Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1270 (Delegate Waldstreicher, *et al.*)
Economic Matters Finance

Credit Regulation - Unsecured Open End Credit Plans - Fees and Charges

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This bill limits fees and charges for unsecured open end credit plans offered by specified credit grantors (when combined with any interest charged) to an effective rate of 33% per annum simple interest. Specifically, the bill applies to any fees charged by a credit grantor *other than* a seller of goods and services, but it does not apply to fees charged by a seller of goods or services or specified credit union fees that are permitted under federal law.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: None. The bill pertains exclusively to private-sector activities.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law: A revolving ("open end") credit plan is a plan in which the credit grantor permits the borrower (and possibly other authorized individuals) to make multiple purchases or loans over time. The amounts are charged to the borrower's account, and the borrower is allowed to pay the amounts charged over time. The credit grantor, in turn, may charge interest or finance charges on the amounts due under the plan. (For example, a credit card is generally considered a revolving, open end credit plan.)

Fees and charges that may be imposed on an unsecured open end credit plan vary depending upon the type of lender. If the plan is offered by a seller of goods or services (or both) and may only be used for the purchase or lease of the seller's good and services, then the seller is authorized to charge a consumer borrower *one* of the following fees:

- an annual charge in any amount stipulated in the agreement;
- a transaction charge or charges as stipulated in the agreement for each separate purchase under the plan; or
- a minimum charge for each scheduled billing period during which there is an outstanding unpaid balance.

If the plan is offered by any other type of credit grantor, however, then the credit grantor may impose *any or all* of those fees on a consumer borrower.

Credit unions are authorized to make loans or extend credit to members incorporating the same terms and conditions as a federal credit union is permitted under federal law and regulations related to certain fees, such as over limit fees and fees for ancillary and administrative services that are requested by the member.

Fees and charges must be explicitly permitted under the agreement between the consumer borrower and the credit grantor. For nonconsumer borrowers, however, the borrower and credit grantor may agree upon any terms concerning charges and fees. (A consumer borrower is an individual receiving a loan or other extension of credit for personal, household, or family purposes or an individual receiving a commercial loan or other extension of credit for any commercial purpose not in excess of $75,000, secured by residential real property.) A nonconsumer borrower is any borrower other than a consumer borrower.

Background: The bill is intended to limit the amount of interest and fees charged by consumer lenders making "installment" or "line of credit" loans. These types of loans are also widely available from companies making payday loans.

According to the Pew Charitable Trusts, traditional payday loans are typically due in full after two weeks, which can be unaffordable to consumers and trigger reborrowing. As a result, the Consumer Financial Protection Bureau has recently taken steps to encourage payday lenders to give borrowers more time to repay loans in smaller installments over time. However, according to Pew, in recent years, payday loan companies have already shifted toward installment lending, rather than lump-sum loans. Interest rates of 400% are common for these types of loans. Although Pew notes that giving consumers more time to repay in installments is a positive step, the cost can nevertheless be very high, with annual percentage rates (APRs) of 400% and higher.

In Maryland, the amount of interest consumer lenders may charge is limited based on the value of the loan. According to the Commissioner of Financial Regulation:

- for the first $1,000 of a loan of $2,000 or less, the maximum APR is 33%;
- for the next $1,000 of a $2,000 loan, the maximum APR is 24%; and
- for loans that are more than $2,000 but less than $6,000, the maximum APR is 24%.

However, some lenders in Maryland offer "line of credit" loans that impose additional fees that, when combined with the allowable interest rate, far exceed the APRs noted above. According to the Office of the Commissioner of Financial Regulation, in fiscal 2016, there were 157 total complaints regarding all companies licensed to make consumer loans, 36 of which were related to payday lenders. The number of complaints related specifically to the types of loans addressed by the bill is unknown, as any such complaints are incorporated into the total number of consumer loan complaints.

Small Business Effect: Under the bill, small businesses that offer unsecured open end credit plans are limited in the amount of interest they are authorized to charge consumers. Although this limit may benefit consumers, it also likely reduces the profits of businesses making those types of loans. The number of small businesses in Maryland that make these types of loans is unknown, however. Any impact to those businesses depends on the volume of loans they make under the provision affected by the bill and the amount of interest typically charged on those loans that exceeds the 33% APR limit established by the bill.

Additional Information

Prior Introductions: None.

Cross File: SB 527 (Senator Middleton) - Finance.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Pew Charitable Trusts; Department of Legislative Services

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