

SENATE BILL 105

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II

1998 Regular Session  
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By: **Senators Astle and Madden (Task Force to Examine the Mortgage Lending Business)**

Introduced and read first time: January 19, 1998  
Assigned to: Finance

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 24, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Consumer Credit - Mortgage Lending Business Reforms**

3 FOR the purpose of altering the manner in which certain points, loan origination fees,  
4 commissions, finder's fees, or similar charges may be allocated between a  
5 mortgage broker and a lender or credit grantor in certain loan transactions and  
6 establishing an aggregate percentage cap on the amount of such charges;  
7 altering the manner and permissible location in which applications for certain  
8 loan transactions secured by secondary mortgages or deeds of trust may be  
9 ~~conducted~~ accepted, subject to certain conditions; allowing certain loan closings  
10 to be conducted at certain locations under certain circumstances; repealing  
11 certain licensing requirements relating to certain credit grantors; specifying  
12 certain continuing education requirements for a mortgage broker and a  
13 mortgage lender and its loan officers, subject to certain regulations adopted by  
14 the Commissioner of Financial Regulation; ~~requiring certain persons to obtain~~  
15 ~~fidelity bonds for certain purposes~~; ~~requiring the Commissioner of Financial~~  
16 ~~Regulation to examine the use of the Maryland Consumer Protection Act for~~  
17 ~~certain purposes~~; clarifying provisions regarding for whose benefit certain  
18 surety bond requirements are established; altering the scope of certain activities  
19 in the mortgage lending business that may constitute criminal behavior;  
20 altering the manner in which certain loan funds may be disbursed at settlement;  
21 defining certain terms; requiring the Commissioner of Financial Regulation to  
22 report to certain committees on certain regulations prior to their adoption and  
23 implementation; and generally relating to certain practices and requirements  
24 related to the conduct of the mortgage lending business in the State.

25 BY repealing and reenacting, with amendments,  
26 Article - Commercial Law

1 ~~Section 12-405, 12-804(a), 12-903(a), 12-915, and 12-1015~~  
 2 ~~Section 12-405, 12-903(a), and 12-1005~~  
 3 ~~Annotated Code of Maryland~~  
 4 ~~(1990 Replacement Volume and 1997 Supplement)~~

5 ~~BY repealing and reenacting, without amendments,~~  
 6 ~~Article - Financial Institutions~~  
 7 ~~Section 11-507(d) and (e)~~  
 8 ~~Annotated Code of Maryland~~  
 9 ~~(1998 Replacement Volume)~~

10 BY repealing and reenacting, with amendments,  
 11 Article - Financial Institutions  
 12 ~~Section 11-204, 11-505, 11-506, 11-507(e), 11-508, 11-511(b), 11-517, and~~  
 13 ~~11-523~~  
 14 Section 11-204, 11-301(b), 11-505, 11-508, 11-511(b), and 11-523  
 15 Annotated Code of Maryland  
 16 (1998 Replacement Volume)

17 BY adding to  
 18 Article - Financial Institutions  
 19 Section 11-511.1  
 20 Annotated Code of Maryland  
 21 (1998 Replacement Volume)

22 BY repealing and reenacting, with amendments,  
 23 Article - Real Property  
 24 Section 7-109  
 25 Annotated Code of Maryland  
 26 (1996 Replacement Volume and 1997 Supplement)

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

29 **Article - Commercial Law**

30 12-405.

31 (a) (1) A lender may collect a loan origination fee [not exceeding the greater  
 32 of \$500 or 4 percent of the net proceeds of a commercial loan of \$75,000 or less made  
 33 under this subtitle or not exceeding \$250 or 2 percent of the net proceeds of any other  
 34 loan under this subtitle] FOR MAKING A LOAN UNDER THIS SUBTITLE ONLY AS  
 35 PROVIDED IN THIS SECTION.

1 (2) THE AGGREGATE AMOUNT OF THE LOAN ORIGINATION FEE IMPOSED  
 2 BY A LENDER UNDER THIS SECTION ~~AND WHEN COMBINED WITH ANY FINDER'S FEE~~  
 3 IMPOSED BY A MORTGAGE BROKER UNDER § 12-804 OF THIS ARTICLE MAY NOT  
 4 EXCEED THE GREATER OF:

5 (I) \$500 OR 10 PERCENT OF THE NET PROCEEDS OF A COMMERCIAL  
 6 LOAN OF \$75,000 OR LESS MADE UNDER THIS SUBTITLE; OR

7 (II) \$250 OR 10 PERCENT OF THE NET PROCEEDS OF ANY OTHER  
 8 LOAN MADE UNDER THIS SUBTITLE.

9 (3) [However, the] A lender may not collect from the borrower any other  
 10 commission, finder's fee, or point for obtaining, procuring, or placing a loan UNDER  
 11 THIS SUBTITLE.

12 [(2)] (4) A lender who utilizes the provisions of § 12-404.1 of this title,  
 13 relating to federal second mortgage purchase programs, is not entitled to the  
 14 origination fee provided for in subsection [(a)(1)] (A)(2) of this section in addition to  
 15 the fees, discounts, points, or charges allowed under § 12-404.1(2). All other second  
 16 mortgage programs in this State are limited to the charges and fees provided in  
 17 subsection [(a)(1)] (A)(2) of this section.

18 (b) A lender may collect the fees paid to a public official or governmental  
 19 agency for recording or satisfying the instrument securing the loan.

20 (c) (1) A lender may collect from the borrower a delinquent or late charge of  
 21 the greater of \$2 or 5 percent of the amount of any delinquent or late periodic  
 22 installment, if:

23 (i) The delinquency has continued for at least 10 days; and

24 (ii) A delinquent or late charge has not already been charged for the  
 25 same delinquency.

26 (2) The lender shall deduct the charge from the next payment made by  
 27 the borrower.

28 ~~12-804.~~

29 ~~(a) A mortgage broker may charge a finder's fee THAT, IN COMBINATION WITH~~  
 30 ~~ALL COMMISSIONS, FINDERS' FEES, AND POINTS FOR PROCURING A LOAN OR~~  
 31 ~~ADVANCE THAT ARE CHARGED BY A LENDER OR CREDIT GRANTOR, IS not in excess of~~  
 32 ~~[8] 10 percent of the amount of the loan or advance.~~

33 12-903.

34 (a) (1) A credit grantor may charge and collect interest or finance charges  
 35 under the plan on the outstanding unpaid indebtedness in the borrower's account  
 36 under the plan at any daily, weekly, monthly, annual, or other periodic percentage  
 37 rate as the agreement governing the plan provides, if the effective rate of simple

1 interest does not exceed 24 percent per year. The rate of interest chargeable on a plan  
2 must be expressed in the agreement as a simple interest rate or rates.

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

8 (3) If the plan is secured by a lien on residential real property, the credit  
9 grantor may, in addition to the periodic percentage rate charge authorized under  
10 subsection (a)(1) of this section, charge and collect at the time the plan is entered into  
11 by the borrower points, loan origination fees, loan discount fees, and similar fees,  
12 provided that:

13 (i) ~~[All] THE COMBINATION OF ALL such fees CHARGED BY THE~~  
14 ~~LENDER OR CREDIT GRANTOR AND THE MORTGAGE BROKER ALL SUCH FEES, WHEN~~  
15 ~~COMBINED WITH ANY FINDER'S FEE IMPOSED BY A MORTGAGE BROKER UNDER §~~  
16 ~~12-804 OF THIS TITLE,~~ may not exceed [2] 10 percent of the maximum amount of  
17 credit made available to the borrower under the plan;

18 (ii) The documents evidencing the plan specifically enumerate any  
19 such fees;

20 (iii) The borrower agrees in writing to pay those fees; and

21 (iv) The fees are disclosed to the borrower in accordance with the  
22 federal Truth in Lending Act.

23 ~~12-915.~~

24 (a) ~~A credit grantor making a loan or extension of credit under this subtitle is~~  
25 ~~subject to the licensing, investigatory, enforcement and penalty provisions of Title 11,~~  
26 ~~Subtitle 3 of the Financial Institutions Article unless the credit grantor or the loan or~~  
27 ~~extension of credit is exempt under Title 11, Subtitle 3 of the Financial Institutions~~  
28 ~~Article.~~

29 (b) ~~[In addition to any license which may be required by] NOTWITHSTANDING~~  
30 ~~subsection (a) of this section, a credit grantor making [a loan or extension of credit]~~  
31 ~~ONLY LOANS OR EXTENSIONS OF CREDIT under this subtitle secured by any lien on~~  
32 ~~residential real property is subject to the licensing, investigatory, enforcement and~~  
33 ~~penalty provisions of Title 11, Subtitle 5 of the Financial Institutions Article unless~~  
34 ~~the credit grantor or the loan or extension of credit is exempt under Title 11, Subtitle~~  
35 ~~5 of the Financial Institutions Article.~~

36 (c) ~~If a license is required by this section, it shall be issued by the~~  
37 ~~Commissioner of Financial Regulation.~~

38 (d) (1) ~~An extension of credit made under this subtitle prior to October 1,~~  
39 ~~1994 by a home improvement contractor may not be deemed unenforceable or~~

1 ~~violative of this section because the contractor was not licensed under Title 11,~~  
2 ~~Subtitle 3 of the Financial Institutions Article.~~

3 (2) ~~Paragraph (1) of this subsection does not apply to any person engaged~~  
4 ~~in the business of making loans at the time the credit was extended.~~

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

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

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

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

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

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

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

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

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

30 (1) Commitment fees;

31 (2) Official fees and taxes;

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

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

1           (5)     Filing fees;

2           (6)     Attorney's fees; and

3           (7)     Travel expenses.

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

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

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

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

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

14           (3)     Limited to charges for:

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

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

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

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

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

24 ~~12-1015.~~

25       (a)     ~~A credit grantor making a loan or an extension of credit under this subtitle~~  
26 ~~is subject to the licensing, investigatory, enforcement and penalty provisions of Title~~  
27 ~~11, Subtitle 3 of the Financial Institutions Article unless the credit grantor or the loan~~  
28 ~~or extension of credit is exempt under Title 11, Subtitle 3 of the Financial Institutions~~  
29 ~~Article.~~

30       (b)     ~~[In addition to any license which may be required by] NOTWITHSTANDING~~  
31 ~~subsection (a) of this section, a credit grantor making [a loan or extension of credit]~~  
32 ~~ONLY LOANS OR EXTENSIONS OF CREDIT under this subtitle secured by any lien on~~  
33 ~~residential real property is subject to the licensing, investigatory, enforcement and~~  
34 ~~penalty provisions of Title 11, Subtitle 5 of the Financial Institutions Article unless~~

1 the credit grantor or the loan or extension of credit is exempt under Title 11, Subtitle  
2 5 of the Financial Institutions Article.

3 (e) If a license is required by this section, it shall be issued by the  
4 Commissioner of Financial Regulation.

5 (d) (1) An extension of credit made under this subtitle prior to October 1,  
6 1994 by a home improvement contractor may not be deemed unenforceable or  
7 violative of this section because the contractor was not licensed under Title 11,  
8 Subtitle 3 of the Financial Institutions Article.

9 (2) Paragraph (1) of this subsection does not apply to any person engaged  
10 in the business of making loans at the time the credit was extended.

### 11 Article - Financial Institutions

12 11-204.

13 (a) Unless a person is licensed by the Commissioner, the person may not:

14 (1) Make a loan; or

15 (2) In any way use any advantage provided by the Maryland Consumer  
16 Loan Law.

17 (b) (1) A separate license is required for each place of business where a  
18 person makes a loan or transacts any business under the Maryland Consumer Loan  
19 Law.

20 (2) A person may not:

21 (i) Receive any application for a loan or allow any note or contract  
22 for a loan to be signed at any place of business for which the person does not have a  
23 license;

24 (ii) Conduct any business under the Maryland Consumer Loan Law  
25 under a name different from the name that appears on the person's license; or

26 (iii) Evade the application of this section by any device, subterfuge,  
27 or pretense of any kind.

28 (3) This subsection does not prohibit a licensee from accommodating a  
29 borrower, at the borrower's ~~PRIOR WRITTEN~~ request, by:

30 (i) ~~making~~ ~~MAKING~~ a loan by mail because of the borrower's  
31 sickness or hours of employment or for similar reasons; ~~OR,~~

32 (ii) ~~CONDUCTING ALL OR PART OF THE BUSINESS OF MAKING REAL~~  
33 ~~ESTATE SECURED LOANS;~~

1 ~~1. BY MAIL, TELEPHONE, OR OTHER MEANS OF ELECTRONIC~~  
2 ~~COMMUNICATION; OR~~

3 ~~2. AT A LOCATION REQUESTED BY THE BORROWER THAT IS~~  
4 ~~DIFFERENT THAN THE LICENSEE'S PLACE OF BUSINESS.~~

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

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

9 1. BY MAIL;

10 2. BY TELEPHONE OR OTHER ELECTRONIC MEANS; OR

11 3. AT ANY LOCATION REQUESTED BY THE PROSPECTIVE  
12 BORROWER;

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

15 1. THE LENDER'S LICENSED LOCATION;

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

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

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

25 11-301.

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

29 (1) A banking institution;

30 (2) A national banking association;

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

32 (4) A federal or State credit union;

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

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

2                     (i)     Making loans; or

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

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

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

10 11-505.

11       (a)     A license issued under this subtitle authorizes the licensee to act as a  
12 mortgage lender under the license at the licensed place of business.

13       (b)     Only 1 place of business may be maintained under any 1 license.

14       (c)     A mortgage lender may maintain more than 1 license under this subtitle  
15 provided that a separate application for each license is made pursuant to § 11-507 of  
16 this subtitle and the Commissioner approves such application.

17       (d)     (1)     The Commissioner shall include on each license:

18                     (i)     The name of the licensee; and

19                     (ii)    The address at which the business is to be conducted.

20       (2)     A person may not conduct any mortgage loan business at any location  
21 or under any name different from the address and name that appears on the person's  
22 license.

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

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

29                     (ii)    A title insurance company, a title company, or an attorney for a  
30 title insurance company or a title company.

31       (2)     Notwithstanding paragraph (1) of this subsection, ~~IN ORDER TO~~  
32 ~~ACCOMMODATE THE BORROWER AT THE BORROWER'S PRIOR WRITTEN REQUEST, a~~  
33 ~~licensee may [accept a loan application from a borrower by mail or telephone or in~~  
34 ~~person at the borrower's residence or place of employment to accommodate the~~

1 ~~borrower at the borrower's request]~~ CONDUCT ALL OR PART OF THE BUSINESS OF  
 2 ~~MAKING LOANS:~~

3 ~~(I) BY MAIL, TELEPHONE, OR OTHER MEANS OF ELECTRONIC~~  
 4 ~~COMMUNICATION; OR~~

5 ~~(II) AT A LOCATION REQUESTED BY THE BORROWER THAT IS~~  
 6 ~~DIFFERENT THAN THE LICENSEE'S PLACE OF BUSINESS. A LICENSEE MAY CONDUCT~~  
 7 ~~THE LOAN CLOSING AT ANOTHER LOCATION AT THE WRITTEN REQUEST OF THE~~  
 8 ~~BORROWER OR THE BORROWER'S DESIGNEE TO ACCOMMODATE THE BORROWER~~  
 9 ~~BECAUSE OF THE BORROWER'S SICKNESS.~~

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

13 (f) A license may be issued under this subtitle to a business entity whose  
 14 principal office is located outside this State provided that the business entity  
 15 maintains a resident agent within the State at all times during the term of the  
 16 license, regardless of whether:

17 (1) The business entity maintains any office within the State; or

18 (2) The activities of the business entity constitute doing business or  
 19 having a tax situs in this State under the applicable provisions of the Corporations  
 20 and Associations Article.

21 ~~11-506.~~

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

25 ~~(1) Engage in business as a mortgage lender;~~

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

28 ~~(3) Command the confidence of the public.~~

29 (b) (1) ~~To qualify for a license, the applicant shall satisfy the Commissioner~~  
 30 ~~that the applicant has:~~

31 ~~(I) [at] AT least 3 years of experience in the mortgage lending~~  
 32 ~~business; AND~~

33 ~~(II) SATISFIED ANY REQUIREMENTS FOR CONTINUING EDUCATION~~  
 34 ~~IMPOSED BY REGULATION ADOPTED BY THE COMMISSIONER OF FINANCIAL~~  
 35 ~~REGULATION UPON A MORTGAGE BROKER OR A MORTGAGE LENDER AND THEIR~~  
 36 ~~EMPLOYEES.~~

1           (2)     If the applicant is a sole proprietor, the applicant shall have the  
2 required experience.

3           (3)     If the applicant is a joint venture, or general or limited partnership,  
4 at least one of the coventurers or general partners shall have the required experience.

5           (4)     If the applicant is a business entity of any other kind, type, or  
6 classification, at least one of the principal officers or members shall have the required  
7 experience.

8           (e)     The Commissioner may deny an application for a license to any person who  
9 has been officially reprimanded or has committed any act that would be a ground for  
10 suspension or revocation of a license under this subtitle.

11 ~~11-507.~~

12           (e)     For each license for which an applicant applies, the applicant shall:

13           (1)     Submit a separate application;

14           (2)     Pay a separate license fee;

15           (3)     If applicable, pay the surcharge; and

16           (4)     File a separate surety bond or other financial guaranty AND  
17 FIDELITY BOND under § 11-508 of this subtitle.

18           (d)     In addition to any sanctions that may be imposed under this subtitle by the  
19 Commissioner, a nonrefundable surcharge of \$500 shall be paid with an application if  
20 the applicant has begun acting as a mortgage lender without a license at the location  
21 for which an application is filed.

22           (e)     A person who knowingly makes a false statement under oath on an  
23 application filed with the Commissioner under this section is guilty of perjury and,  
24 upon conviction, is subject to the penalties set forth in Article 27, § 439 of the Code.

25 11-508.

26           (a)     An applicant for a new license or for the renewal of a license shall file {a  
27 surety bond} with each original application and any renewal application for the  
28 license:

29           (1)     A SURETY BOND; AND

30           (2)     A BLANKET FIDELITY BOND IN THE AMOUNT OF \$ \_\_\_\_\_ COVERING  
31 ALL EMPLOYEES OF THE MORTGAGE LENDING BUSINESS.

32           (b)     (1)     The surety bond shall:

1 (1) Run to the Commissioner ~~AND~~ BE for the benefit of any ~~person~~  
 2 MORTGAGE LOAN BORROWER who has been damaged by a violation committed by a  
 3 licensee of any law or regulation governing the activities of mortgage lenders;

4 (2) ~~THE FIDELITY BOND SHALL BE FOR THE BENEFIT OF THE~~  
 5 ~~EMPLOYER LICENSEE WHO SUFFERS A LOSS AS DESCRIBED IN PARAGRAPH (1) OF~~  
 6 ~~THIS SUBSECTION.~~

7 (3) ~~EACH BOND SUBJECT TO THIS SUBSECTION SHALL:~~

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

10 (3) (B) Be conditioned that the applicant shall comply with all  
 11 Maryland laws regulating the activities of mortgage lenders and mortgage loan  
 12 lending; and

13 (4) (C) Be approved by the Commissioner.

14 (c) If an applicant has not conducted a mortgage lending business any time  
 15 during the 36 months prior to the filing of an original application for a license, the  
 16 applicant shall provide a sworn statement setting forth that fact, and shall file with  
 17 the original application a surety bond in the amount of \$15,000.

18 (d) (1) If an applicant has conducted a mortgage lending business any time  
 19 during the 36 months prior to the filing of an original or renewal application, the  
 20 applicant shall provide a sworn statement setting forth the aggregate principal  
 21 amount of mortgage loans secured or to be secured by property located in Maryland  
 22 and applied for and accepted or mortgage loans secured or to be secured by property  
 23 located in Maryland and applied for, procured, and accepted by the mortgage lender  
 24 during the 12 months immediately preceding the month in which the application is  
 25 filed.

26 (2) If an applicant has conducted a mortgage lending business any time  
 27 during the 36 months prior to the filing of an original application, but during that  
 28 time has not acted as a mortgage lender in Maryland, the applicant shall provide with  
 29 the original application a sworn statement setting forth the aggregate principal  
 30 amount of loans secured or to be secured by residential real property located in states  
 31 other than Maryland and applied for, procured, and accepted by the mortgage lender  
 32 during the 12 months preceding the month in which the application is filed.

33 (3) Except as provided in subsections (c) and (e) of this section, the  
 34 applicant shall file with the original or renewal application:

35 (i) Where the aggregate principal amount of loans set forth in the  
 36 sworn statement was \$3,000,000 or less, a surety bond in the amount of \$25,000;

37 (ii) Where the aggregate principal amount of loans set forth in the  
 38 sworn statement was more than \$3,000,000 but not more than \$10,000,000, a surety  
 39 bond in the amount of \$50,000; and

1 (iii) Where the aggregate principal amount of loans set forth in the  
2 sworn statement was more than \$10,000,000, a surety bond in the amount of \$75,000.

3 (e) Notwithstanding any other provisions of this section, and subject to  
4 approval by the Commissioner, if an applicant files five or more original or renewal  
5 applications at the same time, the applicant may provide a blanket surety bond for all  
6 licensed offices in the amount of \$375,000.

7 (f) Subject to approval by the Commissioner, an applicant for license who files  
8 an application for a new license or for the renewal of a license may satisfy the  
9 ~~{bonding} SURETY BOND~~ requirement under this section by establishing a trust  
10 account with or obtaining an irrevocable letter of credit from a financial institution  
11 insured by the Federal Deposit Insurance Corporation in an amount equal to the bond  
12 required under this section.

13 (g) The Commissioner may adopt regulations reasonably necessary to assure  
14 that the proper surety bond amount established by this section is maintained by each  
15 licensee throughout each licensing term. The regulations may provide for periodic  
16 reporting, recalculation, and enforcement of required bond amounts.

17 11-511.

18 (b) On or before December 1 of the year of expiration, a license may be  
19 renewed for an additional 2-year term, if the licensee:

20 (1) Otherwise is entitled to be licensed;

21 (2) Pays to the Commissioner a renewal fee of \$1,000;

22 (3) ~~Submits to the Commissioner a renewal application on the form that~~  
23 ~~the Commissioner requires; and~~

24 (4) Files a ~~SURETY BOND AND FIDELITY~~ bond or bond continuation  
25 ~~{certificate} CERTIFICATES~~ for the ~~{amount} AMOUNTS~~ required under § 11-508 of  
26 this subtitle; AND

27 (4) SUBMITS TO THE COMMISSIONER:

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

30 (II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY  
31 CONTINUING EDUCATION REQUIREMENTS SET BY REGULATIONS ADOPTED BY THE  
32 COMMISSIONER.

33 11-511.1.

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

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

4 ~~11-517.~~

5 (a) ~~Subject to the hearing provisions of § 11-518 of this subtitle, the~~  
 6 ~~Commissioner may suspend or revoke the license of any licensee if the licensee or any~~  
 7 ~~owner, director, officer, member, partner, stockholder, employee, or agent of the~~  
 8 ~~licensee:~~

9 (1) ~~Makes any material misstatement in an application for a license;~~

10 (2) ~~Has been convicted of any crime of moral turpitude;~~

11 (3) ~~In connection with any mortgage loan or loan application transaction:~~

12 (i) ~~Commits any fraud;~~

13 (ii) ~~Engages in any illegal or dishonest activities; or~~

14 (iii) ~~Misrepresents or fails to disclose any material facts to anyone~~  
 15 ~~entitled to that information;~~

16 (4) ~~Violates any provision of this subtitle or any rule or regulation~~  
 17 ~~adopted under it or any other law regulating mortgage loan lending in the State; or~~

18 (5) ~~Otherwise demonstrates unworthiness, bad faith, dishonesty, or any~~  
 19 ~~other quality that indicates that the business of the licensee has not been or will not~~  
 20 ~~be conducted honestly, fairly, equitably, and efficiently.~~

21 (b) (1) ~~The Commissioner may enforce the provisions of this subtitle,~~  
 22 ~~regulations adopted under § 11-503, and the applicable provisions of Title 12 of the~~  
 23 ~~Maryland Commercial Law Article by issuing an order:~~

24 (i) ~~To cease and desist from the violation and any further similar~~  
 25 ~~violations; and~~

26 (ii) ~~Requiring the violator to take affirmative action to correct the~~  
 27 ~~violation including the restitution of money or property to any person aggrieved by~~  
 28 ~~the violation.~~

29 (2) ~~If a violator fails to comply with an order issued under paragraph (1)~~  
 30 ~~of this subsection, the Commissioner may impose a civil penalty of up to \$1,000 for~~  
 31 ~~each violation from which the violator failed to cease and desist or for which the~~  
 32 ~~violator failed to take affirmative action to correct.~~

33 (c) ~~The Commissioner may file a petition in the circuit court for any county~~  
 34 ~~seeking enforcement of an order issued under this section.~~

1 (d) In determining the amount of financial penalty to be imposed under  
2 subsection (b) of this section, the Commissioner shall consider the following:

- 3 (1) The seriousness of the violation;
- 4 (2) The good faith of the violator;
- 5 (3) The violator's history of previous violations;
- 6 (4) The deleterious effect of the violation on the public and mortgage  
7 industry;
- 8 (5) The assets of the violator; and
- 9 (6) Any other factors relevant to the determination of the financial  
10 penalty.

11 (E) ~~IN CONSULTATION WITH THE DIVISION OF CONSUMER PROTECTION OF~~  
12 ~~THE OFFICE OF THE ATTORNEY GENERAL, THE COMMISSIONER SHALL EXAMINE~~  
13 ~~AND ENCOURAGE AFFECTED PARTIES TO UTILIZE THE MARYLAND CONSUMER~~  
14 ~~PROTECTION ACT, TITLE 13 OF THE COMMERCIAL LAW ARTICLE OF THE CODE, TO~~  
15 ~~ADDRESS AND COMBAT ANY PRACTICE OF THE MORTGAGE LENDING BUSINESS~~  
16 ~~THAT, THOUGH NOT FRAUDULENT, IS UNSCRUPULOUS.~~

17 11-523.

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

21 (b) Any unlicensed person who is not exempt from licensing under this  
22 subtitle who makes or assists a borrower in obtaining a mortgage loan in violation of  
23 this subtitle may collect only the principal amount of the loan and may not collect any  
24 interest, costs, finder's fees, broker fees, or other charges with respect to the loan.

25 (c) Any mortgage lender OR EMPLOYEE OR AGENT OF A MORTGAGE LENDER  
26 who willfully misappropriates for ~~otherwise~~ intentionally and fraudulently converts  
27 to the mortgage lender's OR TO THE MORTGAGE LENDER'S EMPLOYEE'S OR AGENT'S  
28 own use moneys in excess of \$300 rightfully belonging to a borrower, OR WHO  
29 OTHERWISE COMMITS ANY FRAUDULENT ACT IN THE COURSE OF ENGAGING IN THE  
30 MORTGAGE LENDING BUSINESS is guilty of a felony and on conviction is subject to a  
31 fine not to exceed \$100,000 or imprisonment not exceeding 15 years or both.

32 **Article - Real Property**

33 7-109.

34 (a) [This section applies only to a transaction involving a purchase money  
35 loan secured by first deeds of trust or mortgages on real property that contains no  
36 more than 4 dwelling units.

1 (b)] (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
 2 INDICATED.

3 (2) "AFFILIATE" MEANS ANY ASSOCIATION, CORPORATION, BUSINESS  
 4 TRUST, OR OTHER SIMILAR ORGANIZATION THAT CONTROLS, IS CONTROLLED BY, OR  
 5 IS UNDER COMMON CONTROL WITH, A FINANCIAL INSTITUTION, AS DEFINED IN §  
 6 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

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

11 (B) (1) In any CONSUMER LOAN transaction [for the sale of real property]  
 12 IN WHICH THE LOAN IS SECURED BY A PURCHASE MONEY MORTGAGE OR DEED OF  
 13 TRUST ON REAL PROPERTY LOCATED IN THIS STATE, on or before the day of closing  
 14 SETTLEMENT, [a] THE lender shall disburse the loan PROCEEDS IN ACCORDANCE  
 15 WITH THE LOAN DOCUMENTS to the agent responsible for settlement as provided in  
 16 ~~subsection~~ SUBSECTIONS [(c)] ~~(B)~~ (C) AND (D) of this section.

17 (2) IN ANY CONSUMER LOAN TRANSACTION IN WHICH THE LOAN IS  
 18 SECURED BY A SECONDARY DEED OF TRUST OR MORTGAGE ON REAL PROPERTY  
 19 LOCATED IN THIS STATE, ON OR BEFORE THE DAY OF ~~CLOSING~~ FUNDING THE AGENT  
 20 RESPONSIBLE FOR SETTLEMENT MAY REQUIRE THE LENDER TO DISBURSE THE  
 21 LOAN PROCEEDS AS PROVIDED IN ~~SUBSECTION (B) OF THIS SECTION~~ PARAGRAPH (1)  
 22 OF THIS SUBSECTION.

23 ~~{(c)}~~ ~~(B)~~ EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, [A] THE  
 24 lender shall disburse the loan to the agent responsible for settlement PROCEEDS in  
 25 the form of:

26 (1) Cash;

27 (2) Wired funds;

28 (3) A certified check;

29 (4) A check issued by a political subdivision OR ON BEHALF OF A  
 30 GOVERNMENTAL ENTITY;

31 (5) A teller's check issued by a depository institution and drawn on  
 32 another depository institution; OR

33 (6) A cashier's check[; or

34 (7) A check drawn on a financial institution that is insured by FDIC  
 35 (Federal Deposit Insurance Corporation), FSLIC (Federal Savings and Loan  
 36 Insurance Corporation), or MDIF (State of Maryland Deposit Insurance Fund  
 37 Corporation), and which is located in the 5th Federal Reserve District].

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

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

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

12 [(d)] ~~(C)~~ (E) If ~~the loan~~ A LOAN SUBJECT TO THIS SECTION is not disbursed  
13 as provided in subsection {(c)}~~(B)~~ of this section, [a] THE lender may not charge  
14 interest on a THE loan for the first 30 days following the date of closing.

15 SECTION 2. AND BE IT FURTHER ENACTED, That the Commissioner of  
16 Financial Regulation shall report to the Senate Finance Committee and the House  
17 Commerce and Government Matters Committee on the continuing education  
18 requirements established pursuant to § 11-511.1 of this Act prior to their adoption  
19 and implementation.

20 SECTION 2. 3. AND BE IT FURTHER ENACTED, That this Act shall take  
21 effect October 1, 1998.