

BY: Finance Committee

AMENDMENTS TO SENATE BILL NO. 105

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 7, after “which” insert “applications for”; in line 8, strike “conducted” and substitute “accepted”; in line 9, after “conditions;” insert “allowing certain loan closings to be conducted at certain locations under certain circumstances;”; strike beginning with “requiring” in line 12 down through “purposes;” in line 15 and substitute “clarifying provisions regarding for whose benefit certain surety bond requirements are established;”; in line 18, after “settlement;” insert “defining certain terms; requiring the Commissioner of Financial Regulation to report to certain committees on certain regulations prior to their adoption and implementation;”; strike in its entirety line 22 and substitute “Section 12-405, 12-903(a), and 12-1005”; and strike in their entirety lines 25 through 29, inclusive.

On page 2, strike in their entirety lines 2 and 3, inclusive, and substitute “Section 11-204, 11-301(b), 11-505, 11-508, 11-511(b), and 11-523”; and after line 5, insert:

“BY adding to

Article - Financial Institutions

Section 11-511.1

Annotated Code of Maryland

(1998 Replacement Volume)”.

AMENDMENT NO. 2

On page 2, in line 21, strike “AND” and substitute “WHEN COMBINED WITH”; and in the same line, after the second “A” insert “MORTGAGE”.

On page 3, strike in their entirety lines 9 through 13, inclusive; and strike beginning with the first “THE” in line 31 down through “BROKER” in line 32 and substitute “ALL SUCH FEES, WHEN COMBINED WITH ANY FINDER’S FEE IMPOSED BY A MORTGAGE BROKER”.

(Over)

UNDER § 12-804 OF THIS TITLE.”.

On page 4, strike in their entirety lines 3 through 23, inclusive, and substitute:

“12-1005.

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

(a) (1) Subject to the limitations in this section, loan fees, points, finder's fees, and other charges; however, all such charges, WHEN COMBINED WITH ANY FINDER’S FEE IMPOSED BY A MORTGAGE BROKER UNDER § 12-804 OF THIS TITLE, may not exceed [2] 10 percent of the original extension of credit;

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

(i) The agreement, note, or other evidence of the loan so provides and the borrower agrees in writing to pay those charges;

(ii) The loan is secured by a lien on residential real property; however, all such charges, WHEN COMBINED WITH ANY FINDER’S FEE IMPOSED BY A MORTGAGE BROKER UNDER § 12-804 OF THIS TITLE, may not exceed [2] 10 percent of the original extension of credit [or 4 percent of the original extension of credit for a commercial loan not exceeding \$75,000]; and

(iii) The charges are disclosed to the borrower in accordance with the federal Truth in Lending Act; and

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

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

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

(b) Reasonable fees for services rendered or for reimbursement of expenses incurred in good faith by the credit grantor or its agents in connection with the loan, including:

(1) Commitment fees;

(2) Official fees and taxes;

(3) Premiums or other charges for any guarantee or insurance protecting the credit grantor against the borrower's default or other credit loss;

(4) Costs incurred by reason of examination of title, inspection, recording, and other formal acts necessary or appropriate to the security of the loan;

(5) Filing fees;

(6) Attorney's fees; and

(7) Travel expenses.

(c) (1) The cost to the borrower of an optional debt cancellation agreement, provided that the cost of the debt cancellation agreement is separately itemized in the financing agreement.

(2) This cost is in addition to the charges permitted under subsections (a), (b), and (d) of this section.

(d) In the case of a loan to a consumer borrower, a fee permitted under subsection (b) of this section may not be charged and collected unless:

(1) The agreement, note, or other evidence of the loan permits;

(2) The fee is an actual and verifiable expense of the credit grantor not retained by him; and

(3) Limited to charges for:

(Over)

(i) Attorney's fees for services rendered in connection with the preparation, closing, or disbursement of the loan;

(ii) Any expense, tax, or charge paid to a governmental agency;

(iii) Examination of title, appraisal, or other costs necessary or appropriate to the security of the loan; and

(iv) Premiums for any insurance coverage permitted under this subtitle.

(e) For purposes of this subtitle, fees and charges permitted under this section are not interest with respect to a loan.”.

On pages 4 and 5, strike in their entirety the lines beginning with line 24 on page 4 through line 6 on page 5, inclusive.

AMENDMENT NO. 3

On page 5, in line 25, strike “PRIOR WRITTEN”; in the same line, strike the colon; in line 26, strike “(I)”; in the same line, strike the brackets; in the same line, strike “MAKING”; in line 27, strike “; OR” and substitute a period; and strike in their entirety lines 28 through 33, inclusive, and substitute:

“(4) NOTWITHSTANDING PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, FOR A LOAN THAT IS TO BE SECURED BY RESIDENTIAL REAL PROPERTY:

(I) A LICENSEE MAY SOLICIT AND ACCEPT AN APPLICATION FOR A LOAN:

1. BY MAIL;

2. BY TELEPHONE OR OTHER ELECTRONIC MEANS; OR

3. AT ANY LOCATION REQUESTED BY THE PROSPECTIVE

BORROWER;

(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, THE LOAN CLOSING SHALL BE CONDUCTED AT:

1. THE LENDER'S LICENSED LOCATION;

2. THE OFFICE OF AN ATTORNEY REPRESENTING THE LICENSEE, THE BORROWER, THE TITLE COMPANY, OR TITLE INSURER IN CONNECTION WITH THE LOAN; OR

3. THE OFFICE OF THE TITLE INSURER OR TITLE AGENCY PERFORMING CLOSING SERVICES IN CONNECTION WITH THE LOAN; AND

(III) A LICENSEE MAY CONDUCT THE LOAN CLOSING AT ANOTHER LOCATION AT THE WRITTEN REQUEST OF THE BORROWER OR THE BORROWER'S DESIGNEE TO ACCOMMODATE THE BORROWER BECAUSE OF THE BORROWER'S SICKNESS.

11-301.

(b) The licensing provisions of this subtitle do not apply to any of the following persons, if organized under the laws of this State or otherwise qualified to do business in this State:

(1) A banking institution;

(2) A national banking association;

(3) A federal or State savings and loan association;

(4) A federal or State credit union;

(5) A licensee under Title 11, Subtitle 2 of this article;

(Over)

(6) A seller of goods or services or both not engaged in:

(i) Making loans; or

(ii) Acting as a credit services business as defined under Title 14, Subtitle 19 of the Commercial Law Article; [or]

(7) [An other-state bank having a branch in this State] A LICENSEE UNDER SUBTITLE 5 OF THIS TITLE ENGAGED SOLELY IN A MORTGAGE LENDING BUSINESS AS DEFINED IN THAT SUBTITLE; OR

(8) AN ENTITY EXEMPT FROM LICENSING AS A MORTGAGE LENDER UNDER § 11-502(B)(11) OF THIS TITLE.”.

On page 6, strike beginning with “receive” in line 14 down through the second “or” in line 15; and strike beginning with “IN” in line 22 down through “BUSINESS” in line 31 and substitute “A LICENSEE MAY CONDUCT THE LOAN CLOSING AT ANOTHER LOCATION AT THE WRITTEN REQUEST OF THE BORROWER OR THE BORROWER’S DESIGNEE TO ACCOMMODATE THE BORROWER BECAUSE OF THE BORROWER’S SICKNESS”.

AMENDMENT NO. 4

On page 7, strike in their entirety lines 7 through 34, inclusive.

On page 8, strike in their entirety lines 1 through 12, inclusive.

On page 8, in lines 14 and 15, in each instance, strike the bracket; strike beginning with the colon in line 16 down through “BUSINESS” in line 19; in line 20, strike “(1)”; in lines 20 and 21, in each instance, strike the bracket; in line 21, before “BE” insert “AND”; in the same line, strike “person” and substitute “MORTGAGE LOAN BORROWER”; in line 23, strike the brackets; in the same line, strike the period; strike in their entirety lines 24 through 27, inclusive; in lines 28, 30, and 33, strike all the brackets; in line 28, strike “(I)”; in line 30, strike “(II)”; and in line 33, strike “(III)”.

On page 9, in line 35, strike the brackets; and in the same line, strike “SURETY BOND”.

On page 10, strike beginning with “Submits” in line 8 down through “(4)” in line 10; in

line 10, strike “SURETY BOND AND FIDELITY”; in line 11, strike all the brackets; in the same line, strike “CERTIFICATES”; in the same line, strike “AMOUNTS”; in line 12, after “subtitle” insert “; AND”

(4) SUBMITS TO THE COMMISSIONER:

(I) A RENEWAL APPLICATION ON THE FORM THAT THE COMMISSIONER REQUIRES; AND

(II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY CONTINUING EDUCATION REQUIREMENTS SET BY REGULATIONS ADOPTED BY THE COMMISSIONER”;

and after line 12, insert:

“11-511.1.

(A) BY JULY 1, 2000, THE COMMISSIONER SHALL ADOPT REGULATIONS THAT SET CONTINUING EDUCATION REQUIREMENTS AS A CONDITION TO THE RENEWAL OF LICENSES UNDER THIS SUBTITLE.

(B) ANY CONTINUING EDUCATION REQUIREMENTS ESTABLISHED BY THE COMMISSIONER UNDER THIS SECTION MAY NOT APPLY TO THE FIRST RENEWAL OF A LICENSE.”.

AMENDMENT NO. 5

On page 10, strike in their entirety lines 13 through 32, inclusive.

On page 11, strike in their entirety lines 1 through 27, inclusive.

On page 12, in line 2, strike the brackets; and in the same line, strike “otherwise”.

In line 13, after “(b)]” insert:

(Over)

“(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “AFFILIATE” MEANS ANY ASSOCIATION, CORPORATION, BUSINESS TRUST, OR OTHER SIMILAR ORGANIZATION THAT CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH, A FINANCIAL INSTITUTION, AS DEFINED IN § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(3) “SETTLEMENT” MEANS THE PROCESS OF EXECUTING AND DELIVERING TO THE LENDER OR THE AGENT RESPONSIBLE FOR SETTLEMENT, LEGALLY BINDING DOCUMENTS EVIDENCING OR SECURING A LOAN SECURED BY A DEED OF TRUST OR MORTGAGE ENCUMBERING REAL PROPERTY IN THIS STATE.

(B)”;

in line 13, after “any” insert “CONSUMER”; in line 15, strike “closing” and substitute “SETTLEMENT”; in line 16, after “loan” insert “PROCEEDS IN ACCORDANCE WITH THE LOAN DOCUMENTS”; in line 17, strike “subsection” and substitute “SUBSECTIONS”; in the same line, strike “(B)” and substitute “(C) AND (D)”; in line 18, after “ANY” insert “CONSUMER”; in line 19, after “PROPERTY” insert “LOCATED IN THIS STATE”; in line 20, strike “CLOSING” and substitute “FUNDING”; in line 21, after “LOAN” insert “PROCEEDS”; in the same line, strike “SUBSECTION (B) OF THIS SECTION” and substitute “PARAGRAPH (1) OF THIS SUBSECTION”; in line 22, strike the first set of brackets; in the same line, strike “(B)” and substitute “EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,”; in the same line, strike “to the agent responsible for”; in line 23, strike “settlement” and substitute “PROCEEDS”; and after line 35, insert:

“(D) IN ADDITION TO THE METHODS OF LOAN DISBURSEMENT PROVIDED IN SUBSECTION (C) OF THIS SECTION, THE LOAN PROCEEDS MAY BE DISBURSED IN THE FORM OF A CHECK DRAWN ON A FINANCIAL INSTITUTION INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION AND LOCATED IN THE 5TH FEDERAL RESERVE DISTRICT IF THE LENDER IS:

(1) AN AFFILIATE OR SUBSIDIARY OF A FINANCIAL INSTITUTION INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR THE NATIONAL CREDIT UNION ADMINISTRATION SHARE INSURANCE PROGRAM; OR

(2) A MORTGAGE COMPANY APPROVED BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE CORPORATION.”.

On page 13, in line 1, strike “(C)” and substitute “(E)”; in the same line, strike “the loan” and substitute “A LOAN SUBJECT TO THIS SECTION”; in the same line, strike the second set of brackets; in the same line, strike “(B)”; and in line 2, strike the second “a” and substitute “THE”; after line 3, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Commissioner of Financial Regulation shall report to the Senate Finance Committee and the House Commerce and Government Matters Committee on the continuing education requirements established pursuant to § 11-511.1 of this Act prior to their adoption and implementation.”; and in line 4, strike “2.” and substitute “3.”.