

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE

House Bill 854 (Delegate Vallario)
 Economic Matters

Consumer Protection - Rental Assistance Services

This bill establishes the Rental Assistance Services Act and a Rental Assistance Services Fund to pay for the administration of the Act.

Fiscal Summary

State Effect: Special fund expenditures for the Consumer Protection Division could increase by approximately \$20,200 in FY 2006 to cover the cost of regulation. Future year expenditures reflect annualization and inflation. Special fund revenues would increase by up to \$1,200 for each registration under the bill.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revenue	-	-	-	-	-
SF Expenditure	20,200	19,500	20,400	21,300	22,200
Net Effect	(\$20,200)	(\$19,500)	(\$20,400)	(\$21,300)	(\$22,200)

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill requires a person who sells rental assistance services to a tenant to register with the Consumer Protection Division. Providing rental assistance services is the act of: (1) renting or leasing a residential rental unit to a tenant for more than three

months; (2) collecting money, including the rent for the unit, from the tenant; and (3) paying the rent to the landlord on the tenant's behalf.

A person who registers under the bill must pay a registration fee of up to \$1,200 for each business location where rental assistance services are sold. A registration must be renewed on September 1 of each year.

At least one member of a seller's board of directors must be a resident of the county where a business location is located and must serve as a resident agent for service of process.

A seller must purchase a surety bond of at least the aggregate value of outstanding liabilities to its tenants, up to \$200,000 per business location. The amount of the bond must be based on a report prepared by an independent certified public accountant and may be increased or decreased as specified in the bill. If a seller's outstanding liabilities to its tenants exceed the amount of the bond, the seller must refrain from selling rental assistance services until the bill's bonding requirements are met. At the division's discretion, an irrevocable letter of credit or cash may be filed instead of the surety bond. The division may bring an action to compel a seller's registration and mandate the required security.

The bill sets out procedures for filing a claim with the surety or the division if a tenant suffers loss because of a seller's cessation of operations or bankruptcy. A seller must maintain accurate records, open to inspection by the division, about each tenant. The division, after notice and a show cause hearing, may revoke a registration for failing to maintain or produce the records.

A contract or agreement for rental assistance services may not provide for automatic renewal unless it provides for a renewal option. A consumer may cancel a contract or agreement within three business days if specified criteria are met. A consumer must be given a notice of the consumer's rights.

Within 15 days after cessation of operations or bankruptcy, the seller must provide specified information to the division.

Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act.

Current Law: Sellers of rental assistance services are not regulated by the State.

The Consumer Protection Division within the Office of the Attorney General is responsible for pursuing unfair and deceptive trade practice claims under the Maryland Consumer Protection Act. Upon receiving a complaint, the division must determine whether there are “reasonable grounds” to believe that a violation of the Act has occurred. Generally, if the division does find reasonable grounds that a violation has occurred, the division must seek to conciliate the complaint. The division may also issue cease and desist orders, or seek action in court, including an injunction or civil damages, to enforce the Act. Violators of the Act are subject to: (1) civil penalties of \$1,000 for the first violation and \$5,000 for subsequent violations; and (2) criminal sanction as a misdemeanor, with a fine of up to \$1,000 and/or up to one year’s imprisonment.

State Fiscal Effect: The bill represents a new area of regulation for the Consumer Protection Division. The bill establishes a maximum annual registration fee of \$1,200 and establishes a special fund into which the fees are deposited to cover the cost of regulation. The number of these businesses currently operating in the State is unknown. However, for illustrative purposes, if 50 such businesses maintained annual registrations under the bill, special fund revenues would increase by \$60,000.

Special fund expenditures could increase by an estimated \$20,248 in fiscal 2006, which accounts for the bill’s October 1, 2005 effective. This estimate reflects the cost of hiring one half-time contractual administrator to process registrations and handle inquiries about registrants under the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salary	\$14,518
Start-up and Other Operating Expenses	<u>5,730</u>
Total FY 2006 State Expenditures	\$20,248

Future year expenditures reflect: (1) a full salary with 4.6% annual increases and 6.8% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Expenditures could increase to reflect a full-time permanent administrator if a large number of businesses register under the bill.

Small Business Effect: It is assumed that most businesses offering rental assistance services are small businesses. These businesses would be subject to new registration fees, a new regulatory scheme, and new surety bonding requirements.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of Administrative Hearings, Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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mam/jr

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