

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 863 (Senator Lenett, *et al.*)
Finance and Judicial Proceedings

**Credit Regulation - Loans Secured by Residential Real Property - Late or
Delinquency Charges and Crediting of Payments**

The bill requires a payment or portion of a payment made during a grace period on a closed end credit consumer loan secured by residential real property to be credited toward the principal and interest due on the scheduled loan payment. The bill prohibits a late charge or delinquency charge from being imposed on the consumer borrower's loan unless the scheduled payment is not paid in full during the grace period. The bill also requires that a written notice of intent to foreclose a mortgage or deed of trust on residential property contain an itemized accounting of the payment amounts that have been credited to principal and interest due on the mortgage loan, penalties, and fees.

Fiscal Summary

State Effect: The bill's requirements do not materially affect State operations or finances; any changes to the notice of intent to foreclose under this bill can be handled with the existing budgeted resources of the Department of Labor, Licensing, and Regulation (DLLR).

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: A "grace period" with respect to a loan made by a credit grantor to a consumer borrower and secured by residential real property means the period between the date on which a scheduled payment is due and the date after which the borrower may be

charged a late or delinquency charge under the terms of the agreement, note, or other evidence of the loan.

Current Law: If the loan agreement permits, a credit grantor may impose a late or delinquency charge on a payment or portions of payments and a charge of up to \$15, if a payment is made with a check that is dishonored on the second presentment. For a nonconsumer borrower, a credit grantor may charge a higher periodic percentage rate or rates of interest on the amount of outstanding unpaid payments or portions of payments under the loan which are in default.

For a loan to a consumer borrower, a late or delinquency charge may not be imposed unless the agreement, note, or other evidence of the loan permits. No more than one late or delinquency charge may be imposed for any single payment or portion of payment, regardless of the period during which it remains in default. All payments made by a consumer borrower must be applied to satisfy scheduled payments in the order they become due. Charges for default or delinquency may not be considered interest or finance charges under the loan agreement.

“Residential property” is defined as real property improved by four or fewer single-family dwelling units designed principally and intended for human habitation. Except under specified circumstances, an action to foreclose a mortgage or deed of trust on residential property cannot be filed until the later of 90 days after a default in a condition on which the mortgage or deed of trust states that a sale may be made or 45 days after a notice of intent to foreclose is sent.

A written notice of intent to foreclose must be sent to the borrower and the record owner at least 45 days before the filing of an action to foreclose a mortgage or deed of trust on residential property. This notice must be sent by certified mail, postage prepaid, return receipt requested, and by first-class mail. A copy of the notice must also be sent to the Commissioner of Financial Regulation in DLLR. The notice must be in the form that the commissioner prescribes by regulation and contain identifying information and information about the loan and mortgage, as specified.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Department of Labor, Licensing, and Regulation; Department of Legislative Services

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ncs/kdm

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