FISCAL IMPACT OF PROPOSED LEGISLATION **Measure: SB 1540 - A**

80th Oregon Legislative Assembly – 2020 Regular Session
Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:
Requires certain persons that service student loans in this state to obtain or renew license.

Government Unit(s) Affected:
Department of Justice (DOJ), Department of Consumer and Business Services (DCBS), Oregon Judicial Department (OJD)

Summary of Fiscal Impact:
Costs related to the measure may require budgetary action - See analysis.

Summary of Expenditure Impact:
Department of Consumer and Business Services

Other Funds	**2019-21 Biennium**	**2021-23 Biennium**
Personal Services	$58,066	$332,354
Services and Supplies	107,686	106,798
Total Funds	**$165,752**	**$439,152**
Positions	2	2
FTE	0.34	2.00

Summary of Revenue Impact:
Department of Consumer and Business Services

	2019-21 Biennium	**2021-23 Biennium**
Other Funds	165,752	439,152
Total Funds	**$165,752**	**$439,152**

Analysis:
The measure establishes a regulatory program for student loan servicers. A student loan servicer shall obtain or renew a license from the Department of Consumer and Business Services (DCBS) to service a loan in Oregon, either directly or indirectly. The measure specifies license application and renewal procedures and required fees. It prescribes the duties of a loan servicer, including setting minimum net worth and liquidity requirements and other substantive compliance requirements to obtain and maintain the license. DCBS has authority to take control of a failing loan servicer's property, business and assets, or petition a circuit court for receivership. The measure provides DCBS with general rulemaking, supervisory and examination authority. DCBS shall set the application form and content requirements through rulemaking, including the license and renewal fees and surety bond requirements. The measure permits DCBS to charge and collect from a loan servicer licensee the costs incurred to conduct the examination. DCBS is also permitted to retain attorneys, accountants, or other professionals and specialists as examiners, auditors or investigators. DCBS shall appoint or designate a student loan ombudsman to receive, review, analyze and attempt to resolve complaints from borrowers. A loan servicer shall submit certain records to DCBS when investigating a complaint against the servicer. The measure becomes operative on July 1, 2021 and takes effect on passage.

Department of Consumer and Business Services
The measure requires student loan servicers to obtain a license from the Department of Consumer and Business Services (DCBS) to service a loan in Oregon. With the licensing requirements effective July 1, 2021, the Division of Financial Regulation within DCBS will have to develop, implement, and maintain a new licensing system this biennium. The Division will license applicants through the Nationwide Multistate Licensing System (NMLS), which will be annual license that renews each December. Once a servicer obtains the license, the division will have to regulate the servicers by examining servicer compliance, investigating consumer complaints against servicers, and bringing enforcement action against servicers.

The Division will borrow the program's estimated 2019-21 biennial costs from the Consumer and Business Services Fund to cover its startup costs, which the division plans to repay in the 2021-23 biennium. The Division will license applicants through the Nationwide Multistate Licensing System (NMLS), which will be an annual license that renews each year. DCBS will conduct a complete fee study to determine the fees required to fund program's administration costs, including a forecast of licensee growth, surrender rate, and estimated examination revenue. Fees to fund the program will be set in rule, and at least one fee structure will include both a fixed fee and an annual assessment to licensees to fully fund the program. Fees set will also need to account for reimbursement of the program's startup costs. Starting in 2021-23 the program will become self-funding through a combination of NMLS assessments, licensing and examination fees, examination costs, civil penalties, and proceeds from receivership enforcement actions. To manage the increased workload, the division will need two permanent positions: an Ombudsman (PA3) to provide overall program oversight and a Licensing Specialist and Compliance Examiner (FE1) to review and process service applications, renewals, and examinations.

The division estimates its total startup costs at $165,752 Other Funds in 2019-21, which includes $58,066 in personal services for the two positions (0.34 FTE) and $107,686 in services and supplies. The division plans to phase in the Ombudsman position in February 2021 and the Licensing/Examination position in April 2021. The estimated costs for the 2021-23 biennium are $439,152 Other Funds, which includes $332,354 in personal services for the two positions (2.00 FTE) and $106,798 in services and supplies, including $41,600 for legal services from the Department of Justice and $75,000 in one-time costs to contract with a vendor to develop a borrower education program.

Oregon Judicial Department
The measure will have no fiscal impact on the Oregon Judicial Department (OJD) in the 2019-21 biennium. In the 2021-23 biennium, the measure will increase the number of circuit court filings for injunctive relief and receivership proceedings brought by DCBS. It will also increase the number of case filings in the Court of Appeals for license action reviews and appeals from civil penalties. Overall, OJD will be able to handle these additional cases with its existing resources. The measure will have a minimal fiscal impact on OJD in the 2021-23 biennium.

Department of Justice
The measure will have no fiscal impact on the Department of Justice (DOJ) in the 2019-21 biennium. In the 2021-23 biennium, the measure could require DOJ's General Counsel Division to provide a substantial amount of legal representation in both contested case hearings and litigation between DCBS and student loan servicers. The impact is difficult to quantify, however, because it depends on how many contested case hearings and circuit court filings and related appeals are brought by student loan servicers. For that reason, the fiscal impact to DOJ is indeterminate in the 2021-23 biennium. If the General Counsel Division believes it will be unable to absorb the additional contested cases and litigation, DOJ will need to request additional resources from the Legislature in the 2021 session or from the Emergency Board.