

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 433

(Senator Klausmeier)

Finance

Economic Matters

**Banking Institutions - Deceptive Use of Names, Trade Names, Trademarks,
Service Marks, Logos, or Taglines - Penalties**

This bill prohibits a person from using a name, trade name, trademark, service mark, logo, or tagline that is the same as or similar to a bank's under specified circumstances.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A person, except with the bank's consent, may not use the name, trade name, trademark, service mark, logo, or tagline of a bank – or any term or design that is similar to those used by the bank – in marketing material provided to, or in a solicitation of, another person if doing so may cause a reasonable person to be confused, mistaken, or deceived that the marketing material or solicitation: (1) originated from the bank; (2) originated from someone affiliated, connected, or associated with the bank; (3) is approved or sponsored by the bank; or (4) is the responsibility of the bank.

In addition to any other remedy, a bank affected by a violation of the bill may bring a civil action to recover: (1) actual damages; (2) either all profits attributable to the violation or \$1,000 for each violation; and (3) reasonable attorney's fees and court costs.

Current Law: Except for a bank, trust company, or savings bank authorized to do business in Maryland, a person may not use any name, title, or other words that represent that the person is authorized to do the business of banking in the State. Violators are guilty of a misdemeanor and, on conviction, are subject to a fine of up to \$3,000 and/or imprisonment for up to five years.

Small Business Effect: The bill would prohibit a practice used by some small business mortgage lenders to solicit business: sending a solicitation to prospective customers with a reference to the prospective customer's current loan on the outside of the envelope. Violators would be subject to private civil actions.

Additional Information

Prior Introductions: None.

Cross File: HB 789 (Minnick, *et al.*) – Economic Matters.

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

Fiscal Note History: First Reader - February 14, 2007
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