

MARYLAND REGISTER

Proposed Action on Regulations

Comparison to Federal Standards Submission and Response

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In accordance with Executive Order 01.01.1996.03 and memo dated July 26, 1996, the attached document is submitted to the Department of Business and Economic Development for review.

The Proposed Action is not more restrictive or stringent than corresponding federal standards.

COMAR Codification: 09.03.11.01 and 02

COMAR Codification: 09.03.12.01 and 02

Corresponding Federal Standard:

12 CFR 1026.36(g)

Discussion/Justification:

The purpose of this proposed regulation is, in part, to allow a secured party to utilize the Nationwide Mortgage Licensing System and Registry ID in lieu of the Maryland mortgage lender or originator license number. This will help reduce regulatory burden by harmonizing the requirements of Maryland law, which pre-date the federal requirements, with the corresponding federal standard.

TO BE COMPLETED BY DBED

- Agree

- Disagree

Comments:

Commerce does not have the necessary expertise in this area. Commerce feels the Department of Labor, Licensing, and Regulation does have the necessary expertise and therefore Commerce trusts their assertion that the proposal is not more restrictive/stringent than corresponding federal standards.

Name: Malachy Rice

Date: 12/7/2016

- Submit to Governor's Office

Governor's Office Response

Comments:

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	12/08/2016	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 1/20/2017

2. COMAR Codification

Title Subtitle Chapter Regulation

09 03 11 01 and 02

09 03 12 01 and 02

3. Name of Promulgating Authority

Department of Labor, Licensing, and Regulation

4. Name of Regulations Coordinator

Jessica V Carter

Telephone Number

410-230-6112

Mailing Address

500 N. Calvert Street, Suite 406

City State Zip Code

Baltimore MD 21202

Email

jessica.carter1@maryland.gov

5. Name of Person to Call About this Document

Brian Weeks

Telephone No.

410-230-6359

Email Address

brianp.weeks@maryland.gov

6. Check applicable items:

New Regulations

Amendments to Existing Regulations

Date when existing text was downloaded from COMAR online: 11/7/2016.

- 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 General Provisions Article, §3-302(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 Brian Weeks, Assistant Attorney General, (telephone #410-230-6359) on November 7, 2016. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Gordon Cooley

Title

Commissioner of Financial Regulation

Telephone No.

410-230-6361

Date

November 7, 2016

Title 09
DEPARTMENT OF LABOR, LICENSING, AND
REGULATION

Subtitle 03 COMMISSIONER OF FINANCIAL REGULATION

09.03.11 Recordation of Security Instruments for Residential Property

Subtitle 03 COMMISSIONER OF FINANCIAL REGULATION

09.03.12 Foreclosure Procedures for Residential Property

Authority: Real Property Article, §3-104.1, Annotated Code of Maryland; 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 (1) Amend Regulations .01 and .02 under COMAR 09.03.11 Recordation of Security Instruments for Residential Property; and
(2) Amend Regulations .01 and .02 under COMAR 09.03.12 Foreclosure Procedures for Residential Property.

Statement of Purpose

The purpose of this action is to allow secured parties to include the Nationwide Mortgage Licensing System and Registry (NMLSR) unique identifier for the mortgage lender and originator when filing a security instrument. This action further allows a person to include the NMLSR unique identifier for the mortgage lender and originator when sending a notice of intent to foreclose.

Comparison to Federal Standards

There is a corresponding federal standard to this proposed action, but the proposed action is not more restrictive or stringent.

Estimate of Economic Impact

I. Summary of Economic Impact.

The proposed action is expected to reduce regulatory burden for mortgage lenders and mortgage servicers by, in part, harmonizing existing regulations with newer requirements under federal law.

II. Types of Economic Impact.

Revenue (R+/R-)

Expenditure (E+/E-) Magnitude

A. On issuing agency:

NONE

B. On other State agencies: NONE
 C. On local governments: NONE

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

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

D(1). The proposed action will reduce regulatory burden by allowing mortgage lender licensees to include one identification number, the Nationwide Mortgage Lending System and Registry unique identifier, instead of the Maryland mortgage lender or originator license number and the NMLSR unique identifier.

E(1). The proposed action will reduce regulatory burden by allowing mortgage lenders to include one identification number, the Nationwide Mortgage Lending System and Registry unique identifier, instead of the Maryland mortgage lender or originator license number and the NMLSR unique identifier.

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 Jedd Bellman, Assistant Commissioner, Office of the Commissioner of Financial Regulation, 500 North Calvert Street, Room 402, Baltimore, Maryland, 21202, or call 410-230-6390, or email to jedd.bellman@maryland.gov, or fax to 410-333-0475. Comments will be accepted through March 6, 2017. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 17

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:

Special (Nondepository Special 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.

It is expected that the regulations will reduce regulatory burden for mortgage lenders. It is assumed that most mortgage lenders are not considered small businesses. In any event, the reduction in regulatory burden is expected to be minimal.

G. Small Business Worksheet:

1a. Intended Beneficiaries. Who are the intended beneficiaries of the proposed regulation? Are these intended beneficiaries primarily households or businesses?

Businesses

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?

N/a

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? Are these Maryland establishments disproportionately small businesses? 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?

Mortgage-related businesses will be impacted. This includes mortgage lenders and mortgage servicers. Although some may be small businesses, the businesses vary in size and complexity. It is not possible to estimate the number of small businesses affected or their total payroll.

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.)

n/a

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 businesses, large and small, will benefit from a reduction in compliance burden due to the clarification and simplification of the regulations.

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?

There is no long-term economic impact.

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.

(1) There is no anticipated effect on the cost of providing goods and services; (2) There is no anticipated effect on the work force; (3) There is no anticipated effect on the cost of housing; (4) There is no anticipated effect on efficiency in production and marketing; (5) There is no anticipated capital investment, taxation, competition, and economic development; and (6) There is no anticipated effect on consumer choice.

Attached Document:

09.03.11 Recordation of Security Instruments for Residential Property

Authority: Real Property Article, §3-104.1, Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (3) (text unchanged)

(4) “Nationwide Mortgage Licensing System and Registry (NMLSR)” has the meaning stated in Financial Institutions Article, §11-501, Annotated Code of Maryland.

[(4)] (5) — [(6)] (7) (text unchanged)

(8) “Unique identifier” has the meaning stated in Financial Institutions Article, §11-601, Annotated Code of Maryland.

.02 Information in Recorded Security Instrument.

A. Licensee Information or Affidavit in Lieu of Licensee Information.

(1) If a mortgage lender licensee is named in the promissory note or agreement evidencing a mortgage loan on a residential property that is secured by a security instrument to be recorded under Real Property Article, §3-104.1, Annotated Code of Maryland, the following information shall be filed with the security instrument:

(a) (text unchanged)

(b) The Maryland mortgage lender license number of the mortgage lender licensee *or the NMLSR unique identifier of the mortgage lender licensee.*

(2) If a mortgage loan originator licensee originated the mortgage loan on residential property that is secured by a security instrument to be recorded under Real Property Article, §3-104.1, Annotated Code of Maryland, the following information shall be filed with the security instrument:

(a) The name of the mortgage loan originator licensee; and

(b) The Maryland mortgage loan originator license number of the mortgage loan originator licensee *or the NMLSR unique identifier of the mortgage loan originator licensee.*

(3) — (4) (text unchanged)

B. — C. (text unchanged)

09.03.12 Foreclosure Procedures for Residential Property

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

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (17) (text unchanged)

(18) “Nationwide Mortgage Licensing System and Registry (NMLSR)” has the meaning stated in Financial Institutions Article, §11-501, Annotated Code of Maryland.

[(18)] (19) — [(27)] (28) (text unchanged)

(29) “Unique identifier” has the meaning stated in Financial Institutions Article, §11-601, Annotated Code of Maryland.

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.02 Notice of Intent to Foreclose.

A. (text unchanged)

B. Owner-Occupied Residential Property.

(1) (text unchanged)

(2) For purposes of the notice set forth in §B(1) of this regulation, the names and license numbers of mortgage lender licensees and mortgage loan originator licensees are required to be included in the notice only if this information is included on or recorded with the security instrument securing the mortgage loan related to the notice, or is otherwise known to the person sending the notice. *The person sending the notice set forth in §B(1) of this regulation may satisfy the requirement to include the license number of the mortgage lender licensee and mortgage loan originator licensee by including the NMLSR unique identifier.* If the mortgage lender was exempt from licensure under Financial Institutions Article, §11-501 et seq., Annotated Code of Maryland, at the time the mortgage loan was made, then a mortgage lender license number is not required under this section. If the mortgage loan originator was exempt from licensure under Financial Institutions Article, §11-601 et seq., Annotated Code of Maryland, at the time the mortgage loan was originated, then a mortgage lender license number is not required under this section.

(3) — (4) (text unchanged)

C. — G. (text unchanged)

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