

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 198

(Chair, Economic Matters Committee)(By Request -
Departmental - Labor, Licensing and Regulation)

Economic Matters

Finance

**Financial Institutions - Authority of Commissioner of Financial Regulation -
Information Sharing**

This departmental bill increases the number of authorized agencies with which the Commissioner of Financial Regulation may enter into cooperative and information-sharing agreements to include any federal or state law enforcement agency and the Office of Foreign Assets Control (OFAC). If an agency providing information under such an agreement retains ownership of the record, the bill prohibits the commissioner from disclosing the record pursuant to a Maryland Public Information Act request and requires the commissioner to forward any request to the original agency. The bill also increases the number of authorized agencies with which the commissioner may exchange information about a financial institution, including information obtained during an examination, to include any federal or state law enforcement agency.

Fiscal Summary

State Effect: Any change in State activities does not materially affect State finances. The increase in information-sharing agreements may result in a negligible increase in general fund expenditures; however, increased operational efficiencies are anticipated for the commissioner's office.

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.

Analysis

Current Law/Background: The commissioner may enter into cooperative and information-sharing agreements with any federal or state regulatory agency with authority over financial institutions, provided that the agreements prohibit the agency from disclosing shared information without the commissioner's prior written consent. The commissioner may also exchange information about a financial institution, including information obtained during an examination, with any federal or state regulatory agency having authority over the financial institution.

Currently, the commissioner has the authority to enter into information-sharing agreements and exchange information with federal or state law enforcement agencies in situations involving the banking industry only as permitted by the USA PATRIOT Act, the Maryland Money Transmission Act, and the Maryland Debt Management Services Act. The bill changes the current piecemeal approach and extends this authority to all types of financial institutions that the commissioner regulates, including nondepository institutions. Nondepository institutions, such as a mortgage company, are licensed to lend but may not accept a deposit. The ability to share information on nondepository institutions with federal and state law enforcement agencies could facilitate the commissioner's participation in inter-agency task forces, including the U.S. Attorney's Mortgage Fraud Task Force.

The commissioner may also enter into cooperative or information-sharing agreements with any other bank supervisory agency. "Bank supervisory agency" means the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and any successor to these agencies, as well as any agency of another state or foreign country with primary responsibility for chartering and supervising banks. The bill adds OFAC to this list.

OFAC is an office in the Terrorism and Financial Intelligence unit of the U.S. Department of the Treasury. Acting under Presidential national emergency powers and specific legislation, OFAC administers and enforces economic and trade sanctions, such as transaction controls and asset freezes under U.S. jurisdiction. These actions are often based on mandates from the United Nations and involve close cooperation with other allied governments.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 7, 2011
ncs/ljm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Financial Institutions – Authority of Commissioner of Financial Regulation - Information Sharing

BILL NUMBER: HB 198

PREPARED BY: Department of Labor, Licensing, and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.