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BILL ANALYSIS



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House Bill 5273 (Substitute S-2 as reported by the Committee of the Whole)
Sponsor: Representative Nancy E. Jenkins
House Committee: Commerce
Senate Committee: Banking and Financial Institutions

CONTENT

The bill would add Article 4A (Michigan Investment Markets) to the Uniform Securities Act to provide for the regulation of an intrastate securities market or exchange. Article 4A would do the following:

- Prohibit a person from transacting business as a "Michigan investment market" unless the person was registered as such under the Act.
- Exempt any secondary offer, sale, purchase, or trade of securities facilitated by a Michigan investment market from the Act's registration requirements if the investment market satisfied certain requirements.
- Exempt a Michigan investment market from the Act's broker-dealer registration requirement.
- Require the Administrator (the Department of Licensing and Regulatory Affairs) to consider certain factors in determining whether to grant, deny, or limit a registration.
- Prescribe penalties and sanctions for violations, including a civil fine of up to \$10,000 for a single violation and up to \$500,000 for multiple violations of the Act or rules promulgated under it.
- Prohibit a Michigan investment market from servicing a business that had already used the services of a portal, market, or exchange.
- Provide that a Michigan investment market could service a business only if it were a resident of the State, conducted business in this State at the time of a transaction, were solvent, were not subject to a disciplinary court order, were not a defendant in a pending court proceeding, and complied with the laws of this State.
- Prohibit a Michigan investment market from selling personal identifying information without written consent, requiring an individual to supply personal information, charging a fee in excess of 5% of the value of a transaction, or dealing in multiple classes of securities without written acknowledgment from all parties involved in the transaction.
- Provide that Michigan investment market transactions would be open only to residents of this State.
- Specify that an individual's participation in a Michigan investment market would be considered a representation of State residency, and a transaction conducted by an individual who was a nonresident at the time of the transaction would be void.

The bill would define "Michigan investment market" as a person that is a broker dealer, is exempt from Federal registration under Section 15(a)(1) of the Securities Exchange Act of 1934, and provides a market or exchange, including an online market or exchange operated through a web portal, at which transactions in securities that are sold or offered for sale in this State under an intrastate offering exemption take place.

MCL 451.2202 et al.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the Corporations, Securities, and Commercial Licensing Bureau (CSCLB) within the Department of Licensing and Regulatory Affairs, and no fiscal impact on local units of government. The bill would require those wishing to apply for registration of a Michigan investment market to pay an application fee of \$500, and renewal fees of \$250. The bill also would allow the CSCLB to assess a reasonable charge for the examination of investment markets. The CSCLB would presumably use those fees and charges to cover costs related to reviewing and processing applications, taking disciplinary action, and enforcing any rules promulgated under the bill. Additionally, the bill would allow the Administrator to impose civil fines of up to \$10,000 for a single violation, or up to \$500,000 for multiple violations. It is unknown how much revenue would be raised by these fines, but that revenue would likely be used to support enforcement and administrative costs related to Michigan investment markets.

Since modern state-centric stock exchanges are a relatively new phenomenon, there are few state regulatory structures to look at when determining whether the fee levels in the bill would be sufficient to cover the level of work that the bill would necessitate, so the fiscal impact is indeterminate.

Date Completed: 10-2-14

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.