

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 585 (Delegate D.M. Davis)
 Economic Matters

Commercial Law - Consumer Protection - Financial Capabilities and Legal Assistance Fund

This bill requires State circuit courts and District Courts to collect a filing fee of \$30 from a collection agency attempting to collect on a claim for unpaid consumer debt and pay the fee into the Financial Capabilities and Legal Assistance Fund created by the bill. The fund must be used only to provide funds to nonprofit entities that provide debt counseling services and related legal assistance to consumers. The Consumer Protection Division within the Office of the Attorney General (OAG) must administer the fund and adopt regulations to enforce the bill’s provisions. The bill prohibits a collection agency from directly (or indirectly) passing to a consumer any costs associated with the filing fee.

Fiscal Summary

State Effect: General fund expenditures increase by \$119,500 in FY 2022; out-years reflect annualization and elimination of one-time costs. Special fund revenues increase, potentially significantly, with a corresponding increase in special fund expenditures.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
SF Revenue	-	-	-	-	\$0
GF Expenditure	\$119,500	\$97,200	\$99,900	\$103,600	\$107,400
SF Expenditure	-	-	-	-	-
Net Effect	(\$119,500)	(\$97,200)	(\$99,900)	(\$103,600)	(\$107,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill may have an operational impact on circuit court clerks required to collect the new fee. However, the bill’s requirements likely can be handled with existing resources. No impact on local revenues.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The fund is a special, nonlapsing fund. The fund consists of money distributed to the fund as collected from the fees charged by the courts, any interest earnings of the fund, and any other money from any other source accepted for the fund’s benefit. Money expended from the fund for nonprofit entities that provide counseling services and legal assistance to consumers is supplemental to and is not intended to take the place of funding that otherwise would be appropriated to these entities.

Current Law: A “collection agency” is a person who engages (directly or indirectly) in the business of:

- collecting for (or soliciting from another) a consumer claim or collecting a consumer claim the person owns (if the claim was in default when the person acquired it);
- collecting a consumer claim the person owns, using a name or other artifice that indicates that another party is attempting to collect the consumer claim;
- giving, selling, attempting to give or sell to another, or using (for collection of a consumer claim) a series or system of forms or letters that indicates (directly or indirectly) that a person other than the owner is asserting the consumer claim; or
- employing the services of an individual or business to solicit or sell a collection system to be used for collection of a consumer claim.

State Fiscal Effect: OAG advises that two half-time staff are necessary to establish and administer the fund and adopt regulations. As the bill does not authorize use of the fund for administrative expenses, general funds must be used for this purpose. Thus, general fund expenditures for OAG increase by \$86,086 in fiscal 2022, which accounts for the bill’s October 1, 2021 effective date. This estimate reflects the cost of hiring one half-time administrator and one half-time legal secretary to develop the regulatory program (which is assumed to be administered as a grant program), create grant application guidelines, review grant applications, interview potential grantees, communicate with the courts to ensure correct funding, and handle accounting and other daily activities related to the fund. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions (Full-time Equivalent)	1.0
Salaries and Fringe Benefits	\$75,415
Other Operating Expenses	<u>10,671</u>
Total FY 2022 OAG Expenditures	\$86,086

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

General fund expenditures also increase for the Judiciary (Administrative Office of the Courts) by \$33,390 in fiscal 2022 for programming to, among other things, develop protocols to identify qualifying cases, assess the \$30 fee where appropriate, and separately account for the revenue generated. In addition, the Judiciary needs to implement controls to ensure the filing fee is not included in any judgment amounts, as a collection agency cannot pass the fee onto to the consumer. As a result, the bill also has a moderate operational impact on the court system.

Special fund revenues increase, potentially significantly, to reflect the potentially large number of cases filed by debt collection agencies attempting to collect unpaid consumer debt. The amount of the increase is not quantifiable due to the lack of data regarding the number of applicable cases. The Judiciary advises that it does not currently track the number of cases that involve consumer debt as defined by the bill. However, given that the number of cases is likely to number in the thousands, the new special fund established by the bill may receive a substantial influx of fee revenues from the Judiciary. Special fund expenditures increase correspondingly to distribute funds to nonprofit entities for consumer credit and debt counseling and legal assistance.

Small Business Effect: Many collection agencies are small businesses; they must pay a \$30 fee for every action filed in court to collect an unpaid consumer debt. This additional filing fee may not be passed on to consumers in any way.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2021
rh/mcr

Analysis by: Eric F. Pierce

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