

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**ECONOMIC IMPACT STATEMENT**

|  |                               |   |                                    |
|--|-------------------------------|---|------------------------------------|
| DEPARTMENT NAME<br>Justice, Office of the Attorney General                             | CONTACT PERSON<br>Barry Alves | EMAIL ADDRESS<br>Barry.Alves@doj.ca.gov | TELEPHONE NUMBER<br>(916) 210-7838 |
| DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400<br>Revised Tobacco Escrow Agreement |                               |   | NOTICE FILE NUMBER<br>Z            |

**A. ESTIMATED PRIVATE SECTOR COST IMPACTS** *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> a. Impacts business and/or employees | <input type="checkbox"/> e. Imposes reporting requirements              |
| <input checked="" type="checkbox"/> b. Impacts small businesses          | <input type="checkbox"/> f. Imposes prescriptive instead of performance |
| <input type="checkbox"/> c. Impacts jobs or occupations                  | <input type="checkbox"/> g. Impacts individuals                         |
| <input type="checkbox"/> d. Impacts California competitiveness           | <input type="checkbox"/> h. None of the above (Explain below):          |

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.  
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*

2. The Justice, Office of the Attorney General  
(Agency/Department) estimates that the economic impact of this regulation (which includes the fiscal impact) is:

- Below \$10 million  
 Between \$10 and \$25 million  
 Between \$25 and \$50 million  
 Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: Approx. 60

Describe the types of businesses (Include nonprofits): Approximately 50 tobacco companies and 10 escrow banks

Enter the number or percentage of total businesses impacted that are small businesses: Approx. 50%

4. Enter the number of businesses that will be created: 0 eliminated: 0

Explain: The costs of reviewing and executing a revised escrow agreement should neither eliminate nor create businesses.

5. Indicate the geographic extent of impacts:  Statewide  
 Local or regional (List areas): \_\_\_\_\_

6. Enter the number of jobs created: 0 and eliminated: 0

Describe the types of jobs or occupations impacted: N/A

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?  YES  NO

If YES, explain briefly: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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**ECONOMIC IMPACT STATEMENT (CONTINUED)**

**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

- 1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 0
  - a. Initial costs for a small business: \$ Approx. \$1,500 Annual ongoing costs: \$ \_\_\_\_\_ Years: \_\_\_\_\_
  - b. Initial costs for a typical business: \$ Approx. \$1,500 Annual ongoing costs: \$ \_\_\_\_\_ Years: \_\_\_\_\_
  - c. Initial costs for an individual: \$ \_\_\_\_\_ Annual ongoing costs: \$ \_\_\_\_\_ Years: \_\_\_\_\_
  - d. Describe other economic costs that may occur: None

2. If multiple industries are impacted, enter the share of total costs for each industry: The anticipated costs for both the escrow banks and tobacco companies are essentially the same. Based upon market share, tobacco companies 80% and escrow banks 20%.

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ \_\_\_\_\_

- 4. Will this regulation directly impact housing costs?  YES  NO  
 If YES, enter the annual dollar cost per housing unit: \$ \_\_\_\_\_  
 Number of units: \_\_\_\_\_

5. Are there comparable Federal regulations?  YES  NO

Explain the need for State regulation given the existence or absence of Federal regulations: California and almost all other states require some tobacco manufacturers to deposit funds into qualified escrow funds governed by state law. No similar federal law.

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0

**C. ESTIMATED BENEFITS** *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: The Office of the Attorney General administers and enforces Health and Safety Code sections 104555-104557 to ensure that tobacco escrow deposits serve as reserve funds to satisfy potential lawsuits. Revised form and regulations materially improves oversight and monitoring of funds.

2. Are the benefits the result of:  specific statutory requirements, or  goals developed by the agency based on broad statutory authority?  
 Explain: Under Rev. & Tax. Code section 301.65.1, subd. (c)(2)(a), the Attorney General must regulate the funds and form.

3. What are the total statewide benefits from this regulation over its lifetime? \$ Unquantifiable

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: N/A

**D. ALTERNATIVES TO THE REGULATION** *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: After considerable review, there is no reasonable alternative to adopting these regulations, and they are the least burdensome and most fair and equitable way to ensure tobacco escrow funds are properly funded, maintained, and monitored.

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2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ See below Cost: \$ 0

Alternative 1: Benefit: \$ \_\_\_\_\_ Cost: \$ \_\_\_\_\_

Alternative 2: Benefit: \$ \_\_\_\_\_ Cost: \$ \_\_\_\_\_

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: The precise amount is unquantifiable, but the regulation protects

California's beneficial interest in escrowed funds from premature release.

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?  YES  NO

Explain: N/A. This regulation does not concern technologies, equipment, or performance standards. This regulation and form address the permitted investments and durations of deposits for tobacco escrow funds at banks.

**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.*

*California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.*

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million?  YES  NO

*If YES, complete E2. and E3  
If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: \_\_\_\_\_

Alternative 2: \_\_\_\_\_

*(Attach additional pages for other alternatives)*

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

Alternative 1: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

Alternative 2: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

YES  NO

*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: This regulation will not impact whether businesses invest in the State.

The incentive for innovation in products, materials or processes: This regulation neither incentives or disincentives any innovation in products, materials, or processes.

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: The revised regulation addresses several issues that have emerged after California's most recent revision in 2010.

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**FISCAL IMPACT STATEMENT**

**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ \_\_\_\_\_

a. Funding provided in \_\_\_\_\_  
Budget Act of \_\_\_\_\_ or Chapter \_\_\_\_\_, Statutes of \_\_\_\_\_

b. Funding will be requested in the Governor's Budget Act of \_\_\_\_\_  
Fiscal Year: \_\_\_\_\_

2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ \_\_\_\_\_

*Check reason(s) this regulation is not reimbursable and provide the appropriate information:*

a. Implements the Federal mandate contained in \_\_\_\_\_

b. Implements the court mandate set forth by the \_\_\_\_\_ Court.

Case of: \_\_\_\_\_ vs. \_\_\_\_\_

c. Implements a mandate of the people of this State expressed in their approval of Proposition No. \_\_\_\_\_

Date of Election: \_\_\_\_\_

d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: \_\_\_\_\_  
\_\_\_\_\_

e. Will be fully financed from the fees, revenue, etc. from: \_\_\_\_\_

Authorized by Section: \_\_\_\_\_ of the \_\_\_\_\_ Code;

f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in \_\_\_\_\_

3. Annual Savings. (approximate)

\$ \_\_\_\_\_

4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

5. No fiscal impact exists. This regulation does not affect any local entity or program.

6. Other. Explain \_\_\_\_\_  
\_\_\_\_\_

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**FISCAL IMPACT STATEMENT (CONTINUED)**

**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

*It is anticipated that State agencies will:*

a. Absorb these additional costs within their existing budgets and resources.

b. Increase the currently authorized budget level for the \_\_\_\_\_ Fiscal Year

2. Savings in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

3. No fiscal impact exists. This regulation does not affect any State agency or program.

4. Other. Explain \_\_\_\_\_  
\_\_\_\_\_

**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

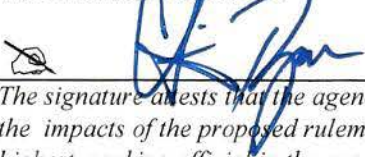
2. Savings in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

4. Other. Explain \_\_\_\_\_  
\_\_\_\_\_

FISCAL OFFICER SIGNATURE



DATE

11/27/18

*The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

AGENCY SECRETARY



DATE

12-19-18

*Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.*

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE