



LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 359** HLS 21RS 909
 Bill Text Version: **ENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: April 14, 2021	1:27 PM	Author: HOLLIS
Dept./Agy.: Office of Financial Institutions		Analyst: Monique Appeaning
Subject: Solicitors		

BANKS/BANKING EG INCREASE SG EX See Note Page 1 of 1
 Provides relative to solicitors

Proposed law authorizes the commissioner of the Office of Financial Institutions (OFI) the use of enforcement powers in present law against a solicitor who violates present law. Proposed law provides for remedies in present law when a solicitor violates present law by false advertising contained in present law and the penalties contained in present law may be enforced by the attorney general.

Proposed law provides that if the commissioner of OFI seeks injunctive relief against a solicitor who violates this Section to enjoin the unlawful use of the name, trade name, trademark, service mark, or loan information, the commissioner shall not be required to prove actual damages as a result of this violations.

EXPENDITURES	2021-22	2022-23	2023-24	2024-25	2025-26	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						

REVENUES	2021-22	2022-23	2023-24	2024-25	2025-26	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						

EXPENDITURE EXPLANATION

Proposed law will result in a significant SGR expenditure increase to the OFI and an increase of three positions or 1.25 FTEs to perform the work as a result of solicitor violations submitted to OFI. The estimates include salaries and employee benefits (employer's portion of retirement and insurance). Two of the positions are estimated at 0.5 of the annual salary for FY 22, and one of the positions is estimated at 0.25 of the annual salary for FY 22. It is anticipated that complaints would not begin to be received until October 2021 because it will take entities time to compile information to submit complaints after the statute is amended. **The total dollar amount of anticipated expenditures is \$259,236.**

The cost for the positions (salary and related benefits) totals \$104,237 for FY 22:

Attorney III - (1/2 FTE) salary - \$30,916 + \$16,560 (employee benefits) = \$47,476
 Reviewer Examiner - (1/4 FTE) salary - \$15,458 + \$8,280 (employee benefits) = \$23,738
 Investigator II - (1/2 FTE) salary - \$20,600 + \$12,423 (employee benefits) = \$33,023
 (Note: FY 23, FY 24, FY 25, and FY 26 assumes market adjustments and reallocations (if applicable)).

Other Costs for potential litigation is below (estimated at \$155,000 for FY 22):

Civil Injunctions for Entities not licensed by OFI

4 Civil Injunctions - \$140,000 (Attorney Fees + \$15,000 for Court Costs) = \$155,000 (Note: FY 23, FY 24, FY 25 and FY 26 estimates increase to 6 Civil Injunctions - \$210,000 (Attorney Fees + 22,500 for Court Costs) = \$232,500.

Attorney fees and court costs are also estimated above based on filing four (4) civil injunctions. For two (2) of the injunctions, estimates were based on OFI prevailing without an Appeal. For the other two (2) injunctions, estimates were based on OFI prevailing with an Appeal. No estimates were considered where OFI would prevail because OFI would not file a civil injunction if OFI did not believe that it would prevail.

Expenditure estimates anticipate a limited number of instances of receiving notice of solicitor violations. At this time, such notices are infrequent. However, a change in this law may prompt more notices to OFI. If this is a valid assumption, additional staff time will be required to investigate claims and build cases for enforcement through administrative law proceedings for persons/entities licenses or chartered by OFI or civil law injunctions against persons/entities not currently licensed or chartered by OFI. In addition, court costs and legal fees may be required, particularly for civil proceedings. Outside counsel more than likely would be hired to handle civil injunctive proceedings.

REVENUE EXPLANATION

Proposed law will have an indeterminable revenue impact on OFI. Any cost of enforcement not covered by civil money penalties assessed and not covered by the recovery of court costs and attorney fees, would be covered by increased annual assessments to Banks or Credit Unions, thus offsetting 100% of expenses incurred for enforcement.

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Alan M. Boxberger
 Alan M. Boxberger
 Staff Director