
By: **Chairman, Finance Committee (By Request - Departmental - Labor,
Licensing and Regulation)**

Introduced and read first time: January 20, 2005

Rules suspended

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Commissioner of Financial Regulation - Mortgage Lenders - Licensing of**
3 **Federally Approved Seller-Servicers**

4 FOR the purpose of repealing an exemption from licensure by the Commissioner of
5 Financial Regulation for mortgage lenders that are federally approved
6 seller-servicers; expanding a certain exemption from certain record keeping
7 requirements; making certain conforming changes; repealing a certain
8 definition; allowing federally approved seller-servicers that do not have a
9 mortgage lender license to continue to service mortgage loans until a certain
10 time under certain circumstances; and generally relating to mortgage lenders.

11 BY repealing

12 Article - Financial Institutions
13 Section 11-501(c) and 11-522
14 Annotated Code of Maryland
15 (2003 Replacement Volume and 2004 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article - Financial Institutions
18 Section 11-501(k), 11-504, 11-509, 11-513, and 12-902
19 Annotated Code of Maryland
20 (2003 Replacement Volume and 2004 Supplement)

21 BY renumbering

22 Article - Financial Institutions
23 Section 11-501(d) through (o), respectively
24 to be Section 11-501(c) through (n), respectively
25 Annotated Code of Maryland
26 (2003 Replacement Volume and 2004 Supplement)

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

3 **Article - Financial Institutions**

4 11-501.

5 [(c) "Federally approved seller-servicer" means a mortgage lender that has
6 been approved as a seller-servicer by:

- 7 (1) The Federal Home Loan Mortgage Corporation;
8 (2) The Federal National Mortgage Association;
9 (3) The Government National Mortgage Association;
10 (4) The United States Department of Housing and Urban Development;
11 or
12 (5) The United States Department of Veterans Affairs.]

13 (k) (1) "Mortgage lending business" means the activities set forth in the
14 definition of "mortgage lender" in subsection [(j)] (I) of this section which require that
15 person to be licensed under this subtitle.

16 (2) "Mortgage lending business" includes the making or procuring of
17 mortgage loans secured by residential real property located outside Maryland.

18 11-504.

19 A person may not act as a mortgage lender unless the person is:

- 20 (1) A licensee; OR
21 (2) A person exempted from licensing under this subtitle; or
22 (3) A person registered under § 11-522 of this subtitle].

23 11-509.

24 (a) When an applicant for a license files the application and bond and pays the
25 fees required by § 11-507 of this subtitle, the Commissioner shall investigate to
26 determine if the applicant meets the requirements of § 11-506 of this subtitle.

27 (b) [(1) Subject to paragraph (2) of this subsection, an applicant for a license
28 who files an application is not subject to the requirements of § 11-506 of this subtitle
29 if the applicant is a federally approved seller-servicer.

30 (2) An applicant who seeks an exception under this subsection shall
31 furnish to the Commissioner independent evidence that the applicant is a federally
32 approved seller-servicer.

1 (c) The Commissioner shall approve or deny each application for a license
2 within 60 days after the date when the application and bond are filed and the fees are
3 paid.

4 [(d)] (C) The Commissioner shall issue a license to any applicant who meets
5 the requirements of this subtitle.

6 11-513.

7 (a) Each licensee shall keep and make available to the Commissioner at the
8 licensee's place of business any books and records that the Commissioner, by rule or
9 regulation, requires to enable the Commissioner to enforce:

10 (1) This subtitle;

11 (2) Any rule or regulation adopted under this subtitle; and

12 (3) Any other provision regulating the application, making, brokering, or
13 servicing of mortgage loans under Titles 12 through 14 of the Commercial Law
14 Article.

15 (b) Subject to approval by the Commissioner, nothing in this section is to be
16 construed to prohibit a licensee from maintaining duplicate records or electronic
17 equivalents at the licensee's place of business.

18 (c) [On] NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, ON approval
19 of the Commissioner, a licensee need not keep at the licensee's place of business any
20 books and records otherwise required by the Commissioner under subsection (a) of
21 this section if the licensee:

22 (1) [Is a federally approved seller-servicer;

23 (2)] Makes the books and records available to the Commissioner at the
24 licensee's place of business within 5 business days of the Commissioner's official
25 request; and

26 [(3)] (2) Retains the records for at least 25 months in a storage facility
27 disclosed to the Commissioner.

28 [11-522.

29 (a) In this section, "approved servicer" means a mortgage lender as defined
30 under § 11-501(j)(1)(iii) of this subtitle that is a federally approved seller-servicer.

31 (b) A mortgage lender that engages in the business of servicing mortgage
32 loans for the lender or assignee of the mortgage loan or collecting or otherwise
33 receiving mortgage loan payments directly from borrowers for distribution to the
34 lender or assignee of the mortgage loan is not subject to the licensing and bonding
35 requirements of this subtitle if the servicer is an approved servicer.

1 (c) An approved servicer that services mortgage loans originally made in this
2 State shall:

3 (1) Register with the Commissioner on or before each January 1; and

4 (2) (i) File annually with the Commissioner information satisfactory
5 to the Commissioner that the mortgage lender should be exempt from the licensing
6 and bonding requirements of this subtitle; and

7 (ii) Provide to the Commissioner documentation that the mortgage
8 lender is a federally approved seller-servicer.

9 (d) This section does not apply to any approved servicer that makes or brokers
10 any mortgage loan in this State.]

11 12-902.

12 This subtitle does not apply to:

13 (1) The following persons when engaged in the regular course of their
14 respective businesses and professions:

15 (i) An attorney at law;

16 (ii) An escrow agent;

17 (iii) A certified public accountant;

18 (iv) A banking institution, other-state bank, national banking
19 association, credit union, or savings and loan association;

20 (v) A person that:

21 1. Provides bill payer services, as defined in § 12-401 of this
22 title;

23 2. Does not initiate any contract with individual creditors of
24 the debtor to compromise a debt or arrange a new payment schedule; and

25 3. Does not provide any debt counseling services;

26 (vi) A person that provides accelerated mortgage payment services,
27 as defined in § 12-401 of this title;

28 [(vii) An approved servicer, as defined in § 11-522 of this article;

29 (viii)] (VII) A title insurer, title insurance agency, or abstract
30 company; or

31 [(ix)] (VIII) A judicial officer or a person acting under a court order;

1 (2) A person while performing services incidental to the dissolution,
2 winding up, or liquidation of a partnership, corporation, or other business enterprise;

3 (3) A trade or mercantile association acting in the course of arranging
4 the adjustment of debts with a business establishment; or

5 (4) A mortgage lender, as defined in § 11-501 of this article, that:

6 (i) Is licensed by the Commissioner; and

7 (ii) Does not receive funds from a consumer for the purpose of
8 distributing the funds among the consumer's creditors in full or partial payment of
9 the consumer's debts.

10 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 11-501(d)
11 through (o), respectively, of Article - Financial Institutions of the Annotated Code of
12 Maryland be renumbered to be Section(s) 11-501(c) through (n), respectively.

13 SECTION 3. AND BE IT FURTHER ENACTED, That, in the absence of an
14 order by the Commissioner of Financial Regulation to the contrary, a federally
15 approved seller-servicer that is exempt from having a mortgage lender license
16 immediately prior to the effective date of this Act may continue to service mortgage
17 loans without being licensed, as required under Section 1 of this Act, until the
18 Commissioner approves or disapproves the federally approved seller-servicer's
19 application for a license if the federally approved seller-servicer applies for a license
20 no later than 30 days after the effective date of this Act.

21 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take
22 effect October 1, 2005.