HB 1076

Department of Legislative Services

Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1076 (Delegate Feldman)
Economic Matters Finance

Credit Regulation - Installment Loans Secured by Motor Vehicle Lien - Balloon Payments

This bill authorizes a consumer credit grantor that makes an installment loan exceeding $30,000 secured by a lien on a motor vehicle to require the consumer to pay a balloon payment upon maturity of the loan.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the imposition of existing penalty provisions.

Local Effect: Potential minimal increase in revenues and expenditures due to the imposition of existing penalty provisions.

Small Business Effect: Potential minimal.

Analysis

Current Law: A "balloon payment" is defined as any scheduled payment on an installment loan that is more than two times the average of all other scheduled payments. A balloon payment does not include a down payment.

A credit grantor may charge and collect interest on a loan at any interest rate specified in the loan agreement, provided the effective rate of simple interest does not exceed 24% per year. The credit grantor of an installment loan secured by a first or secondary lien on residential real property may require the borrower to pay a balloon payment at maturity.

For an installment loan secured by a secondary lien on residential real property, a consumer borrower may postpone the balloon payment one time for a period of up to six months. The borrower is required to continue making installment payments in the required amount during the extension period and prior to maturity. The credit grantor may not impose any charges or fees as a result of allowing an extension period.

Any credit grantor or an officer or employee of the credit grantor who willfully violates the bill's provisions is guilty of a misdemeanor and upon conviction, is subject to a fine of up to $1,000, imprisonment for up to one year, or both. Except for a bona fide error of computation, if a credit grantor violates any provision of the bill, the credit grantor may collect only the principal amount of the loan and may not collect any interest, costs, fees, or other charges. For a willful violation of the bill's provisions, a credit grantor must forfeit to the borrower three times the amount of interest, fees, and charges collected in excess of the authorized amount.

A credit grantor making a loan or extension of credit under the credit grantor closed end credit provisions of the Commercial Law Article is subject to the licensing, investigatory, enforcement, and penalty provisions governing installment lending under the Financial Institutions Article. Unless otherwise exempt, a credit grantor who violates provisions of law governing installment loans is guilty of a misdemeanor and upon conviction, is subject to a fine of up to $5,000, imprisonment for up to three years, or both.

Background: A balloon note automobile loan allows a dealer to offer a consumer low monthly payments with a larger balloon amount due at the end of a specified period, typically 24 or 36 months.

A new hybrid form of automobile financing involves a balloon note with a "walk away" feature that combines a traditional automobile loan with elements of a lease agreement. In a "walk away" balloon note, the car is titled in the consumer's name with the leasing company as the lien holder. At the end of the term set forth in the note, the consumer can return the car to the dealer and owe nothing more, or the consumer can elect to purchase the automobile at the agreed-upon price – the "balloon" amount due on the loan.

Under a traditional automobile lease, if sales and personal property taxes are levied on the car, the leasing company is responsible for those payments. Those costs are likely passed on to the consumer as part of the monthly lease payment. If the consumer purchases the car at the end of a lease, the consumer must pay sales tax again on the residual value. Alternatively, a balloon note titles the car in the consumer's name from the beginning of the agreement. In the event the consumer pays the balance of the balloon note and elects to keep the car, duplicate taxes will not be paid.

Additional Information

Prior Introductions: None.

Cross File: SB 898 (Senator Glassman, *et al.*) - Finance.

Information Source(s): USAA Educational Foundation; Maryland Insurance Administration; Department of Labor, Licensing, and Regulation; Maryland Department of Transportation; Department of Legislative Services

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Analysis by: Jason F. Weintraub

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