

## HB 3169 -2 STAFF MEASURE SUMMARY

### House Committee On Economic Development

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**Sub-Referral To:** House Committee On Revenue

**Meeting Dates:** 3/25, 4/8

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#### WHAT THE MEASURE DOES:

Allows persons applying to organize a banking institution or credit union to apply to Director of Department of Consumer and Business Services to organize as limited charter cannabis financial institution and lend capital to cannabis businesses and purchase bonds or other debt instruments issued by public body. Requires limited charter cannabis financial institution to comply with Bank Act and Oregon Credit Union Act and to adopt policies and procedures to comply with federal Bank Secrecy Act and federal regulations and guidance related to cannabis industry. Prohibits limited charter cannabis financial institution from transacting business with any financial institution other than a limited charter cannabis financial institution and from offering checking services. Allows limited charter cannabis financial institution to issue special purpose checks to pay fees or taxes to public body, pay rent on property leased by or on behalf of a cannabis business, pay Oregon-located vendor for cannabis business-related goods or services, and purchase bonds issued by a public body. Limits who may cash, deposit, or accept payment by special purpose checks. Requires Director to adopt rules to ensure the safe and sound operation of limited charter cannabis financial institutions and to limit powers of such institutions by rule.

#### ISSUES DISCUSSED:

- Federal law changes and potential impacts to the financial services available to cannabis businesses
- Risks for existing banks and credit unions and how managed by certain institutions
- Availability of private deposit insurance for limited charter cannabis financial institutions
- Relationship between limited charter cannabis financial institution and other financial institutions

#### EFFECT OF AMENDMENT:

-2 Allows limited charter cannabis financial institution to also purchase intrastate loans from other financial institutions and provide payroll management services to cannabis businesses. Defines intrastate loan as loan made by Oregon-chartered financial institution if all borrowers are Oregon residents or formed under Oregon law, all real and personal property financed is physically located in Oregon, and all services financed are performed in Oregon. Allows limited charter cannabis financial institution to transact business with other financial institutions if Director of Department of Consumer and Business Services makes a written determination that federal law prohibits federal regulators and law enforcement from taking adverse action against financial institutions for providing financial services to cannabis business. Becomes operative only if Director makes similar written determination for financial institutions whose activities take place entirely within Oregon. Requires Director to notify Legislative Assembly and Office of Legislative Counsel in writing of determination.

#### BACKGROUND:

All banks are subject to federal law, whether the bank is a national bank or state-chartered bank. Federal compliance requirements and criminal concerns apply to state-chartered financial institutions, as they maintain federal depository insurance. Violation of federal law could subject a bank to loss of its charter.

Congress passed the Bank Secrecy Act (BSA) in 1970 to fight money laundering in the United States. The BSA requires financial institutions to keep records of cash purchases of negotiable instruments, file reports of cash transactions exceeding \$10,000 (daily aggregate amount), and to report suspicious activity that might signify

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money laundering, tax evasion, or other criminal activities. The Financial Crimes Enforcement Network issued guidance in 2014 to clarify BSA expectations for financial institutions seeking to provide services to marijuana-related businesses, including conducting due diligence on customers to determine whether the business is authorized and approved by state law and filing certain suspicious activity reports.

The Division of Financial Regulation in the Oregon Department of Consumer and Business Services (DCBS) regulates many different sectors of Oregon's financial services industries, all of which must seek approval from the state before conducting business in Oregon, including banks and credit unions. The division charters, regulates, and supervises banks and trust companies in the state in accordance with Oregon's Bank Act. A credit union can be chartered by the division under the Oregon Credit Union Act or by the federally chartered agency, the National Credit Union Administration.

House Bill 3169 would allow persons applying to organize as a banking institution or credit union to apply to the DCBS Director to organize as a limited charter cannabis financial institution in compliance with the Bank Act, Oregon Credit Union Act, DCBS-developed rules, BSA, and federal regulations and guidance related to the cannabis industry. The measure restricts a limited charter cannabis financial institution to transacting business only with another limited charter cannabis financial institution and prohibits the institution from offering checking services. The measure instead allows the limited charter cannabis financial institution to issue special purpose checks to pay certain fees, taxes, or costs related to a cannabis business, and sets limits on who may cash, deposit, or accept payment by special purpose checks.