

Department of Legislative Services  
 Maryland General Assembly  
 2019 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 1216 (Delegate Washington, *et al.*)  
 Economic Matters

Financial Institutions - Check Cashing Services - Licensing

This bill repeals an exemption that excludes specified check cashing services from licensure requirements, thereby requiring that these entities become licensed or cease operating as check cashing services. It increases the initial licensing fee for check cashing service entities to \$1,000 (from \$500). The bill creates the Financial Awareness Fund and requires the Office of the Commissioner of Financial Regulation (OCFR) to deposit half of the revenues from the *initial* license fee into the new fund, with the remaining half continuing to be deposited into the Nondepository Special Fund. The requirement for the revenue from all *renewal* license fees for check cashing services to be deposited into the Nondepository Special Fund remains unchanged by the bill. The bill also establishes additional disclosure requirements for check cashing services.

Fiscal Summary

**State Effect:** Special fund revenues increase by \$879,000 in FY 2020 and at least \$293,000 in future years from additional licensing revenues. Potential minimal increase in general and special fund revenues from the expansion of existing penalty provisions to additional entities. Special fund expenditures increase by \$343,200 in FY 2020 for personnel and program activities; future years reflect personnel costs only.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
SF Revenue	\$879,000	\$293,000	\$293,000	\$293,000	\$293,000
SF Expenditure	\$343,200	\$60,500	\$62,500	\$64,700	\$66,900
Net Effect	\$535,800	\$232,500	\$230,500	\$228,300	\$226,100

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

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

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:** The Financial Awareness Fund is administered by OCFR. The fund consists of (1) money from each license fee collected by OCFR; (2) money appropriated in the State budget for the fund; and (3) any other money from any source accepted for the benefit of the fund. The fund may be used only for supporting programs that promote financial services and financial awareness.

The bill requires a check cashing licensee to conspicuously post a brochure with information related to check cashing services, including the phone number of OCFR for customers to file complaints. The brochure must include specified information related to check cashing services, including the permissible fees a check casher may charge. In addition, the brochure must include a link to a website that provides a list of licensed check cashing service businesses.

**Current Law:** Check cashing licensing requirements do not apply to check cashing services:

- for which a fee of up to 1.5% of the face amount of the payment instrument is charged per payment instrument and that are incidental to the retail sale of goods or services by the check casher;
- in which a customer presents a payment instrument for the exact amount of a purchase; or
- involving foreign currency exchange services or the cashing of a payment instrument drawn on a financial institution other than a federal, State, or other state financial institution.

In addition, licensing requirements do not apply to a transaction that is subject to the Maryland Consumer Loan Law (MCLL), including a transaction in which an additional fee is charged to defer the presentment or deposit of a payment instrument until a subsequent date. A check cashing service is not subject to MCLL if (1) the fee charged for the service does not exceed the permitted fee; (2) no additional fee is charged to defer the presentment or deposit of the payment instrument; and (3) the service is not subject to renewal or extension by any means.

### *Licensing Requirements*

To apply for a license, an applicant must (1) complete, sign, and submit to OCFR an application made under oath in the form, and in accordance with the process, that OCFR requires and (2) provide all the information OCFR requests. The application must include specified information. With an initial application, the applicant must pay OCFR (1) an investigation fee of \$100 and (2) a \$500 license fee. An applicant must also submit a

separate application and additional fees for each principal executive office, branch location, and mobile unit.

### *Violations*

A person who knowingly violates the State's check cashing laws is guilty of a misdemeanor and upon conviction is subject to a fine of up to \$5,000 and/or imprisonment for up to three years. OCFR may also impose a civil penalty (of up to \$10,000 for a first offense and \$25,000 for a subsequent offense) against a person who violates the State's check cashing laws.

**State Fiscal Effect:** OCFR advises that it expects about 586 check cashing entities to obtain licensure under the bill, based on federal data regarding check cashers in Maryland.

The bill sets the initial license fee at \$1,000 and requires the revenue to be evenly distributed between the Nondepository Special Fund and the newly established Financial Awareness Fund. Thus, special fund revenues for the Financial Awareness Fund increase by \$293,000 in fiscal 2020 as new check cashing entities obtain licensure as a result of the bill.

Special fund licensing revenues for the Nondepository Special Fund are expected to increase by about \$234,400, with an additional \$58,600 (\$100 per licensee) paid to the Nationwide Multistate Licensing System and Registry. However, licensees are also required to pay a \$100 investigation fee with an initial application. Therefore, in total, Nondepository Special Fund revenues increase by \$293,000 once the bill takes effect.

Assuming that all entities required to be licensed under the bill obtain a license in October 2019, those entities would be required to obtain a renewal license for the following year on or after November 1, 2019. Thus, Nondepository Special Fund revenues increase by an *additional* \$293,000 in fiscal 2020 for renewal licenses. *In total*, special fund revenues for the Nondepository Special Fund increase by \$586,000 in fiscal 2020 and by \$293,000 in subsequent years.

Because of the significant influx of licensees under the bill, OCFR anticipates hiring additional staff in order to implement the bill. Special fund expenditures increase by \$50,187 in fiscal 2020, which accounts for the bill's October 1, 2019 effective date. This estimate reflects the cost of hiring one licensing analyst to process additional licenses under the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$44,828
Operating Expenses	<u>5,359</u>
<b>Total FY 2020 Personnel Expenditures</b>	<b>\$50,187</b>

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

OCFR advises that it also expects additional complaints under the bill, as more licensees are subject to OCFR's jurisdiction. While OCFR requests a second staff person, as an additional examiner, to investigate complaints under the bill, the Department of Legislative Services advises that additional complaints can likely be handled with existing resources. To the extent that OCFR receives a significant influx of complaints, additional staff may be necessary in future years to process the complaints.

**Exhibit 1** shows revenues and expenditures under the bill. Because the bill does not require renewal license revenues to be deposited into the Financial Awareness Fund, the amount of additional funds available in subsequent years, based on new license applications, for the fund is expected to be minimal. In fiscal 2020, \$293,000 is expected to be available for supporting programs that promote financial services and financial awareness. This analysis assumes that OCFR uses the initial influx of funds in fiscal 2020. In subsequent years, the ability of the fund to support additional activities is likely limited.

**Small Business Effect:** Many of the additional check cashing entities that are required to obtain licensure under the bill are likely to be small businesses. The bill requires such businesses to pay licensing and examination fees and to comply with State law regarding check cashers. Thus, the bill has a meaningful effect on those small businesses, causing businesses to either alter business practices to comply with licensing requirements or to exclude check cashing services from the services that they offer.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 5, 2019  
mm/kdm

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**Exhibit 1**  
**Additional Revenues and Expenditures under the Bill**  
**Fiscal 2020-2024**

<b>Nondepository Special Fund</b>					
	<u><b>FY 2020</b></u>	<u><b>FY 2021</b></u>	<u><b>FY 2022</b></u>	<u><b>FY 2023</b></u>	<u><b>FY 2024</b></u>
Nondepository Special Fund Revenues					
Licensing Revenues (Initial)	\$234,400	-	-	-	-
Licensing Revenues (Renewal)	293,000	\$293,000	\$293,000	\$293,000	\$293,000
Investigation Fee Revenues	58,600	-	-	-	-
<b>Total Nondepository Special Fund Revenues</b>	<b>\$586,000</b>	<b>\$293,000</b>	<b>\$293,000</b>	<b>\$293,000</b>	<b>\$293,000</b>
Nondepository Special Fund Expenditures					
<b>Personnel Expenditures</b>	<b>\$50,187</b>	<b>\$60,505</b>	<b>\$62,509</b>	<b>\$64,656</b>	<b>\$66,878</b>
<b>Net Effect on Nondepository Special Fund</b>	<b>\$535,813</b>	<b>\$232,495</b>	<b>\$230,491</b>	<b>\$228,344</b>	<b>\$226,122</b>
<b>Financial Awareness Fund</b>					
	<u><b>FY 2020</b></u>	<u><b>FY 2021</b></u>	<u><b>FY 2022</b></u>	<u><b>FY 2023</b></u>	<u><b>FY 2024</b></u>
Financial Awareness Fund Revenues					
<b>Licensing Revenues (Initial)</b>	<b>\$293,000</b>	-	-	-	-
Financial Awareness Fund Expenditures					
<b>Program Activities</b>	<b>\$293,000</b>	-	-	-	-
<b>Net Effect on Financial Awareness Fund</b>	<b>\$0</b>	-	-	-	-