

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulation  
Department of Labor, Licensing, and Regulation  
(DLS Control No. 16-352)**

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**Overview and Legal and Fiscal Impact**

The regulations update provisions regarding mortgage loan originators by (1) conforming certain definitions to existing State or federal definitions; (2) clarifying pre-licensing and continuing education requirements; (3) modifying the process for approving or denying an application for a mortgage loan originator license; (4) establishing limitations regarding conducting mortgage lending business at specified locations or under an expired license; and (5) prohibiting specified advertisements and representations.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

**Regulations of COMAR Affected**

**Department of Labor, Licensing, and Regulation:**

Commissioner of Financial Regulation: Mortgage Loan Originators:  
COMAR 09.03.09.01 through 09

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**Legal Analysis**

**Background**

The Office of the Commissioner of Financial Regulation is responsible for licensing and regulating mortgage loan originators. A mortgage loan originator is an individual who for compensation or gain, or in the expectation of compensation or gain, takes a loan application or offers or negotiates terms of a mortgage loan.

A mortgage loan originator does not include an individual who (1) acts solely as a mortgage loan processor or underwriter; (2) performs only real estate brokerage activities and is licensed as a real estate broker 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 (3) is involved solely in extensions of credit relating to specified timeshare plans.

## **Summary of Regulations**

The regulations alter the definitions of “average prime offer rate” and “higher-priced mortgage loan” to conform to the definitions specified in 12 CFR Part 1026 and alter the definitions of “mortgage lending business” and “NMLSR” to conform to the meaning stated in § 11-501 of the Financial Institutions Article. In addition, the regulations clarify the scope of the existing education requirements for new licenses and license renewals and make other conforming and technical changes.

The regulations also require the Commissioner of Financial Regulations to approve or deny a completed application for a mortgage loan originator license within 60 days and establish a process for notifying an applicant that an application for a mortgage loan originator license is incomplete. Further, the regulations prohibit a mortgage loan originator from conducting mortgage lending business at a location different from the address that appears on the license of the mortgage loan originator’s employer. A mortgage loan originator may, however, take a loan application or offer or negotiate terms of a mortgage loan at a location other than the address specified on the license under specified circumstances.

The regulations prohibit a person from taking or receiving a mortgage loan application or offer or negotiating the terms of a mortgage loan without a license, except for a mortgage loan originator operating under an expired license resulting from a failure to timely renew under specified circumstances. The regulations also prohibit a mortgage loan originator from publishing or causing to be published any advertisement or making or causing to be made any representation that (1) contains specified false, misleading, or deceptive statements or (2) misrepresents terms, availability, rates, or charges incident to a mortgage loan. A mortgage loan originator may not advertise under any name or address other than the name and address that appear on the license of the mortgage loan originator, but does not need to disclose the address of the advertiser. The regulations require disclosure of the NMLSR unique identifier during advertisements and establish a specified exception to the advertising requirements for social media.

## **Legal Issues**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The Department of Labor, Licensing, and Regulation cites § 2-105 of the Business Regulation Article and §§ 2-105.1, 11-602, 11-603.1, 11-605, 11-606, 11-609, 11-612, 11-612.1, and 11-613(b) of the Financial Institutions Article as statutory authority for the regulations. More specifically, § 2-105.1 of the Financial Institutions Article authorizes the Commissioner to adopt and enforce regulations reasonably necessary to carry out the authority and responsibility of the office of Commissioner. Section 11-602 authorizes the Commissioner to

adopt regulations to carry out the provisions regarding mortgage loan originators, and § 11-612 authorizes the Commissioner to adopt regulations to implement continuing education requirements for mortgage loan originator license renewals.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

### **Agency Estimate of Projected Fiscal Impact**

The department advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

### **Impact on Budget**

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

### **Agency Estimate of Projected Small Business Impact**

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

## **Contact Information**

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