
By: **Delegates Taylor, Hubbard, Moe, and Vaughn**
Introduced and read first time: March 2, 2004
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Mortgage Lender Law - Application**

3 FOR the purpose of providing that the provisions of the Maryland Mortgage Lender
4 Law do not apply to a person that is a sole proprietor, represents a financial
5 institution for the purpose of assisting borrowers in obtaining mortgage loans
6 solely from the financial institution, is subject to State or federal regulation and
7 examination, and meets certain other criteria; and generally relating to the
8 applicability of the Maryland Mortgage Lender Law.

9 BY repealing and reenacting, with amendments,
10 Article - Financial Institutions
11 Section 11-502(b)
12 Annotated Code of Maryland
13 (2003 Replacement Volume)

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

16 **Article - Financial Institutions**

17 11-502.

18 (b) The provisions of this subtitle do not apply to:

19 (1) Any bank, trust company, savings bank, savings and loan association,
20 or credit union incorporated or chartered under the laws of this State or the United
21 States or any other-state bank having a branch in this State;

22 (2) Any insurance company authorized to do business in the State;

23 (3) Any corporate instrumentality of the Government of the United
24 States including:

25 (i) The Federal Home Loan Mortgage Corporation;

26 (ii) The Federal National Mortgage Association; and

- 1 (iii) The Government National Mortgage Association;
- 2 (4) Any person who:
- 3 (i) Makes 3 or fewer mortgage loans per calendar year; and
- 4 (ii) Brokers no more than one mortgage loan per calendar year;
- 5 (5) Any person who takes back a deferred purchase money mortgage in
6 connection with the sale of:
- 7 (i) Residential real property owned by, and titled in the name of,
8 that person; or
- 9 (ii) A new residential dwelling that the person built;
- 10 (6) A nonprofit charitable organization registered with the Maryland
11 Secretary of State or a nonprofit religious organization;
- 12 (7) An employer making a mortgage loan to an employee;
- 13 (8) A person making a mortgage loan to a borrower who is the person's
14 spouse, child, child's spouse, parent, sibling, grandparent, grandchild, or grandchild's
15 spouse;
- 16 (9) A real estate broker who:
- 17 (i) Is licensed in the State; and
- 18 (ii) Makes a mortgage loan providing a repayment schedule of 2
19 years or less to assist the borrower in the purchase or sale of a residential real
20 property through the broker;
- 21 (10) A home improvement contractor licensed under the Maryland Home
22 Improvement Law who assigns a mortgage loan without recourse within 30 days after
23 completion of the contract to a person licensed under this subtitle or to an institution
24 that is exempt from this subtitle under paragraphs (1), (2), or (11) of this subsection;
- 25 (11) A subsidiary or affiliate of an institution described in subsection (c) of
26 this section, which subsidiary or affiliate:
- 27 (i) Is subject to audit or examination by a regulatory body or
28 agency of this State, the United States, or the state where the subsidiary or affiliate
29 maintains its principal office; and
- 30 (ii) Files with the Commissioner, prior to making mortgage loans,
31 information sufficient to identify:
- 32 1. The correct corporate name of the subsidiary or affiliate;

- 1 2. An address and telephone number of a contact person for
2 the subsidiary or affiliate;
- 3 3. A resident agent; and
- 4 4. Any additional information considered necessary by the
5 Commissioner for protection of the public;

6 (12) Any employee benefit plan qualified under Internal Revenue Code §
7 401 or persons acting as fiduciaries with respect to such a plan, making mortgage
8 loans solely to plan participants from plan assets; [or]

9 (13) Employees acting within the scope of their employment with:

- 10 (i) A licensed mortgage lender; or
- 11 (ii) A person who is exempt from licensure under this subtitle; OR

12 (14) A PERSON THAT:

13 (I) IS A SOLE PROPRIETOR;

14 (II) REPRESENTS A FINANCIAL INSTITUTION DESCRIBED IN
15 PARAGRAPH (1) OF THIS SUBSECTION FOR THE PURPOSE OF ASSISTING BORROWERS
16 IN OBTAINING MORTGAGE LOANS SOLELY FROM THE FINANCIAL INSTITUTION;

17 (III) DOES NOT ASSIST BORROWERS IN OBTAINING MORTGAGE
18 LOANS ACCORDING TO CRITERIA THAT ARE BASED ON THE LOAN AMOUNT, INTEREST
19 RATE, FEES, OR OTHER LOAN TERMS;

20 (IV) DOES NOT HANDLE FUNDS OF A BORROWER OR THIRD PARTY
21 IN CONNECTION WITH THE BROKERING OR CLOSING OF A MORTGAGE LOAN, OTHER
22 THAN BY FORWARDING TO A FINANCIAL INSTITUTION A CHECK FROM A BORROWER
23 MADE PAYABLE TO A FINANCIAL INSTITUTION FOR COSTS IN CONNECTION WITH AN
24 APPLICATION FOR A MORTGAGE LOAN; AND

25 (V) IS SUBJECT TO STATE OR FEDERAL REGULATION AND
26 EXAMINATION OF THE PERSON'S ACTIVITIES IN ASSISTING BORROWERS IN
27 OBTAINING MORTGAGE LOANS TO THE SAME EXTENT AS IF THE ACTIVITIES WERE
28 PERFORMED BY A FINANCIAL INSTITUTION DESCRIBED IN PARAGRAPH (1) OF THIS
29 SUBSECTION.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2004.