

SENATE BILL 88

I1

6lr0041

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Requested: October 27, 2015

Introduced and read first time: January 13, 2016

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 21, 2016

CHAPTER _____

1 AN ACT concerning

2 **Commissioner of Financial Regulation – Consolidation of Nondepository**
3 **Special Funds**

4 FOR the purpose of consolidating the Mortgage Lender–Originator Fund, the Money
5 Transmission Fund, and the Debt Management Services Fund into one fund;
6 renaming the Mortgage Lender–Originator Fund to be the Nondepository Special
7 Fund; establishing the purpose of the Nondepository Special Fund; requiring certain
8 revenues, fees, and examination assessments to be credited to the Nondepository
9 Special Fund to be used for a certain purpose; requiring that certain money be
10 transferred to a certain fund as of a certain date; repealing certain definitions;
11 altering a certain definition; making conforming and stylistic changes; and generally
12 relating to financial regulation.

13 BY adding to

14 Article – Financial Institutions

15 Section 11–503.2

16 Annotated Code of Maryland

17 (2011 Replacement Volume and 2015 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – Financial Institutions

20 Section 11–601(f), 11–610, 12–404, ~~12–901(j)~~ 12–901(k) through (o), and 12–905

21 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2011 Replacement Volume and 2015 Supplement)

BY repealing

Article – Financial Institutions

Section 12–901(j)

Annotated Code of Maryland

(2011 Replacement Volume and 2015 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Financial Institutions

11–503.2.

(A) ALL REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER THIS SUBTITLE AND ANY OTHER FEE, EXAMINATION ASSESSMENT, OR REVENUE RECEIVED BY THE COMMISSIONER UNDER THIS SUBTITLE SHALL BE:

(1) CREDITED TO THE NONDEPOSITORY SPECIAL FUND ESTABLISHED UNDER § 11–610 OF THIS TITLE; AND

(2) USED IN ACCORDANCE WITH § 11–610(C) OF THIS TITLE.

(B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL PAY ALL FINES AND PENALTIES COLLECTED BY THE COMMISSIONER UNDER THIS SUBTITLE INTO THE GENERAL FUND OF THE STATE.

11–601.

(f) “Fund” means the [Mortgage Lender–Originator Fund] **NONDEPOSITORY SPECIAL FUND** established under § 11–610 of this subtitle.

11–610.

(a) There is a [Mortgage Lender–Originator Fund] **NONDEPOSITORY SPECIAL FUND** that consists of:

(1) Revenue received for the licensing of individuals under this subtitle;

(2) Revenue received for the licensing of persons under Subtitle 5 of this title;

(3) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER TITLE 12, SUBTITLE 4 OF THIS ARTICLE;

1 **(4) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER**
 2 **TITLE 12, SUBTITLE 9 OF THIS ARTICLE;**

3 **(5) REVENUE RECEIVED FOR THE REGISTRATION OF PERSONS**
 4 **UNDER TITLE 12, SUBTITLE 10 OF THIS ARTICLE;**

5 **~~[(3) (5) (6)]~~ Income from the investments that the State Treasurer makes for**
 6 **the Fund; and**

7 **~~[(4) (6) (7)]~~ Any other fee, examination assessment, or revenue received by**
 8 **the Commissioner under [Subtitle 5 of this title and] this subtitle, **SUBTITLE 5 OF THIS****
 9 **TITLE, AND TITLE 12, SUBTITLES 4 ~~AND, 9, AND 10~~ OF THIS ARTICLE.**

10 (b) Notwithstanding subsection (a) of this section, the Commissioner shall pay all
 11 fines and penalties collected by the Commissioner under [Subtitle 5 of this title and] this
 12 subtitle, **SUBTITLE 5 OF THIS TITLE, AND TITLE 12, SUBTITLES 4 ~~AND, 9, AND 10~~ OF**
 13 **THIS ARTICLE** into the General Fund of the State.

14 (c) The purpose of the Fund is to ~~pay the costs and expenses incurred by the~~
 15 ~~Commissioner that are related to the regulation of mortgage lending [and], mortgage~~
 16 ~~origination, **MONEY TRANSMISSION, AND DEBT MANAGEMENT SERVICES,** including~~
 17 **COVER THE DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND**
 18 **REGULATORY DUTIES OF THE COMMISSIONER RELATED TO:**

19 (1) ~~Expenditures authorized under **THIS THIS** SUBTITLE ~~OR~~;~~

20 **(2)** Subtitle 5 of this title [or this subtitle]; [and]

21 **~~(2) (3)~~ **EXPENDITURES AUTHORIZED UNDER TITLE 12, SUBTITLE 4****
 22 **OF THIS ARTICLE;**

23 **~~(3) (4)~~ **EXPENDITURES AUTHORIZED UNDER TITLE 12, SUBTITLE 9****
 24 **OF THIS ARTICLE;**

25 **(5) TITLE 12, SUBTITLE 10 OF THIS ARTICLE; AND**

26 **~~[(2) (4) (6)]~~ Any other expense authorized in the State budget.**

27 (d) (1) The annual State budget shall include the costs and expenses of the
 28 Commissioner relating to the regulation of mortgage lending [and], mortgage origination,
 29 **MONEY TRANSMISSION, ~~AND~~ DEBT MANAGEMENT SERVICES, AND DEBT**
 30 **SETTLEMENT SERVICES.**

31 (2) Any expenditures from the Fund to cover costs and expenses of the
 32 Commissioner may be made only:

1 (i) With an appropriation from the Fund approved by the General
2 Assembly in the annual State budget; or

3 (ii) By the budget amendment procedure provided for in § 7–209 of
4 the State Finance and Procurement Article.

5 (3) If, in any fiscal year, the amount of the revenue collected by the
6 Commissioner and deposited into the Fund exceeds the actual appropriation for the
7 Commissioner to regulate mortgage lending under Subtitle 5 of this title [and]; mortgage
8 origination under this subtitle; **MONEY TRANSMISSION UNDER TITLE 12, SUBTITLE 4**
9 **OF THIS ARTICLE; ~~AND DEBT MANAGEMENT SERVICES UNDER TITLE 12, SUBTITLE~~**
10 **9 OF THIS ARTICLE; AND DEBT SETTLEMENT SERVICES UNDER TITLE 12, SUBTITLE**
11 **10 OF THIS ARTICLE**, the excess amount shall be carried forward within the Fund.

12 (e) (1) The State Treasurer is the custodian of the Fund.

13 (2) The State Treasurer shall deposit payments received from the
14 Commissioner into the Fund.

15 (f) (1) (i) The Fund is a special, nonlapsing fund that is not subject to §
16 7–302 of the State Finance and Procurement Article.

17 (ii) The Fund may not be deemed a part of the General Fund of the
18 State.

19 (2) Unless otherwise provided by law, no part of the Fund may revert or be
20 credited to:

21 (i) The General Fund of the State; or

22 (ii) Any other special fund of the State.

23 12–404.

24 (a) [In this section, “Fund” means the Money Transmission Fund established
25 under this section.

26 (b) There is a Money Transmission Fund that consists of:

27 (1) All revenue received for the licensing of persons ~~who engage in the~~
28 ~~business of money transmission~~ under this subtitle];

29 (2) Income from the investments that the State Treasurer makes for the
30 Fund;] and

1 [(3) Any] ANY other fee, examination assessment, or revenue received by
2 the Commissioner under this subtitle SHALL BE:

3 (1) ~~CREDITED~~ CREDITED TO THE NONDEPOSITORY SPECIAL FUND
4 ESTABLISHED UNDER § 11-610 OF THIS ARTICLE; AND

5 (2) USED IN ACCORDANCE WITH § 11-610(C) OF THIS ARTICLE.

6 [(c) (B) Notwithstanding subsection [(b) (A) of this section, the Commissioner
7 shall pay all fines and penalties collected by the Commissioner under this subtitle into the
8 General Fund of the State.

9 [(d) The purpose of the Fund is to pay all the costs and expenses incurred by the
10 Commissioner that are related to the regulation of the business of money transmission
11 under this subtitle, including:

12 (1) Expenditures authorized under this subtitle; and

13 (2) Any other expense authorized in the State budget.

14 (e) (1) All the costs and expenses of the Commissioner relating to the
15 regulation of the business of money transmission under this subtitle shall be included in
16 the State budget.

17 (2) Any expenditures from the Fund to cover costs and expenses of the
18 Commissioner may be made only:

19 (i) With an appropriation from the Fund approved by the General
20 Assembly in the annual State budget; or

21 (ii) By the budget amendment procedure provided for in § 7-209 of
22 the State Finance and Procurement Article.

23 (3) If, in any given fiscal year, the amount of the revenue collected by the
24 Commissioner and deposited into the Fund exceeds the actual appropriation for the
25 Commissioner to regulate the business of money transmission under this subtitle, the
26 excess amount shall be carried forward within the Fund.

27 (f) (1) The State Treasurer is the custodian of the Fund.

28 (2) The State Treasurer shall deposit payments received from the
29 Commissioner into the Fund.

30 (g) (1) The Fund is a continuing, nonlapsing fund and is not subject to § 7-302
31 of the State Finance and Procurement Article, and may not be deemed a part of the General
32 Fund of the State.

1 (2) Unless otherwise provided by law, no part of the Fund may revert or be
2 credited to:

3 (i) The General Fund of the State; or

4 (ii) A special fund of the State.]

5 12-901.

6 ~~(j) "Fund" means the [Debt Management Services Fund] NONDEPOSITORY~~
7 ~~SPECIAL FUND established under [§ 12-905 of this subtitle] § 11-610 OF THIS ARTICLE.~~

8 ~~[(k)] (J) "Licensee" means a person licensed under this subtitle to provide debt~~
9 ~~management services.~~

10 ~~[(l)] (K) "Maintenance fee" means a fee paid by a consumer to a debt~~
11 ~~management services provider for the maintenance or servicing of the consumer's accounts~~
12 ~~with the consumer's creditors in accordance with a debt management services agreement.~~

13 ~~[(m)] (L) "Relative" means any of the following who are related to an individual~~
14 ~~by blood, marriage, or adoption:~~

15 (1) A spouse;

16 (2) A child;

17 (3) A sibling;

18 (4) A parent;

19 (5) A grandparent;

20 (6) A grandchild;

21 (7) A stepparent;

22 (8) A stepchild;

23 (9) A stepsibling;

24 (10) An aunt; or

25 (11) An uncle.

1 ~~[(n)]~~ **(M)** “Resident agent” means an individual residing in the State or a
 2 Maryland corporation whose name, address, and designation as a resident agent are filed
 3 or recorded with the State Department of Assessments and Taxation in accordance with
 4 the provisions of the Corporations and Associations Article.

5 ~~[(o)]~~ **(N)** “Trust account” means an account that is:

6 (1) Established in a financial institution that is federally insured;

7 (2) Separate from the debt management services provider’s operating
 8 account;

9 (3) Designated as a “trust account” or by another appropriate designation
 10 indicating that the funds in the account are not the funds of the licensee or its officers,
 11 employees, or agents;

12 (4) Unavailable to creditors of the debt management services provider; and

13 (5) Used to hold funds paid by consumers to a debt management services
 14 provider for disbursement to creditors of the consumers.

15 12-905.

16 (a) [There is a Debt Management Services Fund that consists of:

17 (1) All revenue received for the licensing of persons ~~that provide debt~~
 18 ~~management services~~ under this subtitle];

19 (2) All revenue received] ~~AND for the registration of persons that provide~~
 20 ~~debt settlement services under Subtitle 10 of this title];~~

21 (3) Income from investments that the Treasurer makes for the Fund;] and,

22 [(4) Except] **EXCEPT** as provided in subsection (b) of this section, any other
 23 fee, **EXAMINATION ASSESSMENT**, or revenue received by the Commissioner under this
 24 subtitle ~~or under Subtitle 10 of this title~~ **SHALL BE:**

25 **(1) ~~CREDITED~~ CREDITED TO THE NONDEPOSITORY SPECIAL FUND**
 26 **ESTABLISHED UNDER § 11-610 OF THIS ARTICLE; AND**

27 **(2) USED IN ACCORDANCE WITH § 11-610(C) OF THIS ARTICLE.**

28 (b) [The] **NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE**
 29 **Commissioner shall pay all fines and penalties collected by the Commissioner under this**
 30 **subtitle and under Subtitle 10 of this title into the General Fund of the State.**

1 [(c) The purpose of the Fund is to pay all the costs and expenses incurred by the
2 Commissioner that are related to the regulation of the debt management services business
3 under this subtitle and that are related to the registration of debt settlement services
4 providers under Subtitle 10 of this title, including:

5 (1) Expenditures authorized under this subtitle and Subtitle 10 of this
6 title; and

7 (2) Any other expense authorized in the State budget.

8 (d) (1) The Treasurer is the custodian of the Fund.

9 (2) The Treasurer shall deposit payments received from the Commissioner
10 into the Fund.

11 (e) (1) The Fund is a continuing, nonlapsing fund that is not subject to §
12 7–302 of the State Finance and Procurement Article, and may not be deemed a part of the
13 General Fund of the State.

14 (2) Unless otherwise provided by law, no part of the Fund may revert or be
15 credited to:

16 (i) The General Fund of the State; or

17 (ii) A special fund of the State.

18 (f) (1) All the costs and expenses of the Commissioner relating to the
19 regulation of the debt management services business under this subtitle and to the
20 registration of debt settlement services providers under Subtitle 10 of this title shall be
21 included in the State budget.

22 (2) Any expenditures from the Fund to cover costs and expenses of the
23 Commissioner may be made only:

24 (i) By an appropriation from the Fund approved by the General
25 Assembly in the annual State budget; or

26 (ii) By the budget amendment procedure provided for in § 7–209 of
27 the State Finance and Procurement Article.

28 (3) If, in any fiscal year, the amount of the revenue collected by the
29 Commissioner and deposited into the Fund exceeds the actual appropriation for the
30 Commissioner to regulate the debt management services business under this subtitle and
31 to register debt settlement services providers under Subtitle 10 of this title, the excess
32 amount shall be carried forward within the Fund.

1 (g) The Office of Legislative Audits shall audit the accounts and transactions of
2 the Fund under § 2-1220 of the State Government Article.]

3 SECTION 2. AND BE IT FURTHER ENACTED, That all money deposited in or
4 credited to the Mortgage Lender-Originator Fund, the Money Transmission Fund, and the
5 Debt Management Services Fund shall be transferred into the Nondepository Special Fund,
6 as enacted by Section 1 of this Act, as of July 1, 2016, and the transferring of funds shall
7 be ~~terminated~~ completed as of the end of July 1, 2016.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
9 1, 2016.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.