

March 1, 2023

The Honorable Jeff Longbine, Chairperson
Senate Committee on Financial Institutions and Insurance
300 SW 10th Avenue, Room 546-S
Topeka, Kansas 66612

Dear Senator Longbine:

SUBJECT: Fiscal Note for SB 245 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 245 is respectfully submitted to your committee.

SB 245 would create the Commercial Financing Disclosure Act. The Office of the State Bank Commissioner would be required to adopt rules and regulations on or before January 1, 2024, to implement the Act. In order to engage in business in Kansas, a commercial financing broker would have to be registered with the Office. For initial registration, the broker must file a registration form and pay a \$100 fee. A fee for a renewal registration would be \$50. The broker would also need to obtain a \$10,000 surety bond.

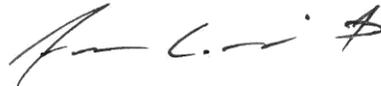
The Act would allow a commercial financing broker to arrange commercial financing product transactions between a third party and a business in Kansas. A commercial financing product would be any commercial loan, accounts receivable purchase transaction and commercial open-end credit plan when the transaction is a business purpose transaction. A “business purpose transaction” would be defined as any transaction in which the resulting proceeds are provided to a business or are intended to be used to carry on a business and are not for personal, family, or household purposes.

The Attorney General would have sole authority to enforce compliance with the Act. Violations would be punishable by a civil penalty of \$500 per violation, but not to exceed \$20,000 for all aggregated violations. A person who violates the Act after receiving written notice of a prior violation from the Attorney General would be punishable by a civil penalty of \$1,000 per violation, but not to exceed \$50,000 for aggregated violations.

The Office of the State Bank Commissioner currently does not regulate commercial lending and is unable to estimate the number of Kansas entities that would be covered under Act; however, the agency assumes based on a similar act passed in Utah, Kansas may also have 150 entities register with the Office. If the Office registers 150 entities, revenues would be estimated at \$15,000 (150 x \$100) in FY 2024. Ten percent of the revenue would be credited to the State General Fund and ninety percent would be credited to the Bank Commissioner Fee Fund.

The Office of the Attorney General indicates it is unable to determine how many cases could be generated under the provisions of the Act and the additional resources need to handle those cases; therefore, the agency is unable to estimate a fiscal effect. The Kansas Judicial Branch indicates the bill could have a negligible effect on its expenditures and revenues, which could be absorbed within existing resources. Any fiscal effect associated with SB 245 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Brock Roehler, Office of the State Bank Commissioner
John Milburn, Office of the Attorney General
Vicki Jacobsen, Judiciary