HB 1026

Department of Legislative Services

Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1026 (Delegate Wood, *et al.*)
Economic Matters

Financial Institutions − Consumer Credit − Mortgage Originators

This bill requires mortgage originators to become licensed with the Commissioner of Financial Regulation. The bill establishes a special fund to pay for the costs of regulation.

Fiscal Summary

State Effect: General fund expenditures could increase by approximately $76,400 in FY 2005. Special fund expenditures could increase by approximately $1.82 million in FY 2006. Special fund revenues could increase by approximately $2.85 million in FY 2006, which reflects a January 1, 2006 start date for licenses under the bill. Out-years reflect 5% industry growth and attrition, staggered licensing, annualization, and inflation.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
SF Revenue	$0	$2,850,000	$1,240,000	$1,385,000	$1,385,000
GF Expenditure	76,400	0	0	0	0
SF Expenditure	0	1,820,500	1,012,300	1,031,100	1,053,200
Net Effect	($76,400)	$1,029,500	$227,700	$353,900	$331,800

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

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: With limited exceptions, the bill requires an individual to obtain a license from the commissioner before acting as a "mortgage originator." Under the bill, a mortgage originator is an individual who: (1) is an employee of a mortgage lender; (2) directly contacts prospective borrowers for the purpose of negotiating with or advising them about mortgage loan terms and availability; (3) works out of a net branch office of the mortgage lender; (4) is compensated on a percentage commission basis; and (5) is authorized to accept a loan application on the mortgage lender's behalf. Individuals who own 25% or more interest in the mortgage lender for which they work or who are licensed under the mortgage lender laws are exempt.

To qualify for a license, an applicant must satisfy the commissioner that the applicant is of good moral character and has general fitness to warrant the belief that the applicant will act as a mortgage originator in a lawful, honest, fair, and efficient manner. The applicant must also satisfy the commissioner that the applicant has either: (1) at least three years of experience in the mortgage lending business and has completed the required courses for continuing education established under the bill; or (2) completed 40 hours of classroom education conducted in the State as prescribed by the commissioner by regulation and achieved a passing grade on a written examination issued or approved by the commissioner.

The bill specifies the information that an applicant for licensure must provide to the commissioner and the grounds on which the commissioner may and may not deny an application. The bill requires an applicant to provide fingerprints for criminal background checks by the Maryland Department of Public Safety and Correctional Services Criminal Justice Information System Central Repository and the Federal Bureau of Investigation. The applicant must pay all applicable fees.

An applicant must pay a nonrefundable $100 application fee and a $250 license fee. The license fee must be refunded if the application is denied. Fee revenues are deposited into the special fund established under the bill. Any amount not used from the fund in a given year carries forward.

The bill requires the Governor, beginning in fiscal 2005, to appropriate in the Sate budget money to the Division of Financial Regulation for the purpose of creating the positions necessary to carry out the bill.

The bill requires the commissioner to adopt regulations setting out continuing education standards and establish the schedule for examinations of licensees, with each licensee being examined at least once during a 36-month period.

The bill specifies activities for which the commissioner may deny licensure to an applicant, reprimand a licensee, or suspend or revoke a license and the criteria which the commissioner must consider in making such a decision. The commissioner may also issue cease and desist orders or orders to take affirmative corrective action, including restitution, to violators. Violators who fail to comply with a cease and desist order could be liable for a civil penalty of up to $1,000 for each violation. The commissioner may file a petition in circuit court seeking enforcement of an order.

Knowing and willful violation of the bill is a felony. Violators are subject to a fine of up to $1,000 for the first violation and $5,000 for each subsequent violation and/or five years' imprisonment.

Current Law: Individual employees of mortgage lenders are not currently licensed or regulated by the State. However, a mortgage lender must be licensed by the Commissioner of Financial Regulation. To qualify for a mortgage lender license, an applicant must satisfy the commissioner that the applicant is of good moral character and has sufficient financial responsibility, business experience, and general fitness: (1) to engage in business as a mortgage lender; (2) warrant the belief that the business will be conducted lawfully, honestly, fairly, and efficiently; and (3) command the public's confidence. An applicant must have three years of experience in the mortgage lending business.

An applicant for a mortgage lender license must also file a surety bond, pay an investigation fee, submit to an investigation by the commissioner, and if successful, pay the licensing fee. Licensees must meet continuing education requirements and are subject to regulation, investigation, and discipline by the commissioner.

State Revenues: There are currently 4,000 licensed mortgage lenders, including mortgage brokers, in the State. It is estimated that there are approximately two mortgage originators for each mortgage lender, with some lenders employing more and others employing fewer. It is assumed that the growth and attrition in these positions would roughly equal each other at approximately 5% annually so that the overall number of licensees would remain roughly constant. This would represent approximately 8,000 initial licensees and in the out-years, approximately 400 new applicants annually. The bill imposes a one-time, nonrefundable investigation, a $250 initial licensing fee, and a $300 renewal fee. Examination fees are $250 per examiner per day, prorated at $62.50 per licensee. Money from these fees would be deposited in the fund established under the bill.

The Division of Financial Regulation advises that it would begin licensing individuals under the bill January 1, 2006, which is in fiscal 2006. The division further advises that it would stagger renewals and prorate licensing fees accordingly in fiscal 2006 so that revenues and workload in out-years is more consistent. Thus, special fund revenues would increase by $2,850,000 in fiscal 2006, reflecting revenues from investigation, initial licensing, and prorated renewal licensing fees.

State Expenditures: Because the division would begin licensing individuals in fiscal 2006, most of the start-up costs for the new licensing category would begin then. However, some work on the new licensing category would be required in fiscal 2005 to prepare for the undertaking. Because special fund licensing revenues would not begin until fiscal 2006, general fund expenditures could increase by an estimated $76,400 in fiscal 2005, which accounts for the bill's October 1, 2004 effective date. This estimate reflects the cost of hiring one administrator and one clerk to make advance preparations for the new licensing category. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Special fund expenditures could increase by an estimated $1.82 million in fiscal 2006, which accounts for the anticipated January 1, 2006 starting date for licensing and a July 1, 2005 hiring date for additional employees relating to the new license category. This estimate reflects the cost of hiring one administrative officer, three clerks, one fiscal clerk, six financial examiners, two enforcement officers, and four contractual employees to handle initial licensing applications, examine licensees, handle telephone inquiries from licensees and the public, process revenues, and handle ongoing paperwork associated with the new licensing category.

The new category of licensees would require reprogramming the division's electronic licensing program both for the new category itself and to accept an increase of over 100% in the number of nondepository licensees. Because the division's current location would have insufficient space to handle the number of new employees, the division would require additional space to house those employees, as well as eight current employees who would work closely with the new ones. The bill requires the commissioner to develop or contract to have developed an examination for applicants. The division advises that it would contract with an outside organization to develop and administer the exam.

The fiscal 2006 estimate includes salaries, fringe benefits, one-time start-up costs, computer reprogramming costs, costs related to contracting for applicant, and ongoing operating expenses.

Salaries and Fringe Benefits	$656,200
Computer Programming and Testing Costs	850,000
Other Operating Expenses	314,300
Total FY 2006 State Expenditures	**$1,820,500**

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Small Business Effect: Many mortgage lenders are small businesses. The bill would impose new licensing regulations on many of their employees; however, the bill could relieve the small business mortgage lenders from performing their own more stringent background investigations when they hire an individual licensed under the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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Analysis by: Ryan Wilson

Direct Inquiries to:
(410) 946-5510
(301) 970-5510