Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 247 (Chair, Economic Matters Committee)(By Request - Departmental - Maryland Insurance Administration)

Economic Matters

Commissioner of Financial Regulation and State Collection Agency Licensing Board - Reorganization and Miscellaneous Revisions

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This departmental bill reorganizes the Office of the Commissioner of Financial Regulation (OFR) and the State Collection Agency Licensing Board (SCALB) as divisions of the Maryland Insurance Administration (MIA) instead of units in the Department of Labor, Licensing, and Regulation (DLLR) and makes a series of technical and conforming changes. The commissioner's office is renamed the Financial Regulation Division of MIA.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: Generally, general and special fund revenues and expenditures for OFR are transferred from DLLR to MIA, resulting in minimal net savings on OFR's finances. In FY 2018, there is a one-time (1) need for general fund support to backfill foregone indirect and related cost charges at DLLR and (2) special fund expenditure increase for OFR moving expenses. Otherwise, the estimate assumes 1% growth in existing revenues and expenditures. Potential cost savings from the transfer of OCR are not included in this estimate. General fund revenues may increase minimally due to the higher maximum administrative fine for specified criminal offenses; general fund expenditures may decrease minimally for the Department of Public Safety and Correctional Services (DPSCS) due to the altered requirement for only federal criminal history records checks for new employees.

($ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
SF Revenue	$0	$0	$0	$0	$0
GF Expenditure	$0.3	$0	$0	$0	$0
SF Expenditure	$0.4	$0.0	$0.0	$0.0	$0.0
Net Effect	($0.6)	$0.0	$0.0	$0.0	$0.0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not affect local governmental operations or finances.

Small Business Effect: MIA has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary/Current Law: *The bill* requires all unexpended appropriations, including State and federal funds, held by the Commissioner of Financial Regulation and SCALB to carry out the functions and programs that are transferred to likewise be transferred to MIA on July 1, 2017. Thus, funding for the functions and programs of the Financial Regulation Division established by the bill must be provided by MIA in the fiscal 2018 State budget. Additionally, on July 1, 2017, (1) federal fund grants directed to the Commissioner of Financial Regulation must be transferred to MIA and (2) all of the books, records (including electronic records), personal property (tangible and intangible), assets, liabilities, credits, special funds, grants, commitments for grants, rights, and privileges of the Commissioner of Financial Regulation and SCALB must be transferred to MIA.

In addition to reorganizing OFR and SCALB as divisions of MIA, the bill makes the following changes to financial regulation law in the State, as well as related conforming changes.

- *The bill* expressly states that the authority of the Insurance Commissioner does not include the power to disapprove or modify any appointment, decision, or determination made by the Commissioner or Deputy Commissioner of Financial Regulation under his or her legal authority.

- *Under current law*, if a violator fails to comply with a lawful order issued by SCALB, the board may impose a penalty ranging from a maximum of $500 per violation to a maximum of $5,000 per violation. *The bill* increases this penalty to no more than $1,000 for a first violation and no more than $5,000 for each subsequent violation.

- *Under current law*, a trustee must file a schedule of rates with (1) the State Director of the Division of Savings and Loan Associations if the trustee is a savings and loan association and (2) the Commissioner of Financial Regulation for all other types of trustee. *The bill* requires all trustees to file rates with the Commissioner of Financial Regulation.

- *Under current law*, the Commissioner and Deputy Commissioner of Financial Regulation are appointed by and serve at the pleasure of the Secretary of Labor, Licensing, and Regulation. Additionally, both are entitled to the salary provided in the State budget. *Under the bill*, the Commissioner and Deputy Commissioner of Financial Regulation are appointed by the Insurance Commissioner, are considered employees of MIA, and are in the State Personnel Management System.

- *Under current law*, the Commissioner of Financial Regulation may employ a staff in accordance with the State budget. *Under the bill*, the Commissioner of Financial Regulation must consult with the Insurance Commissioner in a specified manner regarding OFR staffing.

- *Under current law*, the Commissioner of Financial Regulation must apply to the Central Repository within DPSCS for a State and national criminal history records check for each applicant prior to the offer of employment and may do so for an existing employee. *Under the bill*, only a Federal Bureau of Investigation national criminal history records check is required and authorized for applicants and employees, as specified.

- *The bill* requires any order or notice of the Commissioner of Financial Regulation to be in writing and signed by the commissioner or an individual authorized by the commissioner.

- *Under current law*, specified actions taken by the Commissioner of Financial Regulation are subject to confirmation or approval of the Secretary of Labor, Licensing, and Regulation. For example, certain violations must be reported to the Secretary, who then must request that the Attorney General prosecute the violation. *Under the bill*, the authority of the Commissioner of Financial Regulation is expanded in that these actions are no longer subject to the advice, consent, or confirmation of the Secretary, nor are they subject to the advice, consent, or confirmation of the Insurance Commissioner. For example, the Commissioner of Financial Regulation may directly request the Attorney General to prosecute certain violations.

- *Under current law*, a financial institution must keep a record of currency transactions in excess of $10,000. The institution must then file a report with DLLR within 15 days of the date of the transaction. Such a transaction may be exempt from reporting under specified circumstances. *Under the bill*, a financial institution is no longer required to file the report and, instead, must make the required transaction reports available to the Commissioner of Financial Regulation.

- *Under current law*, the purpose of the Foreclosed Property Registry Fund, which is administered by the Commissioner of Financial Regulation, is to support the development, administration, and maintenance of the Foreclosed Property Registry. *The bill* expands the fund's purpose to include conducting foreclosure prevention outreach, including financial education.

Any person licensed or registered by the Commissioner of Financial Regulation or SCALB on June 30, 2017, is considered to still be licensed on and after the effective date of the bill. All employees transferred to MIA by the bill must be transferred without diminution of their rights, benefits, or employment or retirement status. Nothing in the bill may affect the terms of SCALB members or the Commissioner and Deputy Commissioner of Financial Regulation.

Background:

Maryland Insurance Administration

MIA is an independent State agency that regulates Maryland's insurance industry and protects consumers by monitoring and enforcing insurers' and insurance professionals' compliance with State law. MIA is charged with a range of responsibilities including the licensure of insurance companies and insurance producers (brokers/agents) operating in Maryland, the conduct of financial examinations of companies to monitor financial solvency, and the review and approval of rates and contract forms. MIA also investigates reports of consumer fraud and consumer complaints about life, health, automobile, homeowners, and property insurance.

MIA does not receive money from the general fund; instead, it is a special funded State agency supported entirely through fees and assessments on the insurance industry. Two separate funds support activities of MIA: the Insurance Regulation Fund, which supports the administrative and regulatory activities of MIA, and the Health Care Regulatory Fund, which funds the costs of complaint investigations concerning payment denials involving medical necessity. These funds may not revert to the general fund.

Office of the Commissioner of Financial Regulation

OFR, under DLLR, supervises the activities of the financial services industry 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 advises that it 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.

State Collection Agency Licensing Board

SCALB is chaired by the Commissioner of Financial Regulation, exists within OFR, and has statutory responsibility for the licensing of collection agencies operating in Maryland. The Governor, with the consent of the Senate, appoints the four-member board, consisting of two consumer representatives and two industry representatives. The commissioner serves as chairman. The board addresses written complaints, conducts hearings on alleged violations, mediates disputes, and issues orders requiring licensees to correct violations. The board also informs both licensees and the public about abusive debt collection practices.

Financial Regulation in Other States

According to the Commissioner of Financial Regulation and MIA, five states (Michigan, Missouri, New Jersey, New York, and Vermont) and the District of Columbia regulate banking and insurance under the same agency. Ten other states (Alaska, Colorado, Florida, Hawaii, Maine, Massachusetts, Minnesota, Oregon, Rhode Island, and Virginia) have banking divisions and insurance departments which report to the same parent agency.

OFR and MIA advise that combining their operations is likely to result in improved efficiency and effectiveness in several areas, including:

- consumer outreach and advocacy;
- compliance and enforcement;
- complaint handling;

- fraud prevention issues;
- examinations of licensed companies;
- licensing functions; and
- administrative areas such as human resources, procurement, fiscal areas, and information systems.

State Fiscal Effect:

Reorganization under the Maryland Insurance Administration – Funds and Finances

OFR is currently organized as a 92-employee unit within DLLR. As of January 1, 2017, OFR includes 84 authorized positions, 8 of which are vacant and in some stage of recruitment, and 8 authorized contractual employees (1 of which is vacant and in recruitment). The Governor's proposed fiscal 2018 budget for OFR includes $9.5 million in special fund expenditures and $1.3 million in general fund expenditures, for a total of $10.8 million in State funding. Under the bill, these expenditures are expected to continue, resulting in no net impact to OFR's finances; however, MIA, instead of DLLR, will oversee and administer OFR's finances.

In addition to this direct transfer of finances, the bill results in uncovered indirect and related costs for DLLR in fiscal 2018, additional staff support for OFR related to the move with potential staffing efficiencies for OFR and MIA in the long term, and one-time costs related to OFR physically moving into MIA's headquarters. A discussion of each of these effects can be found below.

Indirect Costs and Staffing

Included in OFR's $9.5 million special fund budget are about $1,073,000 in indirect and related cost payments to DLLR. Generally, DLLR collects indirect cost payments from the units it oversees so that efficiencies can be gained by sharing administrative services, such as human resources and information technology (IT) support. Under the bill, OFR is no longer required to pay these indirect costs to DLLR, freeing up the funding for OFR to pay for its own human resources, fiscal, and IT staff but leaving a gap in funding of $1,073,000 to cover DLLR's costs. Of this amount, approximately $281,162 in indirect and related costs currently paid by OFR are not able to be absorbed into DLLR's budget in fiscal 2018, resulting in a net effect of $281,162 in lost special funding for DLLR, likely necessitating an appropriation of general funds to backfill for these monies in that year. DLLR advises that it can absorb these costs in future years.

MIA, OFR, and DLLR advise that the bill's consolidation requires eight administrative positions (three HR staff, one procurement staff, and four fiscal staff) to be transferred from

DLLR to OFR. The total cost for these staff is approximately $682,574 for fiscal 2018. Although the staff serves other entities within DLLR, the staff represents the full-time equivalent of the work required for OFR. In addition to these transferred staff, OFR must hire four new IT staff, because DLLR cannot transfer any of its IT staff and MIA does not have the IT staff necessary to provide support to OFR. Therefore, OFR expenditures are $1,038,276 in fiscal 2018 instead of $1,073,000, meaning that the net effect on OFR's special fund expenditures is a minimal reduction.

New Positions	4
New Salaries and Fringe Benefits	$292,522
Salaries and Fringe Benefits of Existing Staff	682,574
Operating Expenses for New and Existing Staff	63,180
OFR FY 2018 Administrative Support Expenditures at MIA	**$1,038,276**
OFR FY 2018 Administrative Support Expenditures if at DLLR	**$1,073,000**
Administrative Special Fund Cost Savings Due to Transfer	**$34,634**

Future year expenditures reflect annual increases, employee turnover, and ongoing operating expenses for the existing staff being transferred from DLLR and the new staff being hired by OFR; however, expenditures for staff are expected to decrease as MIA and OFR begin to experience staff efficiencies, as discussed below.

Staff Efficiencies in the Maryland Insurance Administration and Office of the Commissioner of Financial Regulation

The bill's consolidation of MIA and OFR is expected to simplify and reduce staffing needs for the two entities over time because both entities employ staff in similar roles dedicated to licensing, consumer outreach, enforcement, and examination. The timing of when the consolidation will produce these expected efficiencies cannot be predicted with any specificity. As overlaps between roles and functions are discovered, fewer staff will become necessary. MIA and OFR advise that the reduction in staff will take place through attrition rather than downsizing. Therefore, a reduction in staff and corresponding cost savings are expected for MIA and OFR in future years, but is not accounted for in this estimate.

Costs and Savings Related to Leased Space and Moving

The bill does not require OFR to physically move to MIA's headquarters immediately; however, for purposes of this analysis, it is assumed that OFR moves its operations to MIA in fiscal 2018. To the extent that the move takes place in a future fiscal year instead (for example, OFR could move when DLLR begins its move in two or three years), the costs and savings discussed below are delayed.

MIA leases space for 363 work stations at its headquarters (located at 200 St. Paul Place, Baltimore, Maryland); however, MIA advises that 107 of these work stations are vacant. For this reason, MIA advises that it is able to fully accommodate OFR's 84 current employees, the 8 administrative positions that must be transferred to MIA from DLLR, and the 4 new IT positions; this assumes that all positions transferred are not filled. Additionally, the fiscal 2017 budget for OFR includes $236,810 to rent space from DLLR at its current location and, under the bill, MIA anticipates that OFR would pay the same amount to rent space at its headquarters, resulting in (1) a gap in annual special fund expenditures of $236,810 for DLLR (until DLLR moves); (2) a reduction in annual special fund expenditures of $236,810 for MIA due to that portion now being covered by OFR; and (3) a net neutral impact for OFR. This analysis assumes DLLR can cover these costs.

Additionally, there are moving and administrative costs associated with OFR's transfer to MIA. These costs are expected to be borne by OFR. The physical move is estimated to cost about $50,000, and the transfer of phone, fax, and data lines, as well as the additional equipment and software licenses needed by OFR, are estimated to cost about $290,000. MIA's existing space may also need to be reconfigured, and this estimate assumes the cost to be no more than $60,000. Therefore, OFR incurs a one-time cost of as much as $400,000 in fiscal 2018 for the move.

DLLR is scheduled to vacate its offices (located at 500 North Calvert Street, Baltimore, Maryland) to make additional space for the Judiciary, and the planned relocation space (located at 1100 N. Eutaw Street, Baltimore, Maryland) cannot accommodate OFR. The bill's changes simplify the logistics of moving for DLLR, although the move is not likely to take place for two or three more years. DLLR estimates that it will save about $1.2 million per year through relocating. It is unclear what plan DLLR would implement if OFR were to remain at DLLR.

Other Costs

Although the bill expands the uses of the Foreclosed Property Registry Fund, this analysis does not account for any increased spending from the fund.

Any impact on DPSCS expenditures from eliminating the requirement for State criminal history records checks is anticipated to be negligible; staffing efficiencies are likely realized instead.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management; Department of Labor, Licensing, and Regulation; Maryland Insurance Administration; Department of Legislative Services

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Analysis by: Richard L. Duncan and Eric F. Pierce

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Maryland Insurance Administration — Commissioner of Financial Regulation and State Collection Agency Licensing Board**

BILL NUMBER: **HB 247**

PREPARED BY: **Maryland Insurance Administration**
(Dept. /Agency) **Department of Labor, Licensing, and Regulation**

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__X__ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

____ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS