Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1368 (Chair, Economic Matters Committee)(By Request - Departmental - Labor, Licensing and Regulation)

Economic Matters

Commissioner of Financial Regulation - Regulation of Mortgage Lenders, Mortgage Loan Originators, and Money Transmitters - Revisions

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The bill alters (1) the continuing education requirements for specified mortgage loan originators; (2) the substance of the written test required to be passed by mortgage loan originators prior to licensing; and (3) the license terms of mortgage loan originators. The bill also amends various provisions of the Maryland Mortgage Lender Law and the Maryland Money Transmission Act. The bill updates the name of "Nationwide Mortgage Licensing System and Registry" to be "NMLS."

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: The bill's provisions relating to nonrefundable fees and separate licenses for each business location clarify existing law. The remaining requirements of the bill can be handled with existing budgeted resources and do not materially impact State finances or operations.

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing, and Regulation has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary:

Mortgage Lenders: The bill requires that the principal executive office and each branch location, as defined by the bill, hold a separate mortgage lender license.

The bill authorizes the Commissioner of Financial Regulation to require an applicant or licensee to provide specified information concerning the applicant's identity upon any application, initial or renewal, for a license.

An applicant for a mortgage lender license is required to apply for a license or renewal through NMLS. The bill clarifies that all initial and renewal application fees are nonrefundable. The bill specifies that the 60-day period for the commissioner to approve or deny a license starts after the date the *complete* application and bond are failed and the fees are paid.

The bill makes specified changes to the processes by which a licensee submits a renewal application, changes the designated location of a license, changes control of its entity, or surrenders a license.

Mortgage Loan Originators: The bill exempts a mortgage loan originator who has completed specified prelicensing education requirements in the same year in which the originator's license was approved from completing eight hours of specified continuing education.

If a mortgage loan originator's license has expired or been terminated without the originator completing at least eight hours of specified continuing education, the originator must complete those courses prior to applying for a new license or a reinstated license. Any courses taken prior to applying for a new license or a reinstated license must be applied retroactively to the last year in which the mortgage loan originator was licensed and eligible for license renewal.

The bill removes State law and regulations relating to mortgage origination, fraud, consumer protection, the nontraditional mortgage product marketplace, and fair lending issues from the subjects covered in the written test needed to be passed prior to qualifying for a mortgage loan originator license.

The bill alters the length of an initial mortgage loan originator license. If the license is issued before November 1, the initial license expires on December 31 of the year the license is issued. If the license is issued on or after November 1, the license expires on December 31 of the year succeeding the year the license is first issued.

The commissioner is authorized to prescribe the process by which an affiliated insurance producer-mortgage loan originator applies for a license and a mortgage loan originator applies for a license renewal.

Money Transmitters: The bill repeals the requirement that a money transmitter have a license for each place of business and requires that a money transmitter have a license for each business location.

The bill authorizes the commissioner to file, upon application for an initial or renewal license, evidence of a surety device with NMLS. The commissioner is also authorized to prescribe the process by which a licensee changes the designated location of a license, changes control of its entity, and submits specified reports to the commissioner (including timelines).

Current Law:

Mortgage Lenders: To apply for a license, an applicant must complete, sign, and submit to the commissioner an application made under oath on the required form. The applicant must comply with all conditions and provisions of the license application and must not act as a mortgage lender before a license is issued.

The applicant must pay to the commissioner a license fee and investigation fee, both nonrefundable, set by the commissioner. An applicant must submit a separate application, pay a separate application fee, and pay any application processing fee or other fee that the Nationwide Mortgage Licensing System and Registry (NMLSR) requires. If applicable, an applicant must pay a surcharge and file a separate surety bond or other financial guaranty.

If a license is issued before November 1, the license expires on December 31 of that year. However, if the license is issued after November 1, the license expires December 31 of the succeeding year. Generally, a renewal term for a license is for a period of one year and lasts from January 1 after the initial term to December 31.

To change the designated place of business for a license or undergo a change in control, the licensee must notify the commissioner in writing and receive written approval from the commissioner.

A mortgage lender licensee must provide a call report to NMLSR once a quarter. A mortgage lender exempt from licensing by the commissioner must submit call reports on behalf of its licensed mortgage loan originators.

Mortgage Loan Originators: An initial term for a mortgage loan originator license is, at most, one year. The term begins on the first day the license is issued and expires on December 31 of that year. By November 1, the mortgage loan originator may renew the license by (1) paying a renewal fee to the commissioner; (2) submitting a renewal application on the form required by the commissioner; and (3) submitting satisfactory evidence that any continuing education requirements have been met.

To qualify for an initial license, an applicant must complete at least 20 hours of prelicensing education that includes at least 8 hours of specified instruction. All prelicensing education courses must be reviewed and approved by NMLSR. An applicant must also pass a written test prior to receiving an initial license. Once licensed, a mortgage loan originator must complete at least eight hours of continuing education, which must cover specified subjects. All continuing education courses must be reviewed and approved by NMLSR.

Money Transmitters: A money transmitter license authorizes the licensee to do business at the licensed place of business. Only one place of business may be maintained under any one license. Generally, an initial license term begins on the day the license is issued. If a license is issued before November 1, the license expires on December 31 of that year. However, if the license is issued after November 1, the license expires December 31 of the succeeding year.

To change the designated place of business for a license or undergo a change in control, the licensee must notify the commissioner in writing and receive written approval from the commissioner.

A money transmitter licensee must submit specified reports to the commissioner. Within 45 days of June 30 and December 31, the licensee must file a report that includes specified financial information, including an unaudited, unconsolidated financial statement. Additionally, within 120 days after the close of the fiscal year of the licensee, each licensee must file an annual report that includes audited financial statements. Finally, within 15 days after the occurrence of specified events, a licensee must file a written report describing the event and its expected impact on the licensee's activities in the State. The report must be sent to the commissioner by certified mail within 10 days after the action is begun and include details sufficient to identify the event.

Background: The commissioner is responsible for licensing and regulating mortgage lenders, brokers, servicers and originators, sales finance companies, consumer loan companies, money transmitters, check cashers, installment loan lenders, credit reporting agencies, consumer debt collection agencies, and debt management services providers. The Office of Financial Regulation also regulates and supervises State-chartered financial institutions including State-chartered banks, credit unions, and trust companies.

Chapter 4 of 2009 (SB 269) overhauled the State's mortgage lender and loan originator laws to conform to the requirements of the federal Secure and Fair Enforcement Mortgage Licensing (SAFE) Act of 2008. Chapter 4 altered the licensing requirements, initial license terms, and renewal terms for mortgage lenders and loan originators. Chapter 254 of 2012 (SB 546) further altered State law relating to State-licensed mortgage lenders and mortgage loan originators, including making all license application fees nonrefundable. Chapter 78 of 2012 (SB 545) authorized the commissioner to participate in the establishment and implementation of a multistate automated licensing system for persons who engage in money transmission.

The federal government, through the SAFE Act, has strongly encouraged states to conduct the licensing of mortgage lenders and mortgage loan originators through NMLSR. Maryland has complied with that suggestion since 2009. Each year, NMLSR continues to evolve and improve. The changes in this bill are aimed at keeping Maryland up to date and in conformity with NMLSR, which is now known as NMLS.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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ncs/ljm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Commissioner of Financial Regulation – Mortgage Lenders, Mortgage Loan Originators, and Money Transmitters – NMLS Update

BILL NUMBER: HB 1368

PREPARED BY: Department of Labor, Licensing and Regulation
Joseph E. Rooney, assistant Commissioner

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__X__ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

____ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.