Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 1196 (Delegate Marriott, *et al.*)
Commerce and Government Matters

Commercial Law - Credit Regulation - Home Mortgage Loans

This bill prohibits high cost home loans from having specified provisions, terms, and payment schedules. The bill prohibits specified activities, including "flipping," for home loans issued to individuals for personal, family, or household purposes. The bill requires specified lenders to report on their home loan portfolios. Lenders may not make investments backed by home loans that violate the bill. A lender making a loan in violation of the bill is subject to forfeiture of all principal and interest on the loan.

The bill is effective January 1, 2001.

Fiscal Summary

State Effect: Enforcement could be handled with existing resources.

Local Effect: Minimal.

Small Business Effect: Minimal.

Analysis

Bill Summary: This bill prohibits high cost home loans from having specified provisions, terms, and payment schedules. A lender who fails to comply with the bill's requirements for high cost home loans will not be deemed to have violated the bill if the lender establishes that: (1) within 30 days of closing and prior to any action under the bill, the borrower is contacted and restitution is made; or (2) the compliance failure was the result of a "bona fide" error, such as a computer malfunction, clerical, calculation, or printing error.

For all home loans issued to individuals for personal, family, or household purposes, the bill prohibits a lender from: (1) including prepayment fees or penalties; (2) flipping, defined as making a home loan to a borrower who refinances an existing home loan when the new loan does not have a reasonable, tangible net benefit to the borrower; (3) recommending or encouraging default on an existing loan; (4) making a loan that the lender does not reasonably believe the obligor will be able to repay; (5) compensating or coercing an appraiser to influence the appraiser's judgement; and (6) financing specified insurance through a home loan. A home loan contract in which blanks are left to be filled in after the contract is signed is unenforceable.

The bill requires lenders exempt from federal reporting requirements because of the relative size of their home loan portfolios to report to the Commissioner of Financial Regulation on the number and dollar amount of mortgage loans issued under the National Housing Act, mortgages made to mortgagors who do not intend to reside in the mortgaged property, and loans for home improvements. A lender is also required to report the number and dollar amount, as well as the average and median interest rates, for mortgages and home improvement loans by census tract, income level, racial characteristics, and gender.

Lenders may not make investments backed by home loans that violate the bill. A lender making a loan in violation of the bill is subject to forfeiture of all principal and interest on the loan.

Current Law: A mortgage broker's license may be suspended or revoked if, in connection with a mortgage loan or loan application, the broker commits fraud, engages in illegal or dishonest activities, or misrepresents or fails to disclose material facts. Real estate appraisers are subject to disciplinary action for committing negligence or incompetence and are prohibited from committing acts of dishonesty, fraud, or misrepresentation.

The Maryland Consumer Protection Act prohibits a person from engaging in any unfair or deceptive trade practice in: (1) the sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; (2) the offer for sale, lease, rental, loan, or bailment of consumer goods, consumer realty, or consumer services; (3) the extension of consumer credit; or (4) the collection of consumer debts.

Background: Recent reports in *The Baltimore Sun* revealed instances in which distressed houses were bought cheaply and then, after having received inflated appraisals, resold for significantly higher amounts. Often, the properties were sold to unsophisticated buyers with limited resources, poor credit histories, and a strong desire to own a home. After closing, such a buyer could experience difficulty paying the mortgage and be unable to refinance, because of an inflated original mortgage. The buyer may then be forced to default on the loan.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Office of the Attorney General (Consumer Protection Division); *The Baltimore Sun*; Department of Legislative Services

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