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Position: FAV



Testimony to the Senate Finance Committee
SB930: Commercial Law – Consumer Wire Transfers – Liability (Elder Fraud Prevention Act of 2024)

Position: Favorable

Sen. Pamela Beidle
101 James Senate Office Building
11 Bladen Street
Annapolis, MD 21401

CC: Members of the Committee

Economic Action Maryland (formerly the Maryland Consumer Rights Coalition) works on a local, state, and federal level to advocate for economic justice for older adults through its Securing Older Adults Resources program as well as for low income communities and communities of color through its other various focuses and programs.

Economic Justice Maryland supports SB930, which would protect victims of wire fraud scams.

Through Economic Action Maryland's Securing Older Adults Resources program, we see thousands of older adults each year in vulnerable financial situations, relying on government assistance and savings to provide for themselves and meet daily needs. These adults are often vulnerable to financial scams that target their earnings due to their unfamiliarity with technology and desperate financial situations. Economic Action Maryland works hard to keep this targeted community prepared with available training on how older adults can defend themselves and identify scams but it is near impossible to prevent in the modern age of quickly evolving technology and AI usage from scammers.

In the year 2022 older adults reported losing 1.6 million dollars in fraud according to the FTC, with more and more of these scams utilizing AI and other tactics to impersonate businesses or technology support scams. Due to the current regulations in Maryland, if someone falls victim to these scams, older adults are forced to go after the scammers themselves versus the banks. This is dangerous and continues to put older adults in vulnerable situations to secure their finances.

SB930 ensures that consumers are not held liable for scammer's actions while holding banks accountable and allowing victims of fraud to sue their banks privately. For these reasons

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ID 52-2266235

Economic Action Maryland is a 501(c)(3) nonprofit organization and your contributions are tax deductible to the extent allowed by law.

Economic Action Maryland supports SB930 and asks for a favorable response from the committee.

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SB930_AARP_Morgan_FAV..pdf

Uploaded by: Karen Morgan

Position: FAV



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**SB 930 – Commercial Law – Consumer Wire Transfers – Liability (Elder Fraud
Prevention Act of 2024)
FAVORABLE
Senate Finance Committee
March 6, 2024**

Good afternoon, Chairman Beidle, and Members of the Senate Finance Committee. I am Karen Morgan, a member of the Executive Council for AARP Maryland. As you may know, AARP Maryland is one of the largest membership-based organizations in the Free State, encompassing almost 850,000 members. We thank Senator Rosapepe for sponsoring this legislation.

AARP is a nonpartisan, nonprofit, nationwide organization that helps people turn their goals and dreams into real possibilities, strengthens communities, and fights for the issues that matter most to families such as health care, employment and income security, retirement planning, affordable utilities, and protection from financial abuse.

SB 930 brings to the forefront a very serious problem regarding the security of financial transactions. We are here in support of HB 1156 because state laws need to be improved to help protect consumers from fraud when they use wire transfers for financial transactions.

Federal law and financial institution policies create significant protections for debit cards, checking accounts, savings accounts, and credit cards. If a person finds a charge for \$100 on their credit card that they did not make, they most likely will get every penny of the bogus charge credited back to their account. A person who finds a charge against their debit card that they did not make will likely get all of that amount restored – maybe minus \$50, depending on the notification to the financial institution. However, the reality is that even if federal law authorizes financial institutions to refund all but \$50, that person will likely get all of their money back. A consumer has the right to expect that using banks and other financial institutions in the United States is much safer than carrying around bags of cash.

But is it? How is it that there are more protections around transactions of relatively modest amounts – a hundred dollars, for example, but when that same person initiates a critically important wire transfer for hundreds of thousands of dollars because they want to buy a house, all the protections supposedly afforded by these financial institutions suddenly fall away?

SB 930 highlights a significant issue: what *is* an “authorized” transaction? If a consumer who is trying to complete a financial transaction has been deceived with false information, despite taking reasonable precautions, has that consumer truly “authorized” the transaction? Can a person really give informed consent to a transaction if the essential information has been altered and hidden – especially if the person would never authorize such a transaction if they had all the relevant, necessary information? Financial institutions may claim that even if deceived, consumers should still be held responsible for those transactions. But in the Information Age, persuasion and deception have become potent weapons. It has become extraordinarily difficult for consumers to believe that people and institutions are who they say they are. Consumers are being held hostage by the misdirection, the deception, and the resulting crime that occurs in this weaponized environment.

In other areas of the law, enforceability of agreements or contracts is at least called into question if the person was tricked, deceived, or was intentionally given misleading information. But if a consumer reasonably thinks that the hundreds of thousands of dollars that they are sending by wire transfer to buy a house is going to the correct settlement agent or company, and all that money ends up somewhere else – not through negligence on the part of the prospective homebuyer, but because they were deceived into believing that the money was going to the correct party – why is that consumer then told that nothing can be done? This, even though the person is earnestly trying to do the right thing by engaging with a complex, confusing, financial system where adherence to deadlines and attention to detail are paramount. This, when the deception can be truly life changing and devastating.

In March 2023, AARP published a story about a New Jersey couple in their sixties, who had nearly \$100,000 (their life savings) stolen by a fraudulent wire transfer. They wanted to downsize their house and move nearer to family. They found the perfect smaller house and wired \$91,500 to the account as directed by their real estate attorney. They had proof of the wire transfer. They were very, very careful because after all, their life savings were at stake, and they were also planning on retirement. They arrived at the settlement table, proof of the wire transfer in hand, only to hear their real estate attorney say that the funds were never deposited into the settlement account. The attorney asked them where they got the account information. The couple told the attorney that they got the instructions by email from the attorney, only to learn that the attorney never sent that email. Their bank was unable to reverse the wire transfer. The couple had taken a second mortgage to buy their new house because the seller wanted an all-cash transaction. This happened in 2017.

At the time AARP published this story – six years later – the couple was still trying to recover. The husband could not retire from his job and his wife was only recently able to leave her job. Not surprisingly, they lost the house. And they are still trying to repay thousands of dollars, while the real estate agent, the real estate attorney, and the title company have all absolved themselves of responsibility. The couple was told to expect an email with wire transfer instructions a couple of days before the closing date. They got an email with wire transfer instructions a couple of days before the closing date. They were told to follow those instructions within the deadlines, and they did, because time is of the essence when completing a home sale. Now, instead of enjoying retirement, this couple has had their lives upended. One of them must now continue working. Instead of spending time with their family, this couple is spending their precious time with more lawyers to try to hold the legal and financial professionals accountable in some way for the devastation that they have been left with.

These criminals don't have to hack a consumer's email or cell phone account. For example, scammers can hack the accounts of title companies, real estate agents, and real estate attorneys to spread their devastation. They can find a treasure-trove of information in public records. A listing of a property for sale is public information. A contract that has been put down on a house is also public information. Scammers find it relatively easy to interfere in the chain of communications to misdirect a wire transfer. There are even wire fraud "as-a-service" software kits that scammers can buy on the Dark Web. So, the scammer doesn't even have to be a computer expert to perpetrate this crime.

What is a consumer supposed to do against this onslaught? From the initial intrusion, these criminals move with lightning speed to escape detection by transferring money to other financial accounts that may be overseas. And when the financial institution says, "there is nothing we can do," the criminals can literally laugh all the way to their offshore, international banks, hundreds of thousands of dollars richer *per transaction*. No wonder wire transfer fraud has reached epidemic proportions!

SB 930 would establish protections for consumers who complete financial transactions by wire transfer. It is not acceptable for the financial professionals involved in these complex transactions to just disengage and say that outside of a few feeble attempts to claw back a transfer, nothing can be done. *More must be done*. Consumers are at an unacceptable disadvantage as they are whipsawed back and forth between financial institutions, attorneys, agents, and all kinds of other professionals, trying to make sense of confusing, complex information. The consequences from deceptively misdirected wire transfers are all too real and can be life-changing, even devastating for consumers – especially those who are planning for retirement and are ages 50 and older – the core AARP constituency.

AARP supports SB 930 and respectfully requests the Senate Finance Committee to issue a favorable report. For questions, please contact Tammy Bresnahan, Director of Advocacy for AARP Maryland at tbresnahan@aarp.org or by calling 410-302-8451.

SB 930 Support Letter.pdf

Uploaded by: Karen Straughn

Position: FAV

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March 6, 2024

To: The Honorable Pamela Beidle
Chair, Finance Committee

From: Karen S. Straughn
Consumer Protection Division

Re: Senate Bill 930 – Consumer Law – Consumer Wire Transfers – Liability (Elder Fraud Prevention Act of 2024) (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of Senate Bill 930 submitted by Senator Rosapepe. This bill limits the liability of an individual for unauthorized wire transfers if proper timely notice is given.

Wire transfer fraud includes any bank fraud that involves electronic communication mechanisms instead of face-to-face communication at a financial institution. It also involves the fraudulent attainment of banking information, by way of false pretense, to gain access to another person's bank account. Because wire transfers are nearly instantaneous and extremely difficult to reverse, they present a preferred payment method for scammers. By the time victims realize they've been scammed, the fraudster is gone along with their money.

This bill seeks to limit the responsibility of an innocent consumer for an unauthorized wire transfer if proper timely notice is given. If the unauthorized transfer is discovered by transmittal of the account statement, then 60 days' notice to the financial institution is required to limit a consumer's liability to the lesser of \$50 or the amount of the transfer. If the financial institution is notified by the consumer of the loss of the means to initiate a transfer within 2 days of its loss or theft, then the consumer's liability is limited to the lesser of \$500 or the amount of the transfer. The financial institution is further required to conduct a good faith investigation with the burden of proof on the financial institution to show that the authorization was intentional. These safeguards place the onus on the financial institution to protect individuals who are less

savvy about these potential scams, and to ensure that wire transfers are not inadvertently intercepted. For these reasons, the Consumer Protection Division asks that the Finance Committee return a favorable report on this bill.

cc: The Honorable Jim Rosapepe
Members, Finance Committee

NASW Maryland - 2024 SB 930 FAV - Elder Fraud Prev

Uploaded by: Karessa Proctor

Position: FAV



**Testimony Before the Senate Finance Committee
March 6, 2024**

**Senate Bill 930: Commercial Law - Consumer Wire Transfers – Liability
Elder Fraud Prevention Act of 2024**

****Support****

The National Association of Social Workers – Maryland Chapter is a professional organization representing over 3,000 social workers statewide. On behalf of NASW-MD's Committee on Aging, we would like to express our support to Senate Bill 930 Commercial Law – Consumer Wire Transfers – Liability (Elder Fraud Prevention Act of 2024).

As social workers dedicated to the well-being of older adults, we know that fraud against seniors often involves wire transfers. We firmly advocate for the passage of this bill because it will help to safeguard older adults from the pervasive threat of fraud executed by wire transfer. We believe this bill is indispensable in bolstering the defenses of older adults against wire transfer fraud for the following reasons:

1. ****Limiting Consumer Liability****: One of the most significant provisions of this bill is its emphasis on limiting consumer liability for damages stemming from unauthorized wire transfers. For older adults who are victims of fraud, this safeguard will mean that there will be a cap on the losses they incur through fraudulent wire transfers.
2. ****Mandating Investigations****: Another pivotal aspect of this bill is its mandate for financial institutions to conduct thorough investigations into reported unauthorized transfers. This requirement will benefit fraud victims and may result in more prosecutions against the perpetrators of this type of fraud.
3. ****Private Right of Action for Victims to Sue Banks****: Currently, victims of fraud involving wire transfers do not have the right to sue banks that allow these suspicious transactions to go through. This provision will help victims mitigate their losses and will incentivize banks to screen questionable wire transfers more carefully.
4. ****Provisions for Compensation****: Crucially, this bill includes provisions for treble damages, as well as the liability limits discussed above. These provisions further fortify the protections afforded to victims. By allowing for the possibility of enhanced compensation in cases of egregious misconduct, this measure sends a powerful deterrent message to would-be fraudsters while also providing a means of restitution for victims.

In summary, this bill represents a vital step forward in safeguarding the financial well-being of older adults in an increasingly complex world. As social workers committed to advocating for the interests of older adults, we strongly endorse this bill and urge its swift passage into law.

We ask that you support Senate Bill 930.

Respectfully,

Karessa Proctor, BSW, MSW
Executive Director, NASW-MD

MSCAN SB930 Commercial Law – Consumer Wire Transfe

Uploaded by: Sarah Miicke

Position: FAV



Maryland Senior Citizens Action Network

MSCAN

AARP Maryland

*Alzheimer's
Association,
Maryland Chapters*

*Baltimore Jewish
Council*

Catholic Charities

*Central Maryland
Ecumenical Council*

Church of the Brethren

*Episcopal Diocese of
Maryland*

*Housing Opportunities
Commission of
Montgomery County*

*Jewish Community
Relations Council of
Greater Washington*

*Lutheran Office on
Public Policy in
Maryland*

*Maryland Association of
Area Agencies on Aging*

*Maryland Catholic
Conference*

*Mental Health
Association of Maryland*

Mid-Atlantic LifeSpan

*National Association of
Social Workers,
Maryland Chapter*

Presbytery of Baltimore

*The Coordinating
Center*

*MSCAN Co-Chairs:
Carol Lienhard
Sarah Mücke
410-542-4850*

Testimony in Support of SB 930 Commercial Law – Consumer Wire Transfers – Liability (Elder Fraud Prevention Act of 2024)

Finance Committee

March 6, 2024

The Maryland Senior Citizens Action Network (MSCAN) is a statewide coalition of advocacy groups, service providers, faith-based and mission-driven organizations that supports policies that meet the housing, health and quality of care needs of Maryland's low and moderate-income seniors.

MSCAN supports SB 930. This bill would enact important protections for older adults, who are often targeted for scams involving wire transfers. Passage of this bill because would help to safeguard older adults from the pervasive threat of fraud executed by wire transfer. This bill would provide the following important protections:

- 1. Limiting Consumer Liability:** One of the most significant protections of this bill is that it would limit consumer liability for damages stemming from unauthorized wire transfers. Many older adults who experience fraud through wire transfers lose thousands of dollars. This safeguard would cap the losses they incur through fraudulent wire transfers.
- 2. Mandating Investigations:** This bill would require that financial institutions conduct thorough investigations into reported unauthorized transfers. This requirement will force financial institutions to evaluate their practices, will protect fraud victims and may result in more prosecutions against the perpetrators of this type of fraud.
- 3. Private Right of Action for Victims to Sue Banks:** Currently, banks have few incentives to screen questionable wire transfers because victims of fraud do not have the right to sue banks that allow these suspicious transactions to go through. This provision would help victims mitigate losses and will incentivize banks to enhance their wire transfer procedures.
- 4. Provisions for Compensation:** In addition to the liability limits above, this bill includes provisions for damages, further protecting victims and deterring would be fraudsters. By allowing for enhanced compensation in cases of egregious misconduct, this measure sends a powerful message to would-be fraudsters while providing a means of restitution for victims.

In summary, this bill represents a vital step in protecting the financial well-being of older adults in an increasingly complex financial world. We strongly endorse this bill and urge its swift passage into law.

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Uploaded by: Tonaeya Moore

Position: FAV



SB 930 - Commercial Law - Consumer Wire Transfers - Liability (Elder Fraud Prevention Act of 2024)
Finance Committee
March 06, 2024
SUPPORT

Chair Biedle, Vice-Chair Klausmeier and members of the committee, thank you for the opportunity to submit testimony in support of Senate Bill 930. This bill will take provisions from the Electronic Funds Transfers Act (EFTA) and put them into Maryland's Uniform Commercial Code (UCC) to apply to consumer wire transfers, effectively holding banks adequately liable for the fraud and create a private right of action for victims to sue their banks.

The CASH Campaign of Maryland promotes economic advancement for low-to-moderate income individuals and families in Baltimore and across Maryland. CASH accomplishes its mission through operating a portfolio of direct service programs, building organizational and field capacity, and leading policy and advocacy initiatives to strengthen family economic stability. CASH and its partners across the state achieve this by providing free tax preparation services through the IRS program 'VITA', offering free financial education and coaching, and engaging in policy research and advocacy. **Almost 4,000 of CASH's tax preparation clients earn less than \$10,000 annually. More than half earn less than \$20,000.**

CASH works with thousands of clients across the state of Maryland, including senior citizens. Seniors are often more vulnerable to financial scams. Scamming senior citizens is often accomplished by using unauthorized electronic wire transfers. Scammers manipulate seniors into sending them money (by pretending to be a child or grandchild in need of money urgently, e.g.) or get the senior's bank information (through phishing schemes or phone calls) and send themselves money. Most electronic transfers are covered under the federal Electronic Funds Transfers Act (EFTA). The EFTA includes a private right of action against the banks, which allows fraud victims to sue their bank for not questioning or stopping the transaction. However, EFTA does not cover wire transfers - it specifically exempts consumer wire transfers. This means that when seniors are the victims of fraud through wire transfers, they cannot sue the bank for failing to stop the transaction from going through. Their only chance of getting their money back is by finding the scammer (which can take a long time and often doesn't happen).

SB 930 will take provisions from the EFTA and put them into Maryland's UCC to apply to consumer wire transfers. It will do this by copying and pasting parts of the federal statute into state law. This will include the application to consumer wire transfers, the private right of action, and the specific damages available to plaintiffs. This private right of action is important not only to help victims to get their money back but also to prevent future scams. If a bank knows that they could be sued if they let a fraudulent wire transfer go through, we hope they will choose to boost their own procedures for questioning potentially fraudulent wire transfers.

Thus, we encourage you to return a favorable report for SB 930.

Creating Assets, Savings and Hope

SB0930 - MBA - UNF - GR24.pdf

Uploaded by: Evan Richards

Position: UNF



SB 930 - Commercial Law - Consumer Wire Transfers - Liability

(Elder Fraud Prevention Act of 2024)

Committee: Senate Finance Committee

Date: March 6, 2024

Position: Unfavorable

The Maryland Bankers Association (MBA) **OPPOSES** SB 930. This legislation exempts consumer wire transfers from the Maryland Uniform Commercial Code and establishes State law that replicates provisions of the federal Electronic Funds Transfer Act.

The Electronic Funds Transfer Act (EFTA), passed by Congress in 1978, provides consumer protections for electronic transactions. These transactions include transactions such as debit card transactions, ACH payments, and ATM transfers. The EFTA excluded wire transfers since wire transfers are typically transactions that are between financial institutions or large businesses and are not typically subject to outside risk.

The issue of wire fraud is something that banks in Maryland take very seriously. However, there are serious concerns regarding the impact of this legislation on bank operations. To the best of our knowledge, no other state in the country has implemented this type of legislation. There are concerns that this legislation may be costly and burdensome for banks to implement and may ultimately lead to additional fraud with an increase in illegitimate transaction disputes. The MBA also shares the concerns of the Office of Financial Regulation that Maryland-chartered banks may be put at a disadvantage with other state and national banks who will not have to comply with the legislation.

Maryland banks continue to educate customers on scams that involve wire fraud and implement additional strategies to prevent fraudulent transactions. The MBA is supportive of policy initiatives that will help reduce fraud and keep the hard-earned money of Marylanders safe, but there are too many unanswered questions and concerns with SB 930 as currently drafted.

Accordingly, the MBA urges issuance of a **UNFAVORABLE** report on SB 930.

The Maryland Bankers Association (MBA) represents FDIC-insured community, regional, and national banks, employing more than 26,000 Marylanders and holding more than \$209 billion in deposits in over 1,200 branches across our State. The Maryland banking industry serves customers across the State and provides an array of financial services including residential mortgage lending, business banking, estates and trust services, consumer banking, and more.

Bill – SB930 - Commercial Law - Consumer Wire Tran

Uploaded by: Rory Murray

Position: UNF



March 6, 2024

Chair Pam Beidle
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

Bill – SB930 - Commercial Law - Consumer Wire Transfers - Liability (Elder Fraud Prevention Act of 2024)
Organization – MD|DC Credit Union Association
Position - **Oppose**

Chair Beidle, Vice-Chair Klausmeier, and Members of the Committee:

The MD|DC Credit Union Association, on behalf of the 70+ Credit Unions and their 1.9 million members that we represent in the State of Maryland, appreciates the opportunity to testify on this legislation. The Association provides legislative and regulatory advocacy, compliance support, educational development, training opportunities, and other services to help its affiliated credit unions offer financial services and products more efficiently to their members.

Credit Unions are member-owned, not-for-profit financial cooperatives that prioritize the financial well-being of their members and communities. **We respectfully oppose this bill.**

1. Modifying the Uniform Commercial Code should always be approached with caution.

Our biggest concern is modifying the Uniform Commercial Code (UCC). The UCC is a comprehensive set of uniformly adopted state laws governing all commercial transactions in the United States. **Uniformity is essential for commercial transactions**, as many can be interstate, and changing the UCC should always be approached with caution. The UCC is a vast body of law, and modifications to the UCC should follow the prescribed process and not be taken on a state-by-state basis.

2. This Bill May Put State Chartered Credit Unions at a Competitive Disadvantage to Federally Chartered Credit Unions.

Every time a state law that affects state-chartered institutions and not federally chartered institutions is passed, it disadvantages those who choose the state charter. This discrepancy in regulatory environments can create a competitive imbalance, making it more challenging for state-chartered credit unions to remain competitive. While we recognize the assertions that this will affect all credit unions equally, we are still not sure how it would be enforced against federally chartered or out-of-state institutions.

Sincerely,

John Bratsakis
President/CEO
MD|DC Credit Union Association
9891 Broken Land, Suite 405
Columbia, MD 21046