



Ohio Legislative Service Commission

Jason Phillips

Fiscal Note & Local Impact Statement

Bill: [S.B. 218 of the 129th G.A.](#)

Date: November 15, 2011

Status: As Introduced

Sponsor: Sen. Coley

Local Impact Statement Procedure Required: No

Contents: Permits Ohio financial institutions to charge the same interest rate and other charges that respective out-of-state financial institutions may charge Ohio customers

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

Overview

The bill allows Ohio banks, savings banks, savings and loan associations, and credit unions to charge the same interest, fees, and other charges that the respective out-of-state financial institutions may charge Ohio customers. This authority is granted irrespective of any other Ohio laws limiting those rates or amounts. Currently, Ohio law limits bank and credit union loan interest and finance charges to an annual percentage rate (APR) of 25%. There is no limit on interest rates or finance charges in statute for savings banks and savings and loan associations. Rather, these latter two types of institutions may collect dues, fines, interest and premium on loans made, or other assessments as are provided for in their constitutions and bylaws.

Even so, the bill appears to have no fiscal effect for three reasons elaborated below. First, doctrines developed under federal law already allow most Ohio financial institutions to charge an unlimited rate of interest. Second, account fees and service charges are generally unregulated by both federal and state laws. Third, Ohio's parity laws enable the Superintendent of Financial Institutions to grant Ohio-chartered financial institutions the same powers and benefits possessed by other specified financial institutions in an effort to maintain competitive equality in the industry. Additional details on these subjects are provided below.

Interest rates - federal preemption

As is noted in the LSC bill analysis, federally chartered and federally insured, state-chartered financial institutions are already exempt from Ohio laws limiting interest, fees, and other charges due to the "Most Favored Lender" and "Exportation" doctrines, both of which are derived from federal law. The "Most Favored Lender" doctrine permits a federally chartered bank based in Ohio or a federally insured, Ohio-chartered financial institution to charge its customers the most favorable interest rates provided for any type of lender under Ohio law. Since there is no statutory limitation on the interest that savings banks or savings and loan associations may charge, Ohio's most favored lender rate is unlimited. This rate would apply to all federal-chartered and state-chartered banks, savings banks, and savings institutions since they are required to be federally insured. It would not apply to 62 state-chartered credit unions that do not carry federal insurance. Instead, those 62 institutions, which comprise 36% of the state's 171 state-chartered credit unions, are insured either through a credit union share guaranty corporation or an insurer qualified under Ohio law.

While preemption principles exempt most Ohio financial institutions from Ohio law on interest rates, the Division of Financial Institutions, within the Ohio Department of Commerce, has indicated that most federally insured, Ohio-chartered financial institutions do not generally impose interest in excess of the requirements imposed under Ohio law. Should market interest rates rise to very high levels, most financial

institutions based in Ohio already have the ability to increase their rates to remain competitive. However, the bill would permit nonfederally insured, state-chartered credit unions to charge an APR of greater than 25% should credit unions located in another state possess this option. Such an occurrence would not appear to have any effect on revenue from the corporate franchise tax or the commercial activities tax, as credit unions are exempt from paying those taxes. 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, we concluded that spike in 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.¹

Account fees and service charges

Account fees and service charges are generally unregulated by federal and state banking laws. That is, both federal and state law 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.

Parity or "wild card" laws

Ohio's parity laws, also called "wild card" laws, require the Superintendent of Financial Institutions to adopt rules granting Ohio-chartered financial institutions any right, power, privilege, or benefit possessed under statute, rule, regulation, interpretation, or judicial decision, by certain financial institutions, depending on their type. These laws are used to maintain an environment of competitive equality with federally chartered financial institutions, out-of-state chartered financial institutions, and in some circumstances other types of Ohio-chartered financial institutions. Thus, should an Ohio-chartered financial institution not possess any such right, power, privilege, or benefit possessed by certain other financial institutions, the Superintendent of Financial Institutions can already act under Ohio law to achieve parity.

¹ 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). Both programs provide rebates that incentivize prompt payment. The longer an obligation remains unpaid, the rebate percentage dwindles to zero. Certain local governments may also use credit cards or procurement cards, but their use is generally tied to having sufficient appropriations and cash to support the purchases.