

**Department of Legislative Services**  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 726

(Senator Muse)

Finance

Economic Matters

**Consumer Protection - Maryland Consumer Protection Act - Scope**

This bill expands the scope of the Maryland Consumer Protection Act (MCPA) to encompass an act or omission that relates to the purchase, rental, or lease by a nonprofit organization of goods or services for the benefit of the members of the nonprofit organization. Thus, violation of the bill is an unfair or deceptive trade practice under MCPA, subject to MCPA's civil and criminal penalty provisions.

The bill is contingent on the appropriation of funds in the State budget for the Division of Consumer Protection of the Office of the Attorney General (OAG) in an amount OAG determines is sufficient to enable OAG to perform any additional function resulting the bill. OAG must notify the Department of Legislative Services (DLS) within five days after OAG makes this determination. However, if DLS does not receive notice by June 30, 2017, the bill is null and void without the necessity of further action by the General Assembly.

**Fiscal Summary**

**State Effect:** General fund expenditures for OAG increase by \$132,500 in FY 2013 to handle additional mediations and resolve legal disputes involving nonprofits, an area not currently covered by MCPA. Future year expenditures reflect annualization and inflation. General fund revenues increase minimally due to likely imposition of additional civil penalties.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Revenue	-	-	-	-	-
GF Expenditure	\$132,500	\$165,000	\$175,900	\$184,100	\$192,600
Net Effect	(\$132,500)	(\$165,000)	(\$175,900)	(\$184,100)	(\$192,600)

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

**Local Effect:** The bill does not directly affect local governmental operations or finances.

**Small Business Effect:** None.

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## Analysis

**Current Law:** An unfair or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, hold a public hearing, seek an injunction, or bring an action for damages. A merchant who violates MCPA is subject to a fine of up to \$1,000 for the first violation and up to \$5,000 for each subsequent violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

**Background:** In April 2009, the District of Columbia filed a lawsuit against five companies for fraudulently inducing approximately 30 area churches to accept computer kiosks on the representation that the kiosks were free of charge. The churches were told that the computer kiosks would be placed in the churches at no cost, would facilitate communication among congregation members, and could be used to post announcements, employment opportunities, etc. The churches were also told that the kiosks would generate revenue, since sponsors would pay to advertise on them. The lawsuit alleged that instead of receiving free computer kiosks, the churches were induced to sign leases worth tens of thousands of dollars for faulty equipment.

**State Fiscal Effect:** OAG advises that two-and-a-half staff are necessary to handle additional mediations and legal disputes. DLS concurs.

General fund expenditures increase by \$132,513 in fiscal 2013, which accounts for the bill's October 1, 2012 effective date. This estimate reflects the cost of hiring one mediation unit supervisor, one administrative assistant, and one part-time assistant

Attorney General to handle additional mediations and legal disputes involving nonprofit organizations, an area not currently covered by MCPA. The division advises that it frequently receives complaints from nonprofits but is unable to pursue them. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Total Positions (full-time equivalent)	2.5
Salaries and Fringe Benefits	\$117,176
Other Operating Expenses	<u>15,337</u>
<b>Total FY 2013 State Expenditures</b>	<b>\$132,513</b>

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

This estimate assumes that the bill takes effect as a result of the appropriation of sufficient funds to enable OAG to perform any additional functions resulting from the bill.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - March 13, 2012  
mc/ljm Revised - Senate Third Reader - April 2, 2012

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