

HB 2191 A STAFF MEASURE SUMMARY

House Committee On Business and Labor

Action Date: 04/17/17

Action: Do pass with amendments
and be referred to Ways and Means by prior reference. (Printed A-Eng.)

Vote: 9-0-0-0

Yeas: 9 - Barreto, Bynum, Doherty, Evans, Fahey, Hack, Heard, Holvey, Kennemer

Fiscal: Fiscal impact issued

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Defines "shell entity." Allows court to dissolve shell corporation/Limited Liability Company (LLC) and allows public body to prohibit shell's directors, officers, members, managers or others with significant direction or control from engaging in commercial activity in Oregon. Allows Secretary of State (SOS) to order a corporation (LLC) to submit information upon request, including name and address of shareholders and number of shares each hold or, for LLC, the members and managers. Allows SOS to share this information with law enforcement. Allows SOS to impose civil penalty, revoke incorporation/organization or dissolve business if business fails to comply with order. Allows Director of Department of Revenue to recommend SOS dissolve a business for failure to comply with Oregon tax laws. Prohibits SOS from reinstating dissolved business unless certain criteria are met. Holds officer, director, employee or agent of corporation (or member, manager, employee or agent of LLC) liable for damages to corporation (or LLC) or to person who suffers as result of creating false documents. Prohibits person from incorporating/organizing for any illegal purpose or with intent to fraudulently conceal business activity. Requires person filing business entity documents with SOS to declare documents do not fraudulently misrepresent identity of person or any of officers directors, employees of agents of corporation (or members, managers, employees or agents of LLC). Requires articles of incorporation/organization to include physical street address of principal office and name and address of at least one director, controlling shareholder or authorized representative (or member, manager or authorized representative of LLC). Specifies that principal office of business entity incorporated/organized in Oregon or authorized to transact business in Oregon must have physical street address that may not be commercial mail receiving agency, mail forwarding business or virtual office. Specifies that address for registered agent of business entity may not be a mail receiving or forwarding business or a virtual office. Prohibits corporation from issuing document (i.e., bearer bond) entitling unidentified individual or entity possessing document to a share in corporation.

ISSUES DISCUSSED:

- Victims of scams operated by shell companies
- Difficult trail prosecutors must uncover when investigating shell companies
- Reports of Financial Crimes Enforcement Network (FinCEN)
- Ability to access and use information from FinCEN
- Impact on workload of Secretary of State's Office

EFFECT OF AMENDMENT:

Replaces original measure.

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BACKGROUND:

The Financial Crimes Enforcement Network of the U.S. Treasury Department issued a report in 2006 on financial crime and money laundering. It listed Oregon as one of four states that make it easy for people who want to hide illicit activity and their identity to register a corporation. The business registrants can open a bank account in another county under the name of the Oregon business. Money from illicit activities can be laundered through the bank account. Because Oregon does not require the beneficial owner or the directors to be listed on filings with the Secretary of State, it may be very hard for law enforcement to trace the activity and the money.

After the federal report was issued, the Legislative Assembly considered legislation in 2007 to create a Task Force on Business Entity Information to investigate and make recommendations regarding the content of ownership information needed from businesses registering in Oregon. Though it was approved by the House of Representatives, it was referred to Ways and Means and remained there upon adjournment sine die.

The Uniform Law Commission approved model legislation in 2009, but subsequently withdrew support for its adoption by the states. The model legislation was meant to be a substitute for federal legislation that was under consideration at the time. As reported to the House Interim Committee on Business and Labor in September 2015, the Uniform Law Commission agrees with the National Association of Secretary of States that beneficial ownership information can be obtained by law enforcement through an existing paper trail of documents files with the Internal Revenue Service and the U.S. Treasury.