SB 884

Department of Legislative Services

Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 884 (Senator Rosapepe, *et al.*)
Finance Economic Matters

Maryland Financial Consumer Protection Commission

This bill establishes the Maryland Financial Consumer Protection Commission, staffed by the Department of Legislative Services (DLS). The bill specifies the membership of the commission, and the President of the Senate and the Speaker of the House must designate the chair of the commission. The commission must (1) assess the impact of potential changes to federal financial industry laws and regulations, budgets, and policies, including changes to specified federal financial regulators as well as the Dodd-Frank Wall Street Reform and Consumer Protection Act and (2) issue recommendations for federal and State actions that are intended to protect residents of the State when conducting financial transactions and receiving financial services. The commission must submit two reports with its findings and recommendations to the Governor and General Assembly by December 31, 2017, and December 31, 2018.

The bill takes effect June 1, 2017, and terminates June 30, 2019.

Fiscal Summary

State Effect: DLS can provide staff support to the commission with existing budgeted resources. Any expense reimbursements for commission members are presumed to be minimal and absorbable within existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The commission may give periodic reports to the Governor, the Maryland General Assembly, and the Maryland Congressional delegation, as appropriate. A member of the commission may not receive compensation but is entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

Current Law/Background:

Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

In response to the 2008 financial crisis, the U.S. Congress enacted the most comprehensive financial reform legislation since the Great Depression. According to the Congressional Research Service (CRS), the major issue in financial reform was how to address the systemic fragility that was revealed by the crisis. The Dodd-Frank Act created a new regulatory umbrella group chaired by the Treasury Secretary (the Financial Stability Oversight Council) with the authority to designate certain financial firms as "systemically significant" and subject them to increased regulation, including limits on leverage, heightened capital standards, and restrictions on certain forms of risky trading. These firms are also subject to a special resolution process to address failing depository institutions.

Consumer Financial Protection Bureau

CRS also notes that the Dodd-Frank Act substantially (though not completely) consolidated consumer protection powers that previously were held by seven other federal regulators into a new Consumer Financial Protection Bureau (CFPB). The bureau has the authority to write rules to implement a broad array of federal consumer financial protection laws, as well as the authority to write rules pertaining to most consumer compliance supervisory and enforcement powers over larger depositories. However, CFPB did not acquire primary supervisory and enforcement powers over smaller depositories from banking regulators. CFPB was also given new authority to regulate nondepository financial institutions, which previously were largely unregulated at the federal level.

Although CFPB's powers are largely the same or analogous to those that other federal regulators have held for decades, CRS noted in 2014 that there was a great deal of uncertainty regarding how the agency would exercise its broad and flexible authorities, especially in light of its almost exclusive focus on consumer protection and the novel expansion of federal oversight to nondepository financial institutions. According to CRS, at the time, some policy makers were anxious that CFPB, in the name of protecting consumers, would excessively restrict consumer credit and unduly increase regulatory costs.

Numerous pieces of legislation have been introduced in recent years to either eliminate the CFPB altogether or significantly alter its structure by, for example, making CFPB's primary funding subject to the traditional appropriations process. (CFPB is funded through the Federal Reserve Board, rather than by the U.S. Congress.) The 115th Congress, which convened in January 2017, is expected to consider major changes to both CFPB and the 2010 financial reform law.

Consumer Protection in Maryland

The Consumer Protection Division of the Office of the Attorney General is responsible for enforcing the Maryland Consumer Protection Act (MCPA), which is the primary law governing consumer protections in Maryland. The responsibilities of the division include:

- conciliating consumer complaints through both mediation and arbitration;
- registering health clubs and home builders;
- educating the public by developing and disseminating consumer education materials; and
- enforcing laws against businesses engaging in unfair or deceptive trade practices.

An unfair or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to $1,000 for the first violation and up to $5,000 for each subsequent violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to $1,000 and/or imprisonment for up to one year.

Office of the Commissioner of Financial Regulation

The Office of the Commissioner of Financial Regulation (OFR), under the Department of Labor, Licensing, and Regulation, supervises the activities of the financial services industry in Maryland through periodic on-site examinations and off-site monitoring programs. The mission of OFR is to ensure that the citizens of Maryland are able to conduct their financial transactions through safe, sound, and well-managed institutions that comply with Maryland law, while providing a flexible, yet sound regulatory environment that promotes fair competition, encourages innovative business development, and supports the economy of Maryland.

OFR is responsible for chartering and supervising Maryland trust companies, State-chartered banks, and State-chartered credit unions; licensing and supervising State-licensed financial entities, including mortgage lenders, mortgage brokers, mortgage servicers, mortgage loan originators, affiliated insurance producer-originators, check cashers, money transmitters, consumer debt collection agencies, consumer lenders, installment lenders, sales finance businesses, credit services businesses, and debt management companies; and registering and supervising credit reporting agencies and debt settlement companies, to ensure compliance with the laws and regulations of Maryland.

OFR provides assistance to consumers by investigating complaints of questionable business practices involving State-chartered, licensed, and registered financial institutions under its supervision and authority. OFR also conducts outreach focused on foreclosure and mortgage delinquencies in the State. Additionally, OFR helps to connect Maryland consumers to effective financial education available through the State and nationally.

Additional Information

Prior Introductions: None.

Cross File: HB 1134 (Delegate Frick, *et al.*) - Economic Matters.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Department of Labor, Licensing, and Regulation; Congressional Research Service; Department of Legislative Services

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