

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1399

(Delegates Lafferty and Stein)

Economic Matters

Finance

**Residential Mortgage Loans - Required Notice of Housing Counseling Programs
and Services**

This bill requires any lender that makes a first mortgage loan secured by owner-occupied residential real property in the State to provide a borrower with (1) a written recommendation that the borrower complete home buyer education or housing counseling; and (2) information about related nonprofit and governmental programs and services available to State residents, unless the lender is otherwise required by federal or State law to refer the borrower to housing counseling. The bill prohibits a lender from closing on a mortgage loan unless the lender has provided the borrower with the notice required under the bill. The bill also repeals provisions of law that require a lender or credit grantor to provide a borrower with information on home buyer education or counseling in connection with specified high-interest or high-fee mortgage loans.

The Department of Housing and Community Development (DHCD), in consultation with the Commissioner of Financial Regulation, must adopt regulations that specify the form of the notice by October 1, 2010.

The bill takes effect June 1, 2010. Provisions relating to the required notice of housing counseling programs and services take effect January 1, 2011, contingent on the adoption of specified regulations by October 1, 2010, or later, if the specified regulations are adopted after October 1, 2010.

Fiscal Summary

State Effect: The bill's requirements can be handled with the existing budgeted resources of DHCD and the Office of the Commissioner of Financial Regulation.

Local Effect: None. The bill does not directly affect local finances or operations.

Small Business Effect: Potential minimal.

Analysis

Current Law: Lenders and credit grantors are currently required to provide borrowers of specified covered loans with a written recommendation that the borrower seek home buyer education or housing counseling. Mortgage lenders are prohibited from making “covered loans” without giving due regard to the borrower’s ability to repay the loan in accordance with its terms. A “covered loan” is defined as a mortgage loan that meets the criteria for a loan subject to the federal Home Ownership Equity Protection Act, that has modified percentages. An exemption from this requirement exists when the borrower’s monthly gross income is greater than 120% of the median family income for the metropolitan statistical area where the residential real property securing the loan is located. A borrower is presumed to be able to repay a loan if, at the time the loan is made, the borrower’s monthly payment obligations including the required loan payment does not exceed 45% of the borrower’s monthly income.

Background: House Bill 944 of 2008 would have prohibited a lender from closing certain types of nontraditional “advisory” loans for a borrower’s principal residence until the lender received proof that the primary borrower completed home buyer education or obtained housing advice from a governmental agency or nonprofit organization approved by DHCD. The bill would have required a mortgage broker or lender to provide an applicant for an advisory loan with notice that included a list of government agencies and nonprofit organizations approved by DHCD to provide home buyer education or housing advice. Both the House and Senate passed amended versions of the bill but the differences could not be reconciled before the end of the 2008 legislative session.

The State’s multifaceted approach to the foreclosure crisis has involved legislative reforms of mortgage lending laws, extensive consumer outreach efforts, and enhanced mortgage industry regulation and enforcement. Legislation passed during the 2008 and 2009 sessions:

- created the Mortgage Fraud Protection Act, Maryland’s first comprehensive mortgage fraud statute;
- tightened mortgage lending standards and required a lender to give due regard to a borrower’s ability to repay a loan;
- prohibited foreclosure rescue transactions and granted the Commissioner of Financial Regulation additional enforcement powers;
- reformed the foreclosure process to provide homeowners with greater time and additional notices before their properties are sold; and

- required additional notices to be given to residential tenants renting properties pending foreclosure.

Consumer outreach efforts include statewide public workshops to assist distressed homeowners, in coordination with the Maryland Foreclosure Prevention Pro Bono Project. Since July 2008, over 1,000 volunteer attorneys trained through the project have provided free legal advice at foreclosure solutions workshops and represented borrowers referred from nonprofit housing counseling agencies. The project is coordinated by the Pro Bono Resource Center of Maryland in collaboration with other State agencies, the Maryland State Bar Association, and other nonprofit housing counseling service providers. In addition to the project, the State has sponsored more than 200 public foreclosure solution workshops attended by approximately 25,000 homeowners.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of Legislative Services

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Analysis by: Jason F. Weintraub

Direct Inquiries to:
(410) 946-5510
(301) 970-5510