

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 545

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

Finance

Economic Matters

**Money Transmitters - Licensing Requirements and Participation in Nationwide
 Licensing System**

This departmental bill authorizes the Commissioner of Financial Regulation to participate in the establishment and implementation of a multistate automated licensing system for persons who engage in money transmission. The bill also makes several changes relating to licensing requirements for persons engaged in money transmission under the Maryland Money Transmission Act, including requiring money transmitters to pay the application processing fee imposed by the nationwide licensing system for each branch location license, renew a license every year, and pay a per-day fee set by the commissioner for each of the commissioner’s employees engaged in an on-site examination of the licensee. The bill also makes license and investigation fees nonrefundable.

The bill takes effect June 1, 2012, and applies only to a license issued or renewed on or after that date.

Fiscal Summary

State Effect: Special fund revenues increase minimally in FY 2012 and by at least \$43,000 in FY 2013 and subsequent years. Special fund expenditures may increase minimally beginning in FY 2013.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
SF Revenue	-	\$43,000	\$43,000	\$43,000	\$43,000
SF Expenditure	\$0	-	-	-	-
Net Effect	\$0	\$43,000	\$43,000	\$43,000	\$43,000

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 (DLLR) 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:

Definitions: “Branch location” means any location other than the principal executive office of a licensee or license applicant at which money transmission services are, or will be on licensure, conducted in the State or with a person in the State. “Branch location” does not include an authorized delegate.

“Control person” means a person who has the power, directly or indirectly, to direct the management or policies of a money transmitter, whether through ownership of securities, by contract, or otherwise.

“Nationwide licensing system” means a multistate uniform license system developed and maintained by the Conference of State Bank Supervisors (CSBS), or by a subsidiary or an affiliate of CSBS, for the licensing of money services businesses, including money transmitters.

“Unique identifier” means a number or another identifier assigned by the Nationwide Licensing System.

Nationwide Licensing System: The bill authorizes the commissioner to adopt regulations that waive or modify the Maryland Money Transmission Act in order to facilitate implementation of a multistate automated licensing system.

Each licensee or license applicant must apply for a license or renewal and obtain a valid unique identifier issued by the nationwide licensing system when forming an account with the system on or after November 1, 2012, or if the commissioner has yet to join the system by November 1, 2012, on the date specified by the commissioner. Each principal office must display the licensee’s unique identifier, and each office of an authorized delegate and, if applicable, website must prominently display a notice that states the licensee’s license number and unique identifier. An applicant for an initial license, including a branch location license, must pay the nationwide license system the appropriate fee in connection with processing the application.

License – Application, Fees, and Length of Term: The bill requires an applicant for a money transmitter license to complete, sign, and submit the application to the commissioner according to the process the commissioner requires and provide all information the commissioner requests. The applicant must also comply with all conditions and provisions of the license application.

The bill requires an applicant to provide a certificate of good standing from the State Department of Assessments and Taxation. The bill simplifies current law to state that, if an applicant is a business entity, the applicant must provide the appropriate incorporating or forming documents and the entity's governing documents. The bill requires that the commissioner keep any investigation or license fee if the application is withdrawn or denied.

Any person who engages in money transmission must obtain and maintain a license for the principal executive office.

The bill also changes licensure from biennial to annual and makes a conforming change by lowering the amount of the license fee from \$4,000 to \$2,000. The bill further alters the length of time a license is valid. If the license is issued before November 1, the license expires on December 31 of that year. However, if the license is issued after November 1, the license expires December 31 of the succeeding year.

Background Check: The bill requires an applicant for an initial money transmitter license to submit to the nationwide licensing system information concerning the applicant's identity, including fingerprints; a written personal history; credit history; and information related to any administrative, civil, or criminal findings by any governmental jurisdiction. The commissioner may use the nationwide licensing system as a channeling agent to request information from and distribute information to any government agency with subject matter jurisdiction any other state licensing entity that also has money transmitters licensed or registered with the system.

Applicants for an initial money transmitter license must provide fingerprints for use by the Criminal Justice Information System Central Repository to conduct criminal history records checks. An applicant or licensee must pay any processing or other required fees. The commissioner may request from the Central Repository, the Federal Bureau of Investigation, or the nationwide licensing system the criminal history and other specified information for each person required to provide fingerprints.

Confidentiality Privileges of Licensees: While federal and state laws apply to any information or material that has been disclosed to the nationwide licensing system, the information and material may be shared with all state and federal regulatory officials having oversight authority over the money transmission industry without the loss of privilege or confidentiality protections.

Additionally, the bill authorizes the commissioner to enter into information-sharing agreements with other government agencies, CSBS, or other associations representing government agencies, including the Financial Crimes Enforcement Network.

Commissioner of Financial Regulation – Enforcement Powers: The commissioner must report adjudicated enforcement actions against a money transmitter or its authorized delegate and other relevant information to the nationwide licensing system. The bill requires the commissioner to adopt regulations establishing a process by which a licensee or an applicant for a license may challenge information entered by the commissioner in the nationwide licensing system. The bill also authorizes the commissioner to submit to the nationwide licensing system information regarding enforcement actions taken against persons engaged in the money transmission business without a license.

Current Law: The Maryland Money Transmission Act, Chapter 539 of 2002, prohibits a person from engaging in the money transmission business in the State unless the person has a license or is an authorized delegate of a licensee under whose name the money transmission business occurs. Specified persons are exempt from the licensing requirements.

To apply for a license, an applicant must complete, sign, and submit to the commissioner an application made under oath on the required form. The applicant must comply with all conditions and provisions of the license application and must not act as a money transmitter before a license is issued. An applicant for a money transmitter license must provide specified information, including the trade name of the applicant, the addresses of relevant offices, and the name and business addresses of each of its authorized delegates, if any. The information that an applicant is required to provide depends on its type of business entity.

The applicant must pay the commissioner an investigation fee of \$1,000 and a license fee of either \$4,000 if applying in an even-numbered year or \$2,000 if applying in an odd-numbered year. On or before December 1 of the year of the license's expiration, a license may be renewed for a two-year term if the licensee takes the appropriate steps. For each license an applicant applies for, the applicant must submit a separate application and pay a separate license fee. An applicant is not required to submit more than one investigation fee, regardless of the number of applications. The commissioner is required to refund the investigation and license fee if the application is withdrawn within a specified time period.

Applicants for a license in industries regulated by the Commissioner of Financial Regulation, or the corporate agents of an applicant, must provide fingerprints for use by the Federal Bureau of Investigation and the Criminal Justice Information System Central Repository to conduct criminal history records checks. An applicant or licensee must pay any processing or other required fees. An applicant for a mortgage lender or mortgage

loan originator's license must provide to the nationwide licensing system information concerning the applicant's identity, including fingerprints; a written personal history; credit history; and information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

Each licensee must prominently display the license at the licensee's headquarters, as well as, if applicable, specified notice at the office of any authorized delegate and the licensee's website.

Except in specified situations, the commissioner must provide seven days notice before conducting an on-site examination of a licensee or authorized delegate. The licensee must pay all reasonably incurred costs of an examination. During an on-site examination, the commissioner may examine all books, accounts, and records the commissioner determines are necessary to conduct a complete examination and examine under oath specified persons.

Background: The money transmission business can involve money laundering as well as possible funding of international terrorism. The commissioner advises that each on-site examination requires a thorough and comprehensive examination. The commissioner further advises that the bill makes the payment of a per-day on-site examination fee similar to that of other nondepository licensees.

State Fiscal Effect: If the commissioner charges \$250 per day for an on-site examination, special fund revenues may increase minimally in fiscal 2012 and by at least \$43,000 in fiscal 2013 and subsequent years. The commissioner advises that DLLR performs an on-site examination of each of its 82 licensed money transmitters once every three years for an average of 26 a year. The commissioner further advises that each examination takes approximately seven days for an out-of-state examination and approximately five days for an in-state examination. Approximately 80% of licensed money transmitters are out of state.

The fiscal effect resulting from the bill's requirements related to money transmitter branch offices is unclear. To the extent branch offices are not already licensed but become licensed under the bill, special fund revenues increase due to an increase in license fees and per-day on-site examination fees. Likewise, special fund expenditures increase due to the added cost of performing on-site examinations of the branch locations. Additionally, special fund revenues increase minimally due to the bill's requirement that the commissioner retain any license fees for withdrawn or rejected money transmitter license applications. However, because it is unclear how many unlicensed branch offices are operating in the State or how many refunds the commissioner remits to applicants for a money transmitter's license, the amount of increase in revenues and expenditures is not quantifiable.

Additionally, this estimate assumes that the current biennial licensing format results in the same number of money transmitter licenses issued each year. However, if more licenses are issued in an odd-numbered year or an even-numbered year, the bill's requirement that licensees apply for a new license every year may result in a steadier stream of revenue and corresponding increases or decreases in revenue from the current stream.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 20, 2012
mc/ljm Revised - Senate Third Reader - March 16, 2012

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Money Transmitters – Licensing Requirements and Participation in Nationwide Licensing System

BILL NUMBER: SB 545

PREPARED BY: Department of Labor, Licensing and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X 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

This bill will affect some of the licensees as they can be defined as small businesses, but the impact will be very low. The Commissioner estimates that 30 companies or 35% of all licensees would meet the definition of a small business. However, as most of the companies are located out of Maryland, fewer than 10 would likely be defined as small businesses located in Maryland, of which 3-4 would be examined annually. The Commissioner does not believe the introduction of this fee will encourage or discourage new companies from entering into this business. The existing Money Transmission Act was passed in 2002 with a very high licensing standards; net worth requirements, bonding requirements, certified audits, etc. and since that time, the number of licensees has doubled.