SB 1201 (Durazo) - Beneficial owners

Version: February 15, 2024  
Urgency: No  
Hearing Date: April 29, 2024

Policy Vote: JUD. 9 - 1, B. & F.I. 5 - 2  
Mandate: Yes  
Consultant: Janelle Miyashiro

Bill Summary: SB 1201 requires corporations, limited liability companies (LLCs), and real estate investment trusts to report information about their beneficial owners, as specified, on periodic reports that those business entities are required to file with the Secretary of State (SOS) and that are made available to the public.

Fiscal Impact: The SOS reports the following significant costs to collect and publish, in an online database, the expanded scope of information that business entities will be required to provide:

- Total cost of approximately $9,281,602 General Fund in the first year of implementation broken down as follows:
  - IT project costs: $3,000,000
  - One-time facility costs: $766,800
  - Printing costs: $534,339
  - Mailing costs: $2,142,513
  - 24 additional positions, multiple classifications: $2,837,950
- Ongoing costs of $2,990,587 for printing and mailing costs, as well as 24 staff positions.

Background: California, and all other states, offer natural persons (i.e., living human beings) the ability to organize their business activities under separate legal entities – the corporation and the LLC being two entity types. Generally, a person may establish a corporation or LLC under the laws of any state by filing the required paperwork, irrespective of the business’s physical location(s) or the state(s) of residence of the business owners. For example, this means that a business that is 100% owned by California residents, that has physical locations only in California, and that conducts all of its business activities within California may choose another state to incorporate its business.

Corporations and LLCs that transact business within California are required to provide periodic statements with specified information to the SOS, whether the business is organized under California law (i.e., a domestic corporation or limited liability company) or under the laws of another state or jurisdiction (i.e., a foreign corporation or foreign limited liability company). The information required to be disclosed in these statements is meager, including, but not limited to, the name and address of the business, the names and business or residence addresses of key personnel, and the general type of business that constitutes the principal business activity of the corporation or LLC, such as, for example, manufacturer of aircraft, wholesale liquor distributor, or retail department store. After being filed with the SOS, these statements are made publicly available through a free online database.
Neither in the initial articles of incorporation or articles of organization of an LLC, nor in the subsequent statements described in the preceding paragraph, is a business required to disclose the identities of its beneficial owners. The term “beneficial owner” does not have a common definition across various contexts or laws, but the concept is used to describe the true owner of an asset that is under a different legal name. The lack of information about a business’s beneficial owner(s) can obfuscate the relationship between property ownership, business-related liabilities, and natural persons.

Proposed Law:

- Requires a domestic corporation, a foreign corporation, a limited liability company, a foreign limited liability company, or a real estate investment trust to include in specified periodic filings with the Secretary of State the name and complete business or residence address of any beneficial owner.

- Defines “beneficial owner” as a natural person for whom, directly or indirectly and through any contract arrangement, understanding, relationship, or otherwise, either of the following applies with respect to the business entity:
  - The person exercises substantial control, as defined in a specified federal regulation, over the entity.
  - The person owns 25 percent or more of the equity interest of an entity.

Related Legislation: SB 594 (Durazo, 2023) was identical to this bill. SB 594 was held on the Suspense File in this committee.

Staff Comments: While SOS did not provide context for their anticipated costs at the time of this analysis, the SOS previously noted implementation concerns for SB 594 to review, investigate, and verify the veracity of information related to beneficial owners within existing budgetary resources and legal authorities as well as modify its existing online filing systems. To the extent that these challenges remain and impact the SOS’s ability to implement the requirements of this bill, there may be associated fiscal impacts that affect the SOS’s staff resource needs and operating costs.

-- END --