

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE
Revised

Senate Bill 882

(Senator Della, *et al.*)

Finance

Commerce and Government Matters

**Unsecured Closed End Credit Regulation - Credit Services Businesses - Study
Commission**

This bill prohibits a credit services business from assisting a consumer in obtaining an extension of unsecured closed-end credit at an interest rate that would be prohibited under the State's consumer credit provisions including transactions in which a payment instrument is held to ensure payment, except for federal preemption. The prohibition also applies to the business's employees and to independent contractors acting on behalf of the business.

The bill creates a 14-member Short-Term Small Consumer Loan Study Commission. The commission must report its findings by December 1, 2001. It terminates December 31, 2001.

The bill is effective June 1, 2001.

Fiscal Summary

State Effect: Enforcement of the bill's prohibitions could be handled with the existing resources of the Commissioner of Financial Regulation. The study commission could be staffed with the existing resources of the Department of Legislative Services.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current Law: Credit services businesses must obtain licenses from the Commissioner of Financial Regulation. A credit services business may not: (1) receive payment for referring a customer to a credit grantor who will or may extend credit to the consumer if the credit is extended on substantially the same terms as those available to the general public; (2) make, or assist or advise a consumer to make, false statements connected with a credit application; (3) make or use false or misleading representations in offering or selling its services; (4) engage in an act, practice, or course of business that operates as a fraud or deception in connection with offering or selling its services; (5) accept payment before rendering full and complete performance of the contracted services; or (6) create or assist a consumer in creating a new consumer credit report by obtaining and using a different name, address, telephone number, Social Security number, or employer tax identification number.

Background: A credit services business is a person who, with respect to the extension of credit by others, represents that the person can or will, in exchange for payment: (1) improve a consumer's credit record, history, or rating or establish a new credit file or record; (2) obtain an extension of credit for a consumer; or (3) provide advice or assistance to a consumer about: (a) improving the consumer's credit record, history, or rating; (b) establishing a new credit file or record; or (c) obtaining an extension of credit.

Under Maryland law, the permissible annual interest rate is 33% for small loans (under \$6,000). However, under federal law, a federally insured depository institution, whether federal or state-chartered, may charge the interest rate permitted in its home state to borrowers across state lines, regardless of the legal rate in the borrower's state. Thus, for example, a bank in South Dakota, which has no interest limit, may charge a Maryland borrower an interest rate exceeding the State's 33% limit. A credit services business, operating in Maryland, may broker the transaction between the borrower and the lender.

Small Business Effect: Small credit services businesses could experience a reduction in revenues to the extent they currently participate in the type of transactions prohibited under the bill.

Additional Information

Prior Introductions: None.

Cross File: HB 973 (Delegate McIntosh, *et al.*) – Commerce and Government Matters.

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

Fiscal Note History: First Reader – March 7, 2001
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