



SPONSOR: Sen. Gay & Rep. Griffith  
Sens. Ennis, Sokola; Reps. Briggs King, K. Johnson,  
Mitchell, Osienski

DELAWARE STATE SENATE  
151st GENERAL ASSEMBLY

SENATE BILL NO. 260

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO THE CONSUMER PROTECTION FUND.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend Chapter 25, Title 6 of the Delaware Code by making deletions as shown by strike through  
2 and insertions as shown by underline as follows:

3           § 2527. Consumer Protection Fund.

4           (a) All money received by the State as a result of actions brought by the Attorney General pursuant to  
5 subchapter II of Chapter 25 of Title 29 or pursuant to the state or federal antitrust laws shall be credited by the  
6 State Treasurer to a fund to be known as the "Consumer Protection Fund."

7           (b) The Consumer Protection Fund will be a revolving fund and shall consist of funds transferred to the  
8 revolving fund pursuant to actions brought pursuant to subchapter II of Chapter 25 of Title 29 or an antitrust  
9 action, gifts or grants made to the revolving fund and funds awarded to the State or any agency thereof for the  
10 recovery of costs and attorney fees in a consumer fraud or an antitrust action; provided, however, that to the extent  
11 that such costs constitute reimbursement for expenses directly paid from constitutionally dedicated funds, such  
12 recoveries shall be transferred to the constitutionally dedicated fund.

13           (c) Money in the Consumer Protection Fund shall be used for the payment of expenses incurred by the  
14 Attorney General in connection with activities under subchapter II of Chapter 25 of Title 29, this chapter, laws  
15 prohibiting financial fraud, or the state or federal antitrust laws or, if approved by the Director of the Office of  
16 Management and Budget and the Controller General, for other Department of Justice expenses resulting from  
17 General Fund deficits. At the end of any fiscal year, if the balance in the Consumer Protection Fund exceeds  
18 ~~\$3,000,000~~, \$10,000,000, the excess shall be withdrawn from the Consumer Protection Fund and deposited in the  
19 General Fund.

20           (d) The Attorney General is authorized to expend from the Consumer Protection Fund such moneys as are  
21 necessary for the payment of salaries, costs, expenses and charges incurred in the preparation, institution and  
22 maintenance of consumer protection, financial fraud, and antitrust actions under state or federal antitrust laws.

23 (e) When it is legally established that the State, or agencies thereof, public bodies of the State or  
24 individuals have a right to a portion of funds in the Consumer Protection Fund, the Attorney General is authorized  
25 to approve release of such funds to the appropriate fund, entity or recipient.

26 (f) From time to time as determined by the Delaware State Clearinghouse Committee, the Attorney  
27 General shall submit a detailed report to members of the Committee of revenues, expenditures and program  
28 measures for the fiscal period in question. Such report shall also be sufficiently descriptive in nature so as to be  
29 concise and informative. The Committee may cause the Attorney General to appear before the Committee and to  
30 answer such questions as the Committee may require.

#### SYNOPSIS

The Consumer Protection Fund covers a substantial portion of the costs and expenses to run the Department of Justice's Fraud and Consumer Protection Division, which serves all Delawareans, handles hundreds of consumer complaints every year, and is continually taking on more cases on behalf of Delawareans who have been victims of fraud and deceptive business practices. During the COVID-19 pandemic, a period of dramatically increased scams against Delaware's most vulnerable populations, including our seniors, the Fraud and Consumer Protection Division has been on the front lines. The Division brings money into the Consumer Protection Fund by investigating and enforcing Delaware's consumer protection and financial fraud laws, and the amounts obtained, often through settlements, can be large but are unpredictable. Despite a significant expansion of the work and jurisdiction of the Fraud and Consumer Protection Division, the Consumer Protection Fund retention cap has not been increased since 2014. This Act increases the maximum amount of money the Department of Justice can keep in the Consumer Protection Fund at the end of each fiscal year from \$3 million to \$10 million.

Increasing the retention cap from \$3 million to \$10 million will promote greater stability in funding the Division's operations even during periods of volatility in the amount of money the Division brings in through its investigation and enforcement work, and will reduce the risk that the Division needs to seek funding for its critical operations out of General Fund appropriations. Increasing the retention cap will not affect ASF spending authorization for the Consumer Protection Fund, which will remain subject to the existing appropriations process.

Author: Senator Gay