

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Joint Resolution 9 (Senator Forehand)
 (Chair, Joint Committee on Federal Relations)

Finance

Protection for Maryland Consumers from Abusive Credit Practices

This joint resolution recognizes the advantages of uniform standards for the regulation of consumer and residential credit terms and practices in the United States but objects to the laws of another state preempting Maryland's laws under federal law. The resolution states that the General Assembly finds it to be good public policy for state-chartered banks, nonbank lenders, and national banks to be able to offer competitive and uniform credit products on a nationwide basis. All lenders should have the choice of making consumer and residential loans pursuant to the law of the state where the consumer resides or a national consumer lending code as adopted by U.S. Congress.

Fiscal Summary

State Effect: The resolution would not materially affect State finances or operations.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Under federal law and regulations, federally chartered financial institutions and their operating subsidiaries are not subject to state consumer protection statutes, including limits on interest rates. Also under federal law, state-chartered financial institutions may export the interest rates permissible under the laws of their

home states to other states in which they operate, even if those other states have more stringent laws.

Background: In 2005, a nationally chartered bank and its operating subsidiary successfully sued the Commissioner of Financial Regulation 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 it has not yet rendered a decision in the case.

Additional Information

Prior Introductions: None.

Cross File: HJ 5 (Delegate Kaiser)(Chair, Joint Committee on Federal Relations) – Rules and Executive Nominations.

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

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