OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 489 of the 132nd G.A.

Status: As Enacted

Sponsor: Rep. Dever

Local Impact Statement Procedure Required: Yes

Subject: Revises the laws governing state banks and credit unions and makes other changes

State Fiscal Highlights

- The bill may minimally decrease examination expenses incurred by the Division of Financial Institutions within the Department of Commerce related to the provisions affecting state banks and credit unions. Examination expenses are paid from the Banks Fund (Fund 5540) and the Credit Unions Fund (Fund 5520).

Detailed Fiscal Analysis

Frequency of bank and credit union examinations

The bill contains a provision that may decrease the number of bank and credit union examinations to be carried out by the Division of Financial Institutions within the Department of Commerce. As of November 2018, there are 113 state banks and 122 credit unions licensed by the Division and subject to examination at least once every 12 to 18 months or as often as the Superintendent of Financial Institutions considers necessary on each state bank and credit union. Instead, the bill generally prohibits the Superintendent from conducting examinations more often than once every 24 months for a state bank or credit union that meets the following conditions: (1) it maintains assets of $10 billion or less, and (2) it maintains a composite rating of one (the highest rating) under the uniform financial institutions rating system. As of November 2018, 32 banks and 20 credit unions meet these conditions. More frequent examinations may be carried out if (1) there is reasonable cause to believe that there is a risk of harm to the bank, or (2) the Division participates with other financial regulatory authorities in a joint, concurrent, or coordinated examination. The Division currently employs 31 state bank examiners and 17 credit union examiners. Examinations are funded by assessment fees which are based on total assets of banks and credit unions. These fees are deposited into the Banks Fund (Fund 5440) and Credit Unions Fund (Fund 5520).

Mortgage servicer registration

The bill requires a nonexempt mortgage loan servicer to register every principal office and branch office with the Division of Financial Institutions under the regulatory umbrella of the Ohio Residential Mortgage Lending Act that became effective March 23, 2018. That act inadvertently exempted entities involved exclusively in mortgage loan servicing from this registration requirement, something that was required under the Ohio Mortgage Loan Act (OMLA) effective through March 22, 2018. H.B. 489 effectively continues this registration requirement. In FY 2017, there were 1,691 OMLA registrants, including both mortgage servicers and mortgage lending entities. The annual renewal fee is $500 and is deposited into the Consumer Finance Fund (Fund 5530).

Credit Union Law changes

The bill revises the Credit Union Law relative to membership, voting by members and members' meetings, the board of directors, credit committees, compensation and gifts, acquisition of real estate and service facilities, programs to promote consumer savings, and the Credit Union Council. Under these provisions, the bill (1) removes the necessity of obtaining the Superintendent of Financial Institutions' approval for a credit union to purchase real estate, and (2) allows the Superintendent to adopt rules regarding a credit union providing its directors and supervisory committee members compensation for their services or gifts of minimal value. Any savings or costs from these provisions would be minimal and accrue to the Credit Unions Fund (Fund 5520).

Other provisions

There are several other financial institution provisions that may have a minimal fiscal effect. One provision includes prohibiting a person from using the name of a credit union without its express written permission in promotional material in any way that may mislead or cause another person to be misled into believing that the person issuing the promotional material is associated with the credit union. A person who violates this prohibition is subject to a civil penalty of up to $10,000 for each day the violation is committed. It is unclear how frequently this violation may occur. Any civil penalties that stem from such cases would be deposited into the Credit Unions Fund (Fund 5520). Another provision under the bill provides for certain conditions when a bank or credit union may not be held civilly liable or subject to sanction by the Superintendent in the event of a "bona fide error." If these certain conditions are not met by a bank or credit union, a consumer injured by the error has a cause of action to recover the damages; however, the action cannot be maintained as a class action. It is unclear what effect this would have on courts and the number of cases initiated.

Data analytics

The bill authorizes the Speaker of the House of Representatives or the President of the Senate to request the Legislative Service Commission (LSC) to arrange for "data analytics" to be conducted on any publicly available data regarding state banks, credit unions, or any other specifically licensed or registered consumer finance companies to assist the General Assembly in proposing or evaluating legislation. To fulfill this responsibility, the bill permits LSC to retain economists, financial analysts, and any other necessary professionals on a consulting basis. This provision may increase LSC's administrative costs depending on the number of requests and the extent of the research requested.