

## **Department of Planning and Budget**

### **2010 Fiscal Impact Statement**

**1. Bill Number:** HB 417

House of Origin	<input type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input checked="" type="checkbox"/>	Enrolled

**2. Patron:** Oder

**3. Committee:** Passed Both Houses

**4. Title:** Exchange Facilitators Act; established.

**5. Summary:** HB 417 establishes requirements for the activities of exchange facilitators, who are persons that for a fee, enter into an agreement with a taxpayer to act as (i) a qualified intermediary in an exchange of like-kind property, (ii) an Exchange Accommodation Titleholder; or (iii) a qualified trustee or escrow holder. Exchange facilitators are required to notify exchange clients of change in control of the exchange facilitator; to maintain exchange funds in separately identified accounts or in a qualified escrow or qualified trust; to maintain errors and omissions insurance or deposit cash or letters of credit; and to account for moneys and property. Persons who engage in the business of an exchange facilitator are prohibited from making misrepresentations, failing to account for moneys or property of others, engaging in fraudulent or dishonest dealings, committing certain crimes, or materially failing to fulfill contractual duties to an exchange client. Violations are subject to a civil penalty of up to \$2,500.

**6. Fiscal Impact Estimates:** Indeterminate, see Item 8

**7. Budget Amendment Necessary:** No

**8. Fiscal Implications:**

Any civil penalties generated due to the violation of the provisions of this legislation would be deposited into the Literary Fund. However, the number of potential violations and related fines cannot be determined.

In addition, the Senate amendment to the bill allows the attorneys to recover costs and reasonable expense incurred by the state or local agency investigating and preparing the case, and attorney fees.

**9. Specific Agency or Political Subdivisions Affected:**

Local courts, attorneys for the Commonwealth and the localities

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None

**Date:** 3/22/2010