HB 1337

Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

House Bill 1337 (Delegate Krysiak, *et al.*)
Commerce and Government Matters

Credit Regulation - Mortgage Lending

This bill requires licensed mortgage lenders to notify the Commissioner of Financial Regulation in writing of a proposed change in location or ownership and obtain the Commissioner's approval. The bill requires the Commissioner to examine a licensed mortgage lender at least once during any 36-month period. The bill increases the fee a licensee must pay for an examination or investigation and clarifies the conditions under which the Commissioner may suspend a license. The bill changes a violation of the Maryland Mortgage Lender Law from a misdemeanor to a felony.

Fiscal Summary

State Effect: General fund expenditures could increase by $469,900 in FY 2001, reflecting the bill's October 1, 2000, effective date. Out-year projections reflect annualization and inflation. General fund revenues could increase by $134,000 in FY 2001. Out-year projections reflect annualization, and industry growth and attrition.

(in dollars)	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
GF Revenues	$134,000	$180,500	$182,300	$184,100	$186,000
GF Expenditures	$469,900	$573,900	$592,100	$611,100	$631,000
Net Effect	($335,900)	($393,400)	($409,800)	($427,000)	($445,000)

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

Local Effect: Potential minimal increase in revenues due to a change in court jurisdiction. Expenditures should not be affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary: This bill requires licensed mortgage lenders to notify the Commissioner of Financial Regulation in writing of a proposed change in location or ownership and to obtain the Commissioner's approval. The Commissioner must approve or deny a request for approval of a change in ownership or location within 60 days after receiving it, or the request is deemed approved. For a change in ownership, the Commissioner may require the licensee to provide information necessary to determine whether a new application is required because of a change of control.

The bill requires the Commissioner to examine a licensed mortgage lender at least once during any 36-month period. New licensees must be examined within 18 months from the date the license is issued. The bill increases the fee a licensee must pay, to $250 per day, for each of the Commissioner's employees working on an examination or investigation. The bill clarifies the conditions under which the Commissioner may suspend a license.

The bill removes the requirement that a violator of the Mortgage Lender Law must have failed to comply with a cease and desist order before the Commissioner may impose a civil penalty. The bill also changes violation of the Mortgage Lender Law from a misdemeanor to a felony and subjects violators to a maximum penalty of a $50,000 fine and/or ten years imprisonment.

The bill also provides that a finder's fee by a mortgage broker, when authorized, must be by written agreement and be separate and distinct from any other document. The broker must provide a copy to the borrower within ten business days after completion of the loan application.

Current Law: A mortgage lender, with certain exceptions, must obtain a license under the Maryland Mortgage Lender Law. A licensee may not change the place of business without notifying, and receiving consent from, the Commissioner. If the Commissioner does not approve or disapprove of the proposed change of place of business within 30 days of the mailing of the licensee's notice, the proposed change of place of business is deemed approved. A licensee who fails to provide timely notice is subject to a $500 surcharge and must file an application for a new license, along with application and investigation fees. The Commissioner is required to examine each licensee's business in accordance with an established schedule. A licensee must pay $100 per day for each of the Commissioner's employees working on an examination or investigation. In an investigation, the Commissioner may: (1) examine the books and records of a licensee or any other person who the Commissioner believes has violated the Mortgage Lender Law; (2) subpoena documents or other evidence; and (3) summon and examine under oath any person whose testimony is required. A violation of the Mortgage Lender Law is a misdemeanor punishable by a maximum penalty of a $5,000 fine and/or one year imprisonment.

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.

State Fiscal Effect: Although examinations of mortgage lender by the Commissioner vary in length and in the number of examiners required, the average examination requires two days to complete. Currently, the Commissioner completes approximately 500 examinations per year with a staff of five examiners and one supervisory examiner. Each licensee is examined, on average, every five years. The bill would represent a significant increase in workload, both because of the number additional examinations and the increased complexity of examinations. In order to examine each licensee every three years, the Commissioner would need to perform approximately 914 examinations annually, an increase of 414. It is unknown how many change of ownership investigations would be required by the bill, but the number is not expected to be significant.

General fund expenditures thus could increase by an estimated $469,900 in fiscal 2001, which accounts for the bill's October 1, 2000, effective date. This estimate reflects the cost of hiring five examiners, one supervisory examiner, two administrative assistants, and one administrative specialist to perform the additional examinations and investigations. It includes salaries, fringe benefits, examiner travel and training, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	$238,300
Examiner Travel & Training	185,200
Other Operating Expenses	46,400
Total FY 2001 State Expenditures	**$469,900**

Future year expenditures reflect (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

General fund revenues could increase by approximately $134,000 in fiscal 2001. This accounts for the bill's October 1, 2000, effective date and assumes that 414 new examinations would be performed under the bill at $250 each and an increase of $150 for each of the 500 examinations currently performed each year. Out-year projections assume 2% industry growth and 1% industry attrition rates.

General funds totaling $491,375 were included in the fiscal 2001 budget contingent on the passage of SB 872/HB 1337 for credit regulation of mortgage lenders, SB 830/HB 727 for investigative and enforcement powers of the Commissioner, and SB 450/HB 516 for the licensing of check cashing services.

Changing crimes from misdemeanors to felonies means: (1) that such cases will be filed in the circuit courts rather than the District Court; and (2) some persons could eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses, for prior felony convictions.

Local Revenues: By changing these crimes from misdemeanors to felonies and creating the additional felony, cases that could have been filed in District Court will be filed solely in the circuit courts. The number of cases is assumed to be small. Accordingly, this bill should not significantly increase local revenues resulting from the applicable monetary provisions. Expenditures should not be affected.

Small Business Effect: Small business mortgage lenders will experience an increased compliance cost due to the increased frequency of examinations and the increased cost per examination.

Additional Information

Prior Introductions: None.

Cross File: SB 872 (Senator Kelley, *et al.*) - Finance.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Labor, Licensing, and Regulation (Commissioner of Financial Regulation); *The Baltimore Sun*; Department of Legislative Services

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