

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 1281 (Delegate Kach)
Economic Matters

Credit Regulation - Prepayment Charge or Penalty - Prohibition

This bill prohibits a lender that terminates a line of credit from requiring a borrower in good standing to pay a prepayment charge or penalty on a partial or full prepayment of the unpaid principal balance of the line of credit.

Presently existing obligations or contract rights are not impaired by the bill. The bill applies prospectively and does not affect lines of credit established before October 1, 2007.

Fiscal Summary

State Effect: Enforcement could be handled with the existing budgeted resources of the Commissioner of Financial Regulation.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Generally, a prepayment charge or penalty is not interest and is permissible if the loan is secured by a home, by a combination of home and business property, or by agricultural property, or if the loan is a commercial loan of \$5,000 or less. The charge or penalty may be imposed only on prepayments made within three years from the date of the loan and may not exceed an amount equal to two months' advance interest on the aggregate amount of all prepayments made in any 12-month period in excess of one-third of the amount of the original loan.

Prepayment penalties are not specifically regulated in contracts granting lines of credit.

Background: Under federal regulations, nationally chartered banks and their operating subsidiaries are exempt from state consumer protection laws. In 2005, a nationally chartered bank and its operating subsidiary successfully sued the commissioner to enjoin enforcement of Maryland's consumer protection laws against the operating subsidiary.

The U.S. Supreme Court has taken up the issue of federal preemption of state-chartered operating subsidiaries in *Watters v. Wachovia Bank*, Case No. 05-1342. The court heard oral arguments in the case on November 29, 2006 but has not yet rendered a decision in the case.

Additional Information

Prior Introductions: None.

Cross File: SB 913 (Senators Klausmeier and Brochin) – Finance.

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

Fiscal Note History: First Reader - March 12, 2007
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