HB 752

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 752 (Chair, Economic Matters Committee)
(By Request – Departmental – Labor, Licensing, and Regulation)

Economic Matters Finance

Financial Institutions - Regulation, Fees, and Assessments

This departmental bill creates a Banking Institution and Credit Union Regulation Fund to receive all bank and credit union assessments and pay all associated regulatory expenses incurred by the Commissioner of Financial Regulation. The bill sets new assessments and fees for depository institutions chartered in the State.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: General fund revenues would decrease by $2.7 million beginning in FY 2009, because the revenues collected from banking institution assessments and fees that are currently deposited into the general fund would instead be deposited into the special fund created by the bill. Due to the bill's new assessment and fee structure, special fund revenues are projected at $3.5 million in FY 2009. FY 2009 expenditures for banking regulation activities under the bill are projected to be $3.1 million. Under the bill, expenditures would be paid from the special fund rather than the general fund.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
GF Revenue	($2,699,400)	($2,699,400)	($2,699,400)	($2,699,400)	($2,699,400)
SF Revenue	3,515,100	3,615,200	3,718,200	3,824,200	3,933,200
GF Expenditure	(3,061,300)	(3,061,300)	(3,061,300)	(3,061,300)	(3,061,300)
SF Expenditure	3,131,800	3,240,400	3,354,500	3,474,700	3,601,600
Net Effect	$745,200	$736,700	$725,600	$711,400	$693,500

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

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing, and Regulation has determined that the 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 establishes new fees and replaces existing fees with nonrefundable fees, to be collected by the commissioner in advance, as shown in **Exhibit 1**.

Exhibit 1
Comparison of Current and Proposed Banking Regulation Fees

Fee Type		Current Fee	Bill Fee
New commercial bank charter examination		$1,500	$15,000
Filing of agreement of consolidation, merger, or transfer of assets between two commercial banks		$1,500	$3,000
Filing of agreement of consolidation, merger, or transfer of assets between three or more commercial banks		$1,500	$5,000
Application for a banking institution to have an affiliate		None	$750
Conversion of a national banking association, a federal stock savings and loan association, or a federal stock savings bank into a commercial bank	Filing fee	$1,500	$7,000
	Examination fee	N/A	$3,000
New branch establishment		$500	$600
Foreign banking permit or renewal		$300	$500
Certificate of valid charter		$1	$25 or $50
Certified copy of a document		$1 per page	$50

Under the bill, the branch fee does not apply to • a branch that is acquired by a banking institution through a merger or consolidation with or transfer to the banking institution of all or substantially all of the assets of a bank or an insured depository institution; or • an other-state bank chartered by a state that does not charge a fee to a banking institution for establishing a branch in that state. The bill also changes the term of a foreign banking permit and renewal of this permit from two years to three years.

Special Fund: The bill establishes a nonlapsing special fund named the Banking Institution and Credit Union Regulation Fund. The special fund consists of • all revenues received for the chartering and regulation of persons who engage in the business of a banking institution or credit union in the State; and • any other fee, assessment, or revenues received by the commissioner from banking institutions and credit unions under the Financial Institutions Article. The purpose of the special fund is to pay the costs and expenses incurred by the commissioner related to the regulation of banking institutions and credit unions. Under the bill, all such costs and expenses must be included in the State budget, and may be made only • by appropriation from the special fund approved by the General Assembly in the annual State budget; or • by the budget amendment procedure.

The bill requires the Governor to appropriate funds in the annual State budget to the Division of Financial Regulation for the purpose of regulating banking institutions and credit unions. To the extent general funds are used for this purpose in fiscal 2009, the general fund must be repaid from the special fund by the end of fiscal 2011. As noted in the fiscal analysis below, however, the Governor's proposed fiscal 2009 budget already includes $3.1 million in general fund expenditures for banking regulation.

Annual Assessments: The bill replaces the existing annual assessments collected from banking institutions with a graduated assessment of $8,000, plus:

- 12 cents for each $1,000 of the assets of an institution over $50 million, but not more than $250 million;
- 10 cents for each $1,000 of the assets of an institution over $250 million, but not more than $500 million;
- 9 cents for each $1,000 of the assets of an institution over $500 million, but not more than $1 billion;
- 8 cents for each $1,000 of the assets of an institution over $1 billion, but not more than $10 billion; and
- 7 cents for each $1,000 of the assets of an institution over $10 billion.

For banking institutions not in the business of accepting deposits or retaining funds in a deposit account as defined by State law, the graduated assessment is $5,000, plus:

- 0.3 cents for each $1,000 of managed assets held in a fiduciary capacity up to $5 billion;
- 0.2 cents for each $1,000 of managed assets held in a fiduciary capacity over $5 billion, but not more than $20 billion;
- 0.1 cent for each $1,000 of managed assets held in a fiduciary capacity over $20 billion/up to $27.5 billion;
- 0.2 cents for each $1,000 of nonmanaged and custodial assets held in a fiduciary capacity up to $5 billion; and
- 0.1 cent for each $1,000 of nonmanaged and custodial assets held in a fiduciary capacity over $5 billion and up to $20 billion.

Under the bill, the annual assessment for a banking institution with a CAMELS rating of 3, 4, or 5 for its most recent examination will be increased by an additional 25%. The annual assessment must be paid to the commissioner on or before the April 15 after it is imposed.

Current Law: The current fees charged by the commissioner in conjunction with regulation of banking institutions and credit unions are set out in Exhibit 1. Revenues and expenditures relating to the regulation of banking institutions and credit unions currently fall under the general fund of the State. Banking institutions currently pay annual assessments to the commissioner of $1,000 plus 8 cents for each $1,000 of the assets of the institution over $1 million. These assessments are due by February 1 of each year. Foreign banking permits are valid for two years.

Background: The banking division currently charters, regulates, and examines 56 banks, 9 credit unions, 5 nondepository trust companies, the American Share Insurance Company, and the Anne Arundel Economic Development Corporation. The commissioner reports that for many years banking institutions chartered in Maryland have favored having their State assessments used exclusively for regulation and supervision of depository industries. The commissioner also reports that the division has been criticized annually by the Conference of State Bank Supervisors (CSBS) for not having control over funding issues should special needs or emergencies arise. Accreditation for State bank examination and regulation functions is currently provided by CSBS.

Attempts were made in 1999 and 2002 to establish a similar special fund, but the revenues generated at the time were well in excess of the expenses used to regulate these industries. In 2002, the House Appropriations Committee requested a report from the division and the Department of Budget and Management regarding the creation of the special fund, but no mechanisms were found at the time that would have covered the resulting loss of millions of dollars of excess funds to the general fund.

The commissioner currently administers three special funds: the Money Transmission Fund, established in 2002; the Debt Management Fund, established in 2003; and the Mortgage Originator Fund, established in 2005.

The term "CAMELS rating" refers to the composite rating adopted by the Federal Financial Institutions Examination Council to evaluate an institution's adequacy of capital, quality of assets, capability of management, quality and level of earnings, adequacy of liquidity, and sensitivity to market risk.

State Revenues: General fund revenues would decrease by $2.7 million in fiscal 2009, because the revenues collected from banking institution assessments and fees that are currently deposited into the general fund would instead be deposited into the special fund created by the bill. The revenue projection for banking assessments and fees in fiscal 2009 is currently $2.7 million, which reflects a substantial decrease from fiscal 2008 due to the recent merger of Mercantile Bank and Trust and its affiliates with PNC Bank. Under the bill's new assessment and fee structure, however, special fund revenues in fiscal 2009 would be $3.5 million, primarily due to increased assessment rates. Based on historical data, the commissioner projects an approximately 3% annual increase in bank, credit union, and trust assets, which is reflected in a corresponding increase in State revenue from assessments.

State Expenditures: For purposes of this analysis it is assumed that all banking regulation expenditures in fiscal 2009 and subsequent years would be paid by the new special fund, because the purpose of the bill's special fund is to simply shift all banking regulation revenues and expenditures from the general fund to the special fund. However, banking regulation expenditures would increase slightly under the bill in fiscal 2009 for costs associated with implementation of the proposed assessment and fee structure. Thus, special fund expenditures would be approximately $3.1 million in fiscal 2009.

Most banking regulation special fund revenues for fiscal 2009 would not be available to the special fund until the end of the fiscal year, because banking assessments would be collected each April. Therefore, some banking regulation expenditures in fiscal 2009 could be paid by the general fund instead. The Governor's proposed fiscal 2009 budget already includes $3.1 million in general funds for banking regulation activities. If the general fund supports a portion of banking regulation expenditures in fiscal 2009, the bill requires repayment from the special fund by the end of fiscal 2011. **Exhibit 2** shows the projected accumulating balance of the special fund that would make this repayment possible.

Exhibit 2
Banking Institution and Credit Union Regulation Fund Projected Fund Balance

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Beginning Balance	$0	$383,223	$757,985	$1,121,677	$1,471,152
Revenues	3,515,068	3,615,159	3,718,219	3,824,220	3,933,247
Total Revenues Available	3,515,068	3,998,382	4,476,204	4,945,897	5,404,399
Expenditures	3,131,845	3,240,397	3,354,527	3,474,745	3,601,634
Ending Balance	**$383,223**	**$757,985**	**$1,121,677**	**$1,471,152**	**$1,802,765**

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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