



**Senate Bill 238 – Consumer Protection – Banking Institutions – Unauthorized Debit Transactions
(Consumer Bank Deposit Protection Act)**

**Senate Finance Committee
February 9, 2021**

OPPOSED

The Maryland Bankers Association (MBA) represents FDIC-insured community, regional and nation-wide banks that employ more than 26,000 Marylanders and hold more than \$182 billion in deposits in over 1,400 branches across our State. The Maryland banking industry serves about 6 million 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.

MBA is **STRONGLY OPPOSED** to SB 238, Consumer Protection – Banking Institutions – Unauthorized Debit Transactions (Consumer Bank Deposits Act). This legislation prohibits a customer (defined in the bill as including businesses) from being held liable for unauthorized (not defined in the bill) debit transactions if the customer notifies the banking institution within 90 days after receiving a periodic statement; requires a banking institution to extend the time frame within which a customer has to make a notification in cases of hospitalization, extended travel, or if the Governor has declared a state of emergency; requires a periodic bank statement, to display a certain message regarding unauthorized account transactions, etc.

Safeguarding customer and business client financial accounts is a top priority for the banking industry. MBA members expend significant efforts to safeguard their customers' accounts from unauthorized access. However, SB 238 is significantly inconsistent with existing provisions of federal and state law and would expose Maryland banks to huge liability. It is a burdensome and unworkable bill. If passed, Maryland would be the only state in the country with anything remotely like this.

Under SB 238, Maryland banks will have to develop and adopt whole new procedures and notices – specifically for Maryland. On the other hand, federal regulation E already has substantial protections in place for consumers for unauthorized electronic fund transfers. There is also protection for any depositor under Article 3 and Article 4 of the MD UCC for account errors. Reg. E has a very complicated and super consumer-friendly framework in place. It also has sensible definitions concerning what is unauthorized. In addition, there are existing card network rules (Visa/Mastercard) that provide protections to consumers for fraudulent transactions. This proposed statute would add an additional set of rules that are unnecessary, burdensome and anticompetitive with every other bank outside of Maryland.

Banking is a very competitive market. Businesses have the ability to negotiate account terms and if they are not comfortable with the account terms, choose to do business with a bank that better accommodates their specific needs. Every bank, regardless of size, location or charter is subject to Reg E. Customers are reminded on a regular basis to review their accounts and to notify the bank of any suspected unauthorized transactions. All banks include specific notification timeframes in both the account agreement and monthly notices. Every bank, regardless of size, location or charter is subject to Reg E.

Safeguarding customers' money is a top priority for banks. However, account holders are responsible for monitoring their accounts and alerting their financial institution when there is suspicious activity. Banks work hard to make this easy for customers to:

1. Review their monthly statement;
2. Have access to their account on a mobile phone or online banking;
3. Set up their own account alerts on the bank's online platform to alert the customer of multiple levels, (low balance, high transaction, daily balance notice) etc.;
4. Further, some banks even allow businesses to delegate account view options to someone else in the organization that may not be a signer, and cannot transact any business; and
5. Some banks' statement systems will also allow the owner to send a monthly statement to their CPA.

For these reasons, **MBA STRONGLY OPPOSES SB 238 AND WE RESPECTFULLY URGE AN UNFAVORABLE COMMITTEE REPORT.**