

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 862
Finance

(Senator Kagan)

Consumer Protection - Security Questions and Measures

This bill prohibits a business, a nonprofit entity, or a unit of State or local government from using the maiden name of the mother of a customer as a means of safeguarding access to the customer's account. The bill also authorizes a person to report a violation by a unit of State or local government to the Office of the Attorney General's (OAG) Consumer Protection Division. The bill applies only prospectively and does not apply to any customer accounts created before January 1, 2024. Violation of the bill (by a business or a nonprofit entity) is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil penalty provisions. **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations. OAG can handle the bill's requirements with existing resources.

Local Effect: The bill's imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law: Chapters 409 and 410 of 2021 require a financial institution to allow a customer to choose from at least two security question options for each security question (if

the customer is required to provide an answer to a security question in connection with the provision of an account).

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.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 639 of 2022.

Designated Cross File: None.

Information Source(s): Maryland Municipal League; Office of the Attorney General (Consumer Protection Division); Comptroller's Office; Judiciary (Administrative Office of the Courts); University System of Maryland; Department of Budget and Management; Maryland Department of Labor; Maryland Department of Transportation; Department of Legislative Services

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