Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: S.B. 175 of the 131st G.A.

Date: April 22, 2016

Status: As Passed by the Senate

Sponsor: Sen. Eklund

Local Impact Statement Procedure Required: No

Contents: Allows for the establishment and operation of family trust companies

State Fiscal Highlights

- The bill allows family trust companies to be licensed by the Division of Financial Institutions within the Department of Commerce. This will result in increased costs for the Division to license and examine these companies. However, these costs are likely to be offset by application, license, and examination fees set under the bill. These amounts will be deposited into the Banks Fund (Fund 5440).
- The bill requires a licensed family trust company to pledge certain approved securities to the Treasurer of State prior to engaging in any business transaction. This may result in a minimal administrative cost for the Treasurer of State. Any costs would be paid from GRF appropriation item 090321, Operating Expenses.
- There could potentially be a minimal increase in income tax revenue and state business licenses and permits revenue as a result of allowing the establishment and operation of family trust companies in this state. Business filing fees are $99 and collected by the Secretary of State. These amounts are deposited into the Corporate and Uniform Commercial Filing Fund (Fund 5990).

Local Fiscal Highlights

- The bill requires that a licensed family trust company maintain office space in Ohio and all applicable local business licenses and permits. As a result, there may be an increase in property tax and business license and permit revenue collected by local governments.

Detailed Fiscal Analysis

Overview

The bill enacts the Ohio Family Trust Company Act to provide for the establishment and operation of family trust companies in the state. A "family trust company" (FTC) is a corporation or limited liability company that (1) is organized in Ohio to serve only family clients, (2) is wholly owned by family clients and is exclusively controlled, either directly or indirectly, by one or more family members of family entities, (3) acts as a fiduciary, and (4) does not transact business with, propose to act as fiduciary for, or solicit trust business from, a person that is not a family client. The bill allows for an FTC to be licensed by the Department of Commerce as a trust company under the bill, however it is not required. The fiscal effects described below are for licensed FTCs unless otherwise noted. For more detail on the powers and authorized fiduciary activities of all FTCs consult the LSC bill analysis.

Department of Commerce

As a result of the bill, the Division of Financial Institutions (DFI) within the Department of Commerce may incur an increase in costs to license and regulate an FTC wishing to become a licensed FTC. However, these costs will likely be offset by application, license, and examination fees. There are several fees that the bill establishes that will offset costs incurred by DFI. First, the bill requires that an FTC file an application and pay an accompanying fee of $5,000. This will pay for the cost for DFI to investigate the company. Additionally, the bill adds that the FTC may be required to advance sufficient funds to pay any of the actual expenses of the investigation. Second, an FTC must renew its license annually and pay a license renewal fee of $500. The bill also requires that DFI examine the records and affairs of the licensed FTC once every 36 months. The FTC is required to pay the examination expenses, including salaries, travel expenses, supplies, and equipment needs that are incurred. Lastly, DFI may impose a maximum fine of $10,000 upon a licensed FTC who fails to comply with any of the bill's provisions and to an FTC not licensed under the bill that operates in a manner that is authorized only for a licensed FTC. All of these fees and fines will be deposited into the Banks Fund (Fund 5440).

Additionally, unlicensed FTCs are required to file an affidavit annually with the Department of Commerce verifying that the FTC meets all of the requirements to transact business as an unlicensed FTC. The bill allows DFI to charge and collect a fee from an unlicensed FTC when the FTC files the affidavit. The fee amount is to be determined by rules set by the DFI Superintendent. This fee will also be deposited into Fund 5440.

Treasurer of State

Additionally, the bill requires a licensed FTC to pledge certain approved securities to the Treasurer of State (TOS) prior to engaging in any business transaction. The TOS must also permit an FTC to substitute securities pledged, collect interest paid on the securities pledged, and allow them to withdraw the securities pledged if it has discontinued its business in Ohio. As a result, this may minimally increase the administrative costs for TOS. Any costs would be paid from GRF appropriation item 090321, Operating Expenses.

Exemptions from the financial institutions tax

The bill specifies that FTCs are not subject to the financial institutions tax (FIT). There is no direct fiscal effect of this provision, considering the bill as a whole, because there are no such entities currently that could be exempted. There may be indirect fiscal effects from this provision. Such effects would arise if, for example, a currently existing trust was paying the FIT and would restructure upon enactment of the bill as an FTC. LSC economists think it is likely that such indirect fiscal effects, if any, would be minimal.

Currently, all FIT revenues are deposited into the GRF. A portion of total GRF tax revenues, including revenue from the FIT, is subsequently transferred to each of the Local Government Fund (LGF) and the Public Library Fund (PLF). Thus, any reduction in GRF tax revenue would also reduce distributions to the two funds. LGF revenues are primarily distributed to counties, municipalities, and townships, while PLF revenues are distributed to libraries.

Other fiscal effects

Under the bill, a licensed FTC is required to do all of the following minimum activities: (1) maintain office space in Ohio for the transaction of trust business and for the storage of FTC records, (2) employ, engage, or contract with at least one individual, on a part-time basis, to provide services in Ohio for the FTC, and (3) maintain all applicable state and local business licenses and permits. Consequently, these required activities could result in a minimal fiscal effect on the state and local governments. It could result in additional property tax collected by local governments from FTCs maintaining any new office space. Additionally, income tax collected by the state and local governments may minimally increase as a result of an FTC hiring at least one individual. There may also be a minimal increase in revenue from applicable state and local business licenses and permits. The state business filing fee is $99 and is collected by the Secretary of State. Fees are deposited into the Corporate and Uniform Commercial Code Filing Fund (Fund 5990). However, all of these fiscal impacts will directly depend on the number of FTCs that are created in Ohio and how many choose to be licensed by DFI.