

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 855 (Chair, Economic Matters Committee)(By Request -
 Departmental - Labor)

Economic Matters

Financial Institutions - Commissioner of Financial Regulation - Money
 Transmissions

This departmental bill expands the Maryland Money Transmission Act (MMTA) by, among other things, updating the definition of “money transmission” to clarify that certain forms of value (e.g., cryptocurrencies and prepaid access system cards) are items of monetary worth, subject to regulation under MMTA. The bill also incorporates applicable federal definitions by reference in order to align Maryland law with federal law.

Fiscal Summary

State Effect: Special fund revenues decrease by an estimated \$69,000 beginning FY 2021 as a result of the bill’s licensing fee changes. Expenditures are not materially affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
SF Revenue	(\$69,000)	(\$69,000)	(\$69,000)	(\$69,000)	(\$69,000)
Expenditure	0	0	0	0	0
Net Effect	(\$69,000)	(\$69,000)	(\$69,000)	(\$69,000)	(\$69,000)

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

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

Small Business Effect: The Maryland Department of Labor (MDL) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) disagrees with this assessment as discussed below.

Analysis

Bill Summary: The bill updates the reporting requirements for money transmitters and requires the use of the Nationwide Multistate Licensing System and Registry (NMLS). The bill also reduces the fee associated with the establishment of ancillary branches and money transmission kiosks from \$2,000 each to \$1,000 and \$500, respectively; the fee remains \$2,000 for each principal office.

The bill also addresses certain operational processes of licensees by setting forth deadlines for the remittance and/or deposit of funds by authorized delegates (*i.e.*, designated agents), altering penalties associated with failure to timely notify the Office of the Commissioner of Financial Regulation (OCFR) of certain notices, and requiring that licensees maintain record policies and procedures for the following programs:

- information security and operational security;
- business continuity;
- disaster recovery;
- anti-fraud;
- anti-money laundering; and
- preventing funding of terrorist activity.

Current Law/Background: The bill is, in part, a result of recommendations made in the [2018 report](#) of the Maryland Financial Consumer Protection Commission (MFCPC). The report noted that, under MMTA, a person may not engage in the business of money transmission if that person (or the person with whom that person engages is in the business of money transmission) is located in the State, unless that person is licensed by OCFR. While it may be implicit, MMTA does not explicitly address the supervision of virtual currencies, the exchange of virtual currencies, or other new technologically advanced money service businesses. Further, based on a comparison of the [Uniform Model Act](#) with State law, the commission noted that there may be gaps in consumer protection provisions that are in the Uniform Model Act but not in State law.

OCFR considers virtual currencies to be covered by MMTA. However, to be proactive as the cryptocurrency markets continue to develop, MFCPC recommended that the General Assembly pass legislation that makes explicit what is implicit in the applicability of MMTA. Further, the commission recommended explicitly stating the licensing requirement for fiat currency and virtual currency exchanges. To further modernize State law, the commission recommended that the General Assembly consider adopting consumer protections that are included in the Uniform Model Act but not in State law.

OCFR regulates and licenses sellers of money orders and travelers' checks and those who receive money for transmission to others, known as money transmitters, operating in Maryland. First enacted in Maryland in 1959, the laws regulating money transmitters were updated in 2002 to more effectively regulate the industry. Under Title 12, Subtitle 4 of the Financial Institutions Article, money transmitter services include bill payer services, accelerated mortgage payment services, informal money transfer systems outside the conventional financial institutions system, and money transmissions conducted over the Internet.

To qualify for a money transmitter license, an applicant must meet specified requirements designed to protect consumers. In particular, the applicant must satisfy OCFR that the applicant (1) is of good moral character and has sufficient financial responsibility, business experience, and general fitness to engage in the business of money transmission and (2) has a certain net worth. An applicant must pay a \$2,000 annual licensing fee. New applicants must pay a \$1,000 investigation fee and meet certain bonding requirements. Since 2012, Maryland has used NMLS for licensing and renewal of money transmitters; the bill codifies this practice.

State Revenues: Nondepository Special Fund revenues decrease by \$69,000 annually, beginning in fiscal 2021. Under the bill, the licensing fee for an ancillary branch is \$1,000, while the licensing fee for a kiosk is \$500; currently, \$2,000 is charged for any location. OCFR advises that, of the current 199 licensed money transmitters in the State, 141 are primary organizational branches, 36 are ancillary branches, and 22 are confirmed to be automated kiosks. This estimate assumes the number of licensees remains constant and the distribution of location types remains the same in future years.

Small Business Effect: MDL advises the bill has minimal or no impact on small businesses in the State. DLS disagrees and notes that, to the extent that any small businesses engage in money transfer activities described in the bill, they may meaningfully benefit from the reduced fees related to establishing ancillary branches and kiosks under MMTA.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2020
mm/mcr

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Financial Institutions - Commissioner of Financial Regulation - Money Transmissions

BILL NUMBER: HB 855

PREPARED BY: Joseph Cunningham, Director of Legislative Response & Special Projects

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

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

This proposed legislation will benefit small businesses, and the overall business community, because it revises and reduces fees to reflect current market practices and the use of automation. The proposal also updates Maryland's money transmission laws in a way that better harmonizes them with federal law and the laws of other states so that national and multi-state businesses can more easily operate in Maryland. For example, while requiring financial reporting through the NMLS will result in more frequent reporting to OCFR on the part of affected companies, those companies are already required to use the NMLS reporting system by other states in which they do business and hence they are currently filing reports for the other states using the NMLS and filing Maryland's reports on a separate basis. The proposed change will permit them to file, and for Maryland to use, only the NMLS financial reports that they are currently filing. The legislation maintains existing consumer protections.