

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 20
Finance

(Senator Brochin)

Consumer Protection - Federal Fair Credit Billing Act - Location of Credit Card
Transaction

This bill provides that, for the purpose of the provisions governing a cardholder asserting claims and defenses under the federal Fair Credit Billing Act, a transaction in which a credit card is used as the method of payment is presumed to have occurred at the mailing address most recently provided by the cardholder to the card issuer, regardless of where the last act necessary to form the contract between the cardholder and the person honoring the card took place.

Fiscal Summary

State Effect: The bill would not directly affect State governmental finances or operations.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Under the federal Fair Credit Billing Act, with certain limitations, a credit card issuer is subject to the claims and defenses arising out of any transaction in which the credit card is used as a method of payment or extension of credit if: (1) the obligor has made a good faith attempt to resolve a disagreement relating to the transaction with the person honoring the credit card; (2) the amount of the initial transaction exceeds \$50; and (3) the place where the transaction occurred was in the same

state as the mailing address provided by the cardholder or was within 100 miles from the address.

The amount of the claims or defenses may not exceed the amount of the outstanding credit at the time the cardholder first notifies the card issuer of the person honoring the credit card of the claim or defense.

The federal Act is silent as to where the final act necessary to form the contract between the cardholder and the person honoring the credit card occurs. For example, the Act does not address where the contract is formed when an individual purchases a product over the Internet. Further, the federal Act does not preempt state laws governing credit billing practices, except to the extent that a state law is inconsistent with a provision of the Act, and then only to the extent of the inconsistency. The Federal Reserve Board of Governors is authorized to determine whether an inconsistency exists; however, the board may not determine that a state law is inconsistent if the board determines that the law gives greater protection to the consumer.

Background: Virginia recently adopted a provision similar to this bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General, Department of Legislative Services

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mll/jr

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