

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE**Revised**

House Bill 715

(Delegate Wood)

Commerce and Government Matters

Finance

Maryland Money Transmission Act

This bill revises the provisions regulating money transmission businesses and establishes a special fund to pay for the regulation of the money transmission industry.

Fiscal Summary

State Effect: Special fund expenditures could increase by \$83,100 in FY 2003, reflecting the bill's October 1, 2002 effective date. Special fund revenues could increase by \$180,000 in FY 2003 because of the bill's licensing provisions. General fund revenues would decrease because of the dedication of revenues from money transmission licensees to a special fund. Out-years reflect 12% growth in the number of licensees, 10% industry attrition, and the two-year licensing cycle.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
GF Revenue	(\$2,000)	(\$15,200)	(\$1,800)	(\$14,800)	(\$1,500)
SF Revenue	180,000	302,000	60,000	294,000	50,000
SF Expenditure	83,100	111,600	116,200	121,100	126,300
Net Effect	\$94,900	\$175,200	(\$58,000)	\$158,100	(\$77,800)

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

Local Effect: The criminal penalty provisions of this bill are not expected to significantly affect local finances or operations.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill establishes the Money Transmission Fund to pay the costs of regulating the money transmission business. The fund consists of revenues received for licensing of persons engaging in the money transmission business, income from investments made for the fund, and other revenues received under the bill except fines and penalties.

The bill includes within the definition of “money transmission” for the purpose of licensure any informal money transfer system for, or network of persons who engage as a business in, facilitating the transfer of money outside the conventional financial institutions. The bill also renames the term “agent” to be “authorized delegate” under the State’s money transmission laws.

Under the bill, a licensee must, among other qualifications, have: (1) three years experience in the money transmission business or a similar financial services business; and (2) a net worth of at least \$150,000 for the licensee’s first location plus \$10,000 for each additional location, up to a maximum of \$500,000. Applicants for licensure must pay an investigation fee of \$1,000 and a license fee of \$4,000 if the applicant applies for the license during an even-numbered year or \$2,000 during an odd-numbered year. If an application is withdrawn within 30 days after the application date, the Commissioner of Financial Regulation must refund the investigation fee and the license fee. If the application is withdrawn more than 30 days after the application date, the commissioner must keep the investigation fee and return the license fee.

Except for a corporation whose securities are traded on a major stock exchange or the National Association of Securities Dealers Automated Quotations (NASDAQ), in connection with an initial or renewal application, a special investigation, and at any time the commissioner of Financial Regulation requests, a licensee or applicant must provide fingerprints for use by the Federal Bureau of Investigation and the Maryland Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services to conduct criminal history records checks. The bill requires applicants for licensure to pay any fees associated with the record checks.

The bill authorizes a licensee to post a surety device of a bond or a deposit in lieu of a surety bond. The deposit must be in the same amount as a surety bond and held by the commissioner to secure the same obligations as are required of a surety bond. The amount of the security device must be at least \$150,000 up to a maximum of \$1 million. A civil penalty imposed under the bill may be paid and collected from the proceeds of a surety device.

The bill prohibits a license from being transferred or assigned and specifies the contents of the annual report that must be filed with the commissioner. The bill authorizes a licensee or its delegate to charge a fee of up to \$5 to an original buyer who redeems an unused payment instrument.

The bill provides that the commissioner may file a petition for enforcement with the circuit court for any county to enforce a subpoena or summons issued by the commissioner to a person who fails to comply. The court may order the person to attend and testify or produce evidence on petition by the commissioner.

The bill authorizes the commissioner to conduct an on-site examination of a licensee or authorized delegate with at least seven business days' prior notice. With good cause, the commissioner may conduct an examination without prior notice and may accept the examination performed by a responsible supervising agency of another state. A licensee must pay the reasonable costs of an examination. Licensees must retain specified records for at least three years and may keep them in photographic, electronic, or other similar form in any location.

The bill specifies the violations of the bill for which the commissioner, after a hearing, may suspend or revoke a license. The bill also specifies the considerations that the commissioner must weigh in deciding whether to suspend or revoke a license.

The commissioner may impose a civil penalty on a violator who fails to comply with an order of up to \$1,000 for the first violation and \$5,000 for subsequent violations. Non-licensees that engage in the money transmission business are subject to the commissioner's enforcement powers. Knowing and willful violation of the State's money transmission laws is a felony subject to a fine of up to \$1,000 for the first offense and \$5,000 for subsequent offenses and/or imprisonment of up to five years.

Current Law: The Division of Financial Regulation and all of its operations are financed through the State's general fund. Licensing fees and other revenues collected by the commissioner, including those from money transmission businesses, are deposited in the general fund.

An applicant for a license must pay an investigation fee of \$500 and a license fee of \$400 in even-numbered years and \$200 in odd-numbered years. Applicants must pay a separate license fee for each license but must pay only one investigation fee. Licenses expire on December 31 of each odd-numbered year.

If the application does not meet the requirements for licensure, the commissioner must refund the license and agent fees and keep the investigation fee. The required surety may

be satisfied by a bond or by a permissible deposited investment. The total amount of the surety must be at least \$100,000, increasing by \$10,000 per agent up to a maximum of \$350,000. The investment must be in the same amount as a surety bond and held by the commissioner to secure the same obligations as are required of a surety bond. With limited exceptions, a licensee may not charge a fee to an original buyer who redeems an unused payment instrument.

A licensee must file an annual report with the commissioner that contains the information required by the commissioner. The commissioner may suspend or revoke a license for any violation of the State's money transmission laws.

To discover any violation of the State's money transmission laws or to obtain any information required under them, the commissioner must investigate the business of any licensee, a person who is engaged in or participates in money transmission, and any other person who the commissioner has cause to believe is violating the State's money transmission laws. The commissioner must be given access to the place of business, books, papers, records, safes, and vaults of the person under investigation. The commissioner may summon and examine under oath any person whose testimony the commissioner requires.

The commissioner may impose a civil penalty on a violator who fails to comply with an order of up to \$1,000 for each violation. Violation of the State's money transmission laws is a misdemeanor subject to a fine of up to \$1,000 and/or imprisonment of up to five years.

State Revenues: The bill establishes a special fund into which licensing, application, and other fees would be deposited. These fees are currently deposited into the State's general fund. There were 38 new and renewing licensees in the calendar 2000-2001 licensing cycle. Of those, 18 were new licensees who also paid an investigation fee. During that same licensing cycle, there were approximately six applicants for licensure who paid the investigation fee and whose applications were either denied or withdrawn. The licensing cycle under the bill, as under current law, calls for renewal during odd-numbered calendar years. These revenues are credited in even-numbered State fiscal years. Under the current licensing structure, total fee revenue from these licensees and applicants was approximately \$17,700 during that licensing cycle.

The Division of Financial Regulation advises that there are approximately 120 unlicensed money transmitters operating in the State currently, including transmitters that operate exclusively over the internet. If 60 of them became licensed because of this bill, this could represent an increase in special fund revenues of approximately \$180,000 in fiscal

2003 because of the two-year licensing cycle. Out-year projections reflect the two-year licensing cycle and a 15% industry growth rate and a 10% industry attrition rate.

The civil and criminal penalty provisions of this bill are not expected to significantly affect State revenues and would inure to the general fund.

State Expenditures: The bill requires increased regulation of the money transmission business. Currently, the division merely licenses money transmission businesses and no staff resources are devoted to regulation of the industry. Special fund expenditures could increase by an estimated \$83,100 in fiscal 2003, which accounts for the bill's October 1, 2002 effective date. This estimate reflects the cost of hiring two financial examiners to monitor and examine money transmission businesses. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including examiner travel throughout the United States.

Salaries and Fringe Benefits	\$68,900
Examiner Travel	9,000
Other Operating Expenses	<u>5,200</u>
Total FY 2003 State Expenditures	\$83,100

Future year expenditures reflect: (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

The criminal penalty provisions of this bill are not expected to significantly affect State expenditures.

Small Business Effect: The bill's net worth and surety requirements could force current licensees that are small businesses out of the industry and dissuade other small businesses from entering the industry to the extent that they are unable to meet these requirements.

Additional Information

Prior Introductions: None.

Cross File: SB 774 (Senator Bromwell) – Finance.

Information Source(s): Office of Administrative Hearings; Department of Labor, Licensing, and Regulation (Division of Financial Regulation); Department of Legislative Services

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