

Chapter 732

(Senate Bill 1068)

AN ACT concerning

Financial Consumer Protection Act of 2018

FOR the purpose of authorizing a lender to elect to make a certain loan to a borrower under certain circumstances; providing that certain provisions of law do not apply to certain loans under certain circumstances; prohibiting certain persons from making certain loans under certain circumstances; providing that certain loans are void and unenforceable under certain circumstances; prohibiting certain persons from ~~receiving or retaining certain principal, interest, fees, or other compensation~~ collecting or attempting to collect in a certain manner certain money or enforcing or attempting to enforce a certain contract in a certain manner under certain circumstances; prohibiting certain persons from selling, assigning, or otherwise transferring certain loans under certain circumstances; authorizing a certain lender to collect a certain rate of interest, charge, discount, or other consideration; altering the circumstances under which certain lenders may make certain loans; altering the application of ~~specified~~ certain provisions of law regarding interest and usury and certain small consumer loans; altering a certain prohibition on a certain lender contracting for, charging, or receiving certain fees or charges; altering a certain prohibition on a certain lender taking a certain security interest; altering a certain prohibition on a person lending a specified amount under certain circumstances; prohibiting a certain person from collecting or attempting to collect a certain amount from a borrower; repealing a certain prohibition against a lender taking certain actions; altering the definition of “unfair or deceptive trade practice” to be “unfair, abusive, or deceptive trade practice”; providing that unfair, abusive, or deceptive trade practices include violations of the federal Military Lending Act or the federal Servicemembers Civil Relief Act; altering certain civil penalties for certain violations of the Maryland Consumer Protection Act or State financial laws and provisions regarding ~~consumer reporting agencies~~ collection agencies, mortgage lenders, mortgage loan originators, check cashers, money transmitters, and debt management services; ~~requiring a consumer reporting agency to provide a certain notification of a breach of the security of a system; altering the requirement that a consumer reporting agency re-investigate and record certain information;~~ prohibiting a certain collector from engaging in a certain unlicensed debt collection activity and certain conduct under certain circumstances; prohibiting a consumer reporting agency from charging for any service relating to a security freeze; altering a certain notice that must be included with a certain summary of rights provided to a consumer; specifying the purpose of certain provisions of law; requiring the Commissioner of Financial Regulation and the Office of the Attorney General to use certain authority to bring certain civil actions or proceedings under certain circumstances; requiring the Governor to appropriate certain amounts in the annual State budget for the Commissioner and the Office; requiring the Commissioner and the Office to use certain funds for certain purposes; ~~providing that a certain person~~

~~is a fiduciary and has a certain duty; requiring a certain person to disclose to a client certain information and to make a certain inquiry; authorizing the Commissioner of Securities of the Office of the Attorney General to adopt certain regulations; requiring the Standing Committee on Rules of Practice and Procedure of the Court of Appeals and the Commissioner of Financial Regulation to adopt certain rules consistent with a certain model act; requiring a certain person who makes installment loans or engages in credit services business activities to be licensed under certain provisions of law and specifying that the person is subject to certain provisions; requiring certain licensing, investigatory, enforcement, and penalty provisions to be interpreted, construed, and applied in a certain manner; altering the definition of "mortgage loan originator" to include a certain seller of a manufactured home; providing that certain revenues received from licensing of certain individuals is deposited in the Nondepository Special Fund; expanding the uses and purpose of the Fund; requiring the Commissioner of Financial Regulation to designate an individual to serve as the Student Loan Ombudsman; *requiring a certain student loan servicer to designate an individual to represent the student loan servicer in certain communications; requiring a certain student loan servicer to provide the Student Loan Ombudsman certain information;* establishing the duties and responsibilities of the Student Loan Ombudsman; requiring the Student Loan Ombudsman, in consultation with the Commissioner, to establish a certain student loan borrower education course; establishing the requirements of the course; prohibiting a person from engaging in student education loan servicing unless the person is licensed by the Commissioner or is exempt from licensing; establishing the application requirements for a student loan servicer license; requiring the Commissioner to investigate certain information under certain circumstances; requiring a certain person to provide fingerprints and pay a certain fee under certain circumstances; requiring the Commissioner to issue or deny an application for a student education loan servicing license under certain circumstances; specifying the expiration date of a certain license; establishing the requirements and procedures for the renewal of a student education loan servicing license; providing for the effective date of a certain initial license under certain circumstances; authorizing the Commissioner to refuse to approve a renewal license application under certain circumstances; establishing procedures regarding the abandonment of certain license applications specifying certain qualifications for an applicant to qualify for a certain license; requiring a certain applicant to provide certain information to the Nationwide Mortgage Licensing System and Registry; specifying the application requirement process, including the license and investigation fees; requiring a certain applicant to file a certain surety bond; requiring the Commissioner to conduct a certain investigation under certain circumstances; requiring the process for when an applicant does not meet certain requirements; establishing the term of a certain license; requiring a certain licensee who ceases engaging in student education loan servicing to surrender a certain license under certain circumstances; providing that a certain surrender of a license does not reduce or eliminate certain liability; requiring the Commissioner to automatically suspend a certain license under certain circumstances; establishing the duties, responsibilities, and requirements of a licensee; authorizing the Commissioner to issue more than one license to a licensee;~~

~~prohibiting a licensee from transferring or assigning a license; authorizing the Commissioner to investigate and inspect certain records; authorizing the Commissioner to extend the time a licensee has to send certain records; prohibiting a licensee from taking or failing to take certain actions, making certain misrepresentations or omissions, or causing certain harm; authorizing a licensee to adopt certain procedures; authorizing the Commissioner to conduct certain investigations and examinations and certain related actions; requiring the Commissioner to review, investigate, or examine a certain licensee under certain circumstances; requiring the Commissioner to have certain access to certain books, accounts, records, files, documents, information, or evidence; authorizing the Commissioner to control access to certain documents and records and take certain actions; prohibiting a person from removing or attempting to remove certain documents or records under certain circumstances; requiring a licensee or a certain owner to have access to certain documents and records under certain circumstances; prohibiting a licensee or a certain person from knowingly taking certain actions; authorizing the Commissioner to take certain actions to enforce and carry out this Act under certain circumstances; authorizing the Commissioner to take certain enforcement actions against a certain student loan servicer who is not licensed; requiring the Commissioner to provide a certain notice and a certain option; authorizing the Commissioner to take certain actions authorized under certain banking laws under certain circumstances; prohibiting the Commissioner from refunding certain fees requiring a certain licensee to preserve certain records and communications with certain borrowers; requiring a licensee to comply with certain federal laws; specifying the process when a licensee receives a certain nonconforming payment on a certain loan; prohibiting a certain licensee from certain actions; authorizing the Commissioner to hire certain individuals; authorizing the Commissioner to conduct certain investigations; authorizing the Commissioner to enforce certain provisions of law against certain persons; authorizing the Commissioner to suspend or revoke a certain license under certain circumstances; requiring the Commissioner to provide a certain licensee an opportunity for a certain hearing before taking certain action; providing that a certain licensee that fails to comply with certain requirements is liable to a certain borrower for certain damages; establishing certain reporting requirements; ~~requiring the Commissioner to adopt certain regulations; requiring that certain revenue received for licensing certain persons be credited to the Fund;~~ requiring the Commissioner to conduct a certain study to assess whether the Commissioner has certain statutory authority to regulate certain firms and issue a certain report; requiring the Maryland Financial Consumer Protection Commission to ~~study cryptocurrencies and other blockchain technologies~~ conduct certain studies and include certain recommendations in a report; providing for the application of certain provisions of this Act; making the provisions of this Act severable; requiring the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, to correct any cross-references or terminology rendered incorrect by this Act and to describe any corrections made in an editor's note following the section affected; defining and altering certain terms; making stylistic and conforming changes; providing for a delayed effective date for certain provisions~~

of this Act; providing for the application of certain provisions of this Act; and generally relating to financial consumer protection laws.

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 7-101(i), ~~7-102~~, and 7-205(b)

Annotated Code of Maryland

(2015 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 12-101, 12-111, 12-112, 12-114, ~~12-301~~, 12-303, 12-311(c), 12-314, ~~12-401(c)~~, 12-601(k), 13-101(k), 13-301, 13-303, 13-410, 14-202, ~~14-1206~~, ~~14-1208~~, 14-1212.1(i) and (j), 14-1212.2(c)(1), (g), and (i), and 14-1212.3(i), ~~and 14-1218(a)~~

Annotated Code of Maryland

(2013 Replacement Volume and 2017 Supplement)

BY adding to

Article – Commercial Law

Section ~~12-114.1~~ 12-101.1, 12-114.1, and 12-402.1; and 14-4101 through 14-4104 to be under the new subtitle “Subtitle 41. Financial Consumer Protection”

Annotated Code of Maryland

(2013 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,

Article – Commercial Law

Section ~~12-401(a) and (b)~~, 12-601(f), and 14-1212.1(l)

Annotated Code of Maryland

(2013 Replacement Volume and 2017 Supplement)

~~BY adding to~~

~~Article – Corporations and Associations~~

~~Section 11-803~~

~~Annotated Code of Maryland~~

~~(2014 Replacement Volume and 2017 Supplement)~~

~~BY adding to~~

~~Article – Courts and Judicial Proceedings~~

~~Section 3-230.1~~

~~Annotated Code of Maryland~~

~~(2013 Replacement Volume and 2017 Supplement)~~

BY repealing

Article – Commercial Law

Section 12-313

Annotated Code of Maryland
(2013 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,

Article – Financial Institutions

Section ~~2-105.1(b), 11-303, 11-601(e)~~ 2-115(b), 2-116(b), ~~11-219~~ 11-201(e),
11-517(c), ~~11-610~~, 11-615(c), 12-126, 12-426(e)(2), and 12-928

Annotated Code of Maryland

(2011 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, without amendments,

Article – Financial Institutions

Section ~~11-303~~ 11-201(a), 11-504, 11-602(b), 12-105(a), 12-405(a), and 12-906(a)

Annotated Code of Maryland

(2011 Replacement Volume and 2017 Supplement)

BY adding to

Article – Financial Institutions

Section ~~2-104.1, and 12-1101 through 12-1110 12-1125 to be under the new subtitle~~
~~“Subtitle 11. Student Loan Servicers”~~

Annotated Code of Maryland

(2011 Replacement Volume and 2017 Supplement)

Preamble

WHEREAS, The Maryland Financial Consumer Protection Commission was created by statute in 2017 to monitor changes in Washington and on Wall Street and make recommendations for action to the Governor, the General Assembly of Maryland, and the Maryland Congressional delegation as necessary to safeguard Maryland consumers; and

WHEREAS, The commission held two public hearings with testimony from 11 witnesses and conducted significant research; and

WHEREAS, The 2008 international financial crisis was years in the making. When it erupted, it exposed the deficiencies in prior public policies and regulatory structures and clearly showed that policies and practices that fostered, and in some cases, encouraged, excessive risk taking were detrimental to the economy in general and particularly to the American consumers who were, in many cases, victimized by bad financial practices; and

WHEREAS, Congress and the President, recalling the lessons of earlier financial crises, came together to update the rules of the road for consumer protection and the financial markets; and

WHEREAS, To protect the American economy, Congress passed the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd–Frank) along with

implementing regulations adopted by the federal financial and consumer regulatory agencies; and

WHEREAS, In the years since the passage of these major reforms, along with significant monetary policy easing and fiscal stimulus, credit is flowing and the economy has significantly recovered; and

WHEREAS, Corporate and industrial loans as well as overall loans in the banking sector have grown significantly since pre-crisis levels, 35% and 31% respectively, and the financial system is back to pre-crisis levels of activity; and

WHEREAS, Bank profits were at record levels in 2016 and, in the third quarter of 2017, the banking industry's average return on assets was at a 10-year high; and

WHEREAS, The number of complaints filed by Marylanders with the Consumer Financial Protection Bureau (CFPB) is over 12,000, with the majority relating to mortgages (including loan servicing and foreclosures), debt collectors, and credit reporting; and

WHEREAS, Recent federal action to roll back certain financial consumer protections may prove detrimental to Marylanders; and

WHEREAS, The new Administration, working with Congress, has made efforts to loosen a variety of the postcrisis reforms, including personnel appointments, use of the Congressional Review Act, Congress's legislative efforts, and regulatory and administrative actions; and

WHEREAS, In light of the retrenchment on the federal level, the commission recommended that Maryland take steps to further protect consumers and investors; and

WHEREAS, Many consumer protection and financial-sector issues must be addressed at the federal level; and

WHEREAS, The General Assembly of Maryland urges the Maryland Congressional delegation remain focused on the need to maintain strong and balanced financial consumer protection laws and regulations at the federal level; and

WHEREAS, The General Assembly of Maryland recommends that the delegation continue to support the independence of CFPB; and

WHEREAS, The General Assembly of Maryland further recommends that the delegation support full funding for crucial market regulators, including the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission; and

WHEREAS, The General Assembly of Maryland requests that the delegation regularly weigh in on behalf of everyday Marylanders with comment letters to and oversight of the financial and consumer regulators to maintain critical financial consumer

protections at the federal level as well as preserve the State's authority to protect its citizens locally through, for instance, opposition to the OCC special Fintech charter; and

WHEREAS, While some safeguards can only be addressed in Washington, particularly with regards to protecting against systemic risk and the failure of the largest banks, other states are taking actions to fill new gaps in financial consumer protection; now, therefore,

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

Article – Business Regulation

7-101.

(i) “Licensed collection agency” means a person who is [licensed by the Board to do business as a collection agency] REQUIRED TO BE LICENSED UNDER THIS SUBTITLE, REGARDLESS OF WHETHER THE PERSON IS ACTUALLY LICENSED.

~~7-102.~~

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

~~(2) “Common ownership” means direct or indirect ownership of more than 50% of a person.~~

~~(3) “Principal business” means a business activity of a person that comprises more than 50% of the total business activities of the person.~~

~~(b) This title does not apply to:~~

~~(1) a bank;~~

~~(2) a federal or State credit union;~~

~~(3) a mortgage lender;~~

~~(4) a person acting under an order of a court of competent jurisdiction;~~

~~(5) a licensed real estate broker, or an individual acting on behalf of the real estate broker, in the collection of rent or allied charges for property;~~

~~(6) a savings and loan association;~~

~~(7) a title company as to its escrow business;~~

~~(8) a trust company;~~

~~(9) a lawyer who is collecting a debt for a client, unless the lawyer has an employee who:~~

~~(i) is not a lawyer; and~~

~~(ii) is engaged primarily to solicit debts for collection or primarily makes contact with a debtor to collect or adjust a debt through a procedure identified with the operation of a collection agency; ~~or~~~~

~~(10) a person who is collecting a debt for another person if:~~

~~(i) both persons are related by common ownership;~~

~~(ii) the person who is collecting a debt does so only for those persons to whom it is related by common ownership;~~

~~(iii) the principal business of the person who is collecting a debt is not the collection of debts; and~~

~~(iv) before collecting a debt, the person files with the Board:~~

~~1. the correct name of the person;~~

~~2. an address and telephone number of a contact person; and~~

~~3. the name of the person's resident agent; OR~~

~~(11) A LICENSED STUDENT LOAN SERVICER.~~

7-205.

(b) If a violator fails to comply with a lawful order issued by the Board, the Board may impose a penalty [of up to \$500] NOT EXCEEDING \$10,000 for each violation cited in the order, not to exceed [\$5,000] \$25,000, from which the violator failed to cease and desist or for which the violator failed to take affirmative action to correct, as ordered by the Board.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Commercial Law

12-101.

(a) In this subtitle the following words have the meanings indicated.

- (b) “Borrower” means a person who borrows money under this subtitle.
- (c) “Commercial loan” means a loan which is made:
- (1) Solely to acquire or carry on a business or commercial enterprise; or
 - (2) To any business or commercial organization.

(d) “Effective rate of simple interest” means the yield to maturity rate of interest received or to be received by a lender on the face amount of a loan, computed in accordance with § 12-107 of this subtitle.

(e) “Interest” means, except as specifically provided in § 12-105 of this subtitle, any compensation directly or indirectly imposed by a lender for the extension of credit for the use or forbearance of money, including any loan fee, origination fee, service and carrying charge, investigator’s fee, time-price differential, and any amount payable as a discount or point or otherwise payable for services.

(f) “Lender” means A LICENSEE OR a person who makes a loan ~~under~~ SUBJECT TO this subtitle.

(G) “LICENSEE” MEANS A PERSON THAT IS REQUIRED TO BE LICENSED TO MAKE LOANS SUBJECT TO THIS SUBTITLE, REGARDLESS OF WHETHER THE PERSON IS ACTUALLY LICENSED.

(H) (1) “LOAN” MEANS A LOAN OR AN ADVANCE OF MONEY OR CREDIT SUBJECT TO THIS SUBTITLE, REGARDLESS OF WHETHER THE LOAN OR ADVANCE OF MONEY OR CREDIT IS OR PURPORTS TO BE MADE UNDER THIS SUBTITLE.

(2) “LOAN” DOES NOT INCLUDE A:

(I) A LOAN OR ADVANCE OF MONEY OR CREDIT SUBJECT TO SUBTITLE 3 OF THIS TITLE, UNLESS A WRITTEN ELECTION IS MADE UNDER § 12-101.1 OF THIS SUBTITLE;

(II) A PLAN OR LOAN FOR WHICH A WRITTEN ELECTION IS MADE UNDER SUBTITLE 3, SUBTITLE 4, SUBTITLE 9, OR SUBTITLE 10 OF THIS TITLE; OR

(III) AN INSTALLMENT SALE AGREEMENT AS DEFINED IN § 12-601 OF THIS TITLE.

[(g)] ~~(H)~~ (I) “Person” includes an individual, corporation, business trust, statutory trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

[(h)] ~~(H)~~ (J) “Point” means a fee, premium, bonus, loan origination fee, service charge, or any other charge equal to 1 percent of the principal amount of a loan which is charged by the lender at or before the time the loan is made as additional compensation for the loan.

[(i)] ~~(I)~~ (K) “Simple interest” means interest charged on the principal amount loaned to the borrower.

[(j)] ~~(J)~~ (L) “Stated rate of interest” means the annual rate of interest stated in percentage which appears on the face of the bond, draft, mortgage, deed of trust, security agreement, promissory note, or other instrument which evidences the indebtedness.

[(k)] ~~(K)~~ (M) “Usury” means the charging of interest by a lender in an amount which is greater than that allowed by this subtitle.

[(l)] ~~(L)~~ (N) “Wages” means all remuneration paid to any employee for ~~his~~ **THE EMPLOYEE’S** employment, including the cash value of all remuneration paid in any medium other than cash.

12-101.1.

(A) ON OR AFTER JANUARY 1, 2019, A LENDER MAY, AT THE LENDER’S OPTION, ELECT TO MAKE A LOAN TO ANY BORROWER EITHER UNDER THIS SUBTITLE OR AS OTHERWISE AUTHORIZED BY APPLICABLE LAW.

(B) IF A LENDER MAKES A WRITTEN ELECTION IN THE AGREEMENT, NOTE, OR OTHER EVIDENCE OF THE LOAN SPECIFYING THAT THIS SUBTITLE WILL GOVERN THE LOAN, SUBTITLES 3, 4, 5, 6, 9, AND 10 OF THIS TITLE DO NOT APPLY TO THE LOAN.

(C) IF A LENDER THAT MAKES OR CONTRACTS TO MAKE A LOAN DOES NOT MAKE A WRITTEN ELECTION UNDER THIS SUBTITLE OR SUBTITLE 3, SUBTITLE 4, SUBTITLE 9, OR SUBTITLE 10 OF THIS TITLE, THIS SUBTITLE STILL APPLIES TO THE LOAN IF THE LOAN IS:

- (1) FOR AN AMOUNT OVER \$25,000; OR**
- (2) (I) FOR AN AMOUNT OF \$25,000 OR LESS; AND**
- (II) NOT SUBJECT TO SUBTITLE 3 OF THIS TITLE.**

12-111.

(A) THIS SECTION DOES NOT APPLY TO A LOAN SUBJECT TO § 12-114.1 OF THIS SUBTITLE.

(B) [An] A PRIVATE action for usury under this subtitle may not be brought more than **[six] 6** months after the loan is satisfied.

12-112.

(A) THIS SECTION DOES NOT APPLY TO A LOAN SUBJECT TO § 12-114.1 OF THIS SUBTITLE.

(B) A claim or plea of usury is not available against a legal or equitable assignee, endorsee, or transferee of any bond, draft, mortgage, deed of trust, security agreement, promissory note, or other instrument or evidence of indebtedness, if he receives it for a bona fide and legal consideration without notice of any usury in its creation or subsequent assignment.

12-114.

(A) THIS SECTION DOES NOT APPLY TO A LOAN SUBJECT TO § 12-114.1 OF THIS SUBTITLE.

[(a)] (B) (1) Any person who violates the usury provisions of this subtitle shall forfeit to the borrower the greater of:

(i) Three times the amount of interest and charges collected in excess of the interest and charges authorized by this subtitle; or

(ii) The sum of \$500.

(2) A claim or plea of usury is not valid if, within 30 days from the date the loan contract was executed, the lender:

(i) Notifies the borrower and any other party to the loan contract that the loan was usurious; and

(ii) Agrees to modify it by substituting for the usurious rate of interest a legal rate of interest not exceeding the stated rate of interest.

[(b)] (C) Any person who violates the disclosure provisions of § 12-106 (b) and (c) of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding **[one] 1** year or both.

~~[(c)]~~ (D) Even if a loan document is executed outside of the State, this section is applicable if the loan is made to a resident of Maryland and is secured by property located within the State.

12-114.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “COVERED LOAN” MEANS A LOAN SUBJECT TO § 12-103(A)(3) OR (C) OF THIS SUBTITLE, MADE FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES, REGARDLESS OF WHETHER THE LOAN IS OR PURPORTS TO BE MADE UNDER THIS SUBTITLE.

(II) “COVERED LOAN” DOES NOT INCLUDE ~~A LOAN SUBJECT TO SUBTITLE 3 OF THIS TITLE;~~

1. A LOAN OR AN ADVANCE OF MONEY OR CREDIT SUBJECT TO SUBTITLE 3 OF THIS TITLE, UNLESS A WRITTEN ELECTION IS MADE UNDER § 12-101.1 OF THIS SUBTITLE;

2. A PLAN OR LOAN FOR WHICH A WRITTEN ELECTION HAS BEEN MADE UNDER SUBTITLE 3, SUBTITLE 4, SUBTITLE 9, OR SUBTITLE 10 OF THIS TITLE; OR

3. AN INSTALLMENT SALE AGREEMENT AS DEFINED IN § 12-601 OF THIS TITLE.

~~(3) “OUT-OF-STATE LENDER” MEANS A PERSON WHO MAKES A LOAN VALIDLY IN ANOTHER STATE THAT COMPLIES WITH A COMPARABLE LOAN LAW OF THE OTHER STATE.~~

~~(4)~~ (3) “UNLICENSED PERSON” MEANS A PERSON WHO IS NOT:

(I) LICENSED IN THE STATE TO MAKE A COVERED LOAN; AND

(II) EXEMPT FROM LICENSING IN THE STATE.

(B) THIS SECTION APPLIES TO A COVERED LOAN MADE ~~BY A PERSON DOMICILED IN ANOTHER STATE TO A BORROWER WHO IS A RESIDENT OF THE STATE IF THE APPLICATION FOR THE LOAN ORIGINATED IN THE STATE~~ TO ANY PERSON.

(C) (1) AN UNLICENSED PERSON MAY NOT MAKE A COVERED LOAN.

(2) A PERSON MAY NOT MAKE A COVERED LOAN IF THE PERSON DIRECTLY OR INDIRECTLY CONTRACTS FOR, CHARGES, OR RECEIVES A RATE OF INTEREST, CHARGE, DISCOUNT, OR OTHER CONSIDERATION THAT IS GREATER THAN THE AMOUNT AUTHORIZED UNDER STATE LAW.

(3) A PERSON MAY NOT MAKE A COVERED LOAN THAT VIOLATES THE FEDERAL MILITARY LENDING ACT.

(D) (1) ~~EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION, A~~ COVERED LOAN MADE BY AN UNLICENSED PERSON IS VOID AND UNENFORCEABLE.

(2) (I) ~~EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION AND~~ SUBPARAGRAPH (II) OF THIS PARAGRAPH, A COVERED LOAN IS VOID AND UNENFORCEABLE IF A PERSON CONTRACTS FOR A COVERED LOAN THAT HAS A RATE OF INTEREST, CHARGE, DISCOUNT, OR OTHER CONSIDERATION GREATER THAN THE AMOUNT AUTHORIZED UNDER STATE LAW.

(II) A COVERED LOAN IS NOT VOID AND UNENFORCEABLE IF:

1. A CLERICAL ERROR OR MISTAKE RESULTED IN THE RATE OF INTEREST, CHARGE, DISCOUNT, OR OTHER CONSIDERATION BEING GREATER THAN THE AMOUNT AUTHORIZED UNDER STATE LAW; AND

2. A PERSON CORRECTS THE ERROR OR MISTAKE BEFORE ~~ANY PAYMENT IS RECEIVED~~ THE FIRST PAYMENT IS DUE UNDER THE LOAN.

(3) A COVERED LOAN THAT VIOLATES THE FEDERAL MILITARY LENDING ACT IS VOID AND UNENFORCEABLE.

~~(4) A PERSON MAY NOT RECEIVE OR RETAIN ANY PRINCIPAL, INTEREST, FEES, OR OTHER COMPENSATION WITH RESPECT TO ANY LOAN THAT IS VOID AND UNENFORCEABLE UNDER THIS SECTION.~~

~~(5) A PERSON MAY NOT SELL, ASSIGN, OR OTHERWISE TRANSFER A LOAN THAT IS VOID AND UNENFORCEABLE UNDER THIS SECTION.~~

~~(6) (I) IF AN OUT-OF-STATE LENDER MAKES A COVERED LOAN, THE COVERED LOAN IS NOT VOID AND UNENFORCEABLE.~~

~~(II) AN OUT-OF-STATE LENDER MAY NOT COLLECT A RATE OF INTEREST, CHARGE, DISCOUNT, OR OTHER CONSIDERATION THAT IS GREATER THAN THE AMOUNT AUTHORIZED UNDER STATE LAW.~~

(4) WITH RESPECT TO A LOAN THAT IS VOID AND UNENFORCEABLE UNDER THIS SECTION, A PERSON MAY NOT:

(I) COLLECT OR ATTEMPT TO COLLECT, DIRECTLY OR INDIRECTLY, ANY AMOUNT FROM THE BORROWER;

(II) ENFORCE OR ATTEMPT TO ENFORCE THE CONTRACT AGAINST ANY PROPERTY SECURING THE LOAN; OR

(III) SELL, ASSIGN, OR OTHERWISE TRANSFER THE LOAN TO ANOTHER PERSON.

12-301.

(a) In this subtitle the following words have the meanings indicated.

(b) “Commissioner” means the Commissioner of Financial Regulation.

(c) “Lender” means a LICENSEE OR A person who makes a loan [under] SUBJECT TO this subtitle.

(d) “Licensee” means a person who is REQUIRED TO BE licensed under Title 11, Subtitle 2 of the Financial Institutions Article, the Maryland Consumer Loan Law — Licensing Provisions, REGARDLESS OF WHETHER THE PERSON IS ACTUALLY LICENSED.

(e) **(1) “Loan” means any loan or advance of money or credit [made under] SUBJECT TO this subtitle, REGARDLESS OF WHETHER THE LOAN OR ADVANCE OF MONEY OR CREDIT IS OR PURPORTS TO BE MADE UNDER THIS SUBTITLE.**

(2) “LOAN” DOES NOT INCLUDE AN INSTALLMENT SALE AGREEMENT AS DEFINED IN § 12-601 OF THIS TITLE.

(f) “Person” includes an individual, corporation, business trust, statutory trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(g) “Wages” means all remuneration paid to any employee for [his] THE EMPLOYEE’S employment, including the cash value of all remuneration paid in any medium other than cash.

12-303.

(A) (1) THIS SUBTITLE APPLIES TO A LOAN OF \$25,000 OR LESS MADE FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES.

(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, THIS SUBTITLE APPLIES REGARDLESS OF:

(I) WHETHER THE TRANSACTION IS OR PURPORTS TO BE MADE UNDER THIS SUBTITLE;

(II) WHETHER THE TRANSACTION IS OR PURPORTS TO BE AN INSTALLMENT LOAN;

(III) THE DURATION OF THE REPAYMENT PERIOD;

(IV) WHETHER THE TRANSACTION IS OR PURPORTS TO BE NONRECOURSE OR CONTINGENT; AND

(V) WHETHER THE TRANSACTION PURPORTS TO BE THE PURCHASE OF WAGES, PENSIONS, GOVERNMENTAL BENEFITS, OR OTHER SIMILAR FUTURE PAYMENT STREAMS.

(3) THIS SUBTITLE DOES NOT APPLY TO:

(I) A PLAN OR LOAN FOR WHICH A WRITTEN ELECTION HAS BEEN MADE UNDER SUBTITLE 1, SUBTITLE 4, SUBTITLE 9, OR SUBTITLE 10 OF THIS TITLE;

(II) A LOAN MADE BY AN INDIVIDUAL PROVIDED THE INDIVIDUAL:

1. DOES NOT MAKE MORE THAN THREE LOANS IN A CALENDAR YEAR; AND

2. DOES NOT ENGAGE IN THE BUSINESS OF MAKING LOANS; OR

(III) A LOAN BETWEEN AN EMPLOYER AND AN EMPLOYEE.

~~(B)~~ **(B)** A lender may not make a loan ~~under~~ **SUBJECT TO** this subtitle unless the loan is in an original amount or value which does not exceed ~~[\$6,000]~~ ~~**\$12,000**~~ **\$25,000**.

~~(C)~~ **(C)** (1) The purpose of this subsection is to prevent evasion of the provisions of this subtitle by means of a purchase or assignment of wages.

(2) For the purposes of this subtitle:

(i) The payment of ~~[\$6,000]~~ ~~\$12,000~~ \$25,000 or less in money, credit, goods, or things in action as consideration for any sale, assignment, or order for the payment of wages, whether earned or to be earned, is considered a loan of money secured by the sale, assignment, or order for payment of wages; and

(ii) The amount by which the wages exceed the consideration paid for them is considered interest or charges on the loan from the date of the payment to the date the wages are payable.

(3) The transaction described in this subsection is governed by and subject to the provisions of this subtitle.

~~(D)~~ (D) This subtitle applies but is not limited to a lender who:

(1) As security for a loan, use, or forbearance of money, goods, or things in action or for any loan, use, or sale of credit, whether or not the transaction is or purports to be made under this subtitle, makes a pretended purchase of property from any person and permits the owner or pledgor to retain possession of the property; or

(2) By any device or pretense of charging for his services or otherwise, seeks to obtain any interest, charges, discount, or like consideration.

~~(D) THIS SUBTITLE APPLIES TO A LOAN OR AN ADVANCE OF MONEY OF \$12,000 OR LESS MADE FOR PERSONAL, FAMILY, HOUSEHOLD, OR AGRICULTURAL PURPOSES;~~

~~(1) REGARDLESS OF WHETHER THE TRANSACTION IS OR PURPORTS TO BE MADE UNDER THIS SUBTITLE;~~

~~(2) REGARDLESS OF WHETHER THE TRANSACTION IS OR PURPORTS TO BE AN INSTALLMENT LOAN;~~

~~(3) REGARDLESS OF THE DURATION OF THE REPAYMENT PERIOD;~~

~~(4) REGARDLESS OF WHETHER THE TRANSACTION IS OR PURPORTS TO BE NONRECOURSE OR CONTINGENT; AND~~

~~(5) REGARDLESS OF WHETHER THE TRANSACTION PURPORTS TO BE THE PURCHASE OF WAGES, PENSIONS, GOVERNMENTAL BENEFITS, OR OTHER SIMILAR FUTURE PAYMENT STREAMS.~~

~~(d)~~ (E) (1) A lender who lends or contracts to lend an amount which exceeds ~~[\$6,000]~~ ~~\$12,000~~ \$25,000 may not directly or indirectly contract for, charge, or receive

any interest, fee, or other charge in excess of that which [he] **THE LENDER** would be permitted to charge if [he] **THE LENDER** were not authorized to make loans under this subtitle.

(2) The provisions of this subsection apply to any debt in excess of ~~[\$6,000]~~ ~~\$12,000~~ **\$25,000** which is directly or contingently owed or contracted to be so owed by any person jointly or severally:

(i) Whether as a borrower, an endorser, guarantor, or surety for a borrower, or otherwise; and

(ii) Whether the debt is part of a single transaction or the aggregate of more than one transaction.

12-311.

(c) (1) A lender may not take any security interest in:

(i) Real property for any loan under ~~[\$2,000]~~ **\$4,000** in value or amount; or

(ii) Personal property for any loan under ~~[\$700]~~ **\$1,400** in value or amount.

(2) Any lien taken in violation of this subsection is void.

(3) This subsection does not apply to or affect a lien on an interest in real property which results from a judgment obtained by the lender based on a loan otherwise secured or unsecured.

[12-313.

(a) With respect to any loan, a lender may not:

(1) Directly or indirectly contract for, charge, or receive any interest, discount, fee, fine, commission, charge, brokerage, or other consideration in excess of that permitted by this subtitle;

(2) Divide into separate parts any contract made for the purpose or with the effect of obtaining charges in excess of those permitted by this subtitle; or

(3) Enforce a contract of surety or guarantee unless the loan contract with the borrower is executed also by the surety or guarantor.

(b) If any amount in excess of the charges permitted by this subtitle is directly or indirectly contracted for, charged, or received by a licensee or a person who is exempt from

licensing, and (1) if the excess charge was made willfully for the benefit of the lender, then the lender may not receive or retain any interest or compensation with respect to the loan; or (2) if the excess charge was not made willfully for the benefit of the lender, and if the lender does not correct the error before the borrower makes the next payment on the loan, then the lender is liable to the borrower for an amount equal to three times the excess amount, but the lender may continue to receive principal, interest, or compensation with respect to the loan.]

12-314.

(a) A person may not lend ~~[\$6,000] \$12,000~~ \$25,000 or less if [the]:

(1) **THE** person directly or indirectly contracts for, charges, or receives a greater rate of interest, charge, discount, or other consideration than that authorized by the laws of this State;

(2) **THE TRANSACTION VIOLATES THE FEDERAL MILITARY LENDING ACT; OR**

(3) **THE PERSON IS NOT LICENSED UNDER OR EXEMPT FROM THE LICENSING REQUIREMENTS UNDER THE MARYLAND CONSUMER LOAN LAW – LICENSING PROVISIONS.**

(b) (1) **(I)** A loan made in the amount of ~~[\$6,000] \$12,000~~ \$25,000 or less, **REGARDLESS OF** whether [or not] the loan is or purports to be made under this subtitle, is **VOID AND** unenforceable if [a]:

1. **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PERSON CONTRACTS FOR A LOAN THAT HAS A** rate of interest, charge, discount, or other consideration greater than that authorized [by the laws of this State is contracted for by any person unless the excess rate contracted for is the result of a] **UNDER STATE LAW;**

2. **THE LOAN VIOLATES THE FEDERAL MILITARY LENDING ACT; OR**

3. **A PERSON WHO IS NOT LICENSED UNDER OR EXEMPT FROM THE LICENSING REQUIREMENTS UNDER TITLE 11, SUBTITLE 2 OF THE FINANCIAL INSTITUTIONS ARTICLE MADE THE LOAN.**

(II) A LOAN IS NOT VOID AND UNENFORCEABLE IF:

1. A clerical error or mistake **RESULTED IN THE RATE OF INTEREST, CHARGE, DISCOUNT, OR OTHER CONSIDERATION BEING GREATER THAN THE AMOUNT AUTHORIZED UNDER STATE LAW;** and [the]

2. A person corrects the error or mistake before **THE FIRST PAYMENT IS DUE UNDER THE LOAN** ~~OR BEFORE any payment is received under the loan.~~

(2) [The] A person [who is neither a licensee nor exempt from licensing] may not receive or retain any principal, interest, **FEES**, or other compensation with respect to any loan that is **VOID AND** unenforceable under this subsection.

(3) This subsection does not apply to a person who is ~~a licensee or who is~~ exempt from licensing under this subtitle.

(c) (1) This section does not apply to a loan transaction validly made in another state in compliance with a similar loan law of that state. [However, a]

(2) A lender may not collect an amount that is more than the total amount that would be permitted if this subtitle were applicable.

(3) This section applies to all loans made by a lender domiciled in another state to a borrower who is a resident of this State if the application for the loan originated in this State.

~~(D) A PERSON MAY NOT SELL, ASSIGN, OR OTHERWISE TRANSFER A LOAN THAT IS VOID AND UNENFORCEABLE UNDER THIS SECTION.~~

~~(E) A PERSON MAY NOT COLLECT OR ATTEMPT TO COLLECT, DIRECTLY OR INDIRECTLY, ANY AMOUNT FROM A BORROWER WITH RESPECT TO A LOAN THAT IS VOID AND UNENFORCEABLE UNDER THIS SECTION.~~

(D) WITH RESPECT TO A LOAN THAT IS VOID AND UNENFORCEABLE UNDER THIS SECTION, A PERSON MAY NOT:

(1) COLLECT OR ATTEMPT TO COLLECT, DIRECTLY OR INDIRECTLY, ANY AMOUNT FROM THE BORROWER;

(2) ENFORCE OR ATTEMPT TO ENFORCE THE CONTRACT AGAINST ANY PROPERTY SECURING THE LOAN; OR

(3) SELL, ASSIGN, OR OTHERWISE TRANSFER THE LOAN TO ANOTHER PERSON.

(a) In this subtitle the following words have the meanings indicated.

(b) “Lender” means:

(1) A licensee; or

(2) A person who makes a secondary mortgage loan but is exempt expressly from the licensing requirements of the Maryland Mortgage Lender Law.

(c) “Licensee” means a person who is REQUIRED TO BE licensed under the Maryland Mortgage Lender Law, REGARDLESS OF WHETHER THE PERSON IS ACTUALLY LICENSED.

12-402.1.

(A) (1) ON OR AFTER JANUARY 1, 2019, A LENDER MAY, AT THE LENDER’S OPTION, ELECT TO MAKE A LOAN TO ANY BORROWER EITHER UNDER THIS SUBTITLE OR AS OTHERWISE AUTHORIZED BY APPLICABLE LAW.

(2) IN ORDER TO MAKE A LOAN UNDER THIS SUBTITLE, A LENDER SHALL MAKE A WRITTEN ELECTION IN THE AGREEMENT, NOTE, OR OTHER EVIDENCE OF THE LOAN SPECIFYING THAT THIS SUBTITLE WILL GOVERN THE LOAN.

(B) (1) IF A LENDER ELECTS TO MAKE A LOAN UNDER THIS SUBTITLE IN ACCORDANCE WITH THIS SECTION, SUBTITLES 1, 3, 9, AND 10 OF THIS TITLE DO NOT APPLY TO THE LOAN.

(2) IF A LENDER WHO MAKES OR CONTRACTS TO MAKE A LOAN DOES NOT MAKE A WRITTEN ELECTION UNDER THIS SUBTITLE OR SUBTITLE 1, SUBTITLE 3, SUBTITLE 9, OR SUBTITLE 10 OF THIS TITLE:

(i) SUBTITLE 1 OF THIS TITLE WILL APPLY TO THE LOAN IF THE LOAN IS:

1. FOR AN AMOUNT OVER \$25,000; OR

2. A. FOR AN AMOUNT OF \$25,000 OR LESS; AND

B. NOT SUBJECT TO SUBTITLE 3 OF THIS TITLE; OR

(ii) SUBTITLE 3 OF THIS TITLE WILL APPLY TO THE LOAN IF THE LOAN IS:

1. FOR AN AMOUNT OF \$25,000 OR LESS; AND

2. SUBJECT TO SUBTITLE 3 OF THIS TITLE.

12-601.

(f) “Consumer goods” means goods bought for use primarily for personal, family, or household purposes, as distinguished from industrial, commercial, or agricultural purposes.

(k) (1) “Goods” means all tangible personal property that has a cash price of ~~[\$25,000]~~ **\$100,000** or less.

(2) “Goods” does not include money or things in action.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Commercial Law

13-101.

(k) “Unfair, **ABUSIVE**, or deceptive trade practice” has the meaning stated in Subtitle 3 of this title.

13-301.

Unfair, **ABUSIVE**, or deceptive trade practices include any:

(1) False, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers;

(2) Representation that:

(i) Consumer goods, consumer realty, or consumer services have a sponsorship, approval, accessory, characteristic, ingredient, use, benefit, or quantity which they do not have;

(ii) A merchant has a sponsorship, approval, status, affiliation, or connection which he does not have;

(iii) Deteriorated, altered, reconditioned, reclaimed, or secondhand consumer goods are original or new; or

(iv) Consumer goods, consumer realty, or consumer services are of a particular standard, quality, grade, style, or model which they are not;

(3) Failure to state a material fact if the failure deceives or tends to deceive;

(4) Disparagement of the goods, realty, services, or business of another by a false or misleading representation of a material fact;

(5) Advertisement or offer of consumer goods, consumer realty, or consumer services:

(i) Without intent to sell, lease, or rent them as advertised or offered; or

(ii) With intent not to supply reasonably expected public demand, unless the advertisement or offer discloses a limitation of quantity or other qualifying condition;

(6) False or misleading representation of fact which concerns:

(i) The reason for or the existence or amount of a price reduction; or

(ii) A price in comparison to a price of a competitor or to one's own price at a past or future time;

(7) Knowingly false statement that a service, replacement, or repair is needed;

(8) False statement which concerns the reason for offering or supplying consumer goods, consumer realty, or consumer services at sale or discount prices;

(9) Deception, fraud, false pretense, false premise, misrepresentation, or knowing concealment, suppression, or omission of any material fact with the intent that a consumer rely on the same in connection with:

(i) The promotion or sale of any consumer goods, consumer realty, or consumer service;

(ii) A contract or other agreement for the evaluation, perfection, marketing, brokering or promotion of an invention; or

(iii) The subsequent performance of a merchant with respect to an agreement of sale, lease, or rental;

(10) Solicitations of sales or services over the telephone without first clearly, affirmatively, and expressly stating:

by the solicitor;

- (i) The solicitor's name and the trade name of a person represented
- (ii) The purpose of the telephone conversation; and
- (iii) The kind of merchandise, real property, intangibles, or service solicited;

(11) Use of any plan or scheme in soliciting sales or services over the telephone that misrepresents the solicitor's true status or mission;

(12) Use of a contract related to a consumer transaction which contains a confessed judgment clause that waives the consumer's right to assert a legal defense to an action;

(13) Use by a seller, who is in the business of selling consumer realty, of a contract related to the sale of single family residential consumer realty, including condominiums and town houses, that contains a clause limiting or precluding the buyer's right to obtain consequential damages as a result of the seller's breach or cancellation of the contract;

(14) Violation of a provision of:

- (i) This title;
- (ii) An order of the Attorney General or agreement of a party relating to unit pricing under Title 14, Subtitle 1 of this article;
- (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt Collection Act;
- (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door Sales Act;
- (v) Title 14, Subtitle 9 of this article, Kosher Products;
- (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;
- (vii) Section 14-1302 of this article;
- (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales Act;
- (ix) Section 22-415 of the Transportation Article;
- (x) Title 14, Subtitle 20 of this article;

- (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty Enforcement Act;
- (xii) Title 14, Subtitle 21 of this article;
- (xiii) Section 18–107 of the Transportation Article;
- (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone Solicitations Act;
- (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts Act;
- (xvi) Title 10, Subtitle 6 of the Real Property Article;
- (xvii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;
- (xviii) Title 14, Subtitle 26 of this article, the Maryland Door–to–Door Solicitations Act;
- (xix) Title 14, Subtitle 31 of this article, the Maryland Household Goods Movers Act;
- (xx) Title 14, Subtitle 32 of this article, the Maryland Telephone Consumer Protection Act;
- (xxi) Title 14, Subtitle 34 of this article, the Social Security Number Privacy Act;
- (xxii) Title 14, Subtitle 37 of this article, the Online Child Safety Act;
- (xxiii) Section 14–1319, § 14–1320, or § 14–1322 of this article;
- (xxiv) Section 7–304 of the Criminal Law Article;
- (xxv) Title 7, Subtitle 3 of the Real Property Article, the Protection of Homeowners in Foreclosure Act;
- (xxvi) Title 6, Subtitle 13 of the Environment Article;
- (xxvii) Section 7–405(e)(2)(ii) of the Health Occupations Article;
- (xxviii) Title 12, Subtitle 10 of the Financial Institutions Article;
- (xxix) Title 19, Subtitle 7 of the Business Regulation Article; [or]

(xxx) Section 15–311.3 of the Transportation Article; [or]

(XXXI) THE FEDERAL MILITARY LENDING ACT; OR

(XXXII) THE FEDERAL SERVICEMEMBERS CIVIL RELIEF ACT;

OR

(15) Act or omission that relates to a residential building and that is chargeable as a misdemeanor under or otherwise violates a provision of the Energy Conservation Building Standards Act, Title 7, Subtitle 4 of the Public Utilities Article.

13–303.

A person may not engage in any unfair, **ABUSIVE**, or deceptive trade practice, as defined in this subtitle or as further defined by the Division, in:

(1) The sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services;

(2) The offer for sale, lease, rental, loan, or bailment of consumer goods, consumer realty, or consumer services;

(3) The offer for sale of course credit or other educational services;

(4) The extension of consumer credit;

(5) The collection of consumer debts; or

(6) The purchase or offer for purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

13–410.

(a) A merchant who engages in a violation of this title is subject to a fine [of not more than \$1,000] **NOT EXCEEDING \$10,000** for each violation.

(b) A merchant who has been found to have engaged in a violation of this title and who subsequently repeats the same violation is subject to a fine [of not more than \$5,000] **NOT EXCEEDING \$25,000** for each subsequent violation.

(c) The fines provided for in subsections (a) and (b) of this section are civil penalties and are recoverable by the State in a civil action or an administrative cease and

desist action under § 13–403(a) and (b) of this subtitle or after an administrative hearing has been held under § 13–403(d)(3) and (4) of this subtitle.

(d) The Consumer Protection Division shall consider the following in setting the amount of the penalty imposed in an administrative proceeding:

- (1) The severity of the violation for which the penalty is assessed;
- (2) The good faith of the violator;
- (3) Any history of prior violations;
- (4) Whether the amount of the penalty will achieve the desired deterrent purpose; and
- (5) Whether the issuance of a cease and desist order, including restitution, is insufficient for the protection of consumers.

14–202.

In collecting or attempting to collect an alleged debt a collector may not:

- (1) Use or threaten force or violence;
- (2) Threaten criminal prosecution, unless the transaction involved the violation of a criminal statute;
- (3) Disclose or threaten to disclose information which affects the debtor's reputation for credit worthiness with knowledge that the information is false;
- (4) Except as permitted by statute, contact a person's employer with respect to a delinquent indebtedness before obtaining final judgment against the debtor;
- (5) Except as permitted by statute, disclose or threaten to disclose to a person other than the debtor or his spouse or, if the debtor is a minor, his parent, information which affects the debtor's reputation, whether or not for credit worthiness, with knowledge that the other person does not have a legitimate business need for the information;
- (6) Communicate with the debtor or a person related to him with the frequency, at the unusual hours, or in any other manner as reasonably can be expected to abuse or harass the debtor;
- (7) Use obscene or grossly abusive language in communicating with the debtor or a person related to him;

(8) Claim, attempt, or threaten to enforce a right with knowledge that the right does not exist; [or]

(9) Use a communication which simulates legal or judicial process or gives the appearance of being authorized, issued, or approved by a government, governmental agency, or lawyer when it is not;

(10) ENGAGE IN UNLICENSED DEBT COLLECTION ACTIVITY IN VIOLATION OF THE MARYLAND COLLECTION AGENCY LICENSING ACT; OR

(11) ENGAGE IN ANY CONDUCT ~~PROHIBITED UNDER THAT VIOLATES §§ 804 THROUGH 812 OF THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT.~~

~~14-1206.~~

~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) "BREACH OF THE SECURITY OF A SYSTEM" HAS THE MEANING STATED IN § 14-3504 OF THIS TITLE.~~

~~(3) "PERSONAL INFORMATION" HAS THE MEANING STATED IN § 14-3501 OF THIS TITLE.~~

~~(B) (1) IF A CONSUMER REPORTING AGENCY DISCOVERS OR IS NOTIFIED OF A BREACH OF THE SECURITY OF A SYSTEM, THE CONSUMER REPORTING AGENCY SHALL NOTIFY EACH INDIVIDUAL WHO:~~

~~(i) IS SUBJECT TO THE BREACH; AND~~

~~(ii) RESIDES IN THE STATE.~~

~~(2) A CONSUMER REPORTING AGENCY SHALL PROVIDE THE NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION AS SOON AS REASONABLY PRACTICABLE, BUT NOT LATER THAN 30 DAYS AFTER THE CONSUMER REPORTING AGENCY DISCOVERS OR IS NOTIFIED OF THE BREACH OF THE SECURITY OF A SYSTEM.~~

~~(3) THE NOTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL DISCLOSE THAT THE PERSONAL INFORMATION OF THE INDIVIDUAL MAY BE MISUSED AS A RESULT OF THE BREACH.~~

~~[(a)] (C) A consumer reporting agency shall, [upon] ON request and proper identification of a consumer, provide the consumer:~~

- ~~(1) An exact copy of any file on that consumer except any part of the file which contains medical information;~~
- ~~(2) A written explanation of codes or trade language used;~~
- ~~(3) A description of the rights of the consumer under this subtitle; and~~
- ~~(4) The name, address, and telephone number of the Commissioner.~~

~~[(b)](D) (1) Whenever access to a file or a copy of a file has been furnished to a consumer, the consumer reporting agency may delete the sources of information acquired solely for use in an investigative report and used for no other purpose.~~

~~(2) If any action is brought by the consumer under this subtitle, the consumer reporting agency shall make [such] THE sources available to the plaintiff under appropriate discovery procedures.~~

~~14-1208.~~

~~[(a) (1) If the completeness or accuracy of any item of information contained in his file is disputed by a consumer, and the dispute is directly conveyed to the consumer reporting agency in writing or by the consumer, the consumer reporting agency shall within 30 days reinvestigate and record the current status of that information unless it has reasonable grounds to believe that the dispute by the consumer is frivolous or irrelevant.]~~

~~(A) THIS SECTION APPLIES TO A DISPUTE BY A CONSUMER OF THE COMPLETENESS OR ACCURACY OF ANY ITEM OF INFORMATION CONTAINED IN THE FILE OF A CONSUMER.~~

~~(B) (1) A CONSUMER REPORTING AGENCY SHALL REINVESTIGATE AND RECORD THE CURRENT STATUS OF ANY INFORMATION THAT A CONSUMER DISPUTES IF THE CONSUMER CONVEYS THE DISPUTE:~~

~~(I) DIRECTLY TO THE CONSUMER REPORTING AGENCY; AND~~

~~(II) 1. IN WRITING; OR~~

~~2. BY ELECTRONIC REQUEST TRANSMITTED THROUGH A SECURE CONNECTION MADE AVAILABLE BY THE CONSUMER REPORTING AGENCY ON THE WEBSITE OF THE CONSUMER REPORTING AGENCY.~~

~~(2) A CONSUMER REPORTING AGENCY SHALL COMPLETE THE ACTIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 30 DAYS AFTER RECEIVING A DISPUTE BY A CONSUMER.~~

~~[(2)] (3) If after reinvestigation the information is found to be inaccurate or can no longer be verified, the consumer reporting agency shall within 7 business days delete the information and mail:~~

~~(i) Written notice of the correction to the consumer and to each person to whom the erroneous information was furnished; and~~

~~(ii) A statement of the rights of the consumer under this subtitle.~~

~~[(3)] (4) If after reinvestigation the information is found to be accurate or is verified, the consumer reporting agency shall within 7 business days mail:~~

~~(i) Written notice of the finding to the consumer; and~~

~~(ii) A statement of the rights of the consumer under this subtitle.~~

~~[(4)] (5) (i) Within 60 days after receiving the notice under paragraphs [(2)] (3) and [(3)] (4) of this subsection, the consumer may request in writing that the consumer reporting agency disclose the name, address, and telephone number of each person contacted during the reinvestigation.~~

~~(ii) Within 30 days after receiving the consumer's written request under this paragraph, the consumer reporting agency shall make the requested disclosure.~~

~~[(5)] (6) A person contacted during the reinvestigation who determines that the information was inaccurate shall correct the information in the person's records within 12 business days after the determination occurs.~~

~~[(6)] (7) The presence of contradictory information in the consumer's file does not in and of itself constitute reasonable grounds for believing the dispute is frivolous or irrelevant.~~

~~[(b)] (C) If a consumer reporting agency finds that a dispute is frivolous or irrelevant, the agency within 7 business days shall mail:~~

~~(1) Written notice of the finding, including the reasons for the finding, to the consumer; and~~

~~(2) A statement of the rights of the consumer under this subtitle.~~

~~[(e)] (D) (1) If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute.~~

~~(2) The consumer reporting agency may limit statements to not more than 100 words if it provides the consumer with assistance in writing a clear summary of the dispute.~~

~~[(d)] (E) Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the consumer reporting agency shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary of it.~~

~~(F) (1) THIS SUBSECTION APPLIES TO:~~

~~(i) THE DELETION OF ANY INFORMATION:~~

~~1. FOUND TO BE INACCURATE; OR~~

~~2. THE ACCURACY OF WHICH CAN NO LONGER BE VERIFIED; OR~~

~~(ii) ANY NOTATION REGARDING DISPUTED INFORMATION.~~

~~[(c)] (2) [Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the] AT THE REQUEST OF A CONSUMER, A consumer reporting agency shall[, at the request of the consumer,] furnish notification that [the] AN item has been deleted or the statement, codification, or summary [pursuant to] UNDER subsection [(c)] (D) or [(d)] (E) of this section to any person specifically designated by the consumer [who has within] IF THE PERSON:~~

~~(i) WITHIN 2 years prior HAS received a consumer report for employment purposes[,] THAT CONTAINED THE DELETED OR DISPUTED INFORMATION; or [within]~~

~~(ii) WITHIN 1 year prior HAS received a consumer report for any other purpose[, which] THAT contained the deleted or disputed information.~~

~~(3) The consumer reporting agency shall clearly and conspicuously disclose to the consumer his rights to make such a request.~~

~~(4) The disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received.~~

(i) [(1) Except as provided in paragraph (2) of this subsection, a] **A** consumer may not be charged for any service relating to a security freeze.

[(2) A consumer reporting agency may charge a reasonable fee, not exceeding \$5, for each placement, temporary lift, or removal of a security freeze.

(3) Notwithstanding paragraph (2) of this subsection, a consumer reporting agency may not charge any fee under this section to a consumer who:

(i) 1. Has obtained a report of alleged identity fraud against the consumer under § 8–304 of the Criminal Law Article or an identity theft passport under § 8–305 of the Criminal Law Article; and

2. Provides a copy of the report or passport to the consumer reporting agency; or

(ii) Requests the placement of a security freeze if the consumer has not previously requested the placement of a security freeze from the consumer reporting agency.]

(j) At any time that a consumer is entitled to receive a summary of rights under § 609 of the federal Fair Credit Reporting Act or § 14–1206 of this subtitle, the following notice shall be included:

“NOTICE

You have a right, under § 14–1212.1 of the Commercial Law Article of the Annotated Code of Maryland, to place a security freeze on your credit report. The security freeze will prohibit a consumer reporting agency from releasing your credit report or any information derived from your credit report without your express authorization. The purpose of a security freeze is to prevent credit, loans, and services from being approved in your name without your consent. **A CONSUMER REPORTING AGENCY MAY NOT CHARGE YOU A FEE FOR ANY SERVICE RELATING TO A SECURITY FREEZE, INCLUDING FOR ANY PLACEMENT, TEMPORARY LIFT, OR REMOVAL OF A SECURITY FREEZE.**

You may elect to have a consumer reporting agency place a security freeze on your credit report by written request sent by certified mail or by electronic mail or the Internet if the consumer reporting agency provides a secure electronic connection. The consumer reporting agency must place a security freeze on your credit report within 3 business days after your request is received. Within 5 business days after a security freeze is placed on your credit report, you will be provided with a unique personal identification number or password to use if you want to remove the security freeze or temporarily lift the security freeze to release your credit report to a specific person or for a specific period of time. You also will receive information on the procedures for removing or temporarily lifting a security freeze.

If you want to temporarily lift the security freeze on your credit report, you must contact the consumer reporting agency and provide all of the following:

- (1) The unique personal identification number or password provided by the consumer reporting agency;
- (2) The proper identifying information to verify your identity; and
- (3) The proper information regarding the person who is to receive the credit report or the period of time for which the credit report is to be available to users of the credit report.

A consumer reporting agency must comply with a request to temporarily lift a security freeze on a credit report within 3 business days after the request is received, or within 15 minutes for certain requests. A consumer reporting agency must comply with a request to remove a security freeze on a credit report within 3 business days after the request is received.

If you are actively seeking credit, you should be aware that the procedures involved in lifting a security freeze may slow your own applications for credit. You should plan ahead and lift a security freeze, either completely if you are seeking credit from a number of sources, or just for a specific creditor if you are applying only to that creditor, a few days before actually applying for new credit.

[A consumer reporting agency may charge a reasonable fee not exceeding \$5 for each placement, temporary lift, or removal of a security freeze. However, a consumer reporting agency may not charge any fee to a consumer who, at the time of a request to place, temporarily lift, or remove a security freeze, presents to the consumer reporting agency a police report of alleged identity fraud against the consumer or an identity theft passport. A consumer reporting agency also may not charge any fee to a consumer for the first placement of a security freeze with the consumer reporting agency.]

A security freeze does not apply if you have an existing account relationship and a copy of your credit report is requested by your existing creditor or its agents or affiliates for certain types of account review, collection, fraud control, or similar activities.”

- (l) The exclusive remedy for a violation of subsection (e)(2)(ii) of this section shall be a complaint filed with the Commissioner under § 14–1217 of this subtitle.

14–1212.2.

- (c) (1) A consumer reporting agency shall place a security freeze for a protected consumer if:

(i) The consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze under this section; and

(ii) The protected consumer's representative:

1. Submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

2. Provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative; **AND**

3. Provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer[; and

4. Pays to the consumer reporting agency a fee as provided in subsection (i) of this section].

(g) If a protected consumer or a protected consumer's representative wishes to remove a security freeze for the protected consumer, the protected consumer or the protected consumer's representative shall:

(1) Submit a request for the removal of the security freeze to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency; **AND**

(2) Provide to the consumer reporting agency:

(i) In the case of a request by the protected consumer:

1. Proof that the sufficient proof of authority for the protected consumer's representative to act on behalf of the protected consumer is no longer valid; and

2. Sufficient proof of identification of the protected consumer;
or

(ii) In the case of a request by the representative of a protected consumer:

1. Sufficient proof of identification of the protected consumer and the representative; and

2. Sufficient proof of authority to act on behalf of the protected consumer[; and

(3) Pay to the consumer reporting agency a fee as provided in subsection (i) of this section].

(i) [(1) Except as provided in paragraph (2) of this subsection, a] **A** consumer reporting agency may not charge a fee for any service performed under this section.

[(2) A consumer reporting agency may charge a reasonable fee, not exceeding \$5, for each placement or removal of a security freeze for a protected consumer.

(3) Notwithstanding paragraph (2) of this subsection, a consumer reporting agency may not charge any fee under this section if:

(i) The protected consumer's representative:

1. Has obtained a report of alleged identity fraud against the protected consumer under § 8–304 of the Criminal Law Article or an identity theft passport under § 8–305 of the Criminal Law Article; and

2. Provides a copy of the report or passport to the consumer reporting agency; or

(ii) 1. A request for the placement or removal of a security freeze is for a protected consumer who is under the age of 16 years at the time of the request; and

2. The consumer reporting agency has a consumer report pertaining to the protected consumer.]

14–1212.3.

(i) A consumer reporting agency may [charge a reasonable fee, not exceeding \$5, for each placement or removal of a security freeze for a protected consumer] **NOT CHARGE A FEE FOR ANY SERVICE PERFORMED** under this section.

~~14–1218.~~

~~(a) The Commissioner may:~~

~~(1) Hold a hearing on the complaint at a time and place in this State reasonably convenient to the parties involved;~~

~~(2) Subpoena witnesses;~~

~~(3) Take depositions of witnesses residing without the State, in the manner provided for witnesses in civil actions in courts of record;~~

~~(4) Administer oaths;~~

~~(5) Issue orders for compliance with this subtitle;~~

~~(6) Issue cease and desist orders, if after a hearing the Commissioner finds a pattern and practice of violation of this subtitle; and~~

~~(7) (I) If a consumer reporting agency that has violated any law regulating consumer credit reporting fails to comply with a lawful order of the Commissioner, impose a civil penalty of up to ~~[\$100]~~ **\$10,000** for each violation from which the violator failed to cease and desist or for which the violator failed to take action ordered by the Commissioner for compliance with the law.~~

~~(II) In determining the amount of civil penalty to be imposed under this paragraph, the Commissioner shall consider:~~

~~[(i)] 1. The seriousness of the violation;~~

~~[(ii)] 2. The good faith of the violator;~~

~~[(iii)] 3. The violator's history of previous violations;~~

~~[(iv)] 4. The deleterious effect of the violation upon the public and the credit granting industry;~~

~~[(v)] 5. The assets and financial status of the violator; and~~

~~[(vi)] 6. Any other factors relevant to the determination of the financial penalty.~~

SUBTITLE 41. FINANCIAL CONSUMER PROTECTION.

14-4101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCIAL REGULATION IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

(C) "OFFICE" MEANS THE OFFICE OF THE ATTORNEY GENERAL.

14-4102.

THE PURPOSE OF THIS SUBTITLE IS TO SUPPORT VIGOROUS ENFORCEMENT BY AND FUNDING OF THE OFFICE AND THE COMMISSIONER TO PROTECT THE STATE'S RESIDENTS WHEN CONDUCTING FINANCIAL TRANSACTIONS AND RECEIVING FINANCIAL SERVICES.

14-4103.

~~THE~~ WHENEVER THE OFFICE AND THE COMMISSIONER CONSIDER IT APPROPRIATE, THE OFFICE AND THE COMMISSIONER SHALL USE THEIR AUTHORITY UNDER § 1042 OF THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2010 TO BRING CIVIL ACTIONS OR OTHER APPROPRIATE PROCEEDINGS AUTHORIZED UNDER THE ACT.

14-4104.

(A) (1) FOR FISCAL YEAR 2020 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE AN APPROPRIATION OF AT LEAST ~~\$\$800,000~~ \$700,000 IN GENERAL FUNDS IN THE STATE BUDGET FOR THE OFFICE FOR THE PURPOSES OF ENFORCEMENT OF:

- (I) CONSUMER PROTECTION LAWS UNDER THIS TITLE;
- (II) CONSUMER PROTECTION LAWS UNDER TITLE 13 OF THIS ARTICLE; AND
- (III) FINANCIAL CONSUMER PROTECTION LAWS.

(2) THE OFFICE SHALL USE THE FUNDS UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR:

- (I) STAFFING COSTS ASSOCIATED WITH HIRING NEW EMPLOYEES; AND
- (II) INVESTIGATIONS OF ALLEGED VIOLATIONS OF CONSUMER PROTECTION LAWS IN THE STATE.

(B) (1) FOR FISCAL YEAR 2020 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE AN APPROPRIATION OF AT LEAST ~~\$400,000~~ \$300,000 IN GENERAL FUNDS IN THE STATE BUDGET FOR THE COMMISSIONER FOR THE PURPOSES OF ENFORCEMENT OF FINANCIAL CONSUMER PROTECTION LAWS.

(2) THE COMMISSIONER SHALL USE THE FUNDS UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR:

(I) STAFFING COSTS ASSOCIATED WITH HIRING NEW EMPLOYEES; AND

(II) INVESTIGATIONS OF ALLEGED VIOLATIONS OF CONSUMER PROTECTION LAWS IN THE STATE.

~~Article—Corporations and Associations~~

~~11-803.~~

~~(A) THIS SECTION APPLIES TO:~~

~~(1) A PERSON WHO ENGAGES IN THE BUSINESS OF EFFECTING TRANSACTIONS IN SECURITIES FOR THE ACCOUNT OF OTHERS OR FOR THE PERSON'S OWN ACCOUNT;~~

~~(2) A BROKER DEALER OR AGENT;~~

~~(3) AN AGENT; AND~~

~~(4) AN INVESTMENT ADVISER.~~

~~(B) A PERSON SUBJECT TO THIS SECTION IS A FIDUCIARY AND HAS A DUTY TO ACT PRIMARILY FOR THE BENEFIT OF ITS CLIENTS.~~

~~(C) A PERSON SHALL DISCLOSE TO A CLIENT:~~

~~(1) AT THE TIME ADVICE IS GIVEN, ANY GAIN, PROFIT, OR COMMISSION THE PERSON MAY RECEIVE IF THE ADVICE IS FOLLOWED; AND~~

~~(2) A LEGAL OR DISCIPLINARY EVENT THAT IS MATERIAL TO AN EVALUATION OF THE PERSON'S INTEGRITY OR ABILITY TO MEET CONTRACTUAL COMMITMENTS TO CLIENTS.~~

~~(D) A PERSON SHALL MAKE DILIGENT INQUIRY OF EACH CLIENT TO DETERMINE:~~

~~(1) THE FINANCIAL CIRCUMSTANCES AND OBLIGATIONS OF THE CLIENT INITIALLY;~~

~~(2) THE FINANCIAL CIRCUMSTANCES AND OBLIGATIONS OF THE CLIENT SUBSEQUENT TO THE FIRST CONTACT BETWEEN THE PERSON AND THE CONTACT; AND~~

~~(3) THE CLIENT'S PRESENT AND ANTICIPATED OBLIGATIONS:~~

~~(i) TO THE CLIENT'S FAMILY; AND~~

~~(ii) FOR THE CLIENT'S FAMILY AND GOALS FOR THE CLIENT'S FAMILY.~~

~~(E) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION, INCLUDING REGULATIONS:~~

~~(1) DEFINING OR EXCLUDING AN ACT, A PRACTICE, OR A COURSE OF BUSINESS OF A PERSON SUBJECT TO THIS SECTION; AND~~

~~(2) DESIGNED TO PREVENT A PERSON FROM ENGAGING IN ACTS, PRACTICES, AND COURSES OF BUSINESS IN VIOLATION OF THIS SECTION.~~

~~Article – Courts and Judicial Proceedings~~

~~3-230.1.~~

~~THE STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE OF THE COURT OF APPEALS SHALL ADOPT RULES CONSISTENT WITH THE MODEL STATE CONSUMER AND EMPLOYEE JUSTICE ENFORCEMENT ACT.~~

Article – Financial Institutions

~~2-105.1.~~

~~(b) (1) The Commissioner may adopt and enforce regulations reasonably necessary to carry out the authority and responsibility of the office of Commissioner.~~

~~(2) THE COMMISSIONER SHALL ADOPT REGULATIONS CONSISTENT WITH TITLES III AND IV OF THE MODEL STATE CONSUMER AND EMPLOYEE JUSTICE ENFORCEMENT ACT TO PROHIBIT A PERSON OVER WHOM THE COMMISSIONER HAS JURISDICTION FROM ENGAGING IN ANY PRACTICE PROHIBITED UNDER THOSE TITLES.~~

~~2-115.~~

(b) When the Commissioner determines after notice and a hearing, unless the right to notice and a hearing is waived, that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has

jurisdiction, the Commissioner may in the Commissioner's discretion and in addition to taking any other action authorized by law:

- (1) Issue a final cease and desist order against the person;
- (2) Suspend or revoke the license of the person;
- (3) Issue a penalty order against the person imposing a civil penalty [up to the maximum amount of \$1,000] NOT EXCEEDING:
 - (I) ~~\$2,500~~ \$10,000 for a first violation; and
 - (II) [a maximum amount of \$5,000] ~~\$10,000~~ \$25,000 for each subsequent violation; or
- (4) Take any combination of the actions specified in this subsection.

2-116.

(b) When it appears to the Commissioner that a person has engaged in an act or practice constituting a violation of a law, regulation, rule, or order over which the Commissioner has jurisdiction, the Commissioner may bring an action in the circuit court of the county in which the person resides or transacts business to obtain one or more of the following remedies:

- (1) A temporary restraining order;
- (2) A temporary or permanent injunction;
- (3) A civil penalty [up to a maximum amount of \$1,000] NOT EXCEEDING:
 - (I) ~~\$2,500~~ \$10,000 for a first violation; and
 - (II) [a maximum amount of \$5,000] ~~\$10,000~~ \$25,000 for each subsequent violation;
- (4) A declaratory judgment;
- (5) An order preventing access to the violator's assets;
- (6) Rescission;
- (7) Restitution; and
- (8) Any other relief as the court deems just.

~~11-219.~~

~~(a) A [licensee] PERSON may not sell a loan account to any person who is not licensed under this subtitle.~~

~~(b) A loan account that is acquired by a person who is not licensed under this subtitle is not enforceable.~~

~~11-303.~~

~~(A) A license under this subtitle shall be applied for and issued in accordance with, and is subject to, the licensing and investigatory provisions of Subtitle 2 of this title, the Maryland Consumer Loan Law – Licensing Provisions.~~

11-201.

(a) In this subtitle the following words have the meanings indicated.

(e) “Loan” means any loan or advance of money or credit [made under] SUBJECT TO Title 12, Subtitle 3 of the Commercial Law Article, the Maryland Consumer Loan Law – Credit Provisions, REGARDLESS OF WHETHER THE LOAN OR ADVANCE OF MONEY OR CREDIT IS OR PURPORTS TO BE MADE UNDER THIS SUBTITLE.

~~(B) A PERSON WHO MAKES INSTALLMENT LOANS OR ENGAGES IN CREDIT SERVICES BUSINESS ACTIVITIES REQUIRING LICENSING UNDER § 11-302(B) OF THIS SUBTITLE:~~

~~(1) SHALL BE LICENSED UNDER THIS SUBTITLE; AND~~

~~(2) IS SUBJECT TO THE LICENSING, INVESTIGATORY, ENFORCEMENT, AND PENALTY PROVISIONS OF:~~

~~(I) THIS SUBTITLE;~~

~~(II) SUBTITLE 2 OF THIS TITLE; AND~~

~~(III) THE APPLICABLE PROVISIONS OF:~~

~~1. TITLE 12, SUBTITLES 1, 9, AND 10 OF THIS ARTICLE;~~

~~AND~~

~~2. TITLE 14, SUBTITLE 19 OF THE COMMERCIAL LAW~~

~~ARTICLE.~~

~~(c) THE LICENSING, INVESTIGATORY, ENFORCEMENT, AND PENALTY PROVISIONS OF SUBTITLE 2 OF THIS TITLE SHALL BE INTERPRETED, CONSTRUED, AND APPLIED TO A PERSON REQUIRING LICENSING UNDER § 11-302(B) OF THIS TITLE AS IF:~~

~~(1) THE PERSON WERE APPLYING FOR A LICENSE TO MAKE LOANS SUBJECT TO THE MARYLAND CONSUMER LOAN LAW; OR~~

~~(2) THE PERSON'S BUSINESS ACTIVITIES CONSISTED OF MAKING LOANS SUBJECT TO THE MARYLAND CONSUMER LOAN LAW.~~

11-504.

A person may not act as a mortgage lender unless the person is:

(1) A licensee; or

(2) A person exempted from licensing under this subtitle.

11-517.

(c) (1) The Commissioner may enforce the provisions of this subtitle, regulations adopted under § 11-503 of this subtitle, and the applicable provisions of Title 12 of the Commercial Law Article by:

(i) Issuing an order:

1. To cease and desist from the violation and any further similar violations; and

2. Requiring the violator to take affirmative action to correct the violation including the restitution of money or property to any person aggrieved by the violation; and

(ii) Imposing a civil penalty not exceeding ~~[\$5,000]~~ **\$10,000** for each violation.

(2) If a violator fails to comply with an order issued under paragraph (1)(i) of this subsection, the Commissioner may impose a civil penalty not exceeding ~~[\$5,000]~~ **\$25,000** for each violation from which the violator failed to cease and desist or for which the violator failed to take affirmative action to correct.

~~11-601.~~

~~(e) (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" INCLUDES A RETAIL SELLER OF A MANUFACTURED HOME AS DEFINED IN § 12-301 OF THE PUBLIC SAFETY ARTICLE.~~

~~[(2)](3) "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).~~

11-602.

(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.

~~11-610.~~

~~(a) There is a Nondepository Special Fund that consists of:~~

~~(1) Revenue received for the licensing of individuals under this subtitle;~~

~~(2) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER SUBTITLE 2 OF THIS TITLE;~~

~~(3) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER SUBTITLE 3 OF THIS TITLE;~~

~~(4) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER SUBTITLE 4 OF THIS TITLE;~~

~~[(2)](5) Revenue received for the licensing of persons under Subtitle 5 of this title;~~

~~(6) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER TITLE 12, SUBTITLE 1 OF THIS ARTICLE;~~

~~[(3)](7) Revenue received for the licensing of persons under Title 12, Subtitle 4 of this article;~~

~~[(4)](8) Revenue received for the licensing of persons under Title 12, Subtitle 9 of this article;~~

~~[(5)](9) Revenue received for the registration of persons under Title 12, Subtitle 10 of this article;~~

~~(10) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER TITLE 12, SUBTITLE 11 OF THIS ARTICLE;~~

~~(11) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER TITLE 7 OF THE BUSINESS REGULATION ARTICLE;~~

~~(12) REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER TITLE 14, SUBTITLE 19 OF THE COMMERCIAL LAW ARTICLE;~~

~~[(6)](13) Income from the investments that the State Treasurer makes for the Fund; and~~

~~[(7)](14) Any other fee, examination assessment, or revenue received by the Commissioner AND THE STATE COLLECTION AGENCY LICENSING BOARD under TITLE 2, SUBTITLE 1 OF THIS ARTICLE, this subtitle, [Subtitle] SUBTITLES 2, 3, 4, AND 5 of this title, [and] Title 12, Subtitles 1, 4, 9, [and] 10, AND 11 of this article, TITLE 14, SUBTITLE 19 OF THE COMMERCIAL LAW ARTICLE, AND TITLE 7 OF THE BUSINESS REGULATION ARTICLE.~~

~~(b) Notwithstanding subsection (a) of this section, the Commissioner shall pay all fines and penalties collected by the Commissioner AND THE STATE COLLECTION AGENCY LICENSING BOARD under TITLE 2, SUBTITLE 1 OF THIS ARTICLE, this subtitle, [Subtitle] SUBTITLES 2, 3, 4, AND 5 of this title, [and] Title 12, Subtitles 1, 4, 9, [and] 10, AND 11 of this article, TITLE 14, SUBTITLE 19 OF THE COMMERCIAL LAW ARTICLE, AND TITLE 7 OF THE BUSINESS REGULATION ARTICLE into the General Fund of the State.~~

~~(c) The purpose of the Fund is to cover the direct and indirect costs of fulfilling the statutory and regulatory duties of the Commissioner AND THE STATE COLLECTION AGENCY LICENSING BOARD related to:~~

~~(1) TITLE 2, SUBTITLE 1 OF THIS ARTICLE;~~

- ~~(2) This subtitle;~~
- ~~(3) SUBTITLE 2 OF THIS TITLE;~~
- ~~(4) SUBTITLE 3 OF THIS TITLE;~~
- ~~(5) SUBTITLE 4 OF THIS TITLE;~~
- ~~(2) (6) Subtitle 5 of this title;~~
- ~~(7) TITLE 12, SUBTITLE 1 OF THIS ARTICLE;~~
- ~~(3) (8) Title 12, Subtitle 4 of this article;~~
- ~~(4) (9) Title 12, Subtitle 9 of this article;~~
- ~~(5) (10) Title 12, Subtitle 10 of this article; [and]~~
- ~~(11) TITLE 12, SUBTITLE 11 OF THIS ARTICLE;~~
- ~~(12) TITLE 14, SUBTITLE 19 OF THE COMMERCIAL LAW ARTICLE;~~
- ~~(13) TITLE 7 OF THE BUSINESS REGULATION ARTICLE; AND~~
- ~~(6) (14) Any other expense authorized in the State budget.~~

~~(d) (1) The annual State budget shall include the costs and expenses of the Commissioner relating to the [regulation] SUPERVISION of CONSUMER LENDING, INSTALLMENT LENDING, SALES FINANCE COMPANIES, mortgage lending, mortgage origination, CHECK CASHING SERVICES, money transmission, debt management services, [and] debt settlement services, STUDENT LOAN SERVICERS, AND CREDIT SERVICES BUSINESSES, AND THE STATE COLLECTION AGENCY LICENSING BOARD RELATING TO COLLECTION AGENCIES.~~

~~(2) Any expenditures from the Fund to cover costs and expenses of the Commissioner AND THE STATE COLLECTION AGENCY LICENSING BOARD may be made only:~~

~~(i) With an appropriation from the Fund approved by the General Assembly in the annual State budget; or~~

~~(ii) By the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article.~~

~~(3) If, in any fiscal year, the amount of the revenue collected by the Commissioner AND THE STATE COLLECTION AGENCY LICENSING BOARD and deposited into the Fund exceeds the actual appropriation for the Commissioner to [regulate] SUPERVISE CONSUMER LENDING UNDER SUBTITLE 2 OF THIS TITLE; INSTALLMENT LENDING UNDER SUBTITLE 3 OF THIS TITLE; SALES FINANCE COMPANIES UNDER SUBTITLE 4 OF THIS TITLE; mortgage lending under Subtitle 5 of this title; mortgage origination under this subtitle; CHECK CASHING SERVICES UNDER TITLE 12, SUBTITLE 1 OF THIS ARTICLE; money transmission under Title 12, Subtitle 4 of this article; debt management services under Title 12, Subtitle 9 of this article; [and] debt settlement services under Title 12, Subtitle 10 of this article; STUDENT LOAN SERVICERS UNDER TITLE 12, SUBTITLE 11 OF THIS ARTICLE; CREDIT SERVICES BUSINESSES UNDER TITLE 14, SUBTITLE 19 OF THE COMMERCIAL LAW ARTICLE; AND COLLECTION AGENCIES UNDER TITLE 7 OF THE BUSINESS REGULATION ARTICLE, the excess amount shall be carried forward within the Fund.~~

~~(e) (1) The State Treasurer is the custodian of the Fund.~~

~~(2) The State Treasurer shall deposit payments received from the Commissioner into the Fund.~~

~~(f) (1) (i) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.~~

~~(ii) The Fund may not be deemed a part of the General Fund of the State.~~

~~(2) Unless otherwise provided by law, no part of the Fund may revert or be credited to:~~

~~(i) The General Fund of the State; or~~

~~(ii) Any other special fund of the State.~~

11-615.

(c) (1) The Commissioner may enforce the provisions of this subtitle, regulations adopted under this subtitle, and the applicable provisions of Title 12 of the Commercial Law Article by:

(i) Issuing an order:

1. To cease and desist from the violation and any further similar violations; and

2. Requiring the violator to take affirmative action to correct the violation, including the restitution of money or property to any person aggrieved by the violation; and

(ii) Imposing a civil penalty not exceeding ~~[\$5,000]~~ **\$10,000** for each violation.

(2) If a violator fails to comply with an order issued under paragraph (1)(i) of this subsection, the Commissioner may impose a civil penalty not exceeding ~~[\$5,000]~~ **\$25,000** for each violation from which the violator failed to cease and desist or for which the violator failed to take affirmative action to correct.

12-105.

(a) Except as provided in § 12-102(a) of this subtitle, a person may not provide check cashing services unless the person is licensed under this subtitle or is an exempt entity.

12-126.

(a) The Commissioner may impose a civil penalty against a person who violates this subtitle in an amount not exceeding:

- (1) ~~[\$1,000]~~ **\$10,000** for a first offense; and
- (2) ~~[\$5,000]~~ **\$25,000** for each subsequent offense.

(b) In determining the amount of civil penalty to be imposed under subsection (a) of this section, the Commissioner shall consider the following:

- (1) The seriousness of the violation;
- (2) The good faith of the violator;
- (3) The violator's history of previous violations;
- (4) The deleterious effect of the violation on the public;
- (5) The assets of the violator; and
- (6) Any other factor relevant to the determination of the civil penalty.

12-405.

(a) A person may not engage in the business of money transmission if that person, or the person with whom that person engages in the business of money transmission, is located in the State unless that person:

(1) Is licensed by the Commissioner;

(2) Is an authorized delegate of a licensee under whose name the business of money transmission occurs; or

(3) Is a person exempted from licensing under this subtitle.

12-426.

(e) (2) If a violator fails to comply with an order issued under paragraph (1) of this subsection, the Commissioner may impose a civil penalty [of up to \$1,000] **NOT EXCEEDING:**

(I) **\$10,000** for the first violation; and

(II) **[\$5,000] \$25,000** for each subsequent violation from which the violator failed to cease and desist or for which the violator failed to take affirmative action.

12-906.

(a) Whether or not the person maintains an office in this State, a person may not provide debt management services to consumers unless the person:

(1) Is licensed by the Commissioner under this subtitle; or

(2) Is exempt from licensing under this subtitle.

12-928.

(a) (1) The Commissioner may enforce the provisions of this subtitle and regulations adopted under this subtitle by:

(i) Issuing an order requiring the violator:

1. To cease and desist from the violation and any further similar violations; and

2. To take affirmative action to correct the violation, including the restitution of money or property to any person aggrieved by the violation; and

(ii) Imposing a civil penalty not exceeding **[\$1,000] \$10,000** for each violation.

(2) An order issued under this subsection may apply to a licensee's agent that violates any provision of this subtitle or the regulations adopted under this subtitle.

(3) If a violator fails to comply with an order issued under paragraph (1)(i) of this subsection, the Commissioner may impose a civil penalty not exceeding ~~[\$1,000]~~ **\$25,000** for each violation from which the violator failed to cease and desist or for which the violator failed to take corrective affirmative action.

(b) The Commissioner may file a petition in the circuit court for any county seeking enforcement of an order issued under this section.

(c) In determining the amount of financial penalty to be imposed under subsection (a) of this section, the Commissioner shall consider the following:

- (1) The seriousness of the violation;
- (2) The good faith of the violator;
- (3) The violator's history of previous violations;
- (4) The deleterious effect of the violation on the public;
- (5) The assets of the violator; and
- (6) Any other factors relevant to the determination of the financial penalty.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Financial Institutions

2-104.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

~~(2) "STUDENT EDUCATION LOAN" HAS THE MEANING STATED IN § 12-1101 OF THIS ARTICLE.~~

~~(3) "STUDENT LOAN BORROWER" HAS THE MEANING STATED IN § 12-1101 OF THIS ARTICLE.~~

~~(4) "STUDENT LOAN OMBUDSMAN" MEANS AN INDIVIDUAL, WHETHER A PAID EMPLOYEE OR A VOLUNTEER, WHOM THE COMMISSIONER~~

~~DESIGNATES TO SERVE AS A LIAISON BETWEEN STUDENT LOAN BORROWERS AND STUDENT LOAN SERVICERS.~~

~~(5) "STUDENT LOAN SERVICER" HAS THE MEANING STATED IN § 12-1101 OF THIS ARTICLE.~~

~~(B) THE COMMISSIONER SHALL DESIGNATE AN INDIVIDUAL TO SERVE AS THE STUDENT LOAN OMBUDSMAN.~~

~~(C) THE STUDENT LOAN OMBUDSMAN, IN CONSULTATION WITH THE COMMISSIONER, SHALL:~~

~~(1) RECEIVE AND REVIEW COMPLAINTS FROM STUDENT LOAN BORROWERS;~~

~~(2) ATTEMPT TO RESOLVE COMPLAINTS RECEIVED UNDER ITEM (1) OF THIS SUBSECTION, INCLUDING BY COLLABORATING WITH INSTITUTIONS OF HIGHER EDUCATION, STUDENT LOAN SERVICERS, AND ANY OTHER PARTICIPANTS IN STUDENT LOAN LENDING, SUCH AS THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF MARYLAND AND THE MARYLAND HIGHER EDUCATION COMMISSION;~~

~~(3) COMPILE AND ANALYZE COMPLAINT DATA;~~

~~(4) HELP STUDENT LOAN BORROWERS UNDERSTAND THEIR RIGHTS AND RESPONSIBILITIES UNDER THE TERMS OF STUDENT EDUCATION LOANS;~~

~~(5) PROVIDE INFORMATION TO THE PUBLIC, STATE AGENCIES, ELECTED OFFICIALS, AND OTHER INDIVIDUALS REGARDING STUDENT LOAN BORROWER PROBLEMS AND CONCERNS;~~

~~(6) MAKE RECOMMENDATIONS REGARDING RESOLUTION OF STUDENT LOAN BORROWER PROBLEMS AND CONCERNS;~~

~~(7) ANALYZE AND MONITOR THE DEVELOPMENT AND IMPLEMENTATION OF FEDERAL, STATE, AND LOCAL LAWS, REGULATIONS, AND POLICIES ON STUDENT LOAN BORROWERS AND RECOMMEND NECESSARY CHANGES;~~

~~(8) REVIEW THE STUDENT EDUCATION LOAN HISTORY OF STUDENT LOAN BORROWERS WHO GIVE WRITTEN CONSENT TO HAVE THEIR STUDENT EDUCATION LOAN HISTORY REVIEWED;~~

~~(9) DISSEMINATE INFORMATION ABOUT THE AVAILABILITY OF THE STUDENT LOAN OMBUDSMAN TO ASSIST THOSE WITH STUDENT LOAN SERVICING CONCERNS, INCLUDING DISSEMINATING THE INFORMATION TO:~~

- ~~(I) STUDENT LOAN BORROWERS;~~
- ~~(II) POTENTIAL STUDENT LOAN BORROWERS;~~
- ~~(III) STATE HIGHER EDUCATION INSTITUTIONS; AND~~
- ~~(IV) STUDENT LOAN SERVICERS; AND~~

~~(10) TAKE ANY OTHER ACTIONS NECESSARY TO FULFILL THE DUTIES OF THE STUDENT LOAN OMBUDSMAN.~~

(2) "SERVICING" MEANS:

(I) RECEIVING SCHEDULED PERIODIC PAYMENTS FROM A STUDENT LOAN BORROWER ACCORDING TO THE TERMS OF A STUDENT EDUCATION LOAN;

(II) APPLYING THE PAYMENTS ACCORDING TO THE STUDENT EDUCATION LOAN TERMS; AND

(III) PERFORMING OTHER ADMINISTRATIVE SERVICES.

(3) "STUDENT EDUCATION LOAN" MEANS ANY LOAN, NOTWITHSTANDING ANY ELECTION OF LAW OR DESIGNATION OF STATUS IN ANY CONTRACT, USED FOR FINANCING POSTSECONDARY EDUCATION OR OTHER POSTSECONDARY SCHOOL-RELATED EXPENSES.

(4) "STUDENT LOAN BORROWER" MEANS:

(I) A RESIDENT OF THE STATE WHO HAS RECEIVED OR AGREED TO PAY A STUDENT EDUCATION LOAN; OR

(II) A RESIDENT WHO SHARES REPAYMENT RESPONSIBILITY WITH A RESIDENT DESCRIBED UNDER ITEM (I) OF THIS PARAGRAPH.

(5) "STUDENT LOAN OMBUDSMAN" MEANS AN INDIVIDUAL, WHETHER A PAID EMPLOYEE OR A VOLUNTEER, WHOM THE COMMISSIONER DESIGNATES TO SERVE AS A LIAISON BETWEEN STUDENT LOAN BORROWERS AND STUDENT LOAN SERVICERS.

(6) (I) "STUDENT LOAN SERVICER" MEANS A PERSON, REGARDLESS OF LOCATION, RESPONSIBLE FOR SERVICING A STUDENT EDUCATION LOAN TO A STUDENT LOAN BORROWER.

(II) "STUDENT LOAN SERVICER" INCLUDES A TRUST ENTITY PERFORMING OR RECEIVING THE BENEFIT OF STUDENT LOAN SERVICING.

(B) (1) THE COMMISSIONER SHALL DESIGNATE AN INDIVIDUAL TO SERVE AS THE STUDENT LOAN OMBUDSMAN.

(2) (I) EACH STUDENT LOAN SERVICER IN THE STATE SHALL DESIGNATE AN INDIVIDUAL TO REPRESENT THE STUDENT LOAN SERVICER IN COMMUNICATIONS WITH THE STUDENT LOAN OMBUDSMAN.

(II) A STUDENT LOAN SERVICER SHALL PROVIDE THE STUDENT LOAN OMBUDSMAN THE NAME, PHONE NUMBER, AND E-MAIL ADDRESS OF THE DESIGNEE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(C) THE STUDENT LOAN OMBUDSMAN, IN CONSULTATION WITH THE COMMISSIONER, SHALL RECEIVE AND PROCESS COMPLAINTS ABOUT STUDENT EDUCATION LOAN SERVICING, INCLUDING:

(1) RECEIVING AND REVIEWING COMPLAINTS FROM STUDENT LOAN BORROWERS;

(2) ATTEMPTING TO RESOLVE COMPLAINTS RECEIVED UNDER ITEM (1) OF THIS SUBSECTION, INCLUDING BY COLLABORATING WITH INSTITUTIONS OF HIGHER EDUCATION, STUDENT LOAN SERVICERS, AND ANY OTHER PARTICIPANTS IN STUDENT LOAN LENDING, SUCH AS THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF MARYLAND AND THE MARYLAND HIGHER EDUCATION COMMISSION; AND

(3) COMPILING AND ANALYZING COMPLAINT DATA.

(D) THE STUDENT LOAN OMBUDSMAN MAY REFER ANY MATTER THAT IS ABUSIVE, UNFAIR, DECEPTIVE, OR FRAUDULENT TO THE OFFICE OF THE ATTORNEY GENERAL FOR CIVIL ENFORCEMENT OR CRIMINAL PROSECUTION.

(E) THE STUDENT LOAN OMBUDSMAN, IN CONSULTATION WITH THE COMMISSIONER, SHALL DISSEMINATE INFORMATION ABOUT STUDENT EDUCATION LOANS AND SERVICING BY:

(1) HELPING STUDENT LOAN BORROWERS UNDERSTAND THEIR RIGHTS AND RESPONSIBILITIES UNDER THE TERMS OF STUDENT EDUCATION LOANS;

(2) PROVIDING INFORMATION TO THE PUBLIC, STATE AGENCIES, ELECTED OFFICIALS, AND OTHER INDIVIDUALS REGARDING STUDENT LOAN BORROWER PROBLEMS AND CONCERNS; AND

(3) DISSEMINATING INFORMATION ABOUT THE AVAILABILITY OF THE STUDENT LOAN OMBUDSMAN TO ASSIST THOSE WITH STUDENT LOAN SERVICING CONCERNS, INCLUDING DISSEMINATING THE INFORMATION TO:

(I) STUDENT LOAN BORROWERS;

(II) POTENTIAL STUDENT LOAN BORROWERS;

(III) STATE HIGHER EDUCATION INSTITUTIONS; AND

(IV) STUDENT LOAN SERVICERS.

(F) (1) THE STUDENT LOAN OMBUDSMAN SHALL:

(I) ANALYZE AND MONITOR THE DEVELOPMENT AND IMPLEMENTATION OF FEDERAL, STATE, AND LOCAL LAWS, REGULATIONS, AND POLICIES ON STUDENT LOAN BORROWERS;

(II) DISCLOSE THE COMPLAINT DATA IT COMPILES AND ANALYZES UNDER SUBSECTION (C) OF THIS SECTION, INCLUDING:

1. NOTING ANY TRENDS IN THE DATA; AND

2. IDENTIFYING THE NAMES OF STUDENT LOAN SERVICERS ENGAGING IN ANY ABUSIVE, UNFAIR, DECEPTIVE, OR FRAUDULENT PRACTICES; AND

(III) MAKE RECOMMENDATIONS REGARDING:

1. STATUTORY AND REGULATORY METHODS TO RESOLVE STUDENT LOAN BORROWER PROBLEMS AND CONCERNS; AND

2. NECESSARY CHANGES TO STATE LAW TO ENSURE THAT THE STUDENT LOAN SERVICING INDUSTRY IS FAIR, TRANSPARENT, AND EQUITABLE, INCLUDING WHETHER THE STATE SHOULD REQUIRE LICENSING OR REGISTRATION OF STUDENT LOAN SERVICERS.

(2) ON OR BEFORE JANUARY 1 EACH YEAR, THE STUDENT LOAN OMBUDSMAN SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE

GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.

~~(D)~~ (G) (1) ON OR BEFORE OCTOBER 1, 2019, THE STUDENT LOAN OMBUDSMAN, IN CONSULTATION WITH THE COMMISSIONER, SHALL ESTABLISH A STUDENT LOAN BORROWER EDUCATION COURSE.

(2) THE COURSE SHALL:

(I) INCLUDE EDUCATIONAL PRESENTATIONS AND MATERIAL ABOUT STUDENT EDUCATION LOANS; AND

(II) REVIEW THE FOLLOWING:

- 1. COMMON STUDENT EDUCATION LOAN TERMS;
- 2. DOCUMENTATION REQUIREMENTS FOR STUDENT EDUCATION LOAN APPLICATIONS;
- 3. MONTHLY PAYMENT OBLIGATIONS FOR STUDENT EDUCATION LOANS;
- 4. INCOME-BASED REPAYMENT OPTIONS FOR STUDENT EDUCATION LOANS;
- 5. STUDENT EDUCATION LOAN FORGIVENESS PROGRAMS; AND
- 6. STUDENT EDUCATION LOAN DISCLOSURE REQUIREMENTS.

~~SUBTITLE 11. STUDENT LOAN SERVICERS.~~

~~12-1101.~~

~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED:~~

~~(B) "SERVICING" MEANS:~~

~~(1) RECEIVING SCHEDULED PERIODIC PAYMENTS FROM A STUDENT LOAN BORROWER ACCORDING TO THE TERMS OF A STUDENT EDUCATION LOAN;~~

~~(2) APPLYING THE PAYMENTS ACCORDING TO THE STUDENT EDUCATION LOAN TERMS; AND~~

~~(3) PERFORMING OTHER ADMINISTRATIVE SERVICES.~~

~~(C) "STUDENT EDUCATION LOAN" MEANS ANY LOAN, NOTWITHSTANDING ANY ELECTION OF LAW OR DESIGNATION OF STATUS IN ANY CONTRACT, USED MAINLY FOR FINANCING POST-SECONDARY EDUCATION OR OTHER POST-SECONDARY SCHOOL RELATED EXPENSES.~~

~~(D) "STUDENT LOAN BORROWER" MEANS:~~

~~(1) A RESIDENT OF THE STATE WHO HAS RECEIVED OR AGREED TO PAY A STUDENT EDUCATION LOAN; OR~~

~~(2) AN INDIVIDUAL A RESIDENT WHO SHARES REPAYMENT RESPONSIBILITY WITH A RESIDENT DESCRIBED UNDER ITEM (1) OF THIS SUBSECTION.~~

~~(E) (1) "STUDENT LOAN SERVICER" MEANS A PERSON, REGARDLESS OF LOCATION, RESPONSIBLE FOR SERVICING A STUDENT EDUCATION LOAN TO A STUDENT LOAN BORROWER.~~

~~(2) "STUDENT LOAN SERVICER" INCLUDES:~~

~~(I) A TRUST ENTITY PERFORMING OR RECEIVING THE BENEFIT OF STUDENT LOAN SERVICING; AND~~

~~(II) A PERSON CONDUCTING DEBT COLLECTION ACTIVITIES IN THE STATE.~~

~~12-1102.~~

~~THIS SUBTITLE DOES NOT APPLY TO:~~

~~(1) A BANKING INSTITUTION, A CREDIT UNION, A NATIONAL BANKING ASSOCIATION, AN OTHER STATE BANK, OR AN OTHER STATE CREDIT UNION;~~

~~(2) A WHOLLY OWNED SUBSIDIARY OF AN ENTITY SPECIFIED UNDER ITEM (1) OF THIS SECTION; OR~~

~~(3) AN OPERATING SUBSIDIARY OF AN ENTITY SPECIFIED UNDER ITEM (1) OF THIS SECTION IF EACH OWNER IS WHOLLY OWNED BY THE ENTITY.~~

~~12-1103.~~

~~A PERSON MAY NOT ENGAGE IN STUDENT EDUCATION LOAN SERVICING UNLESS THE PERSON:~~

- ~~(1) IS LICENSED BY THE COMMISSIONER UNDER THIS SUBTITLE; OR~~
- ~~(2) IS EXEMPT FROM LICENSING UNDER THIS SUBTITLE.~~

~~12-1104.~~

~~(A) TO APPLY FOR A LICENSE, AN APPLICANT SHALL SUBMIT AN APPLICATION ON THE FORM THAT THE COMMISSIONER PROVIDES.~~

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

- ~~(1) A NONREFUNDABLE LICENSE FEE OF \$1,000;~~
- ~~(2) A NONREFUNDABLE INVESTIGATION FEE OF \$800;~~
- ~~(3) A NOTARIZED FINANCIAL STATEMENT OF THE APPLICANT PREPARED BY A CERTIFIED PUBLIC ACCOUNTANT OR PUBLIC ACCOUNTANT, THE ACCURACY OF WHICH IS ATTESTED TO BY SOMEONE AUTHORIZED TO EXECUTE THE DOCUMENTS;~~
- ~~(4) A HISTORY OF CRIMINAL CONVICTIONS OF THE APPLICANT AND EACH PARTNER, MEMBER, OFFICER, DIRECTOR, AND PRINCIPAL EMPLOYEE OF THE APPLICANT; AND~~
- ~~(5) ANY OTHER INFORMATION THAT THE COMMISSIONER REQUESTS.~~

~~(C) AN APPLICANT SHALL NOTIFY THE COMMISSIONER IN WRITING OF ANY CHANGE IN THE INFORMATION PROVIDED UNDER SUBSECTION (B) OF THIS SECTION NOT LATER THAN 10 DAYS AFTER THE OCCURRENCE OF THE EVENT THAT RESULTS IN THE CHANGE OF INFORMATION.~~

~~12-1105.~~

~~(A) AFTER THE FILING OF THE APPLICATION IS COMPLETE, THE COMMISSIONER SHALL INVESTIGATE:~~

- ~~(1) THE FINANCIAL CONDITION AND RESPONSIBILITY OF THE APPLICANT;~~

- ~~(2) THE FINANCIAL AND BUSINESS EXPERIENCE OF THE APPLICANT;~~
- ~~(3) THE CHARACTER OF THE APPLICANT;~~
- ~~(4) THE CRIMINAL HISTORY OF THE APPLICANT AND EACH PARTNER, MEMBER, OFFICER, DIRECTOR, AND PRINCIPAL EMPLOYEE OF THE APPLICANT; AND~~
- ~~(5) THE GENERAL FITNESS OF THE APPLICANT.~~

~~(B) IF REQUESTED BY THE COMMISSIONER TO COMPLETE THE INVESTIGATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, AN APPLICANT OR A PARTNER, A MEMBER, AN OFFICER, A DIRECTOR, OR A PRINCIPAL EMPLOYEE OF THE APPLICANT SHALL PROVIDE FINGERPRINTS FOR SUBMISSION TO THE FEDERAL BUREAU OF INVESTIGATION, AND ANY OTHER GOVERNMENT AGENCY OR GOVERNMENTAL ENTITY AUTHORIZED TO RECEIVE THIS INFORMATION FOR A STATE, A NATIONAL, OR AN INTERNATIONAL CRIMINAL HISTORY BACKGROUND CHECK.~~

~~(C) AN APPLICANT REQUIRED TO PROVIDE FINGERPRINTS UNDER THIS SECTION SHALL PAY ANY PROCESSING FEE OR OTHER REQUIRED FEE.~~

~~12-1106.~~

- ~~(A) THE COMMISSIONER SHALL ISSUE A LICENSE TO AN APPLICANT IF:~~
 - ~~(1) THE APPLICANT MEETS THE REQUIREMENTS OF THIS SUBTITLE;~~
 - ~~(2) THE COMMISSIONER FINDS:~~
 - ~~(i) THE APPLICANT'S FINANCIAL CONDITION IS SOUND; AND~~
 - ~~(ii) THE APPLICANT WILL CONDUCT BUSINESS:~~
 - ~~1. HONESTLY;~~
 - ~~2. FAIRLY;~~
 - ~~3. EQUITABLY;~~
 - ~~4. CAREFULLY;~~
 - ~~5. EFFICIENTLY;~~

~~6. IN A MANNER CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE; AND~~

~~7. IN A MANNER COMMANDING THE COMMUNITY'S CONFIDENCE AND TRUST;~~

~~(3) THE APPLICANT, AND, IF APPLICABLE, THE APPLICANT'S PARTNER, SENIOR EXECUTIVE, OR SHAREHOLDER WITH AT LEAST 10% OF EACH CLASS OF THE CORPORATION'S SECURITIES, IS QUALIFIED AND OF GOOD CHARACTER; AND~~

~~(4) NO ONE ON BEHALF OF THE APPLICANT HAS KNOWINGLY MADE A MATERIAL MISSTATEMENT OR AN OMISSION IN THE APPLICATION.~~

~~(B) IF AN APPLICANT DOES NOT MEET THE REQUIREMENTS OF THIS SUBTITLE, THE COMMISSIONER SHALL:~~

~~(1) DENY THE APPLICATION;~~

~~(2) NOTIFY THE APPLICANT IMMEDIATELY OF THE DENIAL OF THE APPLICATION; AND~~

~~(3) KEEP THE LICENSE FEE AND THE INVESTIGATION FEE.~~

~~12-1107.~~

~~(A) UNLESS A LICENSE IS RENEWED, SURRENDERED, SUSPENDED, OR REVOKED, A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES AT THE END OF SEPTEMBER 30 OF THE ODD-NUMBERED YEAR IMMEDIATELY FOLLOWING ITS ISSUANCE.~~

~~(B) ON OR BEFORE SEPTEMBER 1 OF THE YEAR THE LICENSE EXPIRES, THE LICENSE MAY BE RENEWED FOR A 2-YEAR TERM IF THE LICENSEE:~~

~~(1) IS OTHERWISE ENTITLED TO BE LICENSED;~~

~~(2) PAYS TO THE COMMISSIONER THE FEES REQUIRED WITH AN INITIAL APPLICATION UNDER § 12-1104(B)(1) AND (2) OF THIS SUBTITLE; AND~~

~~(3) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES CONTAINING ALL OF THE INFORMATION REQUIRED UNDER AN INITIAL APPLICATION UNDER § 12-1104 OF THIS SUBTITLE.~~

~~(C) A RENEWAL APPLICATION FILED AFTER THE DATE SPECIFIED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE A \$100 LATE FEE.~~

~~(D) A LICENSEE SHALL NOTIFY THE COMMISSIONER IN WRITING OF ANY CHANGE IN THE INFORMATION PROVIDED UNDER SUBSECTION (B) OF THIS SECTION NOT LATER THAN 10 DAYS AFTER THE OCCURRENCE OF THE EVENT THAT RESULTS IN THE CHANGE OF INFORMATION.~~

~~(E) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, IF A LICENSEE FILES A RENEWAL APPLICATION ON OR BEFORE THE LICENSE EXPIRATION DATE, THE INITIAL LICENSE REMAINS EFFECTIVE UNTIL THE COMMISSIONER:~~

~~(1) ISSUES A RENEWAL LICENSE; OR~~

~~(2) NOTIFIES THE LICENSEE IN WRITING OF THE COMMISSIONER'S REFUSAL TO ISSUE A RENEWAL LICENSE, INCLUDING THE GROUNDS FOR DENIAL.~~

~~(F) THE COMMISSIONER MAY REFUSE TO APPROVE A RENEWAL LICENSE APPLICATION FOR THE SAME REASONS THE COMMISSIONER MAY DENY AN INITIAL LICENSE APPLICATION UNDER § 12-1106 OF THIS SUBTITLE.~~

~~12-1108.~~

~~(A) THE COMMISSIONER MAY DEEM AN APPLICATION UNDER § 12-1104 OR § 12-1107 OF THIS SUBTITLE ABANDONED IF THE APPLICANT FAILS TO RESPOND TO ANY REQUEST FOR INFORMATION AUTHORIZED UNDER THIS SUBTITLE.~~

~~(B) THE COMMISSIONER SHALL NOTIFY AN APPLICANT IN WRITING THAT IF THE INFORMATION REQUESTED IS NOT SUBMITTED WITHIN 60 DAYS AFTER THE REQUEST DATE, THE APPLICATION WILL BE DEEMED ABANDONED.~~

~~(C) THE COMMISSIONER SHALL KEEP THE LICENSE FEES INCLUDED WITH AN APPLICATION DEEMED ABANDONED UNDER THIS SECTION.~~

~~(D) ABANDONMENT OF AN APPLICATION UNDER THIS SECTION MAY NOT PRECLUDE AN APPLICANT OR A LICENSEE FROM SUBMITTING A NEW INITIAL APPLICATION IN ACCORDANCE WITH § 12-1104 OF THIS SUBTITLE.~~

~~12-1104.~~

~~(A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL SATISFY THE COMMISSIONER THAT THE APPLICANT IS OF GOOD MORAL CHARACTER, AND HAS~~

~~SUFFICIENT FINANCIAL RESPONSIBILITY, BUSINESS EXPERIENCE, AND GENERAL FITNESS TO:~~

~~(1) ENGAGE IN THE BUSINESS OF STUDENT LOAN SERVICER;~~

~~(2) WARRANT THE BELIEF THAT THE BUSINESS WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND EFFICIENTLY; AND~~

~~(3) COMMAND THE CONFIDENCE OF THE PUBLIC.~~

~~(B) THE COMMISSIONER MAY DENY AN APPLICATION FOR A LICENSE TO ANY PERSON WHO HAS BEEN OFFICIALLY REPRIMANDED OR HAS COMMITTED ANY ACT THAT WOULD BE GROUNDS FOR SUSPENSION OR REVOCATION OF A LICENSE UNDER THIS SUBTITLE.~~

~~12-1105.~~

~~(A) THIS SECTION DOES NOT APPLY TO ANY CORPORATION IF SECURITIES OF THE CORPORATION ARE EXEMPT FROM REGISTRATION UNDER § 11-601(8) OR (12) OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.~~

~~(B) IN CONNECTION WITH AN INITIAL APPLICATION FOR A LICENSE UNDER § 12-1106 OF THIS SUBTITLE, AND AT ANY OTHER TIME THE COMMISSIONER REQUESTS, AN APPLICANT OR A LICENSEE SHALL PROVIDE TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY INFORMATION CONCERNING THE APPLICANT'S IDENTITY, AS WELL AS OTHER INFORMATION THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY REQUIRES, INCLUDING:~~

~~(1) FINGERPRINTS FOR SUBMISSION TO THE FEDERAL BUREAU OF INVESTIGATION, AND ANY OTHER GOVERNMENTAL AGENCY OR ENTITY AUTHORIZED TO RECEIVE THE INFORMATION, FOR A STATE, NATIONAL, OR INTERNATIONAL CRIMINAL HISTORY BACKGROUND CHECK; AND~~

~~(2) PERSONAL HISTORY AND EXPERIENCE IN A FORM PRESCRIBED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, INCLUDING THE SUBMISSION OF AUTHORIZATION FOR THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AND THE COMMISSIONER TO OBTAIN:~~

~~(I) AN INDEPENDENT CREDIT REPORT FROM A CONSUMER REPORTING AGENCY DESCRIBED IN THE FEDERAL FAIR CREDIT REPORTING ACT, 15 U.S.C. § 1681A(P); AND~~

~~(II) INFORMATION RELATED TO ANY ADMINISTRATIVE, CIVIL, OR CRIMINAL FINDINGS BY ANY GOVERNMENTAL JURISDICTION.~~

~~(C) THE COMMISSIONER MAY REQUEST FROM THE FEDERAL BUREAU OF INVESTIGATION OR THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AS APPLICABLE, FOR EACH APPLICANT OR LICENSEE WHO IS REQUIRED TO PROVIDE FINGERPRINTS UNDER SUBSECTION (B) OF THIS SECTION:~~

~~(1) (i) THE STATE, NATIONAL, OR INTERNATIONAL CRIMINAL HISTORY RECORDS OF THE APPLICANT OR LICENSEE; AND~~

~~(ii) A PRINTED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE;~~

~~(2) (i) AN UPDATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE APPLICANT OR LICENSEE; AND~~

~~(ii) A REVISED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE OCCURRING AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK; AND~~

~~(3) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE APPLICANT OR LICENSEE.~~

~~(D) AN APPLICANT OR A LICENSEE WHO IS REQUIRED TO PROVIDE FINGERPRINTS UNDER SUBSECTION (B) OF THIS SECTION SHALL PAY ANY PROCESSING OR OTHER FEES REQUIRED BY THE FEDERAL BUREAU OF INVESTIGATION AND THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.~~

~~(E) TO IMPLEMENT THIS SUBTITLE, THE COMMISSIONER MAY USE THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AS A CHANNELING AGENT TO REQUEST INFORMATION FROM AND DISTRIBUTE INFORMATION TO THE DEPARTMENT OF JUSTICE, ANY OTHER GOVERNMENTAL AGENCY WITH SUBJECT MATTER JURISDICTION, AND ANY OTHER STATE LICENSING ENTITY THAT HAS LOAN ORIGINATORS REGISTERED WITH THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.~~

~~12-1106.~~

~~(A) TO APPLY FOR A LICENSE, AN APPLICANT SHALL:~~

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

~~(2) PROVIDE ALL INFORMATION THAT THE COMMISSIONER REQUESTS.~~

~~(B) THE APPLICANT SHALL COMPLY WITH ALL CONDITIONS AND PROVISIONS OF THE APPLICATION FOR LICENSURE AND BE ISSUED A LICENSE BEFORE ACTING AS A STUDENT LOAN SERVICER.~~

~~(C) WITH EACH APPLICATION, THE APPLICANT SHALL PAY THE FOLLOWING FEES TO THE COMMISSIONER:~~

~~(1) A NONREFUNDABLE LICENSE FEE OF \$1,000; AND~~

~~(2) A NONREFUNDABLE INVESTIGATION FEE OF \$800.~~

~~(D) IN ADDITION TO THE LICENSE FEE REQUIRED UNDER SUBSECTION (C) OF THIS SECTION, AN APPLICANT FOR AN INITIAL LICENSE SHALL PAY TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY ANY FEES THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY IMPOSES IN CONNECTION WITH THE APPLICATION.~~

~~(E) FOR EACH LICENSE FOR WHICH AN APPLICANT APPLIES, THE APPLICANT SHALL:~~

~~(1) SUBMIT A SEPARATE APPLICATION; AND~~

~~(2) PAY ALL FEES REQUIRED UNDER THIS SECTION.~~

~~(F) A PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT UNDER OATH ON AN APPLICATION FILED WITH THE COMMISSIONER UNDER THIS SECTION IS GUILTY OF PERJURY AND ON CONVICTION IS SUBJECT TO THE PENALTIES OF § 9-101 OF THE CRIMINAL LAW ARTICLE.~~

~~(G) THE COMMISSIONER MAY ADOPT REGULATIONS THAT REQUIRE AN APPLICANT THAT SERVICES LESS THAN 100 BORROWERS TO INCLUDE IN AN APPLICATION UNDER SUBSECTION (A) OF THIS SECTION A NONREFUNDABLE LICENSE FEE OR NONREFUNDABLE INVESTIGATION FEE THAT IS LOWER THAN THE FEES UNDER SUBSECTION (C) OF THIS SECTION.~~

~~12-1107.~~

~~(A) WITH THE APPLICATION FOR A NEW LICENSE, AN APPLICANT SHALL FILE A SURETY BOND WITH THE COMMISSIONER.~~

~~(B) (1) THE BOND SHALL RUN TO THE COMMISSIONER, AS OBLIGEE, FOR THE BENEFIT OF:~~

~~(I) THE STATE; AND~~

~~(II) ANY STUDENT LOAN BORROWER WHO HAS BEEN DAMAGED BY A VIOLATION COMMITTED BY A LICENSEE OF ANY LAW OR REGULATION GOVERNING THE ACTIVITIES OF STUDENT LOAN SERVICES.~~

~~(2) THE BOND SHALL BE:~~

~~(I) IN AN AMOUNT DETERMINED BY THE COMMISSIONER;~~

~~(II) ISSUED BY A SURETY COMPANY THAT:~~

~~1. IS AUTHORIZED TO DO BUSINESS IN THE STATE; AND~~

~~2. HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER; AND~~

~~(III) CONDITIONED THAT THE LICENSEE SHALL COMPLY WITH ALL MARYLAND AND FEDERAL LAWS REGULATING THE STUDENT LOAN SERVICERS.~~

~~(3) THE LIABILITY OF THE SURETY:~~

~~(I) SHALL BE CONTINUOUS;~~

~~(II) MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;~~

~~(III) MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;~~

~~(IV) SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;~~

~~(V) MAY NOT BE AFFECTED BY:~~

~~1. THE INSOLVENCY OR BANKRUPTCY OF THE LICENSEE;~~

~~2. ANY MISREPRESENTATION, BREACH OF WARRANTY, FAILURE TO PAY A PREMIUM, OR ANY OTHER ACT OR OMISSION OF THE LICENSEE OR AN AGENT OF THE LICENSEE; OR~~

~~3. THE SUSPENSION OF THE LICENSEE'S LICENSE;~~

~~(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE COMMISSIONER AS A PREREQUISITE TO LIABILITY; AND~~

~~(VII) SHALL CONTINUE FOR 3 YEARS AFTER THE LATER OF THE DATE ON WHICH:~~

~~1. THE BOND IS CANCELED; OR~~

~~2. THE LICENSEE, FOR ANY REASON, CEASES TO BE LICENSED.~~

~~(4) (I) A BOND MAY BE CANCELED BY THE SURETY OR THE LICENSEE BY GIVING NOTICE OF CANCELLATION TO THE COMMISSIONER.~~

~~(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:~~

~~1. BE IN WRITING; AND~~

~~2. BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.~~

~~(III) A CANCELLATION OF A BOND UNDER THIS PARAGRAPH IS NOT EFFECTIVE UNTIL 90 DAYS AFTER RECEIPT OF A NOTICE OF CANCELLATION BY THE COMMISSIONER.~~

~~(5) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:~~

~~(I) A CLAIMANT; OR~~

~~(II) THE COMMISSIONER FOR THE BENEFIT OF A CLAIMANT OR THE STATE.~~

~~(6) IF THE AMOUNT OF CLAIMS AGAINST A BOND EXCEEDS THE AMOUNT OF THE BOND, THE SURETY:~~

~~(I) SHALL PAY THE AMOUNT OF THE BOND TO THE COMMISSIONER FOR PRO RATA DISTRIBUTION TO CLAIMANTS; AND~~

~~(II) IS RELIEVED OF LIABILITY UNDER THE BOND.~~

~~(7) IF THE PENAL AMOUNT OF A BOND IS REDUCED BY PAYMENT OF A CLAIM OR JUDGMENT, THE LICENSEE SHALL FILE A NEW OR ADDITIONAL BOND WITH THE COMMISSIONER.~~

~~(8) A PENALTY IMPOSED AGAINST A LICENSEE UNDER § 12-1120 OF THIS SUBTITLE MAY BE COLLECTED AND PAID FROM THE PROCEEDS OF A BOND REQUIRED UNDER THIS SECTION.~~

~~12-1108.~~

~~(A) WHEN AN APPLICANT FOR A LICENSE FILES A COMPLETED APPLICATION AND PAYS THE FEES REQUIRED BY § 12-1106 OF THIS SUBTITLE, THE COMMISSIONER SHALL CONDUCT AN INVESTIGATION TO DETERMINE IF THE APPLICANT MEETS THE REQUIREMENTS OF § 12-1104 OF THIS SUBTITLE.~~

~~(B) THE COMMISSIONER SHALL APPROVE OR DENY AN APPLICATION WITHIN 60 DAYS AFTER THE COMMISSIONER RECEIVES A COMPLETED APPLICATION.~~

~~12-1109.~~

~~(A) IF AN APPLICANT DOES NOT MEET THE REQUIREMENTS § 12-1104 OF OF THIS SUBTITLE, THE COMMISSIONER SHALL:~~

~~(1) IMMEDIATELY NOTIFY THE APPLICANT IN WRITING OF THIS FACT;~~
~~AND~~

~~(2) RETURN THE BOND FILED UNDER § 12-1107 OF THIS SUBTITLE.~~

~~(B) WITHIN 30 DAYS AFTER THE COMMISSIONER DENIES AN APPLICATION, THE COMMISSIONER SHALL:~~

~~(1) FILE IN THE COMMISSIONER'S OFFICE A WRITTEN DECISION CONTAINING THE FINDINGS AND CONCLUSIONS ON WHICH THE DENIAL WAS BASED;~~

~~(2) SEND A COPY OF THE DECISION TO THE APPLICANT; AND~~

~~(3) NOTIFY THE APPLICANT BY CERTIFIED MAIL OF THE APPLICANT'S RIGHT TO A HEARING TO BE HELD IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.~~

~~(c) (1) AN APPLICANT WHO SEEKS A HEARING ON A LICENSE APPLICATION DENIAL SHALL FILE A WRITTEN REQUEST FOR A HEARING WITHIN 45 DAYS FOLLOWING RECEIPT OF THE NOTICE TO THE APPLICANT OF THE APPLICANT'S RIGHT TO A HEARING.~~

~~(2) A HEARING DATE ESTABLISHED IN RESPONSE TO THE FILING OF A REQUEST FOR A HEARING UNDER THIS SUBSECTION MAY BE POSTPONED ONLY ONCE FOR A PERIOD OF UP TO 30 DAYS AFTER THE INITIAL HEARING DATE.~~

~~12-1110.~~

~~(A) AN INITIAL LICENSE TERM SHALL:~~

~~(1) BEGIN ON THE DAY THE LICENSE IS ISSUED; AND~~

~~(2) EXPIRE ON DECEMBER 31 OF THE YEAR:~~

~~(i) THE LICENSE IS ISSUED, IF THE LICENSE IS ISSUED BEFORE NOVEMBER 1; OR~~

~~(ii) SUCCEEDING THE YEAR THAT THE LICENSE WAS ISSUED, IF THE LICENSE IS ISSUED ON OR AFTER NOVEMBER 1.~~

~~(B) AT LEAST 60 DAYS BEFORE ITS EXPIRATION, A LICENSE MAY BE RENEWED IF THE LICENSEE:~~

~~(1) OTHERWISE IS ENTITLED TO BE LICENSED;~~

~~(2) PAYS TO THE COMMISSIONER A NONREFUNDABLE RENEWAL FEE SET BY THE COMMISSIONER; AND~~

~~(3) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES.~~

~~(C) SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS IN CONNECTION WITH THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, A RENEWAL TERM SHALL:~~

~~(1) BE FOR A PERIOD OF 1 YEAR;~~

~~(2) BEGIN ON JANUARY 1 OF EACH YEAR AFTER THE INITIAL TERM;
AND~~

~~(3) EXPIRE ON DECEMBER 31 OF THE YEAR THE RENEWAL TERM
BEGINS.~~

~~12 1109. 12 1111.~~

~~(A) (1) WITHIN 15 DAYS AFTER A LICENSEE CEASES ENGAGING IN
SERVICING IN THE STATE, THE LICENSEE SHALL:~~

~~(I) SURRENDER ITS LICENSE; AND~~

~~(II) NOTIFY THE COMMISSIONER IN WRITING.~~

~~(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS
SUBSECTION SHALL:~~

~~(I) IDENTIFY THE LOCATION WHERE THE RECORDS OF THE
LICENSEE WILL BE STORED; AND~~

~~(II) INCLUDE THE NAME, MAILING ADDRESS, AND TELEPHONE
NUMBER OF AN INDIVIDUAL AUTHORIZED TO PROVIDE ACCESS TO THE RECORDS.~~

~~(B) THE SURRENDER OF A LICENSE UNDER SUBSECTION (A) OF THIS
SECTION DOES NOT REDUCE OR ELIMINATE THE LICENSEE'S CIVIL OR CRIMINAL
LIABILITY ARISING FROM ACTS OR OMISSIONS OCCURRING BEFORE THE
SURRENDER, INCLUDING ANY ACTIONS THAT THE COMMISSIONER MAY TAKE
AGAINST A LICENSEE UNDER THIS SUBTITLE.~~

~~(C) THE COMMISSIONER SHALL AUTOMATICALLY SUSPEND A LICENSE IF
PAYMENT IS RETURNED OR NOT ACCEPTED BY A FINANCIAL INSTITUTION FOR THE
FEES REQUIRED UNDER § 12 1104(B)(1) AND (2) OR § 12 1107(B)(2) OF THIS
SUBTITLE.~~

~~12 1110. 12 1112.~~

~~(A) A LICENSEE SHALL USE THE NAME AND BUSINESS ADDRESS SPECIFIED
ON ITS LICENSE.~~

~~(B) A LICENSEE SHALL:~~

~~(1) MAINTAIN ONE PLACE OF BUSINESS UNDER THE LICENSE; AND~~

~~(2) NOTIFY THE COMMISSIONER IN WRITING OF ANY CHANGE IN ITS ADDRESS BEFORE THE LICENSEE CHANGES ITS ADDRESS; AND~~

~~(3) NOTIFY THE COMMISSIONER IN WRITING OF ANY CHANGE IN CONTROL AND RECEIVE WRITTEN APPROVAL FROM THE COMMISSIONER FOR THE CHANGE IN CONTROL BEFORE THE LICENSEE UNDERGOES THE CHANGE IN CONTROL.~~

~~(c) THE COMMISSIONER MAY ISSUE MORE THAN ONE LICENSE TO A LICENSEE.~~

~~(d) A LICENSEE MAY NOT TRANSFER OR ASSIGN A LICENSE.~~

~~12 1111. 12 1113.~~

~~(A) EXCEPT AS OTHERWISE PROVIDED IN FEDERAL LAW, A FEDERAL STUDENT EDUCATION LOAN AGREEMENT, OR A CONTRACT BETWEEN THE FEDERAL GOVERNMENT AND A LICENSEE, A LICENSEE SHALL PRESERVE:~~

~~(1) ALL RECORDS FOR EACH STUDENT EDUCATION LOAN; AND~~

~~(2) EACH COMMUNICATION WITH A STUDENT LOAN BORROWER.~~

~~(B) A LICENSEE SHALL PRESERVE THE RECORDS AND COMMUNICATIONS UNDER SUBSECTION (A) OF THIS SECTION FOR:~~

~~(1) AT LEAST 2 YEARS AFTER THE EARLIER OF:~~

~~(i) FINAL PAYMENT ON A STUDENT EDUCATION LOAN; OR~~

~~(ii) THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN; OR~~

~~(2) A LONGER PERIOD IF OTHERWISE REQUIRED BY LAW.~~

~~(c) (1) THE COMMISSIONER MAY INVESTIGATE AND INSPECT THE RECORDS OF A LICENSEE.~~

~~(2) FOR THE PURPOSES OF THIS SUBSECTION, A LICENSEE SHALL:~~

~~(i) MAKE ANY RECORDS REQUESTED BY THE COMMISSIONER AVAILABLE; OR~~

~~(H) SEND COPIES OF ANY RECORDS REQUESTED BY THE COMMISSIONER TO THE COMMISSIONER WITHIN 5 BUSINESS DAYS AFTER THE REQUEST.~~

~~(3) (2) IF REQUESTED BY A LICENSEE, THE COMMISSIONER MAY EXTEND THE TIME A LICENSEE HAS TO SEND RECORDS REQUESTED UNDER PARAGRAPH (2)(H) OF THIS SUBSECTION.~~

~~(4) (3) A LICENSEE SHALL SEND ANY RECORDS BY:~~

~~(I) REGISTERED MAIL;~~

~~(H) CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR~~

~~(III) ANY EXPRESS DELIVERY CARRIER THAT PROVIDES A DATED DELIVERY RECEIPT.~~

~~12-1112. 12-1114.~~

~~A LICENSEE SHALL COMPLY WITH ALL FEDERAL LAWS CONCERNING STUDENT EDUCATION LOAN SERVICING, INCLUDING COMPLIANCE WITH THE FEDERAL TRUTH IN LENDING ACT.~~

~~12-1115.~~

~~(A) IN THIS SECTION, "NONCONFORMING PAYMENT" MEANS A PAYMENT ON A STUDENT EDUCATION LOAN OF A STUDENT LOAN BORROWER THAT IS MORE OR LESS THAN THE REQUIRED PAYMENT.~~

~~(B) EXCEPT AS OTHERWISE PROVIDED IN FEDERAL LAW, FEDERAL STUDENT EDUCATION LOAN AGREEMENTS, OR A CONTRACT BETWEEN THE FEDERAL GOVERNMENT AND A LICENSEE, A LICENSEE SHALL TAKE THE ACTIONS UNDER THIS SECTION.~~

~~(C) A LICENSEE SHALL RESPOND TO A WRITTEN INQUIRY FROM A STUDENT LOAN BORROWER OR THE REPRESENTATIVE OF A STUDENT LOAN BORROWER WITHIN 30 DAYS AFTER RECEIVING THE INQUIRY.~~

~~(D) (1) IF A LICENSEE RECEIVES A NONCONFORMING PAYMENT ON A STUDENT EDUCATION LOAN OF A STUDENT LOAN BORROWER, A LICENSEE SHALL ASK THE STUDENT LOAN BORROWER HOW THE BORROWER PREFERS THE LICENSEE TO APPLY THE NONCONFORMING PAYMENT.~~

~~(2) A LICENSEE SHALL:~~

~~(I) NOTE HOW THE STUDENT LOAN BORROWER PREFERS THE LICENSEE TO APPLY A NONCONFORMING PAYMENT;~~

~~(II) APPLY THE NONCONFORMING PAYMENT IN THE MANNER PREFERRED BY THE STUDENT LOAN BORROWER; AND~~

~~(III) UNTIL THE STUDENT LOAN BORROWER INDICATES OTHERWISE, APPLY ANY FUTURE NONCONFORMING PAYMENTS IN THE SAME MANNER PREFERRED BY THE BORROWER UNDER ITEM (I) OF THIS PARAGRAPH.~~

~~(E) (1) THIS SUBSECTION APPLIES TO THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN THAT RESULTS IN A CHANGE IN THE IDENTITY OF THE PERSON TO WHOM A STUDENT LOAN BORROWER IS REQUIRED TO:~~

~~(I) SEND PAYMENTS; OR~~

~~(II) DIRECT ANY COMMUNICATIONS CONCERNING THE STUDENT EDUCATION LOAN.~~

~~(2) AS A CONDITION OF A SALE, AN ASSIGNMENT, OR ANY OTHER TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN, A LICENSEE SHALL REQUIRE THE NEW STUDENT LOAN SERVICER TO:~~

~~(I) HONOR ALL BENEFITS ORIGINALLY REPRESENTED AS AVAILABLE TO A STUDENT LOAN BORROWER DURING THE REPAYMENT OF THE STUDENT EDUCATION LOAN; AND~~

~~(II) PRESERVE THE AVAILABILITY OF THE BENEFITS UNDER ITEM (I) OF THIS PARAGRAPH, INCLUDING ANY BENEFITS FOR WHICH THE STUDENT LOAN BORROWER HAS NOT YET QUALIFIED.~~

~~(3) A LICENSEE SHALL TRANSFER TO THE NEW STUDENT LOAN SERVICER SERVICING THE STUDENT EDUCATION LOAN ALL INFORMATION REGARDING:~~

~~(I) THE STUDENT LOAN BORROWER;~~

~~(II) THE ACCOUNT OF THE STUDENT LOAN BORROWER; AND~~

~~(III) THE STUDENT EDUCATION LOAN OF THE STUDENT LOAN BORROWER.~~

~~(4) THE INFORMATION REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION INCLUDES:~~

~~(I) THE REPAYMENT STATUS OF THE STUDENT LOAN BORROWER; AND~~

~~(II) ANY BENEFITS ASSOCIATED WITH THE STUDENT EDUCATION LOAN OF THE STUDENT LOAN BORROWER.~~

~~(5) A LICENSEE SHALL COMPLETE THE TRANSFER OF INFORMATION REQUIRED UNDER PARAGRAPH (3) OF THIS SUBSECTION WITHIN 45 DAYS AFTER THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN.~~

~~(6) THE SALE, ASSIGNMENT, OR OTHER TRANSFER OF THE SERVICING OF A STUDENT EDUCATION LOAN SHALL BE COMPLETED AT LEAST 7 DAYS BEFORE THE NEXT PAYMENT ON THE LOAN IS DUE.~~

~~(F) (1) THIS SUBSECTION APPLIES TO A LICENSEE WHO OBTAINS THE RIGHT TO SERVICE A STUDENT EDUCATION LOAN.~~

~~(2) A LICENSEE SHALL ADOPT POLICIES AND PROCEDURES TO VERIFY THAT THE LICENSEE HAS RECEIVED ALL INFORMATION REGARDING:~~

~~(I) THE STUDENT LOAN BORROWER;~~

~~(II) THE ACCOUNT OF THE STUDENT LOAN BORROWER; AND~~

~~(III) THE STUDENT EDUCATION LOAN OF THE STUDENT LOAN BORROWER.~~

~~(3) THE INFORMATION REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION INCLUDES:~~

~~(I) THE REPAYMENT STATUS OF THE STUDENT LOAN BORROWER; AND~~

~~(II) ANY BENEFITS ASSOCIATED WITH THE STUDENT EDUCATION LOAN OF THE STUDENT LOAN BORROWER.~~

~~12-1113. 12-1116.~~

~~(A) A LICENSEE MAY NOT:~~

~~(1) EMPLOY, DIRECTLY OR INDIRECTLY, ANY SCHEME, DEVICE, OR ARTIFICE TO DEFRAUD OR MISLEAD BORROWERS;~~

~~(2) ENGAGE IN ANY UNFAIR OR DECEPTIVE PRACTICE TOWARD ANY PERSON;~~

~~(3) MISREPRESENT OR OMIT ANY MATERIAL INFORMATION IN CONNECTION WITH THE SERVICING OF A STUDENT EDUCATION LOAN, INCLUDING MISREPRESENTATION OR OMISSION OF ANY FEE, PAYMENT DUE, LOAN TERM, OR BORROWER OBLIGATION;~~

~~(4) OBTAIN PROPERTY BY FRAUD OR MISREPRESENTATION;~~

~~(5) KNOWINGLY MISAPPLY OR RECKLESSLY APPLY STUDENT EDUCATION LOAN PAYMENTS TO THE OUTSTANDING BALANCE OF A STUDENT EDUCATION LOAN;~~

~~(6) CAUSE HARM TO THE CREDITWORTHINESS OF A STUDENT LOAN BORROWER BY KNOWINGLY OR RECKLESSLY PROVIDING INACCURATE INFORMATION TO A CONSUMER REPORTING AGENCY AS DEFINED IN § 14-1201 OF THE COMMERCIAL LAW ARTICLE;~~

~~(7) IF THE LICENSEE REGULARLY REPORTS INFORMATION TO A CONSUMER REPORTING AGENCY, FAIL TO REPORT BOTH THE FAVORABLE AND UNFAVORABLE PAYMENT HISTORY OF A STUDENT LOAN BORROWER TO A NATIONALLY RECOGNIZED CONSUMER REPORTING AGENCY AT LEAST ONCE A YEAR;~~

~~(8) SUBJECT TO SUBSECTION (B) OF THIS SECTION, REFUSE TO COMMUNICATE WITH AN AUTHORIZED REPRESENTATIVE OF A STUDENT LOAN BORROWER WHO PROVIDES A WRITTEN AUTHORIZATION SIGNED BY THE STUDENT LOAN BORROWER; AND~~

~~(9) NEGLIGENCELY MAKE ANY FALSE STATEMENT OR OMIT ANY MATERIAL FACT IN CONNECTION WITH:~~

~~(i) ANY INFORMATION OR REPORTS FILED WITH A GOVERNMENT AGENCY; OR~~

~~(ii) ANY INVESTIGATION CONDUCTED BY THE COMMISSIONER OR ANY OTHER GOVERNMENT AGENCY.~~

~~(B) A LICENSEE MAY ADOPT PROCEDURES TO VERIFY THAT AN AUTHORIZED REPRESENTATIVE UNDER SUBSECTION (A)(8) OF THIS SECTION IS AUTHORIZED TO ACT ON BEHALF OF A STUDENT LOAN BORROWER.~~

~~12-1114. 12-1117.~~

~~IN ORDER TO CARRY OUT THIS SUBTITLE, THE COMMISSIONER MAY:~~

~~(1) RETAIN RETAIN ATTORNEYS, ACCOUNTANTS, OTHER PROFESSIONALS, AND SPECIALISTS AS EXAMINERS, AUDITORS, OR INVESTIGATORS TO CONDUCT OR ASSIST IN CONDUCTING EXAMINATIONS OR INVESTIGATIONS;~~

~~(2) ENTER INTO AGREEMENTS OR RELATIONSHIPS WITH OTHER GOVERNMENT OFFICIALS OR REGULATORY ASSOCIATIONS TO IMPROVE EFFICIENCIES AND REDUCE REGULATORY BURDEN, INCLUDING SHARING:~~

~~(I) RESOURCES;~~

~~(II) STANDARDIZED OR UNIFORM METHODS OR PROCEDURES;~~

~~AND~~

~~(III) DOCUMENTS, RECORDS, INFORMATION, OR EVIDENCE OBTAINED UNDER THE AUTHORITY OF THE COMMISSIONER;~~

~~(3) USE, HIRE, CONTRACT FOR, OR EMPLOY PUBLIC OR PRIVATELY AVAILABLE ANALYTICAL SYSTEMS, METHODS, OR SOFTWARE TO EXAMINE OR INVESTIGATE A PERSON SUBJECT TO THIS SUBTITLE;~~

~~(4) ACCEPT AND RELY ON EXAMINATION OR INVESTIGATION REPORTS MADE BY OTHER GOVERNMENT OFFICIALS; AND~~

~~(5) (I) ACCEPT AUDIT REPORTS MADE BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT FOR A LICENSEE OR OTHER PERSON ON THE SAME GENERAL SUBJECT MATTER AS THE AUDIT; AND~~

~~(II) INCORPORATE THE AUDIT REPORT IN THE REPORT OR EXAMINATION OR INVESTIGATION, OR OTHER WRITING.~~

~~12-1115. 12-1118.~~

~~(A) THE COMMISSIONER MAY CONDUCT INVESTIGATIONS AND EXAMINATIONS FOR THE PURPOSES OF:~~

~~(1) APPROVING OR DENYING AN INITIAL OR RENEWAL LICENSE APPLICATION UNDER THIS SUBTITLE;~~

~~(2) OBTAINING ANY INFORMATION REQUIRED BY THIS SUBTITLE;~~
AND

~~(3) DISCOVERING DISCOVERING ANY VIOLATIONS OF THIS SUBTITLE.~~

~~(B) A LICENSEE SHALL PAY TO THE COMMISSIONER A PER DAY FEE SET BY THE COMMISSIONER FOR EACH OF THE COMMISSIONER'S EMPLOYEES ENGAGED IN THE INVESTIGATION AND OTHER COSTS ASSOCIATED WITH THE INVESTIGATION.~~

~~(B) THE COMMISSIONER SHALL REVIEW, INVESTIGATE, OR EXAMINE ANY LICENSEE OR OTHER PERSON SUBJECT TO THIS SUBTITLE AS OFTEN AS NECESSARY TO CARRY OUT ITS PURPOSE.~~

~~(C) (1) THE COMMISSIONER SHALL HAVE FULL ACCESS TO ANY BOOKS, ACCOUNTS, RECORDS, FILES, DOCUMENTS, INFORMATION, OR EVIDENCE RELEVANT TO AN INQUIRY OR INVESTIGATION UNDER THIS SECTION REGARDLESS OF THE LOCATION, POSSESSION, CONTROL, OR CUSTODY OF THE BOOKS, ACCOUNTS, RECORDS, FILES, DOCUMENTS, INFORMATION, OR EVIDENCE.~~

~~(2) RECORDS THAT THE COMMISSIONER MAY HAVE ACCESS TO UNDER PARAGRAPH (1) OF THIS SUBSECTION INCLUDE:~~

~~(I) CRIMINAL, CIVIL, AND ADMINISTRATIVE HISTORY;~~

~~(II) PERSONAL HISTORY AND EXPERIENCE;~~

~~(III) CREDIT HISTORY; AND~~

~~(IV) ANY OTHER INFORMATION NECESSARY OR RELEVANT TO AN INQUIRY OR INVESTIGATION UNDER THIS SUBSECTION.~~

~~(D) THE COMMISSIONER MAY DIRECT, SUBPOENA, OR ORDER:~~

~~(1) EXAMINATION UNDER OATH OF ANY PERSON WHOSE TESTIMONY MAY BE REQUIRED; AND~~

~~(2) PRODUCTION OF ANY BOOKS, ACCOUNTS, RECORDS, FILES, OR DOCUMENTS THE COMMISSIONER CONSIDERS RELEVANT.~~

~~(E) THE COMMISSIONER MAY:~~

~~(1) CONTROL ACCESS TO ANY DOCUMENTS AND RECORDS OF A LICENSEE OR A PERSON UNDER EXAMINATION OR INVESTIGATION UNDER THIS SECTION; AND~~

~~(2) (i) TAKE POSSESSION OF THE DOCUMENTS AND RECORDS; OR~~
~~(ii) SELECT A PERSON TO BE IN CHARGE EXCLUSIVELY OF THE DOCUMENTS AND RECORDS IN THE PLACE WHERE THE DOCUMENTS AND RECORDS ARE USUALLY KEPT.~~

~~(F) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A PERSON MAY NOT REMOVE OR ATTEMPT TO REMOVE ANY OF THE DOCUMENTS OR RECORDS SUBJECT TO AN EXAMINATION OR INVESTIGATION UNDER THIS SECTION.~~

~~(2) A PERSON MAY REMOVE A DOCUMENT:~~

~~(i) BY COURT ORDER; OR~~

~~(ii) WITH THE CONSENT OF THE COMMISSIONER.~~

~~(3) UNLESS THE COMMISSIONER HAS REASON TO BELIEVE THERE IS A RISK THAT DOCUMENTS OR RECORDS WILL BE ALTERED OR DESTROYED TO CONCEAL A VIOLATION OF THIS SUBTITLE, A LICENSEE OR AN OWNER OF DOCUMENTS AND RECORDS OF A LICENSEE SHALL HAVE ACCESS TO THE DOCUMENTS AND RECORDS AS NEEDED TO CONDUCT ITS ORDINARY BUSINESS.~~

~~(G) A LICENSEE OR A PERSON SUBJECT TO INVESTIGATION OR EXAMINATION UNDER THIS SUBTITLE MAY NOT KNOWINGLY WITHHOLD, ABSTRACT, REMOVE, MUTILATE, DESTROY, OR HIDE ANY BOOKS, RECORDS, COMPUTER RECORDS, OR OTHER INFORMATION.~~

~~12-1116. 12-1119.~~

~~(A) THE COMMISSIONER MAY ENFORCE THIS SUBTITLE AGAINST A STUDENT LOAN SERVICER ANY PERSON WHO:~~

~~(1) IS DOING BUSINESS IN THE STATE; AND~~

~~(2) IS NOT LICENSED OR IS NOT EXEMPTED FROM BEING LICENSED UNDER THIS SUBTITLE, WHETHER OR NOT THE STUDENT LOAN SERVICER CLAIMS TO BE LICENSED AS A STUDENT LOAN SERVICER IN ANOTHER JURISDICTION.~~

~~(B) THIS SECTION APPLIES TO ANY PERSON WHO IS ENGAGED IN THE BUSINESS OF SERVICING STUDENT EDUCATION LOANS IN THE STATE ACTUALLY OR THROUGH SUBTERFUGE.~~

~~12-1117.~~

~~(A) (1) THIS SUBSECTION APPLIES TO:~~

~~(I) ANY VIOLATION OF THIS SUBTITLE; OR~~

~~(II) ANY ACTION THAT WOULD BE SUFFICIENT GROUNDS FOR THE COMMISSIONER TO DENY A LICENSE APPLICATION UNDER THIS SUBTITLE.~~

~~(2) THE COMMISSIONER MAY:~~

~~(I) SUSPEND, REVOKE, OR REFUSE TO RENEW THE LICENSE OF THE STUDENT LOAN SERVICER RESPONSIBLE FOR THE VIOLATION OR ACTION; OR~~

~~(II) TAKE ANY OTHER ACTION AGAINST THE LICENSEE RESPONSIBLE FOR THE VIOLATION OR ACTION.~~

~~(B) THE COMMISSIONER MAY TAKE ANY ACTION AUTHORIZED UNDER STATE BANKING LAWS WHEN IT APPEARS THAT:~~

~~(1) A PERSON VIOLATED, IS VIOLATING, OR IS ABOUT TO VIOLATE THIS SUBTITLE; OR~~

~~(2) A LICENSEE OR ANY OWNER, DIRECTOR, OFFICER, MEMBER, PARTNER, SHAREHOLDER, TRUSTEE, EMPLOYEE, OR AGENT OF THE LICENSEE HAS:~~

~~(I) COMMITTED FRAUD;~~

~~(II) ENGAGED IN DISHONEST ACTIVITIES; OR~~

~~(III) MADE ANY MISREPRESENTATION.~~

~~(C) THE COMMISSIONER SHALL PROVIDE A LICENSEE:~~

~~(1) NOTICE OF ANY SUSPENSION, REVOCATION, OR TERMINATION OF THE LICENSE OF THE LICENSEE; AND~~

~~(2) THE OPTION TO REQUEST A HEARING REGARDING THE LICENSE SUSPENSION, REVOCATION, OR TERMINATION.~~

~~(D) IF A LICENSE IS SURRENDERED, REVOKED, OR SUSPENDED BEFORE IT EXPIRES, THE COMMISSIONER MAY NOT REFUND ANY PORTION OF THE LICENSE FEE.~~

~~12-1120.~~

~~(A) SUBJECT TO THE HEARING PROVISIONS OF § 12-1121 OF THIS SUBTITLE, THE COMMISSIONER MAY SUSPEND OR REVOKE THE LICENSE OF ANY LICENSEE IF THE LICENSEE OR ANY OWNER, DIRECTOR, OFFICER, MEMBER, PARTNER, STOCKHOLDER, EMPLOYEE, OR AGENT OF THE LICENSEE:~~

~~(1) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION FOR A LICENSE;~~

~~(2) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE OF:~~

~~(I) A FELONY; OR~~

~~(II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION OF THE PERSON TO ENGAGE IN STUDENT LOAN SERVICING;~~

~~(3) IN CONNECTION WITH ANY STUDENT EDUCATION LOAN:~~

~~(I) COMMITS ANY FRAUD;~~

~~(II) ENGAGES IN ANY ILLEGAL OR DISHONEST ACTIVITIES; OR~~

~~(III) MISREPRESENTS OR FAILS TO DISCLOSE ANY MATERIAL FACTS TO ANYONE ENTITLED TO THAT INFORMATION;~~

~~(4) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY RULE OR REGULATION ADOPTED UNDER IT OR ANY OTHER LAW REGULATING STUDENT LOAN SERVICERS IN THE STATE; OR~~

~~(5) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH, DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY, FAIRLY, EQUITABLY, AND EFFICIENTLY.~~

~~(B) IN DETERMINING WHETHER THE LICENSE OF A LICENSEE SHOULD BE SUSPENDED OR REVOKED FOR A REASON DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER:~~

~~(1) THE NATURE OF THE CRIME;~~

~~(2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED BY THE LICENSE;~~

~~(3) WITH RESPECT TO A MISDEMEANOR, THE RELEVANCE OF THE CONVICTION TO THE FITNESS AND QUALIFICATION OF THE LICENSEE TO ENGAGE IN STUDENT LOAN SERVICING;~~

~~(4) THE LENGTH OF TIME SINCE THE CONVICTION; AND~~

~~(5) THE BEHAVIOR AND ACTIVITIES OF THE LICENSEE SINCE THE CONVICTION.~~

~~(C) (1) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE AND REGULATIONS ADOPTED UNDER THIS SUBTITLE BY:~~

~~(i) ISSUING AN ORDER:~~

~~1. TO CEASE AND DESIST FROM THE VIOLATION AND ANY FURTHER SIMILAR VIOLATIONS; AND~~

~~2. REQUIRING THE VIOLATOR TO TAKE AFFIRMATIVE ACTION TO CORRECT THE VIOLATION, INCLUDING THE RESTITUTION OF MONEY OR PROPERTY TO ANY PERSON AGGRIEVED BY THE VIOLATION; AND~~

~~(ii) IMPOSING A CIVIL PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION.~~

~~(D) IF A VIOLATOR FAILS TO COMPLY WITH AN ORDER ISSUED UNDER SUBSECTION (C)(1)(i) OF THIS SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING \$100,000 FOR EACH VIOLATION FROM WHICH THE VIOLATOR FAILED TO CEASE AND DESIST OR FOR WHICH THE VIOLATOR FAILED TO TAKE AFFIRMATIVE ACTION TO CORRECT.~~

~~(E) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT FOR ANY COUNTY SEEKING ENFORCEMENT OF AN ORDER ISSUED UNDER THIS SECTION.~~

~~(F) IN DETERMINING THE AMOUNT OF A FINANCIAL PENALTY TO BE IMPOSED UNDER SUBSECTION (C) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER:~~

- ~~(1) THE SERIOUSNESS OF THE VIOLATION;~~
- ~~(2) THE GOOD FAITH OF THE VIOLATOR;~~
- ~~(3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;~~
- ~~(4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC AND STUDENT LOAN SERVICER INDUSTRY;~~
- ~~(5) THE ASSETS OF THE VIOLATOR; AND~~
- ~~(6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE FINANCIAL PENALTY.~~

~~12-1121.~~

~~(A) BEFORE THE COMMISSIONER TAKES ANY ACTION UNDER § 12-1120 OF THIS SUBTITLE, THE COMMISSIONER SHALL GIVE THE LICENSEE AN OPPORTUNITY FOR A HEARING.~~

~~(B) NOTICE OF THE HEARING SHALL BE GIVEN AND THE HEARING SHALL BE HELD IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.~~

~~(C) THE HEARING NOTICE TO THE LICENSEE SHALL BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE PRINCIPAL PLACE OF BUSINESS OF THE LICENSEE AT LEAST 30 DAYS BEFORE THE HEARING.~~

~~12-1122.~~

~~(A) A LICENSEE WHO WILLFULLY FAILS TO COMPLY WITH ANY REQUIREMENT IMPOSED UNDER THIS SUBTITLE WITH RESPECT TO A STUDENT LOAN BORROWER IS LIABLE TO THE BORROWER IN AN AMOUNT EQUAL TO THE SUM OF:~~

- ~~(1) ANY ACTUAL DAMAGES SUSTAINED BY THE BORROWER AS A RESULT OF THE FAILURE;~~
- ~~(2) A MONETARY AWARD EQUAL TO 3 TIMES THE TOTAL AMOUNT THE LICENSEE COLLECTED FROM THE BORROWER, AS DETERMINED BY THE COMMISSIONER;~~

~~(3) PUNITIVE DAMAGES AS THE COURT MAY ALLOW; AND~~

~~(4) IF A BORROWER PREVAILS IN AN ACTION UNDER THIS SUBSECTION;~~

~~(I) THE COSTS OF THE ACTION; AND~~

~~(H) REASONABLE ATTORNEY'S FEES AS DETERMINED BY THE COURT.~~

~~(B) A LICENSEE WHO NEGLIGENTLY FAILS TO COMPLY WITH ANY REQUIREMENT IMPOSED UNDER THIS SUBTITLE WITH RESPECT TO A STUDENT LOAN BORROWER IS LIABLE TO THAT BORROWER IN AN AMOUNT EQUAL TO THE SUM OF:~~

~~(1) ANY ACTUAL DAMAGES SUSTAINED BY THE CONSUMER AS A RESULT OF THE FAILURE; AND~~

~~(2) IF A BORROWER PREVAILS IN AN ACTION UNDER THIS SUBSECTION;~~

~~(I) THE COSTS OF THE ACTION; AND~~

~~(H) REASONABLE ATTORNEY'S FEES AS DETERMINED BY THE COURT.~~

~~12-1118. 12-1123.~~

~~(H) ON OR BEFORE JANUARY 1 EACH YEAR, THE COMMISSIONER SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:~~

~~(1) THE IMPLEMENTATION OF THE STUDENT LOAN OMBUDSMAN AND RELATED PROVISIONS UNDER § 2-104.1 OF THIS ARTICLE THIS SECTION; AND~~

~~(2) THE OVERALL EFFECTIVENESS OF THE STUDENT LOAN OMBUDSMAN POSITION; AND~~

~~(3) ANY ADDITIONAL STEPS NEEDED TO GAIN REGULATORY CONTROL OVER THE LICENSING AND OVERSIGHT OF STUDENT LOAN SERVICERS.~~

~~12-1119. 12-1124.~~

~~(A) THE COMMISSIONER SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE THAT ARE:~~

~~(1) CONSISTENT WITH THE PURPOSES OF THIS SUBTITLE; AND~~

~~(2) APPROPRIATE FOR THE EFFECTIVE ADMINISTRATION OF THIS SUBTITLE.~~

~~(B) REGULATIONS THAT THE COMMISSIONER ADOPTS UNDER THIS SUBTITLE SHALL INCLUDE REGULATIONS:~~

~~(1) REGARDING THE ACTIVITIES OF STUDENT LOAN SERVICERS THAT ARE NECESSARY AND APPROPRIATE FOR THE PROTECTION OF STUDENT LOAN BORROWERS IN THE STATE;~~

~~(2) NECESSARY AND APPROPRIATE TO DEFINE UNFAIR AND DECEPTIVE PRACTICES BY STUDENT LOAN SERVICERS;~~

~~(3) DEFINING THE TERMS USED IN THIS SUBTITLE;~~

~~(4) NECESSARY AND APPROPRIATE TO INTERPRET AND IMPLEMENT THIS SUBTITLE; AND~~

~~(5) NECESSARY FOR THE ENFORCEMENT OF THIS SUBTITLE.~~

~~12-1125.~~

~~(A) ALL REVENUE RECEIVED FOR THE LICENSING OF PERSONS UNDER THIS SUBTITLE AND ANY OTHER FEE, INVESTIGATION FEE OR ASSESSMENT, OR REVENUE RECEIVED BY THE COMMISSIONER UNDER THIS SUBTITLE SHALL BE:~~

~~(1) CREDITED TO THE NONDEPOSITORY SPECIAL FUND ESTABLISHED UNDER TITLE 11, SUBTITLE 6 OF THIS ARTICLE; AND~~

~~(2) USED IN ACCORDANCE WITH § 11-610 OF THIS ARTICLE.~~

~~(B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL PAY ALL FINES AND PENALTIES COLLECTED BY THE COMMISSIONER UNDER THIS SUBTITLE INTO THE GENERAL FUND OF THE STATE.~~

SECTION ~~3~~ 5. AND BE IT FURTHER ENACTED, That:

(a) The Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation shall conduct a study to assess whether the Commissioner has enough statutory authority to regulate “Fintech firms” or technology-driven nonbank companies who compete with traditional methods in the delivery of financial services.

(b) The Commissioner shall identify any gaps in the regulation of Fintech firms, including any specific types of companies that are not subject to regulation under State law.

(c) On or before December 31, 2019, the Commissioner shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, its findings and any recommendations for legislative proposals to regulate Fintech firms.

SECTION ~~4~~ 6. AND BE IT FURTHER ENACTED, That the Maryland Financial Consumer Protection Commission established under Chapters 18 and 781 of the Acts of 2017 shall:

(1) study:

(i) cryptocurrencies, initial coin offerings, cryptocurrency exchanges, and other blockchain technologies; and

(ii) the Consumer Financial Protection Bureau arbitration rule and the Model State Consumer and Employee Justice Enforcement Act, including reviewing similar laws adopted in other states;

(iii) the possible exemption of retailers of manufactured homes from the definition of “mortgage originator” in federal law; and

(iv) the U.S. Department of Labor rule and any Securities and Exchange Commission actions in addressing conflicts of interest of broker-dealers offering of investment advice by aligning the standard of care for broker-dealers with that of the fiduciary duty of investment advisors; and

(2) include recommendations ~~for State actions to regulate cryptocurrencies~~ in its 2018 report to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly regarding:

(i) State action to regulate cryptocurrencies, initial coin offerings, and cryptocurrency exchanges;

(ii) changes to State law to provide the protection intended by the Model State Consumer and Employee Justice Enforcement Act;

(iii) changes to State law to provide the protection intended by the U.S. Department of Labor conflicts of interest rule addressing fiduciary duty standards of care; and

(iv) clarification of State law to ensure that Maryland buyers of manufactured homes are protected in their ~~homebuying~~ home-buying transaction.

SECTION ~~5~~ 7. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION ~~6~~ 8. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act or by any other Act of the General Assembly of 2018 that affects provisions enacted by this Act. The publisher shall adequately describe any correction that is made in an editor's note following the section affected.

SECTION 9. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect January 1, 2019.

SECTION ~~7~~ 10. AND BE IT FURTHER ENACTED, That, except as provided in Section 9 of this Act, this Act shall take effect October 1, 2018.

Approved by the Governor, May 15, 2018.