
By: Delegate Curran

Introduced and read first time: February 27, 1997

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 Consumer Credit - Mortgage Lenders - Regulatory Reform and Antifraud Protections

3 FOR the purpose of altering the licensing and regulation of mortgage lenders and
4 brokers; adding an exemption from licensure for affiliates of certain depository
5 institutions; clarifying that employee benefit plans making loans to plan participants
6 are exempt from licensure; imposing additional requirements for licensing; adding
7 fees for failing to obtain licenses or to notify the Commissioner of Consumer Credit
8 of changes in operating locations under certain circumstances; altering and
9 increasing bonding requirements for mortgage lender licensees; defining certain
10 terms; applying penalties for perjury to knowing false statements on a licensing
11 application; altering the credit laws to authorize prepaid finance charges in
12 connection with an extension of credit secured by a second mortgage in this State;
13 permitting Maryland-based financial institutions and nondepository lenders in the
14 business of making mortgage loans to offer extensions of credit secured by a second
15 mortgage on the same terms as are now available to out-of-state financial
16 institutions offering credit to Maryland homeowners; expressing a public policy
17 concerning the State law's applicability to certain home equity lines of credit
18 secured by secondary liens on residential real property; incorporating criminal
19 penalties for conviction of fraudulent misappropriation of moneys belonging to a
20 borrower; encouraging the retention and creation of jobs in the financial services
21 industry in this State; encouraging investment in second mortgages secured by
22 property located in this State; revising the payment schedule of certain licensing
23 fees and altering the term of certain licenses; making certain technical corrections;
24 and generally relating to the licensing and regulation of the mortgage lenders and
25 brokers and the regulation of residential mortgage lending in this State.

26 BY repealing and reenacting, with amendments,

27 Article - Financial Institutions

28 Section 11-501, 11-502, 11-505(e), 11-506, 11-507, 11-508, 11-511, 11-512, and

29 11-523

30 Annotated Code of Maryland

31 (1992 Replacement Volume and 1996 Supplement)

32 BY adding to

33 Article - Financial Institutions

34 Section 11-506.1

2

1 Annotated Code of Maryland
2 (1992 Replacement Volume and 1996 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Commercial Law
5 Section 12-903(a) and 12-1005(a)
6 Annotated Code of Maryland
7 (1990 Replacement Volume and 1996 Supplement)

8 BY repealing
9 Article - Commercial Law
10 Section 12-905(g)
11 Annotated Code of Maryland
12 (1990 Replacement Volume and 1996 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Financial Institutions**

16 11-501.

17 (a) In this subtitle the following words have the meanings indicated.

18 (b) "Borrower" means a person who makes a loan application for or receives a
19 loan or other extension of credit that is or is intended to be secured in whole or in part by
20 any interest in residential real property located in Maryland.

21 (c) "Federally approved seller-servicer" means a mortgage lender that has been
22 approved as a seller-servicer by:

23 (1) The Federal Home Loan Mortgage Corporation;

24 (2) The Federal National Mortgage Association; [or]

25 (3) The Government National Mortgage Association;

26 (4) THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN
27 DEVELOPMENT; OR

28 (5) THE UNITED STATES DEPARTMENT OF VETERANS' AFFAIRS.

29 (d) (1) "Independent evidence of commercial purpose" means, where a
30 mortgage loan is made for a commercial purpose to an individual, any and all
31 documentation by which the mortgage lender, prior to the making or procurement of the
32 loan, establishes that the borrower is seeking funds for a legitimate commercial
33 enterprise.

34 (2) "Independent evidence of commercial purpose" does not include an
35 affidavit of the borrower without supporting evidence, except where:

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1 (i) The borrower is seeking funds to start a business and has not yet
2 incorporated or prepared documentation or proof of ownership of a commercial
3 enterprise; and

4 (ii) The affidavit states the purpose for which the proceeds of the
5 mortgage loan are to be used and the nature of the business conducted or to be conducted
6 by the borrower.

7 (e) "Interest in real property" includes:

8 (1) A confessed judgment note or consent judgment required or obtained by
9 any person acting as a mortgage lender for the purpose of acquiring a lien on residential
10 real property;

11 (2) A sale and leaseback required or obtained by any person acting as a
12 mortgage lender for the purpose of creating a lien on residential real property;

13 (3) A mortgage, deed of trust or lien other than a judgment lien, on
14 residential real property; and

15 (4) Any other security interest that has the effect of creating a lien on
16 residential real property in Maryland.

17 (f) "License" means a license issued by the Commissioner under this subtitle to
18 authorize a person to engage in business as a mortgage lender.

19 (g) "Licensee" means a person who is licensed under the Maryland Mortgage
20 Lender Law.

21 (h) (1) "Loan application" means any oral or written request for an extension of
22 credit that is made in accordance with procedures established by a mortgage lender for
23 the purpose of inducing the lender to seek to procure or make a mortgage loan.

24 (2) A loan application does not include the use of an account or line of
25 credit to obtain a loan within a previously established credit limit.

26 (I) "MORTGAGE BROKER" MEANS A PERSON WHO:

27 (1) FOR A FEE OR OTHER VALUABLE CONSIDERATION, WHETHER
28 RECEIVED DIRECTLY OR INDIRECTLY, AIDS OR ASSISTS A BORROWER IN
29 OBTAINING A MORTGAGE LOAN; AND

30 (2) IS NOT NAMED AS A LENDER IN THE AGREEMENT, NOTE, DEED OF
31 TRUST, OR OTHER EVIDENCE OF THE INDEBTEDNESS.

32 [(i)] (J) (1) "Mortgage lender" means any person who:

33 (i) [For a fee or other valuable consideration, whether received
34 directly or indirectly, aids or assists any person in procuring a mortgage loan] IS A
35 MORTGAGE BROKER;

36 (ii) Makes a mortgage loan to any person; OR

37 (iii) [1. Has its principal place of business in this State; and

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1 (ii) In excess of \$75,000; and

2 (iii) Supported by independent evidence of the commercial purpose.

3 [(k)] (M) "Person" includes an individual, corporation, business trust, estate,
4 trust, partnership, association, 2 or more persons having a joint or common interest, or
5 any other legal or commercial entity.

6 [(l)] (N) "Residential real property" means any owner-occupied real property
7 located in Maryland, which property has a dwelling on it designed principally as a
8 residence with accommodations for not more than 4 families, but does not include any
9 real property held primarily for rental, investment, or the generation of income through
10 any commercial or industrial enterprise.

11 [(m)] (O) "State" means the State of Maryland.

12 11-502.

13 (A) IN SUBSECTION (B)(11) OF THIS SECTION, "AFFILIATE" MEANS ANY
14 COMPANY THAT CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL
15 WITH AN INSTITUTION DESCRIBED IN SUBSECTION (B)(11)(II) OF THIS SECTION.

16 [(a)] (B) The provisions of this subtitle do not apply to:

17 (1) Any bank, trust company, savings bank, savings and loan association, or
18 credit union incorporated or chartered under the laws of this State or the United States
19 or any other-state bank having a branch in this State [or any other financial institution
20 incorporated or chartered under the laws of this State or of the United States that accepts
21 deposits and is regulated under Title 3, Title 4, Title 5, Title 6, or Title 9 of this article];

22 (2) Any insurance company authorized to do business in the State;

23 (3) Any corporate instrumentality of the Government of the United States
24 including:

25 (i) The Federal Home Loan Mortgage Corporation;

26 (ii) The Federal National Mortgage Association; and

27 (iii) The Government National Mortgage Association;

28 (4) Any person who:

29 (I) [makes or brokers] MAKES 3 or fewer mortgage loans per
30 calendar year; AND

31 (II) BROKERS NO MORE THAN ONE MORTGAGE LOAN PER
32 CALENDAR YEAR;

33 (5) Any person who takes back a deferred purchase money mortgage in
34 connection with the sale of:

35 (i) Residential real property owned by, and titled in the name of, that
36 person; or

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1 (ii) A new residential dwelling that the person built;

2 (6) A nonprofit charitable organization registered with the Maryland
3 Secretary of State or a nonprofit religious organization;

4 (7) An employer making a mortgage loan to an employee;

5 (8) A person making a mortgage loan to a borrower who is the person's
6 spouse, child, child's spouse, parent, sibling, grandparent, grandchild, or grandchild's
7 spouse;

8 (9) A real estate broker who:

9 (i) Is licensed in the State; and

10 (ii) Makes a mortgage loan providing a repayment schedule of 2 years
11 or less to assist the borrower in the purchase or sale of a residential real property through
12 the broker; [or]

13 (10) A home improvement contractor licensed under the Maryland Home
14 Improvement Law who assigns a mortgage loan without recourse within 30 days after
15 completion of the contract to a person licensed under this subtitle or to an institution that
16 is exempt from this subtitle under [paragraphs] PARAGRAPH (1) [and], (2), OR (11) of
17 this subsection;

18 (11) A SUBSIDIARY OR AFFILIATE OF AN INSTITUTION DESCRIBED IN
19 SUBPARAGRAPH (II) OF THIS PARAGRAPH, WHICH SUBSIDIARY OR AFFILIATE:

20 (I) IS SUBJECT TO AUDIT OR EXAMINATION BY A REGULATORY
21 BODY OR AGENCY OF THIS STATE, THE UNITED STATES, OR THE STATE WHERE THE
22 SUBSIDIARY OR AFFILIATE MAINTAINS ITS PRINCIPAL OFFICE; AND

23 (II) FILES WITH THE COMMISSIONER, PRIOR TO MAKING
24 MORTGAGE LOANS, INFORMATION SUFFICIENT TO IDENTIFY:

25 1. THE CORRECT CORPORATE NAME OF THE SUBSIDIARY
26 OR AFFILIATE;

27 2. AN ADDRESS AND TELEPHONE NUMBER OF A CONTACT
28 PERSON FOR THE SUBSIDIARY OR AFFILIATE;

29 3. A RESIDENT AGENT; AND

30 4. ANY ADDITIONAL INFORMATION CONSIDERED
31 NECESSARY BY THE COMMISSIONER FOR PROTECTION OF THE PUBLIC;

32 (12) ANY EMPLOYEE BENEFIT PLAN QUALIFIED UNDER THE INTERNAL
33 REVENUE CODE § 401, OR PERSONS ACTING AS FIDUCIARIES WITH RESPECT TO SUCH
34 A PLAN, MAKING MORTGAGE LOANS SOLELY TO PLAN PARTICIPANTS FROM PLAN
35 ASSETS; OR

36 (13) EMPLOYEES ACTING WITHIN THE SCOPE OF THEIR EMPLOYMENT
37 WITH:

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1 (I) A LICENSED MORTGAGE LENDER; OR

2 (II) A PERSON WHO IS EXEMPT FROM LICENSURE UNDER THIS
3 SUBTITLE.

4 (C) THE EXEMPTION IN SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT
5 APPLIES TO SUBSIDIARIES AND AFFILIATES OF:

6 (1) ANY BANK, TRUST COMPANY, SAVINGS BANK, SAVINGS AND LOAN
7 ASSOCIATION, OR CREDIT UNION INCORPORATED OR CHARTERED UNDER THE
8 LAWS OF THIS STATE OR THE UNITED STATES THAT MAINTAINS ITS PRINCIPAL
9 OFFICE IN THIS STATE;

10 (2) ANY OUT-OF-STATE BANK, AS THAT TERM IS DEFINED IN § 5-1001 OF
11 THIS ARTICLE, HAVING A BRANCH THAT ACCEPTS DEPOSITS IN THIS STATE; OR

12 (3) ANY INSTITUTION INCORPORATED UNDER FEDERAL LAW AS A
13 SAVINGS ASSOCIATION OR SAVINGS BANK THAT DOES NOT MAINTAIN ITS PRINCIPAL
14 OFFICE IN THIS STATE BUT HAS A BRANCH THAT ACCEPTS DEPOSITS IN THIS STATE.

15 [(b)] (D) The exemptions provided in subsection [(a)] (B) of this section do not
16 apply to any person who has been denied a license to engage in business as a mortgage
17 lender or real estate broker or whose license to engage in such activities has been
18 suspended or revoked within the 3 immediately preceding calendar years.

19 11-505.

20 (e) (1) A licensee may not receive any application for a loan secured by a
21 secondary mortgage or deed of trust, or allow any note, or LOAN contract for a loan,
22 mortgage, or evidence of indebtedness secured by a secondary mortgage or deed of trust
23 to be signed or executed at any place for which the person does not have a license, except
24 at the office of:

25 (i) The attorney for the borrower or for the licensee; or

26 (ii) A title insurance company, a title company, or an attorney for a
27 title insurance company or a title company.

28 (2) Notwithstanding paragraph (1) of this subsection, a licensee may accept
29 a loan application from a borrower by mail or telephone or in person at the borrower's
30 residence or place of employment to accommodate the borrower at the borrower's
31 request.

32 (3) The Commissioner shall adopt regulations to ensure that the loan
33 application process is conducted fairly and in a manner consistent with the best interests
34 of both the borrower and mortgage lender.

35 11-506.

36 (a) To qualify for a license, an applicant shall satisfy the Commissioner that the
37 applicant is of good moral character and has sufficient financial responsibility, business
38 experience, and general fitness to:

39 (1) Engage in business as a mortgage lender;

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1 (2) Warrant the belief that the business will be conducted lawfully, honestly,
2 fairly, and efficiently; and

3 (3) Command the confidence of the public.

4 (B) (1) TO QUALIFY FOR A LICENSE, THE APPLICANT SHALL SATISFY THE
5 COMMISSIONER THAT THE APPLICANT HAS AT LEAST 3 YEARS OF EXPERIENCE IN
6 THE MORTGAGE LENDING BUSINESS.

7 (2) IF THE APPLICANT IS A SOLE PROPRIETOR, THE APPLICANT SHALL
8 HAVE THE REQUIRED EXPERIENCE.

9 (3) IF THE APPLICANT IS A JOINT VENTURE OR A GENERAL OR LIMITED
10 PARTNERSHIP, AT LEAST ONE OF THE COVENTURERS OR GENERAL PARTNERS
11 SHALL HAVE THE REQUIRED EXPERIENCE.

12 (4) IF THE APPLICANT IS A BUSINESS ENTITY OF ANY OTHER KIND,
13 TYPE, OR CLASSIFICATION, AT LEAST ONE OF THE PRINCIPAL OFFICERS OR
14 MEMBERS SHALL HAVE THE REQUIRED EXPERIENCE.

15 [(b)] (C) The Commissioner may deny an application for a license to any person
16 who has been officially reprimanded or has committed any act that would be a ground for
17 suspension or revocation of a license under this subtitle.

18 11-506.1.

19 (A) THIS SECTION DOES NOT APPLY TO ANY CORPORATION THE SECURITIES
20 OF WHICH ARE EXEMPT FROM REGISTRATION UNDER § 11-601(8) OR (12) OF THE
21 CORPORATIONS AND ASSOCIATIONS ARTICLE.

22 (B) IN CONNECTION WITH AN INITIAL APPLICATION AND AT ANY OTHER
23 TIME THE COMMISSIONER REQUESTS, EACH APPLICANT OR LICENSEE SHALL
24 PROVIDE FINGERPRINTS FOR USE BY THE FEDERAL BUREAU OF INVESTIGATION
25 AND THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE
26 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES TO CONDUCT
27 CRIMINAL HISTORY RECORDS CHECKS.

28 (C) ANY APPLICANT OR LICENSEE REQUIRED BY THIS SECTION TO PROVIDE
29 FINGERPRINTS SHALL PAY ANY PROCESSING OR OTHER FEE REQUIRED BY THE
30 FEDERAL BUREAU OF INVESTIGATION OR THE CRIMINAL JUSTICE INFORMATION
31 SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND
32 CORRECTIONAL SERVICES.

33 (D) IF THE APPLICANT OR LICENSEE IS A CORPORATION, THE
34 FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS SHALL
35 APPLY TO THE PRESIDENT AND TO ANY OTHER OFFICER, DIRECTOR, OR PRINCIPAL
36 OF THE CORPORATION AS REQUESTED BY THE COMMISSIONER.

37 11-507.

38 (a) (1) To apply for a license, an applicant shall complete, sign, and submit to
39 the Commissioner an application made under oath on the form that the Commissioner
40 requires.

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1 (2) The applicant shall comply with all conditions and provisions of the
2 application for licensure AND BE ISSUED A LICENSE BEFORE ACTING AS A MORTGAGE
3 LENDER AT A PARTICULAR LOCATION.

4 (3) The application shall include:

5 (i) If the applicant is an individual, the applicant's name, business
6 address and telephone number, and residence address and telephone number;

7 (ii) If the applicant is a partnership or other noncorporate business
8 association, the business name, business address and telephone number, and the
9 residence address and telephone number of each:

10 1. General partner, if the applicant is a limited partnership;

11 2. General partner who holds an interest in the partnership of
12 more than 10 percent, if the applicant is a general partnership; or

13 3. Member, if the applicant is another noncorporate business
14 association;

15 (iii) If the applicant is a corporation:

16 1. The name, address, and telephone number of the corporate
17 entity; and

18 2. The name, the business telephone number, and the residence
19 address and telephone number of the president, senior vice presidents, secretary, and
20 treasurer, each director, and each stockholder owning or controlling 10 percent or more
21 of any class of stock in the corporation;

22 (iv) The name under which the mortgage [lender] LENDING business
23 is to be conducted;

24 (v) The name and address of the applicant's resident agent, if any; and

25 (vi) Any other information that the Commissioner reasonably requires.

26 (b) With each application, the applicant shall pay to the Commissioner:

27 (1) A nonrefundable investigation fee of \$100; and

28 (2) A license fee of either:

29 (i) [\$500] \$1,000 if the applicant applies for a license to be issued on
30 or after January 1 and on or before [June 30] DECEMBER 31 OF AN EVEN-NUMBERED
31 YEAR; [or]

32 (ii) [\$250] EFFECTIVE JANUARY 1, 1999, \$500 if the applicant applies
33 for a license to be issued on or after [July 1] JANUARY 1 and on or before December 31
34 OF AN ODD-NUMBERED YEAR; OR

35 (III) NOTWITHSTANDING SUBPARAGRAPHS (I) OR (II) OF THIS
36 PARAGRAPH, \$1,000 IF THE APPLICANT APPLIES FOR A LICENSE TO BE ISSUED ON OR
37 AFTER OCTOBER 1, 1997 AND ON OR BEFORE DECEMBER 31, 1997.

10

1 (c) For each license for which an applicant applies, the applicant shall:

2 (1) Submit a separate application;

3 (2) Pay a separate license fee; [and]

4 (3) IF APPLICABLE, PAY THE SURCHARGE; AND

5 [(3)] (4) File a separate surety bond or other financial guaranty under §
6 11-508 of this subtitle.

7 (D) IN ADDITION TO ANY SANCTIONS THAT MAY BE IMPOSED UNDER THIS
8 SUBTITLE BY THE COMMISSIONER, A NONREFUNDABLE SURCHARGE OF \$500 SHALL
9 BE PAID WITH AN APPLICATION IF THE APPLICANT HAS BEGUN CONDUCTING A
10 MORTGAGE LENDING BUSINESS WITHOUT A LICENSE AT THE LOCATION FOR WHICH
11 AN APPLICATION IS FILED.

12 (E) A PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT UNDER OATH
13 ON AN APPLICATION FILED WITH THE COMMISSIONER UNDER THIS SECTION IS
14 GUILTY OF PERJURY AND, UPON CONVICTION, IS SUBJECT TO THE PENALTIES SET
15 FORTH IN ARTICLE 27, § 439 OF THE CODE.

16 11-508.

17 (a) An applicant for a new license or for the renewal of a license shall file a surety
18 bond with each original application and any renewal application for the license.

19 (b) The surety bond shall:

20 (1) Run to the Commissioner for the benefit of any person who has been
21 damaged by a violation committed by a licensee of any law or regulation governing the
22 activities of mortgage lenders;

23 (2) Be issued by a surety company authorized to do business in the State;

24 (3) Be conditioned that the applicant shall comply with all Maryland laws
25 regulating the activities of mortgage lenders and mortgage [loan] lending; and

26 (4) Be approved by the Commissioner.

27 (c) If an applicant has not conducted a mortgage [lender's] LENDING business
28 [in Maryland in any of the 3 calendar years preceding the year in which] ANY TIME
29 DURING THE 36 MONTHS PRIOR TO THE FILING OF an original application for A license
30 [is filed], the APPLICANT SHALL PROVIDE A SWORN STATEMENT SETTING FORTH
31 THAT FACT, AND SHALL FILE WITH THE ORIGINAL APPLICATION A surety bond
32 [required under this subtitle shall be] in the amount of [\$12,500] \$15,000.

33 (d) (1) If an applicant has conducted a mortgage [lender's] LENDING business
34 [in Maryland in any of the 3 calendar years preceding the year in which] ANY TIME
35 DURING THE 36 MONTHS PRIOR TO THE FILING OF an original or renewal application
36 [is filed], the applicant shall provide a sworn statement setting forth the [total dollar]
37 AGGREGATE PRINCIPAL amount of mortgage loans SECURED OR TO BE SECURED BY
38 PROPERTY LOCATED IN MARYLAND applied for and accepted or mortgage loans
39 SECURED OR TO BE SECURED BY PROPERTY LOCATED IN MARYLAND applied for,

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1 procured, and accepted by the mortgage lender during the [latest calendar year such
2 business was conducted and the bond required shall be determined as follows:] 12
3 MONTHS IMMEDIATELY PRECEDING THE MONTH IN WHICH THE APPLICATION IS
4 FILED.

5 (2) IF AN APPLICANT HAS CONDUCTED A MORTGAGE LENDING
6 BUSINESS ANY TIME DURING THE 36 MONTHS PRIOR TO THE FILING OF AN
7 ORIGINAL APPLICATION BUT DURING THAT TIME HAS NOT ACTED AS A MORTGAGE
8 LENDER IN MARYLAND, THE APPLICANT SHALL PROVIDE WITH THE ORIGINAL
9 APPLICATION A SWORN STATEMENT SETTING FORTH THE AGGREGATE PRINCIPAL
10 AMOUNT OF LOANS SECURED OR TO BE SECURED BY RESIDENTIAL REAL PROPERTY
11 LOCATED IN STATES OTHER THAN THIS STATE, APPLIED FOR, PROCURED, AND
12 ACCEPTED BY THE MORTGAGE LENDER DURING THE 12 MONTHS PRECEDING THE
13 MONTH IN WHICH THE APPLICATION IS FILED.

14 (3) EXCEPT AS PROVIDED IN SUBSECTION (C) AND (E) OF THIS SECTION,
15 THE APPLICANT SHALL FILE WITH THE ORIGINAL OR RENEWAL APPLICATION:

16 [(1)] (I) Where the [total dollar] AGGREGATE PRINCIPAL amount of
17 [stated] loans SET FORTH IN THE SWORN STATEMENT was [\$1,000,000] \$3,000,000 or
18 less, [the] A SURETY bond [shall be] in the amount of [\$12,500] \$25,000;

19 [(2)] (II) Where the [total dollar] AGGREGATE PRINCIPAL amount of
20 [stated] loans SET FORTH IN THE SWORN STATEMENT was more than [\$1,000,000]
21 \$3,000,000 but not more than [\$2,000,000] \$10,000,000, [the] A SURETY bond [shall be]
22 in the amount of [\$17,500] \$50,000; AND

23 [(3) Where the total dollar amount of stated loans was more than \$2,000,000
24 but not more than \$3,000,000, the bond shall be in the amount of \$25,000; and

25 [(4)] (III) Where the [total dollar] AGGREGATE PRINCIPAL amount of
26 [stated] loans SET FORTH IN THE SWORN STATEMENT was more than [\$3,000,000]
27 \$10,000,000, [the] A SURETY bond [shall be] in the amount of [\$50,000] \$75,000.

28 (e) [Subject] NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION,
29 AND SUBJECT to approval by the Commissioner, if an applicant files [4] 5 or more
30 original or renewal applications at the same time, the applicant may provide a blanket
31 surety bond for all licensed offices in the amount of [\$200,000] \$375,000.

32 (f) Subject to approval by the Commissioner, an applicant for license who files an
33 application for a new license or for the renewal of a license may satisfy the bonding
34 requirement under this section by establishing a trust account with or obtaining an
35 irrevocable letter of credit from a financial institution insured by the Federal Deposit
36 Insurance Corporation [that complies with subsection (b) of] IN AN AMOUNT EQUAL
37 TO THE BOND REQUIRED UNDER this section.

38 11-511.

39 (a) (1) A LICENSE ISSUED ON OR BEFORE SEPTEMBER 30, 1997 EXPIRES ON
40 DECEMBER 31 OF THE YEAR IN WHICH IT WAS ISSUED, UNLESS THE LICENSE IS
41 RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION.

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1 (2) A license ISSUED ON OR AFTER OCTOBER 1, 1997 expires on [the]
2 December 31 IN EACH ODD-NUMBERED YEAR after [its effective date] DECEMBER 31,
3 1997 unless the license is renewed for a [1-year] 2-YEAR term as provided in this section.

4 (b) [Before a license expires, the licensee periodically may renew the license] ON
5 OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A LICENSE MAY BE
6 RENEWED for AN additional [1-year terms] 2-YEAR TERM, if the licensee:

7 (1) Otherwise is entitled to be licensed;

8 (2) Pays to the Commissioner a renewal fee of [\$500] \$1,000;

9 (3) Submits to the Commissioner a renewal application on the form that the
10 Commissioner requires; and

11 (4) Files a bond or bond continuation certificate for the amount required
12 under § 11-508 of this subtitle.

13 (c) If a license is issued for less than [a full year] 2 FULL YEARS, AND is
14 surrendered voluntarily, or is suspended or revoked, the Commissioner may not refund
15 any part of the license fee regardless of the time remaining in the license [year] TERM.

16 (D) THE SECRETARY MAY DETERMINE THAT LICENSES ISSUED UNDER THIS
17 SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

18 11-512.

19 (a) A licensee may not change the place of business for which a license is issued
20 unless the licensee:

21 (1) Notifies the Commissioner in writing of the proposed change; and

22 (2) Receives the written consent of the Commissioner.

23 (b) Notwithstanding subsection (a)(2) of this section, if the Commissioner does
24 not approve or disapprove of the proposed change of place of business within 30 days of
25 the mailing of the notice required under subsection (a)(1) of this section, the proposed
26 change of place of business shall be deemed approved.

27 (C) IN ADDITION TO ANY SANCTIONS WHICH MAY BE IMPOSED UNDER THIS
28 SUBTITLE BY THE COMMISSIONER, A LICENSEE WHO FAILS TO TIMELY PROVIDE THE
29 NOTICE REQUIRED UNDER SUBSECTION (A)(1) OF THIS SECTION SHALL:

30 (1) FOR EACH SUCH FAILURE, PAY TO THE COMMISSIONER A
31 SURCHARGE IN THE AMOUNT OF \$500; AND

32 (2) FILE WITH THE COMMISSIONER AN APPLICATION FOR A NEW
33 LICENSE, TOGETHER WITH ALL APPLICABLE APPLICATION AND INVESTIGATION
34 FEES.

35 11-523.

36 (a) Any person who willfully violates any provision of this subtitle or any rule or
37 regulation adopted under it is guilty of a misdemeanor and on conviction is subject to a
38 fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both.

13

1 (b) [Except for a bona fide error of computation, any] ANY unlicensed person
2 [claiming an exemption from licensing] who is not exempt from licensing under this
3 subtitle AND who MAKES OR ASSISTS A BORROWER IN OBTAINING A MORTGAGE
4 LOAN IN VIOLATION [violates any provision] of this subtitle may collect only the
5 principal amount of [any] THE loan and may not collect any interest, costs, FINDER'S
6 FEES, BROKER FEES, or other charges with respect to the loan.

7 (C) ANY MORTGAGE LENDER WHO WILLFULLY MISAPPROPRIATES OR
8 OTHERWISE INTENTIONALLY AND FRAUDULENTLY CONVERTS TO THE MORTGAGE
9 LENDER'S OWN USE MONEYS IN EXCESS OF \$300 RIGHTFULLY BELONGING TO A
10 BORROWER IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE
11 NOT TO EXCEED \$100,000 OR IMPRISONMENT NOT EXCEEDING 15 YEARS OR BOTH.

12 **Article - Commercial Law**

13 12-903.

14 (a) (1) A credit grantor may charge and collect interest or finance charges
15 under the plan on the outstanding unpaid indebtedness in the borrower's account under
16 the plan at any daily, weekly, monthly, annual, or other periodic percentage rate as the
17 agreement governing the plan provides, if the effective rate of simple interest does not
18 exceed 24 percent per year. The rate of interest chargeable on a plan must be expressed
19 in the agreement as a simple interest rate or rates.

20 (2) The repayment terms for a plan extended to a consumer borrower may
21 not include a provision under which the consumer borrower may be required to pay a
22 balloon payment at maturity. However, the adjustment of payment amounts, due to
23 fluctuations in unpaid balance or rate of interest, may not be deemed to result in a
24 balloon payment.

25 (3) IF THE PLAN IS SECURED BY A LIEN ON RESIDENTIAL REAL
26 PROPERTY, THE CREDIT GRANTOR MAY, IN ADDITION TO THE PERIODIC
27 PERCENTAGE RATE CHARGE AUTHORIZED UNDER SUBSECTION (A)(1) OF THIS
28 SECTION, CHARGE AND COLLECT, AT THE TIME THE PLAN IS ENTERED INTO BY THE
29 BORROWER, POINTS, LOAN ORIGATION FEES, LOAN DISCOUNT FEES, AND SIMILAR
30 FEES, PROVIDED THAT:

31 (I) ALL SUCH FEES MAY NOT EXCEED 5 PERCENT OF THE
32 MAXIMUM AMOUNT OF CREDIT MADE AVAILABLE TO THE BORROWER UNDER THE
33 PLAN;

34 (II) THE DOCUMENTS EVIDENCING THE PLAN SPECIFICALLY
35 ENUMERATE ANY SUCH FEES;

36 (III) THE BORROWER AGREES IN WRITING TO PAY THOSE FEES;
37 AND

38 (IV) THE FEES ARE DISCLOSED TO THE BORROWER IN
39 ACCORDANCE WITH THE FEDERAL TRUTH IN LENDING ACT.

14

1 12-905.

2 [(g) A credit grantor of an open end credit plan that is secured by real property
3 may charge an origination fee not to exceed 2% of the initial advance made under the
4 plan.]

5 12-1005.

6 In addition to interest at a periodic percentage rate or rates permitted by §§
7 12-1003 and 12-1004 of this subtitle, a credit grantor may charge and collect:

8 (a) (1) [Loan] SUBJECT TO THE LIMITATIONS IN THIS SECTION, LOAN fees,
9 points, finder's fees, and other charges; however, all such charges may not exceed [2] 5
10 percent of the original extension of credit;

11 (2) In the case of a loan to a consumer borrower, no loan fees, points,
12 finder's fees, or other charges may be charged and collected unless [the]:

13 (I) THE agreement, note, or other evidence of the loan so provides
14 and the BORROWER AGREES IN WRITING TO PAY THOSE CHARGES;

15 (II) THE loan is secured by a lien on residential real property[;
16 however, all such charges may not exceed 2 percent of the original extension of credit or
17 4 percent of the original extension of credit for a commercial loan not exceeding
18 \$75,000]; AND

19 (III) THE CHARGES ARE DISCLOSED TO THE BORROWER IN
20 ACCORDANCE WITH THE FEDERAL TRUTH IN LENDING ACT; and

21 (3) The limitations imposed by paragraphs (1) and (2) of this subsection do
22 not apply to a credit extension:

23 (i) Secured by a first lien on residential real property; or

24 (ii) Made for a bona fide commercial purpose in excess of \$75,000.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 1997.