

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 29 (Delegates Parrott and Hartman)
Economic Matters

Secondhand Precious Metal Object Dealers and Pawnbrokers - Exemptions for Auctioneers

This bill exempts an auctioneer that conducts estate auctions from the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act under specified circumstances. Specifically, the Act does not apply to an auctioneer that conducts an auction of a precious metal object owned by an estate for which either a personal representative or a special administrator has been appointed under the Estates and Trusts Article and whose powers have not been suspended, terminated, or removed. “Auctioneer” means a person who sells or offers to sell the real or personal property of other persons at auction, with or without receiving consideration, as a bid caller.

Fiscal Summary

State Effect: General fund revenues for the Maryland Department of Labor (MDL) decrease minimally beginning in FY 2021. General fund expenditures for the Department of State Police (DSP) decrease minimally beginning in FY 2021. The overall effect on State finances is essentially neutral. DSP is also affected operationally, as discussed below.

Local Effect: Minimal.

Small Business Effect: Meaningful.

Analysis

Current Law/Background: MDL regulates dealers who acquire and trade secondhand precious metal objects. With limited exceptions, dealers of these objects, including individuals, retail jewelers, and pawnbrokers who deal in secondhand precious metal

objects, must be licensed before doing business in the State in accordance with the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act. The fee for an initial license is \$300, and the renewal fee is \$265. Licenses must be renewed biennially.

Licensees are required to record specified information for each transaction on a form provided by MDL, retain those records for at least three years, and submit the records electronically to law enforcement by noon of the business day following the transaction. Generally, any secondhand precious metal object acquired by a dealer must be held for at least 18 days in the county where the dealer holds a license, after a record is submitted to law enforcement. The primary law enforcement agency may require a dealer to hold a precious metal object for an additional amount of time under specified circumstances.

Exempt Transactions

The Act does not apply to specified transactions, such as for metal acquired for use in dentistry by a State-licensed dentist or for the purchase of junk or scrap metal otherwise subject to regulation in the State. The Act also does not apply to (1) certain retail jewelers with a fixed Maryland business address in the State when accepting merchandise for normal business operations or (2) pawnbrokers located in a county that regulates pawnbrokers unless the pawnbroker does business as a dealer.

Electronic Reporting

The State uses the Regional Automated Property Information Database (RAPID) system to transmit acquisition information from secondhand dealers to local law enforcement through an Internet interface. RAPID enables police departments statewide to immediately gain access to timely information about property that has been sold to pawnbrokers, precious metal object dealers, or vehicle salvage yards. DSP pays the annual fee for those businesses required to use the system by State law. The current fee is \$240. Total general fund expenditures for these fees was \$125,500 in fiscal 2020.

Estate Auctions

When a decedent owned property that does not otherwise pass to a beneficiary as a result of operation of law, an estate must be opened. The estate might consist for example of a car, cash, bank accounts, stocks, bonds, or real estate. When there are probate assets (assets in the decedent's sole name), a person – referred to as a personal representative – must be appointed to administer the estate. A special administrator may also be appointed by a court under certain circumstances, such as if it is necessary to protect property before the appointment and qualification of a personal representative. An estate auction – the activities referred to by the bill – is one way of liquidating the assets of an estate.

State Fiscal Effect: General fund revenues decrease minimally due to reduced license fee and fine revenue collected by MDL due to exemptions from the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act under the bill. Relatedly, general fund expenditures decrease to the extent that those same auctioneer businesses no longer must report through the RAPID system and DSP ceases to pay the associated annual fees. Both amounts are anticipated to be minimal, and, given that the license fees and the RAPID fees are similar, the overall effect on State finances is essentially neutral.

Small Business Effect: Businesses affected by the bill are likely small businesses and benefit from reduced licensing and regulation to the extent that the bill exempts their particular business from the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act and its associated requirements.

Additional Comment: DSP advises that the bill has a negative operational impact on its investigations related to stolen property. Operationally, DSP will no longer have access to records of secondhand sales of precious metals sold by auctioneers that meet the requirements of the bill – electronic or otherwise. The bill may also incentivize the use of auctioneers to circumvent reporting requirements for stolen goods.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of State Police; Maryland Department of Labor; Judiciary (Administrative Office of the Courts); Governor’s Office of Crime Control and Prevention; Harford, Montgomery, and Talbot counties; City of Havre de Grace; Department of Legislative Services

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