

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General




WILLIAM D. GRUHN
Chief
Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No.
410-576-6307
Fax: 410-576-6566

March 3, 2020

To: The Honorable Delores G. Kelley
Chair, Finance Committee

From: Steven M. Sakamoto-Wengel 
Consumer Protection Division

Re: Senate Bill 913 – Commercial Law – Merchant Cash Advance – Prohibition
(INFORMATIONAL LETTER)

The Consumer Protection Division of the Office of the Attorney General submits the following letter of information with regard to Senate Bill 913, sponsored by Senator Kramer. SB 913 would prohibit “merchant cash advance transactions” in Maryland, which are defined as “an arrangement between a buyer and a seller in which the buyer agrees to purchase an agreed-on percentage of future credit card revenues or debit card revenues that are due to a seller for a predetermined purchase price.” SB 913 would make such transactions violations of the Consumer Protection Act. As explained to the Division, the bill is aimed to address deceptive offers to businesses that purport to be loans but are instead transactions in which the lender takes a percentage of the business’ receivables as repayment.

First, the bill would give the Division authority over business-to-business transactions. However, with limited exceptions, violations of the Consumer Protection Act are limited to transactions that are for “personal, family, household or agricultural” purposes and expanding the CPA to cover business-to-business transactions would open a door that could lead to a significant increase in the number of complaints received by the Division, requiring the Division to add corresponding resources.

Second, regulation of lending in Maryland has primarily been the responsibility of the Commissioner of Financial Regulation. Although the Commissioner similarly only has authority over consumer lending and not business-to-business lending, to the extent that the General Assembly believes these transactions should be regulated, primary responsibility for regulating these transactions may be more appropriately placed under the Commissioner’s jurisdiction.

200 Saint Paul Place ♦ Baltimore, Maryland 21202-2021

Main Office (410) 576-6300 ♦ Main Office Toll Free (888) 743-0023

Consumer Complaints and Inquiries (410) 528-8662 ♦ Health Advocacy Unit/Billing Complaints (410) 528-1840

Health Advocacy Unit Toll Free (877) 261-8807 ♦ Home Builders Division Toll Free (877) 259-4525 ♦ Telephone for Deaf (410) 576-6372

www.marylandattorneygeneral.gov



The Honorable Delores G. Kelley
Senate Bill 913
March 3, 2020
Page Two

Third, although there are reports that these transactions are made on unfavorable terms that the small business owners do not understand, the Division questions whether a prohibition of “merchant cash advance transactions” would be appropriate. To the extent that “merchant cash advance transactions” are regulated, the regulation should address situations in which deception is involved or the transactions exceed a set usury cap.

Accordingly, the Consumer Protection Division respectfully requests that the Finance Committee take the points discussed above into consideration with respect to Senate Bill 913.

cc: The Honorable Ben Kramer