

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Department of Labor, Licensing, and Regulation
(DLS Control No. 15-239)**

Overview and Legal and Fiscal Impact

This regulation reduces (1) the investigation fee for mortgage loan originator applicants and affiliated insurance producer-mortgage loan originator applicants and (2) the license amendment fee for mortgage loan originators and affiliated insurance producer-mortgage loan originators.

This regulation presents no legal issues of concern.

Mortgage Lender-Originator Fund revenues decrease by approximately \$381,590 annually due to the reduction of the application investigation and license amendment fees for mortgage loan originators and affiliated insurance producer-mortgage loan originators.

Regulation of COMAR Affected

Department of Labor, Licensing, and Regulation:

Commissioner of Financial Regulation: Mortgage Loan Originators:
COMAR 09.03.09.07

Legal Analysis

Background

Legislation enacted in 2005 established licensing requirements for mortgage loan originators. Before acting as a mortgage loan originator, an individual must obtain a license from the commissioner. A mortgage originator is an employee of a mortgage lender who (1) is a mortgage broker or has or will have a net branch office at or out of which the employee works; (2) directly contacts prospective borrowers for the purpose of negotiation with or advising them about mortgage loan terms and availability; (3) works on a percentage basis; and (4) is authorized to accept a loan application on the mortgage lender's behalf.

Chapter 4 of 2009 revised the State's mortgage lender and mortgage loan originator laws under Title 11, Subtitle 5 of the Financial Institutions Article to conform to the requirements of the Federal Secure and Fair Enforcement Mortgage Licensing Act of 2008 (SAFE Act) and altered the licensing requirements, initial license terms, and renewal license terms for mortgage lenders and mortgage loan originators. The Act requires licensees to submit certain information

to the Nationwide Multistate Licensing System and Registry, increases civil penalties, and permits the office to issue interim mortgage loan originator licenses.

An applicant for a license must pay a \$100 nonrefundable investigation fee and a \$225 annual license fee. An applicant must also meet certain character and fitness, education, and experience qualifications. As of June 2014, the office licensed approximately 8,500 mortgage loan originators.

On September 15, 2015, Governor Larry Hogan announced a plan to reduce or eliminate a number of fees across State government. This regulation is part of that plan. Additional information regarding Governor Hogan's fee reduction initiative may be found [here](#).

Summary of Regulation

The regulation reduces the investigation fee for mortgage loan originator applicants and affiliated insurance producer-mortgage loan originator applicants from \$100 to \$1.00. It also reduces the amendment fee for mortgage loan originators and affiliated insurance producer-mortgage loan originators from \$75 to \$20 and corrects statutory citations.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Commissioner of Financial Regulation cites § 2-105 of the Business Regulation Article and §§ 2-105.1, 11-602, 11-603, 11-603.1, 11-604, 11-605, 11-605.1, 11-606, 11-609, 11-612, 11-612.1, and 11-613(b) of the Financial Institutions Article as statutory authority for the proposed regulation. Section 2-105 of the Business Regulation Article generally authorizes the Secretary of Labor, Licensing, and Regulation to adopt regulations for the Office of the Secretary. Specific authority for the regulation is found in §§ 11-603(c)(2), 11-603.1(g), 11-604, and 11-612.1 of the Financial Institutions Article. Section 11-603(c)(2) requires a mortgage loan originator licensee to pay a fee set by the commissioner for a license amendment. Section 11-603.1(g) specifies that an affiliated insurance producer-mortgage loan originator applicant must comply with certain requirements for licensure as a mortgage loan originator, and § 11-604 specifies that a mortgage loan originator applicant must pay a nonrefundable investigation fee set by the commissioner. Section 11-612.1 requires the commissioner to (1) set by regulation fees provided for in the subtitle and (2) ensure that those fees are reasonable and will cover the actual direct and indirect costs of regulating licensees in accordance with the provisions of the subtitle. The remaining cited authority is not relevant to this regulation.

The relevant cited authority is correct and complete. Assuming that, following the fee reductions, fee revenues continue to approximate the administrative costs associated with applicant investigations and criminal background checks and license amendments, the regulation complies with the legislative intent of the law.

Technical Corrections and Special Notes

The commissioner cites § 11-605.1 of the Financial Institutions Article as authority for the regulation, although Chapter 148 of 2011 repealed the section. In response to a suggestion from the Department of Legislative Services, staff for the commissioner agreed to remove § 11-605.1 as authority for the regulation.

Fiscal Analysis

Mortgage Lender-Originator Fund revenues decrease by approximately \$381,590 annually due to the reduction of the application investigation and license amendment fees for mortgage loan originators and affiliated insurance producer-mortgage loan originators.

Agency Estimate of Projected Fiscal Impact

The department advises that the reduction of specified fees, as noted in **Exhibit 1**, decreases Mortgage Lender-Originator Fund revenues by approximately \$381,590 annually. This estimate is based on actual revenues obtained from these fees in fiscal 2015. The Department of Legislative Services concurs and notes that the regulation will likely only be effective for half of fiscal 2016, mitigating the Mortgage Lender-Originator Fund revenue loss in that year only.

Impact on Budget

There is no material impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no impact on small businesses in the State. The Department of Legislative Services concurs.

Additional Comments

The Mortgage Lender-Originator Fund consists of fee revenues collected pursuant to Title 11, Subtitle 5 and Subtitle 6 of the Financial Institutions Article. The purpose of the fund is to pay the costs and expenses incurred by the Commissioner of Financial Regulation that are related to the regulation of mortgage lending and mortgage origination. At the end of fiscal 2015, the Mortgage Lender-Originator Fund had a \$3,456,308 fund balance. The Department of Legislative Services notes that, if the fee reductions affect the balance of the Mortgage Lender-Originator Fund to the extent that it would be unable to carry out its purposes, the regulation may impact the State budget in the out-years. However, the department advises that the investigation and license amendment fees were first authorized prior to the national requirement to transition to the Nationwide Mortgage Licensing System (NMLS). By federal rule, NMLS requires applicants to submit to a criminal history records check as well as a credit check. In addition,

licensee information is amended through NMLS, substantially reducing the amount of staff time and personnel required to process license amendments. Since most of the investigative work and license amendment processing is facilitated through NMLS, the department advises that the fee reductions will not impact its operations.

Exhibit 1

Revenue Reductions Related to Proposed Changes to Annual License Amendment and Investigation Fees

<u>Fee Type</u>	<u>Licenses/Applicants Affected Annually</u>	<u>Current Fee</u>	<u>Proposed Fee</u>	<u>Revenue Reduction</u>
Mortgage Loan Originators License Amendment	1,453	\$75	\$20	\$79,915
Insurance Producer-Mortgage Loan Originators License Amendment	31	\$75	\$20	\$1,705
Mortgage Loan Originators Investigation	3,000	\$100	\$1	\$297,000
Affiliated Insurance Producer- Mortgage Loan Originators Investigation	30	\$100	\$1	\$2,970
Total				\$381,590

Source: Department of Legislative Services

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