

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

House Bill 789

(Delegate Minnick, *et al.*)

Economic Matters

Finance

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: SB 433 (Senator Klausmeier) – Finance.

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

Fiscal Note History: First Reader - February 15, 2007
ncs/ljm Revised - House Third Reader - March 22, 2007

Analysis by: T. Ryan Wilson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510