

**Department of Legislative Services**  
 Maryland General Assembly  
 2000 Session

**FISCAL NOTE**

House Bill 1078 (Delegate Wood)

Commerce and Government Matters

---

**Deferred Presentment Services - Licensing - Fees**

---

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.

The bill's licensing provisions may not be construed to apply until January 1, 2001.

---

**Fiscal Summary**

**State Effect:** Combined special and 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. Special fund revenues could increase by \$400,000 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
SF Revenues	\$400,000	\$8,000	\$601,000	\$8,000	\$601,000
GF Expenditures	\$227,000	\$659,700	\$88,500	\$704,300	\$135,000
SF Expenditures	\$400,000	\$8,000	\$601,000	\$8,000	\$601,000
Net Effect	(\$227,000)	(\$659,700)	(\$88,500)	(\$704,300)	(\$135,000)

*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 an overall maximum of \$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 calendar years and \$500 for applications filed in odd numbered calendar 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 examine a licensee's records and business operations annually and may do so as often as appropriate. A licensee undergoing an examination must pay \$100 per day for each of the Commissioner's employees performing the examination.

A licensee's fees may not exceed 12% 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 that a licensee may pay to the drawer of a check in a deferred presentment service is \$300. A licensee may hold only two checks at a time for deferred presentment from a given holder, with a maximum combined limit of \$300. A licensee may not defer presentment or negotiation of a check for more than 14 calendar days after the date of the deferred presentment service agreement. The agreement must be in writing. The bill requires licensees to provide a disclosure, by a separate instrument, that 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. A deferred presentment customer may rescind a service, with a full refund, before the close of business on the day immediately following the business day on which the agreement was executed. A deferred presentment service may be renewed only once, and the fee is limited to 12% of the outstanding balance.

After a hearing, the Commissioner may issue a cease-and-desist order, require a refund, 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.

The bill creates a Deferred Presentment Services Fund to cover the costs of regulating the deferred presentment industry. The fund is a special fund consisting of all moneys collected under the bill.

A knowing violation of the bill is a felony, punishable by a fine of up to \$50,000 and/or ten years imprisonment. The Commissioner may also impose civil penalties for violations of the bill of up to \$1,000 for each violation. The bill provides that exclusive jurisdiction for violations of the bill resides with the District Court.

**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.

Under the bill, the fee for the same transaction would be limited to \$12. If expressed as interest, this would be an annual percentage rate of 312%. The individual could only extend the transaction for one additional two-week period, and the fee would be limited to 12% of the outstanding balance.

**State Revenues:** All existing deferred presentment businesses would require background investigations and investigations after January 1, 2001. The revenues would appear in fiscal 2001. For the initial licensing period, the fee for background investigations would be \$100, and the licensing fee would be \$500 for one year. Each location would also incur the \$100

per day per employee examination fee. The average length of an examination for non-depository institutions is two days.

If all 500 current deferred presentment locations were to continue operations, special fund revenues to the Deferred Presentment Services Fund could increase by \$400,000 in fiscal 2001. Out-year projections assume 2% growth and attrition rates. Thus, special fund revenues to the fund would be \$601,000 from licensing fees, background investigations, and examinations in even numbered calendar years. These revenues would appear in odd numbered fiscal years. In odd numbered calendar years (even numbered fiscal years), special fund revenues from license fees and background investigations could be approximately \$8,000.

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

**State Expenditures:** 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. Special fund revenues generated by the bill, as discussed above, would not meet the bill's operating requirements. It is assumed that a general fund appropriation would make up the difference. Combined special and 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 deferred presentment 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	<u>175,100</u>
<b>Total FY 2001 State Expenditures</b>	<b>\$627,000</b>

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.

**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.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Labor, Licensing, and Regulation (Commissioner of Financial Regulation); Department of Legislative Services

**Fiscal Note History:** First Reader - February 29, 2000  
nncsr

---

Analysis by: Ryan Wilson

Direct Inquiries to:  
John Rixey, Coordinating Analyst  
(410) 946-5510  
(301) 970-5510