SB 6

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 6 (Chair, Finance Committee)(By Request - Departmental - Labor, Licensing and Regulation)

Finance Economic Matters

Financial Institutions - Nondepository Special Fund - Expansion

---

This departmental bill requires licensing, investigation, and examination fees for certain nondepository financial institutions (collection agencies, consumer lenders, installment lenders, sales finance companies, mortgage lenders, check cashing services, and credit services businesses) to be deposited into the Nondepository Special Fund, rather than the general fund. No changes to any licensing or other fees occur from this change. Fines and penalties collected by the Commissioner of Financial Regulation continue to be paid into the general fund. **The bill takes effect June 1, 2018.**

Fiscal Summary

State Effect: General fund revenues decrease and special fund revenues increase by approximately $74,000 in FY 2018 and $1.04 million annually thereafter. General fund expenditures decrease by $1.26 million in FY 2019, contingent upon enactment of the bill, and a similar amount annually thereafter, resulting in a net benefit to the general fund of $214,400 a year beginning in FY 2019. As of FY 2019, special fund expenditures increase correspondingly. The accrued fund balance in the Nondepository Special Fund can cover the gap between new revenues and expenditures for that fund.

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). The Department of Legislative Services (DLS) concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law/Background: The Nondepository Special Fund was created by Chapter 341 of 2016, which consolidated three existing special funds (the Mortgage Originators Special Fund, Debt Management Special Fund, and the Money Transmission Special Fund) into the new Nondepository Special Fund. However, licensing, investigation, and examination fees – as well as fines and penalties – for the nondepository entities affected by the bill are credited to the general fund.

According to the Office of Financial Regulation (OFR), requiring all revenues (other than fines and penalties) to be credited to the Nondepository Special Fund allows the commissioner to fully and more efficiently budget for OFR's resource needs. OFR advises that this change eliminates unnecessary administrative burdens through the elimination of the preparation, monitoring, and reconciliation of multiple budgets.

OFR further advises that many other financial regulators at both the federal and state levels are directly funded through assessments and/or licensing fees deposited into dedicated accounts. For instance, operational budgets for the U.S. Office of the Comptroller of the Currency, National Credit Union Administration, and state regulators in Alabama, Connecticut, Florida, Illinois, Kentucky, Massachusetts, Montana, Oregon, and Washington are all funded through assessments and/or licensing fees.

Office of the Commissioner of Financial Regulation

OFR, under DLLR, supervises the activities of the financial services industry in Maryland through periodic on-site examinations and off-site monitoring programs. OFR ensures that the citizens of Maryland are able to conduct their financial transactions through safe, sound, and well-managed institutions that comply with Maryland law, while providing a flexible, yet sound regulatory environment that promotes fair competition, encourages innovative business development, and supports the economy of Maryland.

OFR is responsible for chartering and supervising Maryland trust companies, State-chartered banks, and State-chartered credit unions; licensing and supervising State-licensed financial entities, including mortgage lenders, mortgage brokers, mortgage servicers, mortgage loan originators, affiliated insurance producer-originators, check cashers, money transmitters, consumer debt collection agencies, consumer lenders, installment lenders, sales finance businesses, credit services businesses, and debt management companies; and registering and supervising credit reporting agencies and debt settlement companies, to ensure compliance with the laws and regulations of Maryland.

OFR provides assistance to consumers by investigating complaints of questionable business practices involving State-chartered, licensed, and registered financial institutions under its supervision and authority. OFR also conducts outreach focused on foreclosure and mortgage delinquencies in the State. Additionally, OFR helps to connect Maryland consumers to effective financial education available through the State and nationally.

State Fiscal Effect: Given its June 1, 2018 effective date, the bill has an impact on both general fund and special fund revenues in fiscal 2018; OFR advises that affected revenues for that month total approximately $74,000. Thus, general fund revenues decrease by $74,000 in fiscal 2018, and special fund revenues for the Nondepository Special Fund increase correspondingly. The $74,000 is assumed to be carried forward as special fund balance to fiscal 2019 and subsequent years, as this analysis assumes that general fund and special fund expenditures are not affected in fiscal 2018.

OFR further advises that, beginning in fiscal 2019, general fund revenues decrease by approximately $1.04 million annually; this estimate is based on a five-year average of licensing fees paid into the general fund. Special fund revenues for OFR increase correspondingly beginning in fiscal 2019.

The Governor's proposed budget for fiscal 2019 specifies that the general fund appropriation for OFR be reduced by approximately $1.26 million, contingent upon enactment of the bill. The proposed budget authorizes use of special fund revenues to replace the general fund appropriation. Thus, this analysis assumes that general fund expenditures decrease by about $1.26 million annually beginning in fiscal 2019 while special fund expenditures for OFR increase by the same amount to maintain current services. This analysis further assumes that the general fund working allowance in place for fiscal 2018 does not change under the bill, despite the June effective date.

As a result of the bill's funding shift, the general fund is expected to realize net savings while the Nondepository Special Fund is expected to realize net costs. DLS advises that new special fund revenues received under the bill may not be sufficient to cover anticipated ongoing expenditures in some (or all) years. Based on OFR's revenue estimates and the proposed fiscal 2019 budget, the *estimated* shortfall between new special fund revenues and new special fund expenditures is about $214,400 annually. If *actual* special fund revenues received as a result of the bill are not sufficient to cover special fund expenditures to maintain services currently paid for with general funds, then the accrued balance of the Nondepository Special Fund is sufficient to cover the shortfall.

In fiscal 2019, OFR advises that the Nondepository Special Fund is expected to carry forward a balance of approximately $8.46 million. That amount, coupled with the $74,000 expected to be added to the fund balance due to this bill, is more than sufficient to cover the estimated $214,400 annual gap between current appropriations and expected revenues. In any year in which special fund revenues instead exceed special fund expenditures, that surplus is carried forward as part of the overall fund balance into the next fiscal year and is available for future shortfalls.

Exhibit 1 shows revenues and expenditures as anticipated by OFR for the Nondepository Special Fund under current law and under the bill; the exhibit reflects the $74,000 in revenues received in June 2018 as being carried forward as part of the special fund balance for use in subsequent years. As OFR does not account for any fluctuation in revenues or growth in affected expenditures, the exhibit does not either. OFR advises that, under current law, general fund appropriations are used only for salaries and fringe benefits; however, those funds are only applied to a portion of salaries and benefits for 54 employees in OFR. For purposes of this analysis, DLS assumes that, under the bill, those positions are reclassified as being funded entirely by special funds.

Additional Information

Prior Introductions: None.

Cross File: HB 187 (Chair, Economic Matters Committee)(By Request - Departmental - Labor, Licensing and Regulation) - Economic Matters.

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

Fiscal Note History: First Reader - January 15, 2018
mag/kdm Revised - Budget Information - January 18, 2018
Third Reader - March 21, 2018
Revised - Amendment(s) - March 21, 2018

Analysis by: Eric F. Pierce

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

Exhibit 1
Nondepository Special Fund:
OFR Estimates of Revenues and Expenditures under Current Law and the Bill: Fiscal 2019-2023

REVENUES	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**	**FY 2023**
Nondepository Licensing Fees	$6,200,000	$6,200,000	$6,200,000	$6,200,000	$6,200,000
Nondepository Exam Fees	250,000	250,000	250,000	250,000	250,000
Total Revenues under Current Law	**6,450,000**	**6,450,000**	**6,450,000**	**6,450,000**	**6,450,000**
New Revenues under the Bill	**1,044,254**	**1,044,254**	**1,044,254**	**1,044,254**	**1,044,254**
Total Revenues under the Bill	**$7,494,254**	**$7,494,254**	**$7,494,254**	**$7,494,254**	**$7,494,254**
EXPENDITURES					
Salaries and Benefits	$4,508,377	$4,598,544	$4,690,515	$4,784,325	$4,880,012
Technical and Special Fees	248,535	253,506	258,576	263,748	269,023
Communication	56,169	57,293	58,439	59,607	60,800
Travel/Training	141,270	144,095	146,977	149,917	152,915
Lease Expense, Parking Facilities	37,699	38,453	39,222	40,007	40,807
Contractual Services	171,166	174,590	178,081	181,643	185,276
Supplies and Materials	30,878	31,496	32,126	32,768	33,424
Equipment	60,948	62,167	63,410	64,679	65,972
Fixed Charges, Rent	246,201	251,126	256,148	261,271	266,496
Administrative Expenses	653,600	666,672	680,005	693,605	707,477
Total Expenditures under Current Law	**6,154,844**	**6,277,941**	**6,403,500**	**6,531,570**	**6,662,201**
New Expenditures under the Bill	**1,258,607**	**1,258,607**	**1,258,607**	**1,258,607**	**1,258,607**
Total Expenditures under the Bill	**$7,413,451**	**$7,536,548**	**$7,662,107**	**$7,790,177**	**$7,920,808**
Net Revenues for Fiscal Year under Current Law	$295,156	$172,059	$46,500	($81,570)	($212,201)
Net Revenues for Fiscal Year under the Bill	$80,803	($42,294)	($167,853)	($295,923)	($426,554)
Special Fund Balance Carried Forward under Current Law	$8,464,183	$8,636,242	$8,682,742	$8,601,172	$8,388,971
Special Fund Balance Carried Forward under the Bill*	$8,323,830	$8,281,536	$8,113,683	$7,817,760	$7,391,206

* Includes an additional $74,000 in all years that is assumed to be carried over from fiscal 2018 due to the bill's June 1, 2018 effective date.

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Consolidation of Non-Depository Special Funds**

BILL NUMBER: HB 187/SB 6

PREPARED BY:

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

We do not believe there will be any impact on small businesses as a result of this legislation.