

HOUSE BILL 358

C2

(11r0454)

ENROLLED BILL

— *Economic Matters/Finance* —

Introduced by **Chair, Economic Matters Committee**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Office of the Commissioner of Financial Regulation, the Banking Board, and**
3 **the State Collection Agency Licensing Board – Sunset Extension and**
4 **Program Evaluation**

5 FOR the purpose of repealing the Banking Board in the Department of Labor,
6 Licensing, and Regulation; continuing the Office of the Commissioner of
7 Financial Regulation and the State Collection Agency Licensing Board in
8 accordance with the provisions of the Maryland Program Evaluation Act (sunset
9 law) by extending to a certain date the termination provisions relating to the
10 statutory and regulatory authority of the Office of the Commissioner of
11 Financial Regulation and the State Collection Agency Licensing Board;
12 requiring that an evaluation of the Office of the Commissioner of Financial
13 Regulation and the State Collection Licensing Board and the statutes and
14 regulations that relate to them be performed on or before a certain date;
15 repealing certain provisions requiring the Commissioner of Financial

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 Regulation to seek the advice of the Banking Board on certain matters;
 2 providing that deposits of certain trust money in financial institutions located
 3 outside the State are subject to the approval of the Commissioner of Financial
 4 Regulation instead of the Banking Board; requiring the Commissioner to
 5 implement a risk-based mortgage lender licensee examination schedule on or
 6 before a certain date and report to certain committees of the General Assembly
 7 on the implementation of the examination schedule on or before a certain date;
 8 requiring ~~the Maryland Judiciary, in consultation with~~ the State Collection
 9 Agency Licensing Board and the Attorney General's Office, to ~~study a certain~~
 10 ~~issue~~ monitor whether the Maryland Judiciary has made a certain
 11 determination and report ~~its~~ any findings and recommendations to certain
 12 committees of the General Assembly on or before a certain date; and generally
 13 relating to the Office of the Commissioner of Financial Regulation, the State
 14 Collection Agency Licensing Board, and the Banking Board.

15 BY repealing

16 Article – Business Regulation
 17 Section 2-108(a)(4)
 18 Annotated Code of Maryland
 19 (2010 Replacement Volume and 2010 Supplement)

20 BY renumbering

21 Article – Business Regulation
 22 Section 2-108(a)(5) through (34), respectively
 23 to be Section 2-108(a)(4) through (33), respectively
 24 Annotated Code of Maryland
 25 (2010 Replacement Volume and 2010 Supplement)

26 BY repealing

27 Article – Financial Institutions
 28 Section 2-201 through 2-204 and the subtitle “Subtitle 2. Banking Board”; and
 29 2-402
 30 Annotated Code of Maryland
 31 (2003 Replacement Volume and 2010 Supplement)

32 BY repealing and reenacting, with amendments,

33 Article – Business Regulation
 34 Section 7-502
 35 Annotated Code of Maryland
 36 (2010 Replacement Volume and 2010 Supplement)

37 BY repealing and reenacting, with amendments,

38 Article – Financial Institutions
 39 Section 2-401, 3-203(d)(1), 3-607, 3-705, 4-203(d)(1), 4-701(b), 4-803(d)(1),
 40 5-209(a), 5-405(b), and 5-801
 41 Annotated Code of Maryland
 42 (2003 Replacement Volume and 2010 Supplement)

- 1 BY repealing and reenacting, without amendments,
2 Article – Financial Institutions
3 Section 3–203(a), 4–203(a), 4–701(a), 4–803(a), and 5–405(a)
4 Annotated Code of Maryland
5 (2003 Replacement Volume and 2010 Supplement)
- 6 BY repealing and reenacting, with amendments,
7 Article – Insurance
8 Section 22–103
9 Annotated Code of Maryland
10 (2006 Replacement Volume and 2010 Supplement)
- 11 BY repealing and reenacting, without amendments,
12 Article – State Government
13 Section 8–403(a)
14 Annotated Code of Maryland
15 (2009 Replacement Volume and 2010 Supplement)
- 16 BY repealing and reenacting, with amendments,
17 Article – State Government
18 Section 8–403(b)(13) and (24)
19 Annotated Code of Maryland
20 (2009 Replacement Volume and 2010 Supplement)
- 21 BY repealing
22 Article – State Government
23 Section 8–403(b)(8)
24 Annotated Code of Maryland
25 (2009 Replacement Volume and 2010 Supplement)
- 26 BY renumbering
27 Article – State Government
28 Section 8–403(b)(9) through (68), respectively
29 to be Section 8–403(b)(8) through (67), respectively
30 Annotated Code of Maryland
31 (2009 Replacement Volume and 2010 Supplement)
- 32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
33 MARYLAND, That Section(s) 2–108(a)(4) of Article – Business Regulation of the
34 Annotated Code of Maryland be repealed.
- 35 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2–108(a)(5)
36 through (34), respectively, of Article – Business Regulation of the Annotated Code of
37 Maryland be renumbered to be Section(s) 2–108(a)(4) through (33), respectively.

1 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 2–201 through
2 2–204 and the subtitle “Subtitle 2. Banking Board”; and 2–402 of Article – Financial
3 Institutions of the Annotated Code of Maryland be repealed.

4 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
5 read as follows:

6 **Article – Business Regulation**

7 7–502.

8 Subject to the evaluation and reestablishment provisions of the Maryland
9 Program Evaluation Act, this title and all regulations adopted under this title shall
10 terminate on July 1, [2012] **2022**.

11 **Article – Financial Institutions**

12 2–401.

13 Subject to the evaluation and reestablishment provisions of the Program
14 Evaluation Act, the provisions of this article that create the office of the Commissioner
15 of Financial Regulation or relate to the powers and duties of the Commissioner and
16 any regulations adopted under these provisions shall terminate and be of no effect
17 after July 1, [2012] **2022**.

18 3–203.

19 (a) The incorporators shall file with the Commissioner for examination the
20 two copies of the articles of incorporation.

21 (d) (1) Within 6 months after the articles are filed for examination, the
22 Commissioner[, after receiving the advice of the Banking Board,] shall sign, date, and
23 endorse each copy of the articles as “approved” or “refused”.

24 3–607.

25 (a) (1) In this section the following words have the meanings indicated.

26 (2) “Demand deposit” means a deposit that is payable within 30 days.

27 (3) (i) “Time deposit” means a deposit that is payable after 30 days.

28 (ii) “Time deposit” includes a savings account or certificate of
29 deposit that requires at least a 30–day notice before payment.

1 (b) This section does not apply to any deposit of public funds for which the
2 commercial bank pledges collateral.

3 (c) (1) A commercial bank shall have at all times a reserve equal to at
4 least 15 percent of its demand deposits.

5 (2) The board of directors of a commercial bank by resolution shall
6 direct the commercial bank to keep the demand deposit reserve required by this
7 section in:

8 (i) Cash on hand;

9 (ii) Demand deposits in a bank of good standing in any state; or

10 (iii) As to 5 percent of its demand deposits, on approval of the
11 Commissioner:

12 1. Registered or coupon bonds; or

13 2. General obligations of or obligations guaranteed by
14 the United States government, an agency of the United States government, this State,
15 or any political subdivision.

16 (d) (1) A commercial bank shall have at all times a reserve equal to at
17 least 3 percent of its time deposits.

18 (2) The board of directors of a commercial bank by resolution shall
19 direct the commercial bank to keep the time deposit reserves required by this section
20 in:

21 (i) Cash on hand;

22 (ii) Deposits in a bank of good standing in any state; or

23 (iii) Direct obligations of the United States government or of this
24 State.

25 (e) (1) If the Commissioner[, with the advice of the Banking Board,]
26 determines that a change in the demand deposit reserve or in the time deposit reserve
27 requirements is advisable to maintain sound banking practices or to prevent injurious
28 credit expansion or contraction, the Commissioner may change the requirements as
29 provided in this subsection.

30 (2) Subject to paragraph (3) of this subsection, the Commissioner may
31 adopt rules or regulations to change the requirements as to reserves for commercial
32 banks.

1 (3) The rules and regulations may:

2 (i) Increase the demand deposit reserve to an amount equal to
3 not more than 30 percent of those deposits;

4 (ii) Increase the time deposit reserve to an amount equal to not
5 more than 6 percent of those deposits;

6 (iii) Decrease the demand deposit reserve to an amount equal to
7 not less than 15 percent of those deposits;

8 (iv) Decrease the time deposit reserve to an amount equal to not
9 less than 3 percent of those deposits; and

10 (v) Notwithstanding items (i) through (iv) of this paragraph,
11 increase or decrease the demand deposit reserve or time deposit reserve to conform to
12 the reserve requirements that apply to a member bank of the Federal Reserve System.

13 3-705.

14 Within 6 months after the papers specified in § 3-703(c) of this subtitle have
15 been filed with the Commissioner, the Commissioner[, after receiving the advice of the
16 Banking Board,] shall approve or disapprove the agreement.

17 4-203.

18 (a) The incorporators shall:

19 (1) File with the Commissioner for examination the two copies of the
20 articles of incorporation; and

21 (2) Pay to the Commissioner an examination fee of \$1,500.

22 (d) (1) Within 6 months after the articles are filed for examination, the
23 Commissioner[, with the approval of the Banking Board,] shall sign, date, and endorse
24 each copy as “approved” or “refused”.

25 4-701.

26 (a) In this section, “transfer assets”, “transfer its assets”, or “transfer of
27 assets” means to sell, lease, exchange, or otherwise transfer all or substantially all of
28 the property and assets of a savings bank.

29 (b) (1) A savings bank may consolidate with, merge into, or transfer its
30 assets to any banking institution in this State, any other bank in this State, or any

1 State or federal savings and loan association in this State if the Commissioner[, after
2 receiving the advice of the Banking Board,] gives written consent to the transaction.

3 (2) A savings bank may have any banking institution in this State,
4 any other bank in this State, or any State or federal savings and loan association in
5 this State merge into the savings bank if the Commissioner[, after receiving the advice
6 of the Banking Board,] gives written consent to the transaction.

7 4-803.

8 (a) The savings bank shall:

9 (1) File with the Commissioner for examination the application for
10 approval of reorganization; and

11 (2) At the time of filing of an application for approval of
12 reorganization, pay to the Commissioner a fee of \$1,500.

13 (d) As to the proposed articles of incorporation of the subsidiary savings
14 bank:

15 (1) Within 3 months after the application is filed for examination, the
16 Commissioner[, after receiving the advice of the Banking Board,] shall sign, date, and
17 endorse each copy of the articles of incorporation as “approved” or “refused”.

18 5-209.

19 (a) Except as otherwise provided in this article, the Commissioner[,] AND
20 the employees of and the attorney for the Commissioner’s office[, and the members of
21 the Banking Board] may not disclose:

22 (1) The name of any debtor of a banking institution;

23 (2) Any information about the private accounts with or transactions of
24 a banking institution;

25 (3) Any information obtained in the course of examining a banking
26 institution; or

27 (4) Any confidential information obtained from a federal banking
28 authority.

29 5-405.

30 (a) Except as provided in this section, or otherwise expressly provided by
31 State law, a banking institution may not have a bank service corporation.

1 (b) If the Commissioner[, after receiving the advice of the Banking Board,]
2 approves, a banking institution may have a bank service corporation.

3 5–801.

4 (a) If the Commissioner believes that a director or officer of a banking
5 institution has engaged in an unsafe or unsound banking practice, the Commissioner
6 shall send a warning to the director or officer.

7 (b) (1) If the Commissioner finds that the director or officer has continued
8 to engage in the unsafe or unsound practice, the Commissioner[, with the advice of the
9 Banking Board,] may report the facts to the Secretary of Labor, Licensing, and
10 Regulation and the Attorney General.

11 (2) A copy of the report shall be sent by certified mail, return receipt
12 requested, bearing a postmark from the United States Postal Service, to each director
13 of the banking institution.

14 (c) (1) After giving the officer or director an opportunity to be heard, if the
15 Commissioner finds that the unsafe or unsound practice continued after the warning,
16 the Commissioner with the approval of the Secretary of Labor, Licensing, and
17 Regulation may remove the officer or director.

18 (2) A copy of the removal order shall be served on the individual
19 removed and the banking institution.

20 **Article – Insurance**

21 22–103.

22 (a) (1) In this section the following words have the meanings indicated.

23 (2) “Beneficial owner” means a person, other than the buyer in a real
24 estate transaction, for whose benefit a title insurer or its agent is entrusted to hold
25 trust money.

26 (3) “Trust money” means a deposit, payment, or other money that a
27 person entrusts to a title insurer or its agent to hold for the benefit of a buyer in a real
28 estate transaction or for a beneficial owner, in connection with an escrow, settlement,
29 closing, or title indemnification.

30 (b) A title insurer or its agent shall pool and commingle trust money received
31 from clients or beneficial owners in connection with escrows, settlements, closings, or
32 title indemnifications if, in the judgment of the title insurer or its agent, a separate

1 deposit of the trust money would generate interest in an amount not greater than \$50
2 or the cost of administering a separate account.

3 (c) At least quarterly, the financial institution in which a commingled
4 account is maintained under this section shall pay the interest earned on the account,
5 less any service charges of the financial institution, to the Maryland Affordable
6 Housing Trust to enhance the availability of affordable housing throughout the State
7 as provided in § 10–102 of the Housing and Community Development Article.

8 (d) Trust money required to be commingled under subsection (b) of this
9 section in connection with a real estate transaction shall be deposited and maintained
10 until disbursed in accordance with the transaction:

11 (1) in a financial institution located in the State; or

12 (2) subject to approval of the [Banking Board in the Department of
13 Labor, Licensing, and Regulation] **COMMISSIONER OF FINANCIAL REGULATION**, in
14 a financial institution outside the State that complies with the requirements of this
15 subtitle.

16 (e) A title insurer or its agent does not violate, and may not be charged by
17 the Commissioner with a violation of, any ethical or legal duties by placing trust
18 money in an account under subsection (b) of this section with the interest paid to the
19 Maryland Affordable Housing Trust under subsection (c) of this section.

20 (f) Except for trust money that a title insurer or its agent places in a
21 commingled account under subsections (b) and (c) of this section, and subject to
22 regulations of the Commissioner, trust money in the possession of the title insurer or
23 its agent may be deposited in any other deposit or investment vehicle:

24 (1) specified by the client or beneficial owner; or

25 (2) as agreed on by the client or beneficial owner and the title insurer
26 or its agent.

27 Article – State Government

28 8–403.

29 (a) On or before December 15 of the 2nd year before the evaluation date of a
30 governmental activity or unit, the Legislative Policy Committee, based on a
31 preliminary evaluation, may waive as unnecessary the evaluation required under this
32 section.

33 (b) Except as otherwise provided in subsection (a) of this section, on or before
34 the evaluation date for the following governmental activities or units, an evaluation

1 shall be made of the following governmental activities or units and the statutes and
2 regulations that relate to the governmental activities or units:

3 (13) Collection Agency Licensing Board, State (§ 7–201 of the Business
4 Regulation Article: July 1, [2011] **2021**);

5 (24) Financial Regulation, Office of the Commissioner of (§ 2–101 of the
6 Financial Institutions Article: July 1, [2011] **2021**);

7 SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 8–403(b)(8) of
8 Article – State Government of the Annotated Code of Maryland be repealed.

9 SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 8–403(b)(9)
10 through (68), respectively, of Article – State Government of the Annotated Code of
11 Maryland be renumbered to be Section(s) 8–403(b)(8) through (67), respectively.

12 SECTION 7. AND BE IT FURTHER ENACTED, That the Commissioner of
13 Financial Regulation shall:

14 (1) implement a risk–based mortgage lender licensee examination
15 schedule to supplement the existing calendar–based examination schedule by January
16 1, 2012; and

17 (2) report to the Senate Finance Committee and the House Economic
18 Matters Committee on or before October 1, 2012, in accordance with § 2–1246 of the
19 State Government Article, on the implementation of the risk–based mortgage lender
20 licensee examination schedule.

21 SECTION 8. AND BE IT FURTHER ENACTED, That ~~the Maryland Judiciary,~~
22 ~~in consultation with~~ the State Collection Agency Licensing Board and the Attorney
23 General’s Office, shall:

24 (1) ~~examine~~ *monitor* whether *the Maryland Judiciary has determined*
25 *if* the Maryland Rules should be amended to strengthen protections for defendants in
26 consumer debt collection cases; and

27 (2) report to the Senate Finance Committee, the Senate Judicial
28 Proceedings Committee, the House Economic Matters Committee, and the House
29 Judiciary Committee on or before October 1, 2011, in accordance with § 2–1246 of the
30 State Government Article, on ~~its~~ *any* findings and recommendations *made by the*
31 *Maryland Judiciary*.

32 SECTION 9. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 July 1, 2011.