

# HOUSE BILL 358

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CF SB 103

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By: **Chair, Economic Matters Committee**

Introduced and read first time: February 3, 2011

Assigned to: Economic Matters

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## A BILL ENTITLED

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  
16 Regulation to seek the advice of the Banking Board on certain matters;  
17 providing that deposits of certain trust money in financial institutions located  
18 outside the State are subject to the approval of the Commissioner of Financial  
19 Regulation instead of the Banking Board; requiring the Commissioner to  
20 implement a risk-based mortgage lender licensee examination schedule on or  
21 before a certain date and report to certain committees of the General Assembly  
22 on the implementation of the examination schedule on or before a certain date;  
23 requiring the Maryland Judiciary, in consultation with the State Collection  
24 Agency Licensing Board and the Attorney General's Office, to study a certain  
25 issue and report its findings and recommendations to certain committees of the  
26 General Assembly on or before a certain date; and generally relating to the  
27 Office of the Commissioner of Financial Regulation, the State Collection Agency  
28 Licensing Board, and the Banking Board.

29 BY repealing

30 Article – Business Regulation

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 2–108(a)(4)  
2 Annotated Code of Maryland  
3 (2010 Replacement Volume and 2010 Supplement)

4 BY renumbering  
5 Article – Business Regulation  
6 Section 2–108(a)(5) through (34), respectively  
7 to be Section 2–108(a)(4) through (33), respectively  
8 Annotated Code of Maryland  
9 (2010 Replacement Volume and 2010 Supplement)

10 BY repealing  
11 Article – Financial Institutions  
12 Section 2–201 through 2–204 and the subtitle “Subtitle 2. Banking Board”; and  
13 2–402  
14 Annotated Code of Maryland  
15 (2003 Replacement Volume and 2010 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Business Regulation  
18 Section 7–502  
19 Annotated Code of Maryland  
20 (2010 Replacement Volume and 2010 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – Financial Institutions  
23 Section 2–401, 3–203(d)(1), 3–607, 3–705, 4–203(d)(1), 4–701(b), 4–803(d)(1),  
24 5–209(a), 5–405(b), and 5–801  
25 Annotated Code of Maryland  
26 (2003 Replacement Volume and 2010 Supplement)

27 BY repealing and reenacting, without amendments,  
28 Article – Financial Institutions  
29 Section 3–203(a), 4–203(a), 4–701(a), 4–803(a), and 5–405(a)  
30 Annotated Code of Maryland  
31 (2003 Replacement Volume and 2010 Supplement)

32 BY repealing and reenacting, with amendments,  
33 Article – Insurance  
34 Section 22–103  
35 Annotated Code of Maryland  
36 (2006 Replacement Volume and 2010 Supplement)

37 BY repealing and reenacting, without amendments,  
38 Article – State Government  
39 Section 8–403(a)  
40 Annotated Code of Maryland  
41 (2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 8–403(b)(13) and (24)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY repealing  
Article – State Government  
Section 8–403(b)(8)  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

BY renumbering  
Article – State Government  
Section 8–403(b)(9) through (68), respectively  
to be Section 8–403(b)(8) through (67), respectively  
Annotated Code of Maryland  
(2009 Replacement Volume and 2010 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 2–108(a)(4) of Article – Business Regulation of the Annotated Code of Maryland be repealed.

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2–108(a)(5) through (34), respectively, of Article – Business Regulation of the Annotated Code of Maryland be renumbered to be Section(s) 2–108(a)(4) through (33), respectively.

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

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

#### **Article – Business Regulation**

7–502.

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

#### **Article – Financial Institutions**

2–401.

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

6 3–203.

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

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

12 3–607.

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

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

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

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

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

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

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

25 (i) Cash on hand;

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

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

29 1. Registered or coupon bonds; or

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

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

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

(i) Cash on hand;

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

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

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

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

(3) The rules and regulations may:

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

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

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

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

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

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

4   4–203.

5           (a)    The incorporators shall:

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

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

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

12   4–701.

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

16           (b)   (1)   A savings bank may consolidate with, merge into, or transfer its  
17   assets to any banking institution in this State, any other bank in this State, or any  
18   State or federal savings and loan association in this State if the Commissioner[, after  
19   receiving the advice of the Banking Board,] gives written consent to the transaction.

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

24   4–803.

25           (a)   The savings bank shall:

26                   (1)   File with the Commissioner for examination the application for  
27   approval of reorganization; and

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

30           (d)   As to the proposed articles of incorporation of the subsidiary savings  
31   bank:

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

5–209.

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

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

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

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

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

5–405.

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

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

5–801.

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

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

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

(c) (1) After giving the officer or director an opportunity to be heard, if the Commissioner finds that the unsafe or unsound practice continued after the warning,

1 the Commissioner with the approval of the Secretary of Labor, Licensing, and  
2 Regulation may remove the officer or director.

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

### 5 Article – Insurance

6 22–103.

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

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

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

15 (b) A title insurer or its agent shall pool and commingle trust money received  
16 from clients or beneficial owners in connection with escrows, settlements, closings, or  
17 title indemnifications if, in the judgment of the title insurer or its agent, a separate  
18 deposit of the trust money would generate interest in an amount not greater than \$50  
19 or the cost of administering a separate account.

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

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

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

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

33 (e) A title insurer or its agent does not violate, and may not be charged by  
34 the Commissioner with a violation of, any ethical or legal duties by placing trust



1 money in an account under subsection (b) of this section with the interest paid to the  
2 Maryland Affordable Housing Trust under subsection (c) of this section.

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

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

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

## 10 Article – State Government

11 8–403.

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

16 (b) Except as otherwise provided in subsection (a) of this section, on or before  
17 the evaluation date for the following governmental activities or units, an evaluation  
18 shall be made of the following governmental activities or units and the statutes and  
19 regulations that relate to the governmental activities or units:

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

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

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

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

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

31 (1) implement a risk-based mortgage lender licensee examination  
32 schedule to supplement the existing calendar-based examination schedule by January  
33 1, 2012; and

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

5           SECTION 8. AND BE IT FURTHER ENACTED, That the Maryland Judiciary,  
6 in consultation with the State Collection Agency Licensing Board and the Attorney  
7 General's Office, shall:

8           (1)     examine whether the Maryland Rules should be amended to  
9 strengthen protections for defendants in consumer debt collection cases; and

10           (2)     report to the Senate Finance Committee, the Senate Judicial  
11 Proceedings Committee, the House Economic Matters Committee, and the House  
12 Judiciary Committee on or before October 1, 2011, in accordance with § 2–1246 of the  
13 State Government Article, on its findings and recommendations.

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