

Chapter 579

(Senate Bill 1091)

AN ACT concerning

Financial Institutions – ~~Transitional Registered Mortgage Loan Originator~~ Originators – Expedited Licenses

FOR the purpose of ~~authorizing~~ requiring the Commissioner of Financial Regulation to ~~issue a transitional mortgage loan originator license to certain individuals under certain circumstances; requiring an applicant for a license to submit a certain application to the Commissioner and comply with certain conditions and provisions of the application; requiring an applicant for a license to pay a certain fee; specifying the content of a certain application; requiring an applicant for a license to comply with certain fingerprinting, criminal history records check, and surety bond requirements; prohibiting the Commissioner from issuing a license unless the Commissioner makes certain findings; providing that a license issued by the Commissioner under certain provisions of this Act authorizes an individual to act as a mortgage loan originator for a certain transitional period, is limited to a certain term, and may not be renewed or extended by the Commissioner; defining a certain term; waive a State criminal history records check to expedite the issuance of a certain license to an applicant who was employed as a registered mortgage loan originator within a certain number of days before the date of application for the license under certain circumstances; requiring the Commissioner to publish prominently on a certain Web site the expedited process for the issuance of a certain license; authorizing the Commissioner to adopt certain regulations; and generally relating to the regulation of mortgage loan originators.~~

~~BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section ~~11-601~~
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)~~

BY repealing and reenacting, without amendments,
Article – Financial Institutions
Section ~~11-602~~ 11-601
Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)

BY adding to
Article – Financial Institutions
Section ~~11-605.1~~ 11-612.3

Annotated Code of Maryland
(2011 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Financial Institutions

11–601.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Borrower” has the meaning stated in § 11–501 of this title.
- (c) “Clerical or support duties” includes the following activities relating to the processing or underwriting of a mortgage loan when performed subsequent to the receipt of a loan application:
 - (1) The receipt, collection, distribution, and analysis of information usual and customary for the processing or underwriting of a mortgage loan; and
 - (2) Communication with a consumer to obtain information necessary for the processing or underwriting of a mortgage loan, to the extent that the communication does not include offering or negotiating mortgage loan rates or terms, or counseling consumers about mortgage loan rates or terms.
- (d) (1) “Depository institution” has the meaning stated in the Federal Deposit Insurance Act, 12 U.S.C. § 1813(c).
- (2) “Depository institution” includes credit unions.
- (e) “Federal banking agencies” means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.
- (f) “Fund” means the Mortgage Lender–Originator Fund established under § 11–610 of this subtitle.
- (g) “Immediate family member” means a spouse, child, sibling, parent, grandparent, grandchild, stepparent, stepchild, and stepsibling.
- (h) “Independent contractor” means a person whose compensation is paid without a deduction for federal or State income tax.
- (i) “Individual” means a natural person.

(j) “Individual loan servicer” means an individual who on behalf of a note holder or mortgage loan servicer:

(1) Collects or receives payments, including payments of principal, interest, escrow amounts, and other amounts due on existing mortgage loan obligations owed to the note holder or mortgage loan servicer, at a time when the borrower is in default, or in reasonably foreseeable likelihood of default; and

(2) Working with the borrower and the note holder or mortgage loan servicer, collects data and makes decisions to modify, either temporarily or permanently, the terms of the mortgage loan obligations described in item (1) of this subsection or to proceed with collection efforts through foreclosure or other processes.

(k) “License” means a license issued by the Commissioner under this subtitle.

(l) “Licensee” means an individual who is licensed by the Commissioner under this subtitle.

(m) “Loan application” has the meaning stated in § 11–501 of this title.

(n) “Mortgage lender” means a person that is licensed as a mortgage lender under Subtitle 5 of this title.

(o) “Mortgage lending business” has the meaning stated in § 11–501 of this title.

(p) “Mortgage loan” has the meaning stated in § 11–501 of this title.

(q) (1) “Mortgage loan originator” means an individual who for compensation or gain, or in the expectation of compensation or gain:

(i) Takes a loan application; or

(ii) Offers or negotiates terms of a mortgage loan.

(2) “Mortgage loan originator” does not include an individual who:

(i) Acts solely as a mortgage loan processor or underwriter;

(ii) Performs only real estate brokerage activities and is licensed in accordance with Title 17 of the Business Occupations and Professions Article, unless the individual is compensated by a mortgage lender, mortgage broker, or other mortgage loan originator or by any agent of a mortgage lender, mortgage broker, or other mortgage loan originator; or

(iii) Is involved solely in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101(53d).

(r) (1) “Mortgage loan processor or underwriter” means an individual who performs clerical or support duties as an employee of, at the direction of, and subject to the supervision and instruction of a person licensed, or exempt from licensing, under Title 5 of this article.

(2) “Mortgage loan processor or underwriter” does not include an individual who:

(i) Represents to the public, through advertising or other means of communication including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator; or

(ii) Performs mortgage loan processing or underwriting activities as an independent contractor.

(s) “Nationwide Mortgage Licensing System and Registry” has the meaning stated in § 11–501 of this title.

(t) “Nontraditional mortgage product” means any mortgage product other than a 30–year fixed rate mortgage loan.

(u) “Person” has the meaning stated in § 11–501 of this title.

(v) “Real estate brokerage activity” means any activity for which a license is required under Title 17 of the Business Occupations and Professions Article.

(w) “Registered mortgage loan originator” means any individual who:

(1) Is a mortgage loan originator;

(2) Is an employee of:

(i) A depository institution;

(ii) A subsidiary that is:

1. Owned and controlled by a depository institution; and

2. Regulated by a federal banking agency; or

(iii) An institution regulated by the Farm Credit Administration;
and

(3) Is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(x) "Residential real estate" has the meaning stated in § 11-501 of this title.

~~(y) "TRANSITIONAL MORTGAGE LOAN ORIGINATOR LICENSE" MEANS A LICENSE ISSUED BY THE COMMISSIONER UNDER § 11-605.1 OF THIS SUBTITLE.~~

~~[(y)] (z)~~ "Unique identifier" means a number or other identifier assigned by the Nationwide Mortgage Licensing System and Registry.

~~11-602.~~

~~(a) (1) The licensing provisions of this subtitle do not apply to independent contractors.~~

~~(2) Independent contractors are subject to the licensing provisions of Subtitle 5 of this title unless exempt from licensing under that subtitle.~~

~~(b) Unless exempted from this subtitle under subsection (d) of this section, an individual may not engage in the business of a mortgage loan originator unless the individual holds a valid license issued under this subtitle.~~

~~(c) Each licensee shall obtain and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry:~~

~~(1) On obtaining an initial or renewal license on or after July 1, 2009;~~
~~or~~

~~(2) If the Commissioner has not joined the Nationwide Mortgage Licensing System and Registry as of July 1, 2009, on or after the date that the Commissioner joins, as instructed by the Commissioner by notice to the licensee.~~

~~(d) The following individuals are exempt from this subtitle:~~

~~(1) A registered mortgage loan originator, when acting for an entity described in § 11-601(w) of this subtitle;~~

~~(2) An individual who offers or negotiates the terms of a mortgage loan with or on behalf of an immediate family member of the individual;~~

~~(3) An individual who offers or negotiates the terms of a mortgage loan secured by a dwelling that served as the individual's residence;~~

~~(4) A licensed attorney who negotiates the terms of a mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a mortgage lender, a mortgage broker, or a mortgage loan originator, or by an agent of a mortgage lender, mortgage broker, or mortgage loan originator; and~~

~~(5) Subject to subsection (e) of this section, an individual loan servicer.~~

~~(e) The exemption under subsection (d)(5) of this section is subject to modification by regulations that are adopted by the Commissioner and consistent with any applicable written interpretations of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 by the United States Department of Housing and Urban Development presented through commentaries, guidelines, rules, regulations, or interpretive letters.~~

~~(f) The Commissioner may adopt regulations to carry out this subtitle.~~

~~11-605.1.~~

~~(A) IN ANTICIPATION OF THE SATISFACTION OF ALL OF THE REQUIREMENTS NECESSARY TO OBTAIN A LICENSE AS A MORTGAGE LOAN ORIGINATOR UNDER THIS SUBTITLE, THE COMMISSIONER MAY ISSUE A TRANSITIONAL MORTGAGE LOAN ORIGINATOR LICENSE TO:~~

~~(1) AN INDIVIDUAL WHO HAS MAINTAINED A LICENSE TO ORIGINATE MORTGAGE LOANS UNDER THE LAWS OF ANOTHER STATE; OR~~

~~(2) TO THE EXTENT PERMITTED UNDER THIS SUBTITLE OR ANY REGULATIONS ADOPTED TO IMPLEMENT THIS SUBTITLE, AN INDIVIDUAL WHO WAS FORMERLY REGISTERED TO ORIGINATE MORTGAGE LOANS ON BEHALF OF A FINANCIAL INSTITUTION.~~

~~(B) TO APPLY FOR A TRANSITIONAL MORTGAGE LOAN ORIGINATOR LICENSE, AN APPLICANT SHALL:~~

~~(1) COMPLETE, SIGN, AND SUBMIT TO THE COMMISSIONER AN APPLICATION MADE UNDER OATH ON THE FORM THAT THE COMMISSIONER REQUIRES; AND~~

~~(2) COMPLY WITH ALL CONDITIONS AND PROVISIONS OF THE APPLICATION FOR A LICENSE.~~

~~(C) WITH EACH APPLICATION, THE APPLICANT SHALL PAY TO THE COMMISSIONER A NONREFUNDABLE LICENSE FEE IN AN AMOUNT SET BY THE COMMISSIONER.~~

~~(D) THE APPLICATION SHALL INCLUDE:~~

~~(1) THE NAME AND RESIDENTIAL ADDRESS OF THE APPLICANT;~~

~~(2) THE ADDRESS OF THE APPLICANT'S EMPLOYER OR THE ADDRESS WHERE THE APPLICANT WILL ACT AS A TRANSITIONAL MORTGAGE LOAN ORIGINATOR;~~

~~(3) A CERTIFICATION THAT:~~

~~(i) 1. THE APPLICANT WAS LICENSED TO ORIGINATE MORTGAGE LOANS UNDER THE LAWS OF ANOTHER STATE; OR~~

~~2. TO THE EXTENT THE TRANSITIONAL MORTGAGE LOAN ORIGINATOR LICENSE IS BASED ON REGISTRATION UNDER FEDERAL LAW, THE APPLICANT WAS REGISTERED TO ORIGINATE MORTGAGE LOANS ON BEHALF OF A COVERED FINANCIAL INSTITUTION WITHIN THE 2 MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE FILING OF THE APPLICATION; AND~~

~~(ii) THE APPLICANT ORIGINATED MORTGAGE LOANS UNDER A LICENSE OR REGISTRATION FOR A PERIOD OF NO LESS THAN 2 YEARS; AND~~

~~(4) AN ATTESTATION BY A SENIOR OFFICER OR PRINCIPAL OF A MORTGAGE LENDER OR MORTGAGE BROKER LICENSED UNDER SUBTITLE 5 OF THIS TITLE THAT THE APPLICANT CURRENTLY IS EMPLOYED BY THE LICENSEE.~~

~~(E) AN APPLICANT FOR A TRANSITIONAL MORTGAGE LOAN ORIGINATOR LICENSE SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS UNDER THIS SUBTITLE:~~

~~(1) FINGERPRINTING AND A CRIMINAL HISTORY RECORDS CHECK; AND~~

~~(2) SURETY BOND COVERAGE.~~

~~(F) THE COMMISSIONER MAY NOT ISSUE A TRANSITIONAL MORTGAGE LOAN ORIGINATOR LICENSE UNLESS THE COMMISSIONER MAKES, AT A MINIMUM, THE FOLLOWING FINDINGS:~~

~~(1) THE APPLICANT HAS NEVER HAD A MORTGAGE LOAN ORIGINATOR LICENSE DENIED, REVOKED, OR SUSPENDED IN ANY FEDERAL, STATE, OR LOCAL JURISDICTION;~~

~~(2) THE APPLICANT HAS NOT BEEN CONVICTED OF, OR PLED GUILTY OR NOLO CONTENDERE TO, A FELONY IN A DOMESTIC, FOREIGN, OR MILITARY COURT; AND~~

~~(3) THE APPLICANT HAS A VALID UNIQUE IDENTIFIER.~~

~~(G) A LICENSE ISSUED UNDER THIS SECTION:~~

~~(1) AUTHORIZES AN INDIVIDUAL TO ACT AS A MORTGAGE LOAN ORIGINATOR FOR A TRANSITIONAL PERIOD DURING WHICH THE INDIVIDUAL PURSUES THE REQUIREMENTS TO BECOME A LICENSEE UNDER THIS SUBTITLE; AND~~

~~(2) IS LIMITED TO A TERM OF NO MORE THAN 6 MONTHS AND MAY NOT BE RENEWED OR EXTENDED BY THE COMMISSIONER.~~

11-612.3.

(A) TO EXPEDITE THE ISSUANCE OF A LICENSE TO AN APPLICANT WHO, WITHIN 45 DAYS BEFORE THE DATE OF APPLICATION FOR THE LICENSE, WAS EMPLOYED AS A REGISTERED MORTGAGE LOAN ORIGINATOR, THE COMMISSIONER SHALL WAIVE, AS APPLICABLE, THE STATE CRIMINAL HISTORY RECORDS CHECK.

(B) THE COMMISSIONER SHALL PUBLISH PROMINENTLY ON THE COMMISSIONER'S WEB SITE, OR HAVE PUBLISHED ON A THIRD-PARTY WEB SITE USED FOR LICENSING MORTGAGE LOAN ORIGINATORS IN THE STATE, THE EXPEDITED PROCESS FOR THE ISSUANCE OF A LICENSE UNDER THIS SECTION.

(C) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

Approved by the Governor, May 15, 2014.