

**Department of Legislative Services**  
 Maryland General Assembly  
 2007 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 925 (Delegate Simmons)  
 Economic Matters

**Credit Regulation - Mortgage Brokers - Required Disclosures**

This bill requires a mortgage broker, before assisting a borrower to obtain a loan or advance of money, to provide the borrower with a separate disclosure form. That disclosure form must contain specified information about federal preemption of consumer protection provisions under Maryland’s consumer lending laws and contact information for the office of the Maryland Commissioner of Financial Regulation. Both the borrower and the mortgage broker have to sign and date the disclosure form. A mortgage broker who violates the bill forfeits \$500 to the borrower.

The bill applies to loans arranged by a mortgage broker subject to the bill on or after October 1, 2007.

**Fiscal Summary**

**State Effect:** Special fund expenditures could increase by approximately \$51,600 in FY 2008 to process inquiries and complaints under the bill. Out-years reflect annualization and inflation. Revenues would not be affected.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	51,600	64,300	67,500	72,900	74,600
Net Effect	(\$51,600)	(\$64,300)	(\$67,500)	(\$72,900)	(\$74,600)

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

**Local Effect:** None.

**Small Business Effect:** Minimal.

## Analysis

**Current Law:** Mortgage brokers are not required to disclose information about federal preemption of State consumer protection laws.

**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 United States 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 it has not yet rendered a decision in the case.

**State Expenditures:** Although the number of mortgages obtained through a broker in the State is unknown, the Commissioner of Financial Regulation regulates approximately 6,000 mortgage lender licensees, many of which offer mortgage brokerage services. It is assumed that the bill could result in a large number of inquiries and complaints. In order to process and investigate inquiries and complaints, special fund expenditures could increase by an estimated \$51,585 in fiscal 2008, which accounts for the bill's October 1, 2007 effective date. This estimate reflects the cost of hiring one financial examiner to process and investigate inquiries and complaints brought under the bill. It includes a salary, fringe benefits, one-time start-up costs, examiner travel, and ongoing operating expenses.

Salary and Fringe Benefits	\$44,212
Examiner Travel	2,625
Other Operating Expenses	<u>4,748</u>
<b>Total FY 2008 State Expenditures</b>	<b>\$51,585</b>
Positions	1

Future year expenditures reflect: (1) a full salary with 4.5% annual increases and 3% employee turnover; (2) 1% annual increases in ongoing operating expenses; and (3) equipment replacement in fiscal 2011.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**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 1, 2007  
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