

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 67

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

Finance

Economic Matters

Financial Institutions – Disclosure of Information From Investigations

This departmental bill authorizes the Office of the Commissioner of Financial Regulation (OCFR) to deny requests for records of an investigation, subject to the provisions of the Maryland Public Information Act (PIA).

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: The Department of Labor, Licensing, and Regulation has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law:

Commissioner of Financial Regulation – Investigative and Enforcement Powers

OCFR is authorized to:

- make public or private investigations, as necessary, to (1) determine whether a person has violated a provision of law, regulation, rule, or order over which OCFR has jurisdiction or (2) aid in the enforcement of a law or in the prescribing of regulations, rules, and orders over which OCFR has jurisdiction;

- require or permit a person to file a statement in writing (under oath or otherwise) as to all the facts and circumstances concerning the matter to be investigated; and
- subject to PIA, publish information concerning a violation of a law, regulation, rule or order over which OCFR has jurisdiction.

Maryland Public Information Act

PIA establishes that all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees. Each governmental unit that maintains public records must identify a representative who a member of the public may contact to request a public record. The Office of the Attorney General (OAG) must post all such contact information on its website and in any *Public Information Act Manual* published by OAG.

A custodian must deny inspection of a public record or any part of a public record if (1) the public record is privileged or confidential by law or (2) the inspection would be contrary to a State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. PIA also requires denial of inspection for personal and confidential records, including, for example, hospital and medical records, financial records, certain police and related criminal records, and licensing records.

Background: OCFR notes that the goal of an investigation is to identify the nature, severity, and cause of problems, and to develop corrective measures to prevent consumer harm and ensure the safe and sound operation of the entities being investigated. While OCFR has investigatory authority over a broad range of industries and activities, confidentiality requirements have not been made specifically applicable to the products of investigations.

As part of the investigative process, business entities are regularly required to make their books and records (including contracts, policies, transactions, etc.) available for review, as well as to engage in discussions with examiners during an investigation. For an investigation to be successful, the flow of information (written and verbal) between the entity investigated and OCFR must be open and frank.

OCFR advises that the bill is intended to expressly authorize denial of the release of certain records under PIA, thereby protecting products of an investigation and simplifying the agency's process for responding to PIA requests that generally involve highly confidential consumer and business information.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 1, 2019
mm/kdm Third Reader - March 26, 2019
Revised - Amendment(s) - March 26, 2019

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Financial Institutions- Investigation of Licensed Persons- Disclosure Exemptions

BILL NUMBER: SB 67

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PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

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