HB 751

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 751 (Chair, Economic Matters Committee) (By Request – Departmental – Labor, Licensing, and Regulation)

Economic Matters Finance

Financial Institutions - Regulatory Reforms

This departmental bill institutes several regulatory reforms to reduce unnecessary requirements that currently place State-chartered banks at competitive disadvantage with their national counterparts.

Fiscal Summary

State Effect: The bill's changes could be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing, and Regulation has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill applies to banking institutions and credit unions that are incorporated under the laws of the State.

ATM Installation: The bill requires such financial institutions to provide written notice to the Commissioner of Financial Regulation of intent to install an automated teller machine at least 15 days prior to the installation. This notice is not required if the ATM is to be located at the principal office or a branch of the institution. If, after receipt of the notice, the commissioner determines that the requirements of the law are not being met or that the operation of the ATM is not consistent with safety and soundness and the security of transactions, the commissioner must give the institution notice of the deficiency and the institution has to stop using the ATM.

Fingerprinting: In connection with the filing of articles of incorporation of a commercial bank with the commissioner, the bill requires each incorporator, executive officer, and director to provide fingerprints for use by the Federal Bureau of Investigation and the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services. These fingerprints are to be used to conduct criminal history records checks, and an individual required to provide fingerprints under the bill must pay any associated processing fees required by the aforementioned government agencies.

Capital Requirements and Definitions: The bill clarifies that the same minimum capital requirement for commercial banks also applies to nondepository trust companies. In addition, the bill defines the term "CAMELS" as the composite rating adopted by the Federal Financial Institutions Examination Council to evaluate the adequacy of capital, quality of assets, capability of management, quality and level of earnings, adequacy of liquidity, and sensitivity to market risk.

Board of Directors Vacancies: The bill removes the requirement that vacancies on the board of directors of a commercial bank or a savings bank must be filled by the board's election of an individual who will serve until the next annual stockholder's meeting. The bill instead allows the board to fill such a vacancy at its discretion.

Reporting Penalties: The bill alters the penalty for a banking institution's failure to file a report with the commissioner as required by law, from $50 for each day late to an amount not exceeding $500 per day late.

Banking Affiliate Formation: The bill eliminates the application process that a bank presently must complete through the commissioner in order to form, acquire, or conduct a new activity at an affiliate if the bank is rated CAMELS 1 or 2 and remains well capitalized in accordance with the requirements of the Federal Deposit Insurance Act. The bill substitutes a requirement that the bank provide notice to the commissioner within 10 days after such an occurrence. In such situations, the affiliate may only engage in • holding and managing assets acquired by the banking institution through foreclosure or otherwise in good faith to compromise a doubtful claim, or in the ordinary course of collecting a debt previously contracted; • providing direct services to the banking institution or other affiliates; • making, purchasing, selling, or servicing for others loans or other extensions of credit; or • leasing personal property. The bill states that all activities of such affiliates are subject to the same rules, regulations, and conditions adopted by the commissioner, as well as the conditions required or allowed by federal law for a national banking association.

Under the bill, no application or notice is required if the activities of a new affiliate • are limited to those previously reported by the banking institution to the commissioner in connection with the establishment or acquisition of a prior affiliate; • continue to be legally permissible for banking institutions; and • will be conducted subject to the same conditions imposed by the commissioner for the prior affiliate.

Loan Requirements: The bill requires banking institutions to obtain sufficient financial information from a person in order to support an unsecured loan of $10,000 or more.

Foreign Bank Permits: The bill exempts foreign banking corporations that maintain another license issued by the commissioner from the permit requirement for keeping any office in the State. In addition, the bill eliminates the requirement that the commissioner seek the advice of the Maryland Banking Board before approving an application for a foreign banking permit.

Current Law: An application to the commissioner is currently required for a banking institution to establish an ATM. State law currently does not require a criminal background check for individuals seeking to form a new bank or trust company in the State. A board of directors of a banking institution is currently required to fill a vacancy on the board by immediate board election. All banks must apply with the commissioner in order to form an affiliate, and the current penalty for failure to file required reports is $50 for each day late. Current law requires banks to obtain sufficient financial information from borrowers to support an unsecured loan of $5,000 or more. In addition to a license from the commissioner, out-of-state banks must have a permit to have offices in the State, even for mortgage lending. Presently, the commissioner must seek the advice of the Maryland Banking Board before approving an application for a foreign banking permit.

Background: The bill is designed to remove unnecessary State law requirements for banking institutions in order to bring State law closer to conformity with existing federal law. The deregulatory measures under the bill will reduce administrative paperwork, filings, and approvals for both banks and the commissioner. The bill seeks to assist banks chartered in the State by removing requirements that place them at a competitive disadvantage with respect to out-of-state banks. The commissioner estimates that the bill will save each affected bank several thousand dollars per year.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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