

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7275

BILL NUMBER: SB 469

NOTE PREPARED: Feb 3, 2004

BILL AMENDED: Feb 3, 2004

SUBJECT: Securities and Loan Brokers.

FIRST AUTHOR: Sen. Clark

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: (Amended) This bill voids provisions in an agreement to purchase a security that would waive compliance with securities law or a rule or order made under securities law. The bill provides a procedure for an issuer of securities to respond to comments regarding an application for registration made by the Securities Division.

It permits the appointment of a Securities Division attorney to serve as a special deputy prosecutor in actions arising under securities law. It prohibits the issuance of an interpretive opinion by the Securities Commissioner concerning an activity that occurred before or is occurring on the date that the opinion is requested. It also requires that notice and opportunity to be heard must be provided to a person accused of violating securities law, rather than requiring that a hearing occur as provided by current law.

The bill prohibits various deceptive practices by a person that supplies information concerning securities. It provides that an administrative action under securities law survives the death of a person who might have been a respondent. The bill makes changes to definitions used in the loan broker statutes.

Effective Date: July 1, 2004.

Explanation of State Expenditures: *Securities Division Attorney* - This provision permits the prosecuting attorney to appoint a Securities Division attorney to serve as a special deputy prosecutor in actions arising under securities law. The Secretary of State has one attorney vacancy as of January 2004. If an additional PAT I is required, the cost would be \$55,300 in FY 2005 and \$55,580 in FY 2006. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be

reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. The agency reverted approximately \$32,500 in FY 2003. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Notice & Opportunity for Hearing - Currently, a hearing must be held before the Commissioner may impose a civil penalty upon a person who has violated securities regulation law. This provision makes it so that a hearing is not required, but the opportunity for one must be allowed. A notice must also be issued by the Commissioner. This provision should have a minimal fiscal impact. Expenditures could be reduced if fewer hearings are held, however, additional expenditures may be required to issue notices.

Explanation of State Revenues: *(Revised) Interpretive Opinions* - This provision prohibits a person from requesting an interpretive opinion for an activity that occurred before or on the date the request was made. The Commissioner charges a \$100 fee per opinion. If fewer opinions are requested, the Commissioner may experience a decrease in revenue from this source.

Administrative Actions - This provision clarifies that administrative actions made under securities law survive the death of a person who may be a respondent. Such actions may involve civil penalties. If additional administrative actions are finalized due to this provision and civil penalties are involved, potentially there could be an increase in civil penalty revenue. This revenue is deposited in the Securities Division Enforcement Account.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Secretary of State.

Local Agencies Affected:

Information Sources:

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