SB 460

Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE

Senate Bill 460 (Senators Astle and DeGrange)
Finance

Deferred Presentment Services -
Licensure of Businesses Engaged in the Practice of

This bill requires deferred presentment services to be licenced by the Commissioner of Financial Regulation. The Commissioner has enforcement powers and may investigate a licensee's records and business operations. Violators of the bill are subject to criminal and civil penalties.

Fiscal Summary

State Effect: General fund expenditures could increase by $627,000 in FY 2001, reflecting the bill's October 1, 2000, effective date. Out-year projections reflect annualization and inflation. General fund revenues could increase by $550,000 in FY 2001. Out-year projections reflect the biennial licensing cycle and industry growth and attrition.

(in dollars)	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
GF Revenues	$550,000	$6,000	$501,000	$6,000	$501,000
GF Expenditures	$627,000	$667,700	$689,500	$712,300	$736,000
Net Effect	($77,000)	($661,700)	($188,500)	($706,300)	($235,000)

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: This bill requires deferred presentment services to be licenced by the Commissioner of Financial Regulation. To qualify for a license, an applicant must have and maintain liquid assets of at least $25,000 per location, up to $250,000. The bill requires an applicant to undergo a background investigation, for which a $100 fee is charged. The licensing fee is $1,000 for applications filed in even numbered years and $500 for applications filed in odd numbered years. All licenses must be renewed for two years or will expire on December 31 of odd numbered years. The bill requires a separate license, background investigation, and associated fees for each place of business at which deferred presentment services are provided. Applicants must file a surety bond with the Commissioner. The Commissioner is required to investigate a licensee's records and business operations annually and may do so as often as appropriate.

A licensee's fees may not exceed 18% of the amount paid to the drawer of the check. A licensee is authorized to renew a deferred presentment service written agreement only once. The maximum amount a licensee may pay to the drawer of a check in a deferred presentment service is $500. A licensee may only hold two checks at a time for deferred presentment from a given holder, with a maximum combined limit of $500. A licensee may not defer presentment or negotiation of a check for more than 31 calendar days after the date of the deferred presentment service agreement. The bill requires licensees to post a notice of disclosure, which includes a statement of fees and a statement that entering into more than one deferred presentment service at a time is not advisable and may cause significant financial hardship.

After a hearing, the Commissioner may issue a cease-and-desist order and suspend or revoke a license for a violation of the bill. The Commissioner may also suspend or revoke a license for other specified acts, including making a material misstatement in a license application.

Knowing violation of the bill is a misdemeanor, punishable by a fine of up to $15,000 or three years imprisonment, or both. The Commissioner may also impose civil penalties for violations of the bill of up to $1,000 for each violation.

Current Law: Unless otherwise provided by law, the maximum permissible interest on a loan is 6% per annum. A person issuing consumer credit is required to obtain a license from the Commissioner of Financial Regulation. The permissible annual interest rate is 33% for small loans (under $6,000). The small loan law applies to a lender who by any device or pretense of charging for the lender's services or otherwise, seeks to obtain any interest, charges, discount, or like consideration. The law states that its purpose is to prevent evasion of the small loan provisions by means of a purchase or assignment of wages. Arguably, the

Commissioner has the authority to regulate the deferred presentment industry under the small loans statute.

Background: Chapter 932 of 1945, Maryland's law regarding small loans, was enacted in response to the practice common in the earlier part of the twentieth century of a lender structuring a consumer loan as a salary-purchase agreement in which the lender would buy the borrower's wages at a discount in advance of the borrower's payday.

In a typical deferred presentment transaction under current law, an individual writes a personal check for $115, including a fee of $15, to borrow $100 for two weeks. If expressed as interest, this would be an annual percentage rate of 390%. The individual may extend the transaction for an additional two-week period for a fee of $15. There is no limit, except business practice, to the number of times an individual may extend the transaction in an unregulated industry.

State Fiscal Effect: This bill represents a new area of regulation for the Commissioner. The Commissioner estimates that approximately 500 businesses would become subject to regulation under this bill. General fund expenditures could increase by an estimated $627,000 in fiscal 2001, which accounts for the bill's October 1, 2000, effective date. This estimate reflects the cost of hiring seven financial examiners, one assistant attorney general, and one administrative specialist to regulate the check cashing industry. It includes salaries, fringe benefits, one-time start-up costs, examiner travel and training expenses, fees paid to the Office of Administrative Hearings, and other ongoing operating expenses.

Salaries and Fringe Benefits	$290,600
Administrative Hearings	161,300
Other Operating Expenses	175,100
Total FY 2001 State Expenditures	**$627,000**

Future year expenditures reflect (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

All existing deferred presentment businesses would require background investigations and investigations in calendar 2000. The revenues would appear in fiscal 2001. The fee for background investigations is $100, and the licensing fee is $1,000 for two years. If all 500 current check cashing locations were to continue operations, general fund revenues could increase by $550,000 in fiscal 2001. Out-year projections assume 2% growth and attrition rates. Thus, general fund revenues would be $501,000 from licensing fees and background investigations in even numbered calendar years. These revenues would appear in odd numbered fiscal years. In odd numbered calendar years (even numbered fiscal years), general fund revenues from license fees and background investigations could be approximately $6,000.

The civil and criminal penalty provisions of this bill are not expected to significantly affect State finances or operations.

Small Business Effect: To the extent small businesses enter or remain in the deferred presentment field, they will be regulated and subject to civil and criminal penalties for their actions. Costs to small presentment businesses would increase from licensing fees and compliance costs. Revenues could decrease or remain constant, depending on the current fee structure of a deferred presentment business.

For illustrative purposes, a deferred presentment business with a fee of $15 for a $100 deferred presentment service would remain unaffected, except that the business would be allowed to extend the service only once. However, a business with a fee of $20 would be required to lower its fee on the same $100 deferred presentment service.

Additional Information

Prior Introductions: A similar bill was introduced in the 1999 session as HB 946 and was withdrawn.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation (Commissioner of Financial Regulation); Department of Public Safety and Correctional Services (Division of Correction); Office of the Attorney General; Department of Legislative Services

Fiscal Note History: First Reader - February 27, 2000
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