

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	09/14/2015	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 10/16/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

09 03 12 09

3. Name of Promulgating Authority

Department of Labor, Licensing, and Regulation

4. Name of Regulations Coordinator

Jessica V Carter

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410-230-6112

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500 N. Calvert Street, Suite 406

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Baltimore MD 21202

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5. Name of Person to Call About this Document

Keisha Whitehall Wolfe

Telephone No.

410-230-6362

Email Address

keisha.whitehallwolfe@maryland.gov

6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: September 11, 2015.

Repeal of Existing Regulations

Recodification

Incorporation by Reference of Documents Requiring DSD Approval

Reproposal of Substantively Different Text:

: Md. R
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Jessica Carter, Assistant Attorney General, (telephone #410-230-6112) on September 14, 2015. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Gordon M. Cooley

Title

Commissioner

Telephone No.

410-230-6361

Date

September 14, 2015

Title 09
DEPARTMENT OF LABOR, LICENSING, AND
REGULATION

Subtitle 03 COMMISSIONER OF FINANCIAL REGULATION

09.03.12 Foreclosure Procedures for Residential Property

Authority: Real Property Article, § 7-105.1, Annotated Code of Maryland

Notice of Proposed Action

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The Commissioner of Financial Regulation proposes to amend Regulation .09 Prefile Mediation Process under COMAR 09.03.12 Foreclosure Procedures for Residential Property by reducing the fee charged for prefile mediation.

Statement of Purpose

The purpose of this action is to reduce the prefile mediation fee of \$350. The fee is provided for in regulation administered by the Commissioner of Financial Regulation but paid to the Department of Housing and Community Development, which has expressed recommendation of this action.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

The Commissioner of Financial Regulation is reducing the prefile mediation fee of \$350 to \$1.00. The Department of Housing and Community Development has recommended this action. DHCD collected \$1750 in FY 14 and \$2800 in FY 13.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:		
(1) Office of Administrative Hearings	(E+)	unclear
(2) Department of Housing and Community Development	(R-)	\$2268 per year
C. On local governments:	NONE	

	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
regulated industries	(+)	minor
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
borrowers	(+)	minor

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

B(1). OAH is the State agency that conducts mediation sessions. To the extent that reduction of this fee increases the number of secured parties that offer prefile mediation, there will be an increase in costs to OAH. Because borrowers that elect prefile mediation are not permitted to elect postfile mediation, any increase in the number of prefile mediation sessions may be offset by a corresponding decline in postfile mediation sessions.

B(2). The Department of Housing and Community Development reported collecting \$1750 in FY 14 and \$2800 in FY 13.

D. Reduction of the fee will result in a reduction in costs to regulated industries.

F. There will be a reduction in foreclosure related expenditures if the borrower elects to participate in a prefile mediation.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Keisha Whitehall Wolfe, Acting Deputy Commissioner for Financial Regulation, Department of Labor, Licensing and Regulation, 500 N. Calvert Street, Baltimore, MD 21202, or call 410-230-6362, or email to keisha.whitehallwolfe@maryland.gov, or fax to 410-333-0475. Comments will be accepted through November 16, 2015. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2016

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

Housing, Counseling and Foreclosure Mediation Fund

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

The regulations will impact consumers/borrowers and mortgage lenders by the reduced fee for prefile mediation.

G. Small Business Worksheet:

Impact Statement Part C — Legislative Information

Part C requests agencies to provide information required by the Department of Legislative Services in its report to the AELR Committee. Answer the questions in the space provided. Part C is not printed in the Maryland Register.

Small Business Analysis Worksheet

This worksheet is designed to assist the agency in determining if and how the proposal impacts small businesses. Quantify the number of affected small businesses and estimates of costs and benefits to small businesses if possible. State Government Article, §2-1505.2, includes the following definitions which are relevant to the analysis:

“Economic impact analysis” means an estimate of the cost or the economic benefit to small businesses that may be affected by a regulation proposed by an agency pursuant to Title 10, Subtitle 1 of this article.

“Small business” means a corporation, partnership, sole proprietorship, or other business entity, including its affiliates, that: (i) is independently owned and operated; (ii) is not dominant in its field; and (iii) employs 50 or fewer full-time employees.

1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses? The intended beneficiaries are mortgage lenders and consumers/ borrowers.

1b. Intended Beneficiaries: Households. If households are the primary intended

beneficiaries, will the proposal affect their income or purchasing power such that the volume or patterns of their consumer spending will change? If so, what directions of change would you anticipate? Will these expected spending changes have a disproportionate impact on small businesses? Can you descriptively identify the industries or types of business activities that are impacted? None.

1c. Intended Beneficiaries: Businesses. If businesses are the intended beneficiaries, identify the businesses by industry or by types of business activities. How will businesses be impacted? Mortgage lenders and consumers/borrowers are intended beneficiaries because there will be a reduction of the prefile mediation fee in foreclosure proceedings.

Are these Maryland establishments disproportionately small businesses? No.

If so, how will these Maryland small businesses be affected? Can you identify or estimate the present number of small businesses affected?

Can you estimate the present total payroll or total employment of small businesses affected? No.

2a. Other Direct or Indirect Impacts: Adverse. Businesses may not be the intended beneficiaries of the proposal. Instead, the proposal may direct or otherwise cause businesses to incur additional expenses of doing business in Maryland. Does this proposal require Maryland businesses to respond in such a fashion that they will incur additional work-time costs or monetary costs in order to comply? Describe how Maryland establishments may be adversely affected. Will Maryland small businesses bear a disproportionate financial burden or suffer consequences that affect their ability to compete? Can you estimate the possible number of Maryland small businesses adversely affected? (Note that small business compliance costs in the area of regulation are the sum of out-of-pocket (cash) costs plus time costs — usually expressed as payroll, akin to calculations for legislative fiscal notes. Precise compliance costs may be difficult to estimate, but the general nature of procedures that businesses must accomplish to comply can be described.)

2b. Other Direct or Indirect Impacts: Positive. Maryland businesses may positively benefit by means other than or in addition to changed consumer spending patterns. How may Maryland businesses be positively impacted by this initiative? Will Maryland small businesses share proportionately or disproportionately in these gains? Can you estimate the possible number of Maryland small businesses positively affected? Mortgage lenders and consumers/borrowers will benefit from the reduction of the prefile mediation fee in foreclosure proceedings.

3. Long-Term Impacts. There are instances where the longer run economic impact effect from regulations differ significantly from immediate impact. For example, regulations may impose immediate burdens on Maryland small businesses to comply, but the overall restructuring of the industry as a consequence of monitoring and compliance may provide offsetting benefits to the affected small businesses in subsequent years. Can you identify any long run economic impact effects on Maryland small businesses that over time (a) may compound or further aggravate the initial economic impact described above, or (b) may mitigate or offset the initial economic impact described above?

4. Estimates of Economic Impact. State Government Article, §2-1505.2 requires that an agency include estimates, as appropriate, directly relating to: (1) cost of providing

goods and services; (2) effect on the work force; (3) effect on the cost of housing; (4) efficiency in production and marketing; (5) capital investment, taxation, competition, and economic development; and (6) consumer choice.

Attached Document:

Title 09

DEPARTMENT OF LABOR, LICENSING AND REGULATION

03 COMMISSIONER OF FINANCIAL REGULATION

Chapter 12 Foreclosure Procedures for Residential Property

Authority: Real Property Article, § 7-105.1, Annotated Code of Maryland

.09 Prefile Mediation Process.

A.-D. (text unchanged)

E. The total fee for prefile mediation is [\$350] *\$1.00*. In accordance with instructions from the Department of Housing and Community Development, the secured party shall pay the full amount of the [\$350] prefile mediation fee to the Housing Counseling and Foreclosure Mediation Fund established under Housing and Community Development Article, §4-507, Annotated Code of Maryland. The secured party may elect to pay the prefile mediation fee on behalf of the homeowner or collect all or any portion of the [\$350] fee as part of the resolution of the mortgage loan through prefile mediation or foreclosure, as applicable.

GORDON M. COOLEY
Commissioner of Financial Regulation