

Beneficial Ownership Reporting May Soon Be Coming to California with a Brobdingnagian Price Tag!

Article By:

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Beginning January 1, 2024, many companies became subject to the beneficial ownership reporting requirements of the Corporate Transparency Act. The Financial Crimes Enforcement Network (FinCEN) [estimated](#) that the total costs of compliance for this first year would be nearly \$22 billion. Thereafter, FinCEN estimates that costs will range from \$.5 billion to \$8.1 billion annually.

California is now considering enacting of a bill, SB 1201 (Durazo) that would impose beneficial ownership reporting requirements on California and foreign corporations and California and foreign limited liability companies. Unlike the CTA, California's bill includes none of the 23 categories of entities exempted under the CTA. Thus, entities such as banks, investment companies, certain pooled investment funds and the like would be subject to California's disclosure requirements but exempted under the CTA. Curiously, SB 1201 does not impose beneficial ownership disclosure by limited partnerships.

Beneficial ownership disclosures would be made in filings with the Secretary of State and, unlike disclosures made pursuant to the CTA, would be publicly available. Currently, the bill contemplates disclosure of the names and addresses (business or residential) of beneficial owners.

If enacted, I expect that SB 1201 would impose significant costs on the Secretary of State's business filings division. These costs would include not only the direct costs of implementing changes to annual forms but also the devotion of resources to responding to questions from filers. Although FinCEN has published extensive Frequently Asked Questions (FAQs), many questions remain unanswered. The Senate Appropriations Committee [analysis](#) describes implementation costs as "[u]nknown, potentially significant costs ranging into the millions of dollars . . .". Like the CTA, I would expect the aggregate costs of compliance for corporations and LLCs to be enormous.

I am a skeptic as to the utility of the information that is provided. First, it will necessary be dated as the disclosures will be made in annual filings. Second, many corporations and LLCs, especially, small businesses may lack the sophistication and resources to accurately comply. Third, persons who wish to avoid disclosure may make inaccurate or incomplete disclosures or utilize entity forms, such as a limited partnership, that is not required to report beneficial ownership. Notably, the bill currently includes no enforcement mechanisms and the Secretary of State's office has no way to verify the accuracy of the information disclosed. Thus, if SB 1201 is enacted, it would impose significant costs

on the Secretary of State as well as corporations and LLCs in order to obtain dated and in many cases inaccurate or incomplete beneficial ownership information.

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