Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 878   (Senator Hooper)

Finance

Credit Regulation - Prepayment Charge or Penalty - Prohibition

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This bill prohibits a contract for a loan secured by a mortgage or deed of trust on an interest in residential real property, notwithstanding any other provision of law, from requiring a borrower to pay a prepayment charge or penalty on a partial or full prepayment of the unpaid principal balance of the loan.

The bill applies only prospectively and does not affect, or apply to, any loan contract executed before October 1, 2004.

Fiscal Summary

State Effect: The bill would not materially affect the finances or operations of the Commissioner of Financial Regulation.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law: For a noncommercial loan that is secured by a mortgage or deed of trust on the borrower's primary residence, except to the extent expressly provided otherwise in the loan contract, a borrower may prepay all or part of the outstanding balance under the loan at any time. In the event that the entire loan is prepaid, the lender must refund or credit the borrower with the unearned portion of the precomputed interest charge.

If a loan contract provides for it, a prepayment charge or penalty on the prepayment of the unpaid principal balance of the loan is not interest under the State's usury laws if the loan is secured by: (1) a home; (2) a combination of home and business property; or (3) agricultural property. A prepayment charge may also be imposed on certain commercial loans of $5,000 or less.

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); Department of Legislative Services

Fiscal Note History: First Reader - March 15, 2004
n/mdr

Analysis by: Ryan Wilson

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