

Department of Fiscal Services  
Maryland General Assembly

FISCAL NOTE

House Bill 94 (Chairman, Commerce and Government Matters Committee and Delegate Faulkner)  
Commerce and Government Matters

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**Consumer Credit - Mortgage Lenders - Regulatory Reform**

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This bill alters the regulation of mortgage lenders by creating additional requirements, clarifying the lenders legal responsibilities, eliminating the cap on how many points may be charged on a second mortgage, increasing civil and criminal penalty provisions, exempting affiliates of specific depository institutions from licensing requirements, and altering the licensing and fee schedule from a one-year to a two-year term.

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**Fiscal Summary**

**State Effect:** Revenues will increase \$903,500 in FY 1998. Expenditures would not be affected. Future year revenues reflect a two-year licensing cycle, licensing exemptions, industry growth, and annual civil violation fee assessments.

(in dollars)	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
GF Revenues	\$903,500	(\$1,025,000)	\$961,500	(\$1,084,500)	\$1,022,500
GF Expenditures	0	0	0	0	0
Net Effect	\$903,500	(\$1,025,000)	\$961,500	(\$1,084,500)	\$1,022,500

Note: ( ) - decrease; GF - general funds; FF - federal funds; SF - special funds

**Local Effect:** Revenues and expenditures could increase as a result of the bill's penalty provisions.

**Small Business Effect:** Potential meaningful impact on small business as discussed below.

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## **Fiscal Analysis**

**Bill Summary:** This bill includes the following provisions:

- requires mortgage lenders to obtain and pay for fingerprints and a State and national criminal background check as part of the licensing process for new applicants and those from whom the Commissioner of Financial Regulation requests such information;
- clarifies that mortgage brokers are not required to find the borrower the best possible loan terms;
- removes the restriction that prohibited mortgage lenders from charging more than two points on second mortgages in addition to other related fees;
- increases surety bonding requirements for mortgage lenders;
- provides the commissioner the authority to impose a fine of \$500 on mortgage lenders who practice without a license or move without notifying the commissioner;
- provides that applicants who provide false information on their mortgage lender license application may be charged with perjury and, if convicted, may be imprisoned for not more than ten years;
- provides that mortgage lenders who willfully use or misappropriate more than \$300 of a borrower's money may be charged with a felony and, if convicted, pay a fine of \$100,000 and/or be imprisoned for not more than 15 years; and
- requires mortgage lenders to provide a written disclosure agreement to borrowers.

**State Revenues:** State revenues would increase by an estimated \$903,500 in fiscal 1998 and decrease by \$1,025,500 in fiscal 1999. This estimate is based on:

- the license term altered from a one-year to a two-year cycle;
- the altered license fees for mortgage lenders, changing from a \$500 annual fee to a \$1,000 biennial fee;
- the exemption of 103 bank subsidiaries and affiliates from mortgage lender license requirements;
- 1,900 mortgage lenders required to be licensed in 1998; and
- 12 penalty fees paid to the commissioner annually at a cost of \$500 each.

The bill alters the license application and renewal process for 1,900 mortgage brokers in the State from a one-year to a two-year term. License fees would be adjusted to reflect the altered license term, changing from a \$500 annual fee to a \$1,000 biennial fee. This creates a biennial revenue increase and alternating revenue loss. In each year, the State would experience a \$52,500 revenue loss as a result of the 103 subsidiaries and affiliates exempted from licensure and the associated \$500 fee. The revenue projections in the out- years reflect

the biennial licensing term, 3% net industry growth and the 12 fines assessed annually at \$500 each. Exhibit 1 details the yearly revenue projections:

Exhibit 1  
Revenue Changes Per Year

	<b>FY 1998</b> (\$1,000 fee- two-year renewal term)	<b>FY 1999</b> (\$500 fee - one-year term)	<b>FY 2000</b> (\$1,000 fee- two-year renewal term)	<b>FY 2001</b> (\$500 fee - one-year term)	<b>FY 2002</b> (\$1,000 fee- two-year renewal term)
<b>103 Exempted Subsidiaries</b>	(\$52,500)	(\$52,500)	(\$52,500)	(\$52,500)	(\$52,500)
<b>Fine revenue</b> (12x\$500)	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000
<b>3% Industry growth</b> (1,900 licensees in 1998)	\$950,000	(\$978,500)	\$1,008,000	(\$1,038,000)	\$1,069,000
<b>Total</b>	<b>\$903,500</b>	<b>(\$1,025,000)</b>	<b>\$961,500</b>	<b>(\$1,084,500)</b>	<b>\$1,022,50</b>

Source: Department of Labor, Licensing and Regulation; Department of Fiscal Services

**Small Business Effect:** There are approximately 2,000 mortgage lenders in the State and it is estimated that the majority of them are small businesses. This bill could have a meaningful, positive impact on these businesses to the extent that profits increase and competition is enhanced through the removal of the restriction on points and fees charged on second mortgages. This bill also reduces lenders liability in the case that the best possible loan terms are not secured for the borrower. Also, increasing the licensing term from a one-year to a two-year term may reduce the administrative costs associated with annual filing.

This bill could also create a minimal negative impact on small mortgage lenders. New mortgage lenders would be required to pay \$42 for a State and national criminal background check in order to be licensed in the State. This could also be required of any licensee upon request of the commissioner. Mortgage lenders would be required to create

and provide a statement of disclosure to borrowers. Increased surety bonding requirements may also make it somewhat more difficult for small mortgage brokers to enter the business. In addition, for any mortgage lenders who violate the provisions of this bill, increased monetary and criminal penalties could be assessed.

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**Information Source(s):** Department of Labor, Licensing and Regulation (Office of Financial Regulation); Maryland Association of Mortgage Brokers; Department of Fiscal Services

**Fiscal Note History:** First Reader - January 31, 1997  
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