

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 216
Economic Matters

(Delegate McConkey, *et al.*)

Credit Regulation - Prepayment Charge or Penalty - Prohibition

This bill provides that, notwithstanding any other provision of law, a contract for a loan secured by a mortgage or deed of trust on an interest in owner-occupied residential real property may not require 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 does not impair a presently existing obligation or contract right. The bill applies prospectively and does not affect any loan contract executed before October 1, 2006.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: 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Prior Introductions: A similar bill, SB 878 of 2004, was introduced but was later withdrawn before being heard.

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 - February 12, 2006
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