
- There is no apparent direct fiscal effect on the Department of Commerce's Division of Financial Institutions as a result of the bill.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

Department of Commerce – Division of Financial Institutions

The bill allows Ohio-chartered banks, savings banks, savings and loan associations, and credit unions to charge the same interest, fees, and other charges under a revolving credit agreement that out-of-state financial institutions may charge Ohio revolving credit account holders, irrespective of any Ohio laws limiting those rates or amounts. The practical effect of the bill is thus to allow Ohio financial institutions to charge interest rates on revolving credit accounts, such as credit cards, above Ohio's statutory maximums, since some states have laws that allow for higher interest rates and fees than permitted under current Ohio law. The bill specifies that agreements secured by a residential mortgage would not be included as a revolving credit agreement under the bill. Overall, while the bill resolves issues of legal and regulatory ambiguity for some financial institutions (see LSC bill analysis for details), the changes do not appear to have any direct fiscal effect on the regulatory activities of the Division of Financial Institutions within the Department of Commerce.

Tax effects

Ohio financial institutions other than credit unions are subject to a 13 mill (1.3%) corporation franchise tax (CFT), the tax base of which is net worth. Revenue from the CFT is deposited into the GRF. Allowing Ohio financial institutions to charge higher rates on revolving credit accounts, in itself, would likely have little impact on CFT receipts, for several reasons. First, because an Ohio financial institution may charge higher rates does not mean that it will do so, due to the presence of market competition. Second, other factors may counteract the potential increase in financial institution revenue brought about by higher interest rates, which would limit the effect on the financial institution's net worth. For instance, if a financial institution was to charge higher rates as a result of the bill, its income may increase, depending on how well the loans perform. All else being equal, for a higher interest rate on a loan, net worth might increase after a few years. This is not guaranteed though. Increases in expenses may negate that increase in income, or other changes in bank liabilities may leave net worth unchanged. Tax planning may also help in not paying higher CFT. Finally, loan assets are just a part of a financial institution's total assets and the size of those other assets may be just as important in the calculation of the institution's net worth and thus, its CFT liability.

State and local government purchasing programs

LSC also considered what impact the possibility of higher interest rates might have on state and local government purchasing programs, many of which allow for credit card purchases. Overall, LSC concluded that an allowance for higher interest

rates would not impact the state or local governments, as government entities in Ohio are unlikely to carry balances on any credit cards that may be used. The state of Ohio participates in two credit card programs, one for fleet services (overseen by the Department of Administrative Services) and the other for general, small-dollar purchases of goods and services (overseen by the Office of Budget and Management).

Banking services provided to state and local governments

Noninterest account fees and service charges are generally unregulated by federal and state banking laws. That is, both federal and state laws generally permit financial institutions to charge customers noninterest account fees and service charges in accordance with the terms and conditions established by the financial institution. This means that any costs paid by a state or local government entity for banking services or financial devices (i.e., credit cards) are governed through a contract entered into with the financial institution. In many cases, such contracts are awarded through competitive bidding procedures that also take into account the interest rate the financial institution will pay on deposits.

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