

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 705 (Delegate Ivey)
Government, Labor, and Elections

State Government - Attorney General - Office of the Attorney General
Enforcement Recovery Fund - Establishment

This bill establishes the Office of the Attorney General (OAG) Enforcement Recovery Fund as a special fund that consists of “qualified recoveries” that are obtained from successful enforcement actions taken by OAG under specified provisions of the Commercial Law and Corporations and Associations Articles. The fund is administered by OAG and may be used only to support the consumer protection, antitrust, and securities enforcement activities of OAG, as specified. OAG may deposit up to 25% of each qualified recovery (up to \$7.5 million annually in aggregate from all qualified recoveries). However, deposits may be made only from qualified recoveries that (1) are obtained through judgments, settlements, or consent decrees; (2) exceed \$100,000 in total recovery amounts; and (3) are not otherwise specifically designated by court order, settlement agreement, or State law for alternative purposes, including restitution for victims. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: Special fund revenues for the fund may increase as early as FY 2027, as discussed below; general fund and other special fund revenues may decrease beginning in FY 2027 as certain penalty revenues are instead diverted to the new special fund. However, any impact is assumed to be minimal. Expenditures are likely not materially affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: “Qualified recovery” means penalties obtained by OAG through enforcement actions under the following provisions:

- Title 11 of the Commercial Law Article (trade regulation, including antitrust enforcement)
- Title 13 of the Commercial Law Article (the Maryland Consumer Protection Act, (MCPA)); and
- Title 11, Subtitle 3 of the Corporations and Associations Article (provisions of the Maryland Securities Act that regulate fraudulent and other prohibited practices).

The fund may accept any other money from any other source for the benefit of the fund. Interest earnings of the fund must be credited to the general fund.

Any amount deposited into the fund (1) is supplemental to and is not intended to take the place of funding that would otherwise be appropriated to OAG in the State budget and (2) may not reduce amounts available for restitution for victims or other remedial purposes. Likewise, money in the fund may not be used for restitution or other payments to victims or third parties.

The existence of the fund may not be used as a basis to reduce appropriations to OAG below the level that would otherwise be provided. At the end of each fiscal year, if the balance of the fund exceeds \$7.5 million, the Comptroller must transfer the excess balance to the general fund, which must be completed within 30 days after the close of the fiscal year.

Current Law: Title 11 of the Commercial Law Article governs numerous trade regulations, including antitrust enforcement. Title 13 of the Commercial Law Article (MCPA) regulates various unfair, abusive, or deceptive trade practices. Title 11, Subtitle 3 of the Corporations and Associations Article governs fraudulent and other prohibited practices related to securities.

Maryland Consumer Protection Act

An unfair, abusive, 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, abusive, 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, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same 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.

State Revenues: As noted above, the bill potentially diverts revenues received from enforcement actions under certain provisions of the Commercial Law Article and the Corporations and Associations Article into the new OAG Enforcement Recovery Fund.

Although up to \$7.5 million in revenues *may* be paid into the fund on an annual basis, actual revenues are likely much less. Under current law, revenues received from enforcement actions under MCPA are generally paid into an existing special fund (the Consumer Protection Division (CPD) Recoveries Fund) that is used for purposes such as operating expenses (including personnel) within CPD. Under the bill, some portion of revenues in the CPD Recoveries Fund could be diverted to the new OAG Enforcement Recovery Fund. However, based on fiscal 2025 data, the fund balance in the CPD Recoveries Fund is likely insufficient to divert any significant amount of enforcement revenues into the OAG Enforcement Recovery Fund. It is also unclear why OAG would choose to divert any enforcement revenues from the CPD Recoveries Fund, as monies in that fund may already be used for purposes that are similar to those described in the bill.

Revenues received from other enforcement actions (*i.e.*, those that are currently paid into the general fund) may also result in a diversion of revenues into the OAG Enforcement Recovery Fund. However, given the restrictions imposed by the bill (*i.e.*, only up to 25% of qualified recoveries that exceed \$100,000, with a \$7.5 million annual cap), the exact amount that may be received on an annual basis is unclear and cannot be calculated at this time. OAG similarly advises it expects the bill to have a minimal overall impact on revenues.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General; Comptroller's Office; Department of Budget and Management; Department of Legislative Services

Fiscal Note History: First Reader - February 27, 2026
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