
House Bill 855

Date: March 6, 2020
Committee: House Economic Matters Committee
Bill Title: Financial Institutions – Commissioner of Financial Regulation – Money Transmissions
Re: Letter of Support

House Bill 855 modernizes Maryland's money transmission laws. Maryland's money transmission laws have undergone little change while that industry has experienced significant changes driven by advancements in financial technology including the advent of virtual currencies. HB 855 modernizes laws that apply to those advancements, increases Maryland's appeal to fintech industries and financial firms deploying new technologies, it enhances consumer protections, and it gives the Office of the Commissioner of Financial Regulation ("OCFR") the ability to improve the efficiency of its industry oversight. The bill:

Lowers Fees for Branches and "Kiosks" – Existing law does not differentiate licensing fees for a money transmitter's main location from that of its branches or kiosks. Licensees must pay a \$2,000 fee for each individual branch and kiosk. OCFR incurs no costs associated with investigating and approving kiosk locations and little for branch approval. The relevant statute is incapable of being interpreted to properly align branch fees with the type of activity in which the licensee is engaged. This proposal aligns the fee schedule with the applicant's activity which results in a reduction of the fee for a subsequent branch to \$1,000, and the fee for an automated kiosk to \$500.

Revises Mandatory Penalties for Compliance Violations – Current law requires licensees to get OCFR's approval prior to changing their approved place of business. If a licensee fails to timely notify OCFR of a location change, or does so without OCFR approval, they are subject to a mandatory penalty of \$500 and cancellation of their license – forcing them to cease business operations and acquire (and OCFR to issue) a new license in order to operate at that new location. Identical to the recently enacted changes in the Maryland Mortgage Lender Law (see FI § 11-512), this proposal retains the fine but eliminates the mandatory loss of license penalty because OCFR has ample authority to address such situations of non-compliance.

Increases Remittance Time for Stored Value Cards – Longstanding Maryland law requires agents, including "big box" money transmitter agents (i.e. large supermarkets) to remit the funds they receive for stored value cards "within 48 hours after the next regular business day" after their receipt. This requirement fails to recognize current commercial practice where consumers receive instant access to funds despite the fact that retailers may only remit funds to card issuers once per week. OCFR has investigated this practice and found that it involves little to no consumer risk because it involves products in which consumers have immediate access to funds or the value of funds right after purchase. Giving retailers an expanded time frame (five business days) to remit funds to licensees recognizes commercial reality and will relieve OCFR of an examination burden all with no additional risks to consumers' funds.

Updates Relevant Money Transmission Definitions – The bill amends the definitions of "money transmission," "payment instrument," and "stored value device" to respond to significant market changes regarding the use of technology in financial transactions. These updates are necessary to harmonize Maryland law with other state and federal regulatory regimes, accurately reflect each respective transaction, and ultimately account for the inevitable evolution in the payments and money transmission field.

Centralizes Reporting Requirements with the Nationwide Multistate Licensing System and Registry ("NMLS") – This provision requires licensees to file financial information quarterly and electronically through the NMLS rather than follow

the current, semi-annual paper process. This change gives OCFR access to improved, timely information about regulated companies, and it will give Maryland-licensed companies the ability to provide streamlined, uniform information at the same time and in the same way as the information is reported by all licensees and in other states.

Mandates Enactment of Policies and Procedures for Compliance Programs – The proposal requires money transmitters to maintain policies and procedures that will promote and support safe and sound operations – such as required maintenance of information security, programs regarding operational security and disaster recovery, as well as anti-money laundering protocols.

Amendment: Adds a new provision, found in Senate Bill 754, requiring the licensing of currency exchanges as recommended by the Maryland Financial Consumer Protection Commission.

The new additional provisions would create a new category of licensed activity; currency exchanges. Persons providing currency exchange services, including both fiat currency and virtual currency, will be subject to licensing as they are in other states. This new category replicates, in many ways, Maryland's check cashing licensing and supervisory structure; which is well aligned with the type of risk associated with the activity to be supervised. The bill also provides consumer protections regarding privacy and confidentiality of information, mandates use of the NMLS, and lays out remedies and other avenues of redress for violations of its provisions.