

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 858

(Delegate Carter, *et al.*)

Economic Matters

Finance

Credit Regulation - Mortgage Brokers - Disclosure of Fees

This bill prohibits a mortgage broker from accepting a fee from a loan originator that is based on the loan's interest rate or the number of points associated with the loan unless the broker has disclosed the maximum amount of the fee and the method and basis of its calculation to the borrower in the required separate written agreement.

Fiscal Summary

State Effect: Enforcement could be handled with the existing resources of the Commissioner of Financial Regulation.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: A mortgage broker may charge a finder's fee of up to 8% of the amount of the loan or advance brokered. However, a mortgage broker may not receive a finder's fee in the form of a note, mortgage, or other evidence of indebtedness. In order for a finder's fee to be permissible, the mortgage broker and the borrower must agree to the fee by a separate written agreement. The terms of the agreement must be disclosed to the borrower before the broker undertakes to assist the borrower in obtaining a loan or advance of money and must specify the amount of the finder's fee. A licensed real estate broker, insurer, salesman, attorney-at-law, or one of their agents may not collect a

finder's fee if, in addition to acting as a mortgage broker, the individual is also acting in one of these other capacities in connection with the transaction or subject property.

A mortgage broker may not charge a finder's fee unless the fee is pursuant to a separate written agreement between the broker and the borrower. The terms of the proposed agreement must be disclosed to the borrower before the broker may assist the borrower. The agreement must specify the amount of the fee. A copy of the agreement must be provided to the borrower within 10 business days after the date the loan application is completed.

Small Business Effect: Fee revenues could decrease for some small mortgage brokerage businesses.

Additional Information

Prior Introductions: Similar bills were introduced during the 2002 and 2001 sessions. SB 827 of 2002 was heard in the Senate Finance Committee, where no further action was taken. HB 1323 of 2002 was heard in the House Commerce and Government Matters Committee, where no further action was taken. HB 885 of 2001 received an unfavorable report from the House Commerce and Government Matters Committee.

Cross File: None.

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

Fiscal Note History: First Reader - March 3, 2004
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