Department of Legislative Services

Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 314 (Delegate Holmes)
Environment and Transportation Judicial Proceedings

Real Property - Lien Priority of Refinance Mortgages - Exception for Government Junior Mortgages

This bill exempts junior liens securing a loan made by a state or local government agency with a 0% interest rate from statutory provisions that, under specified circumstances, automatically subordinate loans following refinancing of a mortgage or deed of trust and authorize a mortgagor or grantor to refinance without permission from the junior lienholder. **The bill takes effect June 1, 2020, and applies prospectively so that it only affects applications to refinance any mortgage recorded on or after that date.**

Fiscal Summary

State Effect: No likely effect in FY 2020. Special fund revenues increase by $120,000 annually beginning in FY 2021 for the Department of Housing and Community Development (DHCD), while DHCD special fund expenditures decrease by $1,200 annually beginning in FY 2021.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
SF Revenue	$120,000	$120,000	$120,000	$120,000	$120,000
SF Expenditure	($1,200)	($1,200)	($1,200)	($1,200)	($1,200)
Net Effect	$121,200	$121,200	$121,200	$121,200	$121,200

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law/Background: A mortgagor or grantor may refinance the full amount of the unpaid indebtedness secured by a first mortgage or deed of trust on residential property for a lower interest rate than provided for in the evidence of indebtedness secured by the first mortgage or deed of trust without the permission of the holder of a junior lien, if (1) the principal amount secured by the junior lien does not exceed $150,000 and (2) the principal amount secured by the refinance mortgage does not exceed the unpaid outstanding principal balance, plus closing and escrow costs of up to $5,000.

A refinance mortgage that meets these conditions must contain a specified notice and, on recordation, has the same lien priority as the first mortgage or deed of trust that it replaces. The priorities of two or more junior liens are governed by Title 3 of the Real Property Article.

A refinance mortgage is the repayment of an existing mortgage loan with funds from a new loan using the same property as security. Often, the refinancing of a mortgage can help a homeowner achieve better loan terms, such as lower interest rates. Because a refinance mortgage is a new mortgage, when a first mortgage is refinanced, the holder of an existing junior mortgage is asked to agree to subordinate so that the first loan holder preserves priority.

However, the holder of a junior mortgage can refuse to sign the subordination agreement and, thus, block the homeowner's ability to refinance the first mortgage. Even if lenders sign a subordination agreement, it takes time to approve the request, and refinancing homeowners can be required to pay fees to process a subordination request as well as additional fees for a longer interest rate lock-in period or to extend the lock-in period. Legislation in 2013 and 2014 (Chapters 205 and 634, respectively) eliminated the need to obtain the permission of a junior lien holder in the circumstances specified above.

DHCD's Maryland Mortgage Program (MMP) provides down payment assistance to borrowers through its Downpayment and Settlement Loan Program (DSELP). DHCD advises that, under current law, when first mortgages held by the department are refinanced (subject to the conditions of the statutory provisions), it is not able to require repayment of down payment assistance provided to homebuyers.

State Fiscal Effect: Special fund revenues increase by approximately $120,000 annually beginning in fiscal 2021 due to DSELP loans being satisfied as a part of the refinancing of the primary mortgage. This estimate assumes that 24 MMP loans with DSELP junior liens are refinanced each year, with an average DSELP balance of $5,000.

With 24 MMP loans with DSELP junior liens refinanced each year, special fund expenditures decrease by approximately $1,200 to reflect a reduction in fees paid to DHCD's external mortgage servicing vendor. This estimate reflects an average annual servicing cost of $50 per loan.

Despite the bill's June 1, 2020 effective date, it is assumed that any fiscal effect is not realized until fiscal 2021.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore City; Caroline, Howard, Montgomery, and Prince George's counties; Maryland Association of Counties; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Maryland Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - February 9, 2020
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