

# SENATE BILL 270

I2, I3

(8lr0214)

## ENROLLED BILL

—Finance/Economic Matters—

Introduced by **The President (By Request - Administration) and Senators Currie, Della, Gladden, Jones, Kelley, Lenett, Madaleno, Middleton, Muse, Pinsky, Pugh, Raskin, ~~and Stone~~ Stone, Astle, Exum, Garagiola, Haines, and Klausmeier**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

#### 2 **Credit Regulation - Mortgage Lending and Other Extensions of Credit**

3 FOR the purpose of prohibiting a lender from requiring or authorizing the imposition  
4 of a prepayment penalty, fee, premium, or other charge in connection with  
5 certain ~~subprime~~ mortgage loans; prohibiting certain lenders and credit  
6 grantors from making certain mortgage loans without giving due regard to the  
7 borrower's ability to repay the loans; repealing certain provisions of law that  
8 establish a certain presumption about a borrower's ability to repay a loan;  
9 requiring due regard to a borrower's ability to repay to include consideration of  
10 a certain debt to income ratio and verification of certain income and assets by  
11 review of certain written documentation; altering the threshold amount of a  
12 commercial loan on which prepayment charges or penalties may be charged;

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber / conference committee amendments.*



1 ~~providing that no prepayment charges may be imposed on consumer borrowers~~  
 2 ~~in connection with certain open end credit;~~ requiring a certain representation by  
 3 a mortgage broker to be contained in a finder's fee agreement; authorizing the  
 4 Commissioner of Financial Regulation to participate in the establishment and  
 5 implementation of a multistate automated licensing system for mortgage  
 6 lenders and mortgage originators and to adopt certain regulations to facilitate  
 7 implementation of the system; requiring certain license applicants and licensees  
 8 to have and maintain a certain net worth; requiring the Commissioner to deny  
 9 an application for certain licenses filed by persons with certain felony  
 10 convictions; requiring the Commissioner to set certain fees by regulation and to  
 11 publish certain fee schedules; requiring certain licensees to file surety bonds in  
 12 certain amounts; altering the procedures for renewing a certain license; altering  
 13 certain examination requirements for a mortgage originator's license; ~~requiring~~  
 14 ~~mortgage originators to reside within 100 miles of the licensed office locations~~  
 15 ~~from which they work;~~ requiring the Commissioner to revoke the mortgage  
 16 originator license of any licensee who, while licensed, has been convicted of  
 17 certain felonies; requiring the Commissioner to conduct certain studies;  
 18 requiring the Commissioner to report certain findings and recommendations on  
 19 or before a certain date; defining certain terms; ~~repealing a certain definition~~  
 20 certain definitions; altering a certain definition; making certain conforming  
 21 changes; providing for the application of this Act; providing that certain  
 22 licensing, examination, and investigation fees shall remain in effect until the fees  
 23 set by regulation by the Commissioner take effect; providing for the effective dates  
 24 of this Act; and generally relating to credit regulation, extensions of credit,  
 25 mortgage lending, and mortgage origination.

26 BY renumbering

27 Article – Commercial Law

28 Section 12–105(a), (b), (c), and (d), respectively to be Section 12–105(b), (c), (e),  
 29 and (f), respectively

30 Annotated Code of Maryland

31 (2005 Replacement Volume and 2007 Supplement)

32 BY adding to

33 Article – Commercial Law

34 Section 12–105(a) and (d), ~~12–905(g),~~ and 12–925

35 Annotated Code of Maryland

36 (2005 Replacement Volume and 2007 Supplement)

37 BY repealing and reenacting, with amendments,

38 Article – Commercial Law

39 Section 12–105(c)

40 Annotated Code of Maryland

41 (2005 Replacement Volume and 2007 Supplement)

42 (As enacted by Section 1 of this Act)

43 BY repealing and reenacting, with amendments,

1 Article – Commercial Law  
 2 Section 12–127, 12–311, 12–409.1, 12–805, and 12–1029  
 3 Annotated Code of Maryland  
 4 (2005 Replacement Volume and 2007 Supplement)

5 BY repealing and reenacting, with amendments,  
 6 Article – Financial Institutions  
 7 Section 2–105.1, ~~11–506(a) and (d)~~ 11–506(d), 11–507(b), 11–508, 11–511,  
 8 11–515(c), 11–603(c), 11–605(a) and (b), 11–606(b), 11–609(b), 11–613(b),  
 9 and 11–615(a)  
 10 Annotated Code of Maryland  
 11 (2003 Replacement Volume and 2007 Supplement)

12 BY adding to  
 13 Article – Financial Institutions  
 14 Section 11–503.1, 11–508.1, 11–612.1, and 11–615(f)  
 15 Annotated Code of Maryland  
 16 (2003 Replacement Volume and 2007 Supplement)

17 BY repealing and reenacting, without amendments,  
 18 Article – Financial Institutions  
 19 Section 11–507(a)(1) and 11–515(a)(1)  
 20 Annotated Code of Maryland  
 21 (2003 Replacement Volume and 2007 Supplement)

22 BY repealing and reenacting, with amendments,  
 23 Article – Financial Institutions  
 24 Section 11–508.1  
 25 Annotated Code of Maryland  
 26 (2003 Replacement Volume and 2007 Supplement)  
 27 (As enacted by Section 2 of this Act)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 29 MARYLAND, That Section(s) 12–105(a), (b), (c), and (d), respectively, of  
 30 Article – Commercial Law of the Annotated Code of Maryland be renumbered to be  
 31 Section(s) 12–105(b), (c), (e), and (f), respectively.

32 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 33 read as follows:

34 **Article – Commercial Law**

35 12–105.

36 (A) ~~(1) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE~~  
 37 ~~MEANINGS INDICATED.~~

1           ~~(2) "ANNUAL PERCENTAGE RATE" HAS THE MEANING STATED IN~~  
2 ~~12 C.F.R. PART 226.~~

3           ~~(3) "FULLY INDEXED RATE" MEANS THE INDEX RATE APPLICABLE~~  
4 ~~TO A MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY AT THE TIME IT IS~~  
5 ~~ORIGINATED, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF~~  
6 ~~AN INTRODUCTORY INTEREST RATE.~~

7           ~~(4) "MORTGAGE MORTGAGE LOAN" HAS THE MEANING STATED IN~~  
8 ~~§ 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.~~

9           ~~(5) "RESIDENTIAL REAL PROPERTY" MEANS OWNER OCCUPIED~~  
10 ~~REAL PROPERTY HAVING A DWELLING ON IT DESIGNED PRINCIPALLY AS A~~  
11 ~~RESIDENCE WITH ACCOMMODATIONS FOR NOT MORE THAN FOUR FAMILIES.~~

12           ~~(6) "SUBPRIME LOAN" MEANS:~~

13           ~~(I) IN THE CASE OF AN ADJUSTABLE RATE MORTGAGE~~  
14 ~~LOAN SECURED BY A FIRST LIEN ON RESIDENTIAL REAL PROPERTY THAT CAN~~  
15 ~~INCREASE IN INTEREST RATE BUT NOT DECREASE IN INTEREST RATE BELOW~~  
16 ~~THE FULLY INDEXED RATE AT THE TIME OF ORIGINATION, A MORTGAGE LOAN~~  
17 ~~FOR WHICH THE ANNUAL PERCENTAGE RATE IS GREATER THAN 2 PERCENTAGE~~  
18 ~~POINTS ABOVE THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING~~  
19 ~~COMPARABLE PERIODS OF MATURITY:~~

20                   ~~1. AS OF THE 15TH DAY OF THE PRECEDING MONTH~~  
21 ~~IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~

22                   ~~2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF~~  
23 ~~THE RATE IS SET ON OR AFTER THE 15TH DAY; AND~~

24           ~~(II) FOR ALL OTHER MORTGAGE LOANS SECURED BY A~~  
25 ~~FIRST LIEN ON RESIDENTIAL REAL PROPERTY, A MORTGAGE LOAN FOR WHICH~~  
26 ~~THE ANNUAL PERCENTAGE RATE IS GREATER THAN 3 PERCENTAGE POINTS~~  
27 ~~ABOVE THE YIELD ON UNITED STATE TREASURY SECURITIES HAVING~~  
28 ~~COMPARABLE PERIODS OF MATURITY:~~

29                   ~~1. AS OF THE 15TH DAY OF THE PRECEDING MONTH~~  
30 ~~IF THE RATE IS SET BETWEEN THE FIRST AND THE 14TH DAY OF THE MONTH;~~  
31 ~~AND~~

32                   ~~2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF~~  
33 ~~THE RATE IS SET ON OR AFTER THE 15TH DAY.~~

1 (c) [If] **EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, IF**  
2 the loan contract provides for them, the following fees and charges also may be  
3 collected and are not interest under this subtitle:

4 (1) A service charge for investigation and the continued servicing of  
5 collateral for a commercial loan secured by inventory or accounts receivable;

6 (2) A service charge made by a broker or dealer dealing in investment  
7 securities if:

8 (i) Money is advanced on the security of pledged investment  
9 securities; and

10 (ii) Services are rendered in the collection, crediting, and  
11 disbursement of income on the investment securities and in the furnishing of income  
12 tax and other information in connection with that income;

13 (3) A delinquent or late charge of the greater of \$2 or 5 percent of the  
14 total amount of any delinquent or late periodic installment of principal and interest, if:

15 (i) The delinquency has continued for at least 15 calendar days;  
16 and

17 (ii) A delinquent or late charge has not already been charged for  
18 the same delinquency; and

19 (4) A prepayment charge or penalty on a prepayment of the unpaid  
20 principal balance of the loan, if the loan is secured by a home, by a combination of  
21 home and business property, or by agricultural property, or if the loan is a commercial  
22 loan not in excess of [\$5,000] **\$15,000**, provided that the charge or penalty:

23 (i) May be imposed only on prepayments made within three  
24 years from the date the loan is made; and

25 (ii) May not exceed an amount equal to two months' advance  
26 interest on the aggregate amount of all prepayments made in any 12-month period in  
27 excess of one third of the amount of the original loan.

28 **(D) ~~(1)~~ IN CONNECTION WITH A ~~SUBPRIME~~ MORTGAGE LOAN, A**  
29 **LENDER MAY NOT REQUIRE OR AUTHORIZE THE IMPOSITION OF A PENALTY,**  
30 **FEE, PREMIUM, OR OTHER CHARGE IN THE EVENT THE ~~SUBPRIME~~ MORTGAGE**  
31 **LOAN IS PREPAID IN WHOLE OR IN PART.**

32 **~~(2) THE PROHIBITION UNDER PARAGRAPH (1) OF THIS~~**  
33 **~~SUBSECTION DOES NOT APPLY TO A SUBPRIME LOAN WITH A PRINCIPAL~~**  
34 **~~AMOUNT THAT EXCEEDS THE CONFORMING SUBPRIME LOAN SIZE LIMIT FOR A~~**

1 ~~SINGLE FAMILY DWELLING AS ESTABLISHED FROM TIME TO TIME BY THE~~  
 2 ~~FEDERAL NATIONAL MORTGAGE ASSOCIATION.~~

3 12-127.

4 (a) (1) In this section the following words have the meanings indicated.

5 (2) ["Covered loan" means a mortgage loan made under this subtitle  
 6 that meets the criteria for a loan subject to the federal Home Ownership Equity  
 7 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by  
 8 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the  
 9 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §  
 10 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.] **"FULLY**  
 11 **INDEXED RATE"** ~~MEANS THE INDEX RATE APPLICABLE TO A, AS DEFINED IN THE~~  
 12 ~~MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY DOCUMENTS,~~  
 13 ~~PREVAILING AT THE TIME IT IS ORIGINATED~~ **THE MORTGAGE LOAN IS**  
 14 **APPROVED BY THE LENDER, PLUS THE MARGIN THAT WILL APPLY AFTER THE**  
 15 **EXPIRATION OF AN INTRODUCTORY INTEREST RATE.**

16 (3) (I) "Mortgage loan" has the meaning stated in § 11-501 of the  
 17 Financial Institutions Article.

18 (II) **"MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE**  
 19 **MORTGAGE LOAN.**

20 (4) ~~"Residential real property" means owner occupied real property~~  
 21 ~~having a dwelling on it designed principally as a residence with accommodations for~~  
 22 ~~not more than four families.~~

23 (b) (1) A lender may not make a [covered] **MORTGAGE** loan without  
 24 giving due regard to the borrower's ability to repay the **MORTGAGE** loan in accordance  
 25 with its terms, **INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN,**  
 26 **IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S INSURANCE**  
 27 **WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION**  
 28 **AND PAYMENT OF THESE EXPENSES.**

29 (2) ~~A borrower is presumed to be able to repay a MORTGAGE loan if at~~  
 30 ~~the time the MORTGAGE loan is made the borrower's total scheduled monthly~~  
 31 ~~payment obligations, including the [required loan payment] **PRINCIPAL, INTEREST,**~~  
 32 ~~**PROPERTY TAXES, AND HOMEOWNER'S INSURANCE,** do not exceed 45 percent of~~  
 33 ~~the borrower's monthly gross income.~~

34 [(3) This section does not apply to a covered loan to a borrower whose  
 35 monthly gross income is greater than 120 percent of the median family income for the

1 metropolitan statistical area in which the residential real property securing the loan is  
2 located.]

3 (C) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A  
4 MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

5 (I) CONSIDERATION OF THE BORROWER'S DEBT TO  
6 INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

7 (II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY  
8 INCOME AND ASSETS BY REVIEW OF THIRD-PARTY WRITTEN DOCUMENTATION  
9 REASONABLY BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.

10 (2) ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION  
11 INCLUDES:

12 (I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~  
13 THE BORROWER'S INTERNAL REVENUE SERVICE FORM W-2;

14 (II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX  
15 RETURN;

16 (III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~  
17 PAYROLL RECEIPTS;

18 (IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE~~  
19 ~~BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR

20 (V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE  
21 REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

22 (3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN  
23 APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING  
24 ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY  
25 DEVELOPMENT ADMINISTRATION.

26 12-311.

27 (a) (1) In this section the following words have the meanings indicated.

28 (2) "Covered loan" means a mortgage loan made under this subtitle  
29 that meets the criteria for a loan subject to the federal Home Ownership Equity  
30 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by  
31 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the

1 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §  
2 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

3 **(3) “FULLY INDEXED RATE” MEANS THE INDEX RATE ~~APPLICABLE~~**  
4 **~~TO A, AS DEFINED IN THE MORTGAGE LOAN FOR A RESIDENTIAL REAL~~**  
5 **~~PROPERTY DOCUMENTS, PREVAILING AT THE TIME IT IS ORIGINATED THE~~**  
6 **~~MORTGAGE LOAN IS APPROVED BY THE LENDER, PLUS THE MARGIN THAT WILL~~**  
7 **~~APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.~~**

8 [(3)] (4) “Home buyer education or housing counseling” means  
9 instruction on preparing for home ownership, shopping for a home, obtaining a  
10 mortgage, loan closing, and life as a homeowner.

11 **(5) (I) “MORTGAGE LOAN” HAS THE MEANING STATED IN §**  
12 **11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

13 **(II) “MORTGAGE LOAN” DOES NOT INCLUDE A REVERSE**  
14 **MORTGAGE LOAN.**

15 ~~[(4)] (6) “Residential real property” means owner-occupied real~~  
16 ~~property having a dwelling on it designed principally as a residence with~~  
17 ~~accommodations for not more than four families.~~

18 (b) A lender may not take as security for a loan any:

19 (1) Confession of judgment or power of attorney to him or to a third  
20 person to confess judgment or appear for the borrower in a judicial proceeding;

21 (2) Assignment or order for payment of wages;

22 (3) Instrument in which blanks are left to be filled after execution; or

23 (4) Note, promise to pay, or security instrument which does not state:

24 (i) The principal amount of the loan;

25 (ii) A schedule of payments or a description of the schedule; and

26 (iii) The agreed amount and rate of interest, charges, and fees.

27 (c) (1) A lender may not take any security interest in:

28 (i) Real property for any loan under \$2,000 in value or amount;

29 or



1 (ii) Personal property for any loan under \$700 in value or  
2 amount.

3 (2) Any lien taken in violation of this subsection is void.

4 (3) This subsection does not apply to or affect a lien on an interest in  
5 real property which results from a judgment obtained by the lender based on a loan  
6 otherwise secured or unsecured.

7 (d) ~~(1)~~ A lender may not make a [covered] MORTGAGE loan without  
8 giving due regard to the borrower's ability to repay the MORTGAGE loan in accordance  
9 with its terms, **INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN,  
10 IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S INSURANCE  
11 WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION  
12 AND PAYMENT OF THESE EXPENSES.**

13 ~~(2) A borrower is presumed to be able to repay a MORTGAGE loan if at  
14 the time the MORTGAGE loan is made the borrower's total scheduled monthly  
15 payment obligations, including the [required loan payment] PRINCIPAL, INTEREST,  
16 PROPERTY TAXES, AND HOMEOWNER'S INSURANCE, do not exceed 45 percent of  
17 the borrower's monthly gross income.~~

18 [(3) This subsection does not apply to a covered loan to a borrower  
19 whose monthly gross income is greater than 120 percent of the median family income  
20 for the metropolitan statistical area in which the residential real property securing the  
21 loan is located.]

22 (E) (1) **DUE REGARD TO A BORROWER'S ABILITY TO REPAY A  
23 MORTGAGE LOAN MUST INCLUDE VERIFICATION:**

24 (I) **CONSIDERATION OF THE BORROWER'S DEBT TO  
25 INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND**

26 (II) **VERIFICATION OF THE BORROWER'S GROSS MONTHLY  
27 INCOME AND ASSETS BY REVIEW OF THIRD-PARTY WRITTEN DOCUMENTATION  
28 REASONABLY BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.**

29 (2) **ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION  
30 INCLUDES:**

31 (I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~  
32 **THE BORROWER'S INTERNAL REVENUE SERVICE FORM W-2;**

33 (II) **A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX  
34 RETURN;**

1 (III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~  
2 PAYROLL RECEIPTS;

3 (IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE~~  
4 ~~BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR

5 (V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE  
6 REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

7 (3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN  
8 APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING  
9 ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY  
10 DEVELOPMENT ADMINISTRATION.

11 [(e)] (F) (1) In this subsection, "loan application" has the meaning stated  
12 in § 12-125 of this title.

13 (2) At the time a borrower completes a loan application for a covered  
14 loan, the lender shall provide the borrower with:

15 (i) A written recommendation that the borrower seek home  
16 buyer education or housing counseling; and

17 (ii) A list of agencies and organizations approved by the county  
18 in which the residential real property securing the covered loan is located to provide  
19 home buyer education or housing counseling.

20 12-409.1.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) "Covered loan" means a mortgage loan made under this subtitle  
23 that meets the criteria for a loan subject to the federal Home Ownership Equity  
24 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by  
25 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the  
26 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §  
27 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

28 (3) ~~"FULLY INDEXED RATE" MEANS THE INDEX RATE APPLICABLE~~  
29 ~~TO A, AS DEFINED IN THE SECONDARY MORTGAGE LOAN FOR A RESIDENTIAL~~  
30 ~~REAL PROPERTY DOCUMENTS, PREVAILING AT THE TIME IT IS ORIGINATED THE~~  
31 SECONDARY MORTGAGE LOAN IS APPROVED BY THE LENDER, PLUS THE MARGIN  
32 THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST  
33 RATE.

1           [(3)] (4) “Home buyer education or housing counseling” means  
 2 instruction on preparing for home ownership, shopping for a home, obtaining a  
 3 mortgage, loan closing, and life as a homeowner.

4           ~~[(4)] (5) “Residential real property” means owner-occupied real~~  
 5 ~~property having a dwelling on it designed principally as a residence with~~  
 6 ~~accommodations for not more than four families.~~

7           (b) ~~(1)~~ A lender may not make a [covered] **SECONDARY MORTGAGE** loan  
 8 without giving due regard to the borrower’s ability to repay the **SECONDARY**  
 9 **MORTGAGE** loan in accordance with its terms, **INCLUDING THE FULLY INDEXED**  
 10 **RATE OF THE SECONDARY MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY**  
 11 **TAXES AND HOMEOWNER’S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT**  
 12 **IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.**

13           ~~(2) A borrower is presumed to be able to repay a **SECONDARY**~~  
 14 ~~**MORTGAGE** loan if at the time the **SECONDARY MORTGAGE** loan is made the~~  
 15 ~~borrower’s total scheduled monthly payment obligations, including the [required loan~~  
 16 ~~payment] **PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER’S**~~  
 17 ~~**INSURANCE**, do not exceed 45 percent of the borrower’s monthly gross income.~~

18           [(3) This subsection does not apply to a covered loan to a borrower  
 19 whose monthly gross income is greater than 120 percent of the median family income  
 20 for the metropolitan statistical area in which the residential real property securing the  
 21 loan is located.]

22           (c) (1) **DUE REGARD TO A BORROWER’S ABILITY TO REPAY A**  
 23 **SECONDARY MORTGAGE LOAN MUST INCLUDE VERIFICATION:**

24                   (I) CONSIDERATION OF THE BORROWER’S DEBT TO  
 25 INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

26                   (II) VERIFICATION OF THE BORROWER’S GROSS MONTHLY  
 27 INCOME AND ASSETS BY REVIEW OF THIRD-PARTY WRITTEN DOCUMENTATION  
 28 REASONABLY BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.

29           (2) **ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION**  
 30 **INCLUDES:**

31                   (I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~  
 32 **THE BORROWER’S INTERNAL REVENUE SERVICE FORM W-2;**

1 (II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX  
2 RETURN;

3 (III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~  
4 PAYROLL RECEIPTS;

5 (IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE~~  
6 ~~BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR

7 (V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE  
8 REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

9 (3) THIS SUBSECTION DOES NOT APPLY TO A SECONDARY  
10 MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL  
11 HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY  
12 DEVELOPMENT ADMINISTRATION.

13 [(c)] (D) (1) In this subsection, "loan application" has the meaning stated  
14 in § 12-125 of this title.

15 (2) At the time a borrower completes a loan application for a covered  
16 loan, the lender shall provide the borrower with:

17 (i) A written recommendation that the borrower seek home  
18 buyer education or housing counseling; and

19 (ii) A list of agencies and organizations approved by the county  
20 in which the residential real property securing the covered loan is located to provide  
21 home buyer education or housing counseling.

22 12-805.

23 (a) A mortgage broker may not receive any fee in the form of a note,  
24 mortgage, or other evidence of indebtedness.

25 (b) Payment of the finder's fee to the mortgage broker out of the proceeds of  
26 the loan is not considered as interest to the lender if the finder's fee is not in excess of  
27 that permitted by this subtitle.

28 (c) If the finder's fee is paid from the proceeds of the loan, the lender shall  
29 comply with the disclosure provisions of § 12-106 of this article or the federal Truth in  
30 Lending Act and in addition shall advise the borrower, in writing, of the borrower's  
31 right to a refund of the finder's fee upon the exercise of any right of rescission of the  
32 loan.

1 (d) (1) A finder's fee may not be charged unless it is pursuant to a written  
2 agreement between the mortgage broker and the borrower which is separate and  
3 distinct from any other document.

4 (2) The terms of the proposed agreement shall:

5 (I) [be] **BE** disclosed to the borrower before the mortgage  
6 broker undertakes to assist the borrower in obtaining a loan or advance of money [and  
7 shall];

8 (II) [specify] **SPECIFY** the amount of the finder's fee; **AND**

9 (III) **CONTAIN A REPRESENTATION BY THE MORTGAGE**  
10 **BROKER THAT THE MORTGAGE BROKER IS ACTING AS A MORTGAGE BROKER**  
11 **AND NOT AS A LENDER IN THE TRANSACTION.**

12 (3) A copy of the agreement, dated and signed by the mortgage broker  
13 and the borrower, shall be provided to the borrower within 10 business days after the  
14 date the loan application is completed.

15 ~~12-905.~~

16 ~~(G) IN CONNECTION WITH A PREPAYMENT OF A LOAN BY A CONSUMER~~  
17 ~~BORROWER, THE CREDIT GRANTOR MAY NOT IMPOSE A PREPAYMENT CHARGE.~~

18 **12-925.**

19 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
20 **MEANINGS INDICATED.**

21 (2) **"FULLY INDEXED RATE" MEANS THE INDEX RATE APPLICABLE**  
22 **TO A, AS DEFINED IN THE MORTGAGE LOAN FOR A RESIDENTIAL REAL**  
23 **PROPERTY DOCUMENTS, PREVAILING AT THE TIME IT IS ORIGINATED THE**  
24 **MORTGAGE LOAN IS APPROVED BY THE CREDIT GRANTOR, PLUS THE MARGIN**  
25 **THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST**  
26 **RATE.**

27 (3) (I) **"MORTGAGE LOAN" HAS THE MEANING STATED IN §**  
28 **11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

29 (II) **"MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE**  
30 **MORTGAGE LOAN.**

31 (B) ~~(1)~~ **A CREDIT GRANTOR MAY NOT MAKE A MORTGAGE LOAN**  
32 **WITHOUT GIVING DUE REGARD TO THE BORROWER'S ABILITY TO REPAY THE**

1 MORTGAGE LOAN IN ACCORDANCE WITH ITS TERMS, INCLUDING THE FULLY  
 2 INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY  
 3 TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT  
 4 IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.

5 ~~(2) A BORROWER IS PRESUMED TO BE ABLE TO REPAY A~~  
 6 ~~MORTGAGE LOAN IF AT THE TIME THE LOAN IS MADE THE BORROWER'S TOTAL~~  
 7 ~~SCHEDULED MONTHLY PAYMENT OBLIGATIONS, INCLUDING THE PRINCIPAL,~~  
 8 ~~INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE, DO NOT EXCEED~~  
 9 ~~45 PERCENT OF THE BORROWER'S MONTHLY GROSS INCOME.~~

10 (c) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A  
 11 MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

12 (I) CONSIDERATION OF THE BORROWER'S DEBT TO  
 13 INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

14 (II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY  
 15 INCOME AND ASSETS BY REVIEW OF THIRD-PARTY WRITTEN DOCUMENTATION  
 16 REASONABLY BELIEVED BY THE CREDIT GRANTOR TO BE ACCURATE AND  
 17 COMPLETE.

18 (2) ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION  
 19 INCLUDES:

20 ~~(I) A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~  
 21 THE BORROWER'S INTERNAL REVENUE SERVICE FORM W-2;

22 (II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX  
 23 RETURN;

24 ~~(III) THE BORROWER'S MOST RECENT PAY STUB; AND~~  
 25 PAYROLL RECEIPTS;

26 ~~(IV) A WRITTEN STATEMENT SUBMITTED BY THE~~  
 27 ~~BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR

28 (V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE  
 29 REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

30 (3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN  
 31 APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING  
 32 ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY  
 33 DEVELOPMENT ADMINISTRATION.

1 12-1029.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) "Covered loan" means a mortgage loan made under this subtitle  
4 that meets the criteria for a loan subject to the federal Home Ownership and Equity  
5 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by  
6 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the  
7 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §  
8 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

9 (3) **"FULLY INDEXED RATE" MEANS THE INDEX RATE APPLICABLE**  
10 **~~TO A, AS DEFINED IN THE MORTGAGE LOAN FOR A RESIDENTIAL REAL~~**  
11 **~~PROPERTY DOCUMENTS, PREVAILING AT THE TIME IT IS ORIGINATED THE~~**  
12 **MORTGAGE LOAN IS APPROVED BY THE CREDIT GRANTOR, PLUS THE MARGIN**  
13 **THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST**  
14 **RATE.**

15 [(3)] (4) "Home buyer education or housing counseling" means  
16 instruction on preparing for home ownership, shopping for a home, obtaining a  
17 mortgage, loan closing, and life as a homeowner.

18 (5) (I) **"MORTGAGE LOAN" HAS THE MEANING STATED IN §**  
19 **11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

20 (II) **"MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE**  
21 **MORTGAGE LOAN.**

22 (b) ~~(4)~~ A credit grantor may not make a [covered] **MORTGAGE** loan  
23 without giving due regard to the borrower's ability to repay the **MORTGAGE** loan in  
24 accordance with its terms, **INCLUDING THE FULLY INDEXED RATE OF THE**  
25 **MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S**  
26 **INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE**  
27 **COLLECTION AND PAYMENT OF THESE EXPENSES.**

28 ~~(2) A borrower is presumed to be able to repay a **MORTGAGE** loan if at~~  
29 ~~the time the **MORTGAGE** loan is made the borrower's total scheduled monthly~~  
30 ~~payment obligations, including the [required loan payment] **PRINCIPAL, INTEREST,**~~  
31 ~~**PROPERTY TAXES, AND HOMEOWNER'S INSURANCE,** do not exceed 45 percent of~~  
32 ~~the borrower's monthly gross income.~~

33 [(3) This subsection does not apply to a loan to a borrower whose  
34 monthly gross income is greater than 120 percent of the median family income for the

1 metropolitan statistical area in which the residential real property securing the loan is  
2 located.]

3 (c) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A  
4 MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

5 (I) CONSIDERATION OF THE BORROWER'S DEBT TO  
6 INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

7 (II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY  
8 INCOME AND ASSETS BY REVIEW OF THIRD-PARTY WRITTEN DOCUMENTATION  
9 REASONABLY BELIEVED BY THE CREDIT GRANTOR TO BE ACCURATE AND  
10 COMPLETE.

11 (2) ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION  
12 INCLUDES:

13 (I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~  
14 THE BORROWER'S INTERNAL REVENUE SERVICE FORM W-2;

15 (II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX  
16 RETURN;

17 (III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~  
18 PAYROLL RECEIPTS;

19 (IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE~~  
20 ~~BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR

21 (V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE  
22 REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

23 (3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN  
24 APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING  
25 ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY  
26 DEVELOPMENT ADMINISTRATION.

27 [(c)] (D) (1) In this subsection, "loan application" has the meaning stated  
28 in § 12-1022 of this subtitle.

29 (2) At the time a borrower completes a loan application for a covered  
30 loan, the credit grantor shall provide the borrower with:

31 (i) A written recommendation that the borrower seek home  
32 buyer education or housing counseling; and



1 (ii) A list of agencies and organizations approved by the county  
2 in which the residential real property securing the covered loan is located to provide  
3 home buyer education or housing counseling.

4 **Article – Financial Institutions**

5 2–105.1.

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
7 MEANINGS INDICATED.

8 (2) “MORTGAGE LENDER” HAS THE MEANING STATED IN § 11–501  
9 OF THIS ARTICLE.

10 (3) “MORTGAGE ORIGINATOR” HAS THE MEANING STATED IN  
11 § 11–601 OF THIS ARTICLE.

12 (B) The Commissioner may adopt and enforce regulations reasonably  
13 necessary to carry out the authority and responsibility of the office of Commissioner.

14 (C) (1) THE COMMISSIONER MAY PARTICIPATE IN THE  
15 ESTABLISHMENT AND IMPLEMENTATION OF A MULTISTATE AUTOMATED  
16 LICENSING SYSTEM FOR MORTGAGE LENDERS AND MORTGAGE ORIGINATORS.

17 (2) TO FACILITATE IMPLEMENTATION OF A MULTISTATE  
18 AUTOMATED LICENSING SYSTEM, THE COMMISSIONER MAY ADOPT  
19 REGULATIONS THAT WAIVE OR MODIFY THE REQUIREMENTS OF §§ 11–507,  
20 11–511, 11–606, AND 11–609 OF THIS ARTICLE.

21 11–503.1.

22 (A) THE COMMISSIONER SHALL SET BY REGULATION THE FEES  
23 PROVIDED FOR IN THIS SUBTITLE.

24 (B) THE FEES ESTABLISHED BY THE COMMISSIONER UNDER THIS  
25 SECTION SHALL BE REASONABLE AND SET IN A MANNER THAT WILL PRODUCE  
26 FUNDS SUFFICIENT TO COVER THE ACTUAL DIRECT AND INDIRECT COSTS OF  
27 REGULATING LICENSEES IN ACCORDANCE WITH THE PROVISIONS OF THIS  
28 SUBTITLE.

29 (C) THE COMMISSIONER SHALL PUBLISH THE FEE SCHEDULE SET BY  
30 THE COMMISSIONER.

31 11–506.

1           (a) ~~To qualify for a license, an applicant shall satisfy the Commissioner that~~  
2 ~~the applicant:~~

3                   (1) ~~[is] IS of good moral character and has sufficient financial~~  
4 ~~responsibility, business experience, and general fitness to:~~

5                   ~~[(1)] (I) Engage in business as a mortgage lender;~~

6                   ~~[(2)] (II) Warrant the belief that the business will be conducted~~  
7 ~~lawfully, honestly, fairly, and efficiently; and~~

8                   ~~[(3)] (III) Command the confidence of the public; AND~~

9                   (2) ~~HAS, AND AT ALL TIMES WILL MAINTAIN, A MINIMUM NET~~  
10 ~~WORTH COMPUTED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING~~  
11 ~~PRINCIPLES OF \$25,000, OR OF UP TO \$500,000 IF THE COMMISSIONER SO~~  
12 ~~REQUIRES AFTER CONSIDERING THE FOLLOWING FACTORS:~~

13                   (1) ~~THE NATURE AND VOLUME OF THE BUSINESS OR~~  
14 ~~PROPOSED BUSINESS OF THE APPLICANT;~~

15                   (2) ~~THE AMOUNT, NATURE, QUALITY, AND LIQUIDITY OF~~  
16 ~~THE ASSETS OF THE APPLICANT;~~

17                   (3) ~~THE AMOUNT AND NATURE OF THE LIABILITIES,~~  
18 ~~INCLUDING CONTINGENT LIABILITIES, OF THE APPLICANT;~~

19                   (4) ~~THE HISTORY OF, AND PROSPECTS FOR, THE~~  
20 ~~APPLICANT TO EARN AND RETAIN INCOME;~~

21                   (5) ~~THE QUALITY OF THE OPERATIONS OF THE APPLICANT;~~

22                   (6) ~~THE QUALITY OF THE MANAGEMENT OF THE~~  
23 ~~APPLICANT;~~

24                   (7) ~~THE QUALITY AND NATURE OF THE PERSON THAT~~  
25 ~~CONTROLS THE APPLICANT; AND~~

26                   (8) ~~ANY OTHER FACTOR THE COMMISSIONER CONSIDERS~~  
27 ~~RELEVANT.~~

28           (d) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
29 **SUBSECTION, THE** Commissioner may deny an application for a license to any person

1 who has been officially reprimanded or has committed any act that would be a ground  
2 for suspension or revocation of a license under this subtitle.

3 **(2) THE COMMISSIONER SHALL DENY AN APPLICATION FOR A**  
4 **LICENSE FILED BY:**

5 **(I) AN INDIVIDUAL WHO HAS BEEN CONVICTED WITHIN THE**  
6 **LAST 10 YEARS OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY; AND**

7 **(II) AN ENTITY THAT HAS A DIRECTOR, OFFICER, PARTNER,**  
8 **MEMBER, OR OWNER OF 10 PERCENT OR MORE OF THE ENTITY WHO HAS BEEN**  
9 **CONVICTED WITHIN THE LAST 10 YEARS OF A FELONY INVOLVING FRAUD,**  
10 **THEFT, OR FORGERY.**

11 11-507.

12 (a) (1) To apply for a license, an applicant shall complete, sign, and  
13 submit to the Commissioner an application made under oath on the form that the  
14 Commissioner requires.

15 (b) With each application, the applicant shall pay to the Commissioner **THE**  
16 **FOLLOWING FEES:**

17 (1) A nonrefundable investigation fee [of \$100] **SET BY THE**  
18 **COMMISSIONER;** and

19 (2) A license fee [of either:

20 (i) \$1,000 if the applicant applies for a license to be issued on or  
21 after January 1 and on or before December 31 of an even-numbered year;

22 (ii) Effective January 1, 1999, \$500 if the applicant applies for a  
23 license to be issued on or after January 1 and on or before December 31 of an  
24 odd-numbered year; or

25 (iii) Notwithstanding subparagraph (i) or (ii) of this paragraph,  
26 \$1,000 if the applicant applies for a license to be issued on or after October 1, 1997 and  
27 on or before December 31, 1997] **SET BY THE COMMISSIONER.**

28 11-508.

29 (a) An applicant for a new license or for the renewal of a license shall file a  
30 surety bond with each original application and any renewal application for the license.

31 (b) The surety bond shall:

1 (1) Run to the Commissioner and be for the benefit of any mortgage  
2 loan borrower who has been damaged by a violation committed by a licensee of any  
3 law or regulation governing the activities of mortgage lenders;

4 (2) Be issued by a surety company authorized to do business in the  
5 State;

6 (3) Be conditioned that the applicant shall comply with all Maryland  
7 laws regulating the activities of mortgage lenders and mortgage loan lending; and

8 (4) Be approved by the Commissioner.

9 (c) If an applicant has not conducted a mortgage lending business any time  
10 during the 36 months prior to the filing of an original application for a license, the  
11 applicant shall provide a sworn statement setting forth that fact[, and shall file with  
12 the original application a surety bond in the amount of \$15,000].

13 (d) (1) If an applicant has conducted a mortgage lending business any  
14 time during the 36 months prior to the filing of an original or renewal application, the  
15 applicant shall provide a sworn statement setting forth the aggregate principal  
16 amount of mortgage loans secured or to be secured by property located in Maryland  
17 and applied for and accepted or mortgage loans secured or to be secured by property  
18 located in Maryland and applied for, procured, and accepted by the mortgage lender  
19 during the 12 months immediately preceding the month in which the application is  
20 filed.

21 (2) If an applicant has conducted a mortgage lending business any  
22 time during the 36 months prior to the filing of an original application, but during that  
23 time has not acted as a mortgage lender in Maryland, the applicant shall provide with  
24 the original application a sworn statement setting forth the aggregate principal  
25 amount of loans secured or to be secured by residential real property located in states  
26 other than Maryland and applied for, procured, and accepted by the mortgage lender  
27 during the 12 months preceding the month in which the application is filed.

28 (3) Except as provided in [subsections (c) and] **SUBSECTION** (e) of this  
29 section, the applicant shall file with the original or renewal application:

30 (i) Where the aggregate principal amount of loans set forth in  
31 the sworn statement was \$3,000,000 or less, a surety bond in the amount of [\$25,000]  
32 **\$50,000**;

33 (ii) Where the aggregate principal amount of loans set forth in  
34 the sworn statement was more than \$3,000,000 but not more than \$10,000,000, a  
35 surety bond in the amount of [\$50,000] **\$100,000**; and

1 (iii) Where the aggregate principal amount of loans set forth in  
 2 the sworn statement was more than \$10,000,000, a surety bond in the amount of  
 3 ~~[\$75,000]~~ **\$150,000**.

4 (e) Notwithstanding any other provisions of this section, and subject to  
 5 approval by the Commissioner, if an applicant files five or more original or renewal  
 6 applications at the same time, the applicant may provide a blanket surety bond for all  
 7 licensed offices in the amount of ~~[\$375,000]~~ ~~\$1,000,000~~ **\$750,000**.

8 (f) Subject to approval by the Commissioner, an applicant for license who  
 9 files an application for a new license or for the renewal of a license may satisfy the  
 10 bonding requirement under this section by establishing a trust account with or  
 11 obtaining an irrevocable letter of credit from a financial institution insured by the  
 12 Federal Deposit Insurance Corporation in an amount equal to the bond required under  
 13 this section.

14 (g) The Commissioner may adopt regulations reasonably necessary to assure  
 15 that the proper surety bond amount established by this section is maintained by each  
 16 licensee throughout each licensing term. The regulations may provide for periodic  
 17 reporting, recalculation, and enforcement of required bond amounts.

18 **11-508.1.**

19 **(A) AN APPLICANT FOR A NEW LICENSE OR FOR THE RENEWAL OF A**  
 20 **LICENSE SHALL SATISFY THE COMMISSIONER THAT THE APPLICANT OR**  
 21 **LICENSEE HAS, AND AT ALL TIMES WILL MAINTAIN, A MINIMUM NET WORTH**  
 22 **COMPUTED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES:**

23 **(1) IN THE CASE OF AN APPLICANT OR LICENSEE THAT DOES NOT**  
 24 **LEND MONEY SECURED BY RESIDENTIAL REAL PROPERTY, IN THE AMOUNT OF**  
 25 **\$25,000; AND**

26 **(2) IN THE CASE OF AN APPLICANT OR LICENSEE THAT LENDS**  
 27 **MONEY SECURED BY RESIDENTIAL REAL PROPERTY, IN THE AMOUNT OF:**

28 **(I) \$25,000, IF THE APPLICANT OR LICENSEE, IN THE 12**  
 29 **MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION,**  
 30 **LENT IN THE AGGREGATE ~~NO~~ NOT MORE THAN \$1,000,000 SECURED BY**  
 31 **RESIDENTIAL REAL PROPERTY;**

32 **(II) \$50,000, IF THE APPLICANT OR LICENSEE, IN THE 12**  
 33 **MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION,**  
 34 **LENT IN THE AGGREGATE MORE THAN \$1,000,000 BUT ~~NO~~ NOT MORE THAN**  
 35 **\$5,000,000 SECURED BY RESIDENTIAL REAL PROPERTY; AND**

1                    (III) \$100,000, IF THE APPLICANT OR LICENSEE, IN THE 12  
 2 MONTHS PRIOR TO THE LICENSE APPLICATION OR RENEWAL APPLICATION,  
 3 LENT IN THE AGGREGATE MORE THAN \$5,000,000 BUT NO MORE THAN  
 4 \$10,000,000 SECURED BY RESIDENTIAL REAL PROPERTY, AND

5                    ~~(IV) \$250,000, IF THE APPLICANT OR LICENSEE, IN THE 12~~  
 6 ~~MONTHS PRIOR TO THE LICENSE APPLICATION OR RENEWAL APPLICATION,~~  
 7 ~~LENT IN THE AGGREGATE MORE THAN \$10,000,000 SECURED BY RESIDENTIAL~~  
 8 ~~REAL PROPERTY.~~

9                    (B) (1) THE SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS  
 10 SUBSECTION, THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION  
 11 (A)(2) OF THIS SECTION MAY BE SATISFIED BY THE APPLICANT OR LICENSEE  
 12 HAVING:

13                    (I) CASH ON DEPOSIT WITH A BANK OR DEPOSITORY  
 14 INSTITUTION;

15                    (II) A LINE OF CREDIT FROM A BANK OR DEPOSITORY  
 16 INSTITUTION;

17                    (III) OTHER ASSETS; OR

18                    (IV) A COMBINATION OF CASH, A LINE OF CREDIT, OR OTHER  
 19 ASSETS.

20                    (2) IF CASH IS USED TOWARD SATISFYING THE MINIMUM NET  
 21 WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION, THE  
 22 APPLICANT OR LICENSEE SHALL SUBMIT TO THE COMMISSIONER A BANK  
 23 LETTER VERIFYING:

24                    (I) THE ACCOUNT BALANCE;

25                    (II) THE TYPE OF ACCOUNT IN WHICH THE FUNDS ARE  
 26 HELD; AND

27                    (III) THAT THE FUNDS ARE NOT ENCUMBERED OR  
 28 HYPOTHECATED IN ANY WAY.

29                    (3) (I) IF A LINE OF CREDIT IS USED TOWARD SATISFYING THE  
 30 MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS  
 31 SECTION, THE APPLICANT OR LICENSEE SHALL SUBMIT TO THE COMMISSIONER  
 32 A COPY OF THE LINE OF CREDIT AGREEMENT AND PROMISSORY NOTE.

1                                    (II) A LINE OF CREDIT MAY NOT BE USED TOWARD  
2 SATISFYING MORE THAN 75% OF THE MINIMUM NET WORTH REQUIREMENTS  
3 UNDER SUBSECTION (A)(2) OF THIS SECTION.

4 11-511.

5            (a)    [(1) A license issued on or before September 30, 1997 expires on  
6 December 31 of the year in which it was issued, unless the license is renewed for a  
7 2-year term, as provided in this section.

8                                    (2)    A license issued on or after October 1, 1997 expires on December  
9 31 in each odd-numbered year after December 31, 1997 unless the license is renewed  
10 for a 2-year term as provided in this section.] **A LICENSE EXPIRES ON THE SECOND**  
11 **ANNIVERSARY OF ITS DATE OF ISSUE.**

12            (b)    [On or before December 1 of the year of] **AT LEAST 30 DAYS BEFORE**  
13 **ITS** expiration, a license may be renewed for an additional 2-year term, if the licensee:

14                                    (1)    Otherwise is entitled to be licensed;

15                                    (2)    Pays to the Commissioner a renewal fee [of \$1,000] **SET BY THE**  
16 **COMMISSIONER;**

17                                    (3)    Files a bond or bond continuation certificate for the amount  
18 required under § 11-508 of this subtitle; and

19                                    (4)    Submits to the Commissioner:

20                                    (i)    A renewal application on the form that the Commissioner  
21 requires; and

22                                    (ii)    Satisfactory evidence of compliance with any continuing  
23 education requirements set by regulations adopted by the Commissioner.

24            (c)    If a license is issued for less than 2 full years and is surrendered  
25 voluntarily, or is suspended or revoked, the Commissioner may not refund any part of  
26 the license fee regardless of the time remaining in the license term.

27            (d)    The Secretary may determine that licenses issued under this subtitle  
28 shall expire on a staggered basis.

29 11-515.

30            (a)    (1)    The Commissioner shall examine the business of each licensee:

1 (i) In accordance with a schedule established by the  
2 Commissioner; and

3 (ii) At any other time that the Commissioner reasonably  
4 considers necessary.

5 (c) A licensee shall pay to the Commissioner a **PER-DAY** fee [of not more  
6 than \$250 per day] **SET BY THE COMMISSIONER** for each of the Commissioner's  
7 employees engaged in:

8 (1) An examination required under subsection (a)(1) of this section;  
9 and

10 (2) Any other examination or investigation conducted under this  
11 section that [results in the discovery of a violation of this subtitle by the licensee] **THE**  
12 **COMMISSIONER REASONABLY CONSIDERS NECESSARY.**

13 11-603.

14 (c) (1) The Commissioner shall include on each license:

15 (i) The name of the licensee; and

16 (ii) The name of the licensee's employer.

17 (2) Unless the licensee notifies the Commissioner in writing in advance  
18 of a change in the licensee's name or the licensee's employer and pays to the  
19 Commissioner a license amendment fee [of \$75] **SET BY THE COMMISSIONER** for each  
20 notice provided under this paragraph, an individual may not act as a mortgage  
21 originator under a name or for an employer that is different from the name and  
22 employer that appear on the license.

23 11-605.

24 (a) To qualify for a license, an applicant shall satisfy the Commissioner that:

25 (1) The applicant:

26 (i) Has at least 3 years of experience in the mortgage lending  
27 business and has completed any required courses for continuing education established  
28 by the Commissioner; or

29 (ii) Has completed 40 hours of classroom education and achieved  
30 a passing grade on a written examination [developed and administered by the person  
31 conducting the classroom education course approved by the Commissioner for new  
32 applicants; and] **AS REQUIRED BY REGULATION; AND**



1           (2) The applicant is of good moral character and has general fitness to  
2 warrant the belief that the applicant will act as a mortgage originator in a lawful,  
3 honest, fair, and efficient manner;~~AND~~

4           ~~(3) THE APPLICANT RESIDES WITHIN 100 MILES OF THE~~  
5 ~~LICENSED OFFICE LOCATION AT WHICH THE APPLICANT WILL WORK AS A~~  
6 ~~LICENSEE.~~

7           (b) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
8 **SUBSECTION, THE** Commissioner may deny an application for a license filed by an  
9 individual who has committed an act that would serve as a sufficient ground for  
10 suspension or revocation of a license under this subtitle or a mortgage lender license  
11 under Subtitle 5 of this title.

12           (2) **THE COMMISSIONER SHALL DENY AN APPLICATION FOR A**  
13 **LICENSE FILED BY AN INDIVIDUAL WHO HAS BEEN CONVICTED WITHIN THE**  
14 **LAST 10 YEARS OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY.**

15 11-606.

16           (b) With each application, the applicant shall pay to the Commissioner:

17           (1) A nonrefundable investigation fee [of \$100] **SET BY THE**  
18 **COMMISSIONER;** and

19           (2) A license fee [of \$300] **SET BY THE COMMISSIONER.**

20 11-609.

21           (b) On or before December 1 of the year of expiration, a license may be  
22 renewed for an additional 2-year term if the licensee:

23           (1) Otherwise is entitled to be licensed;

24           (2) Pays to the Commissioner a renewal fee [of \$300] **SET BY THE**  
25 **COMMISSIONER;** and

26           (3) Submits to the Commissioner:

27           (i) A renewal application on the form that the Commissioner  
28 requires; and

29           (ii) Satisfactory evidence of compliance with any continuing  
30 education requirements set by regulations adopted by the Commissioner.

1 **11-612.1.**

2 (A) **THE COMMISSIONER SHALL SET BY REGULATION THE FEES**  
3 **PROVIDED FOR IN THIS SUBTITLE.**

4 (B) **THE FEES ESTABLISHED BY THE COMMISSIONER UNDER THIS**  
5 **SECTION SHALL BE REASONABLE AND SET IN A MANNER THAT WILL PRODUCE**  
6 **FUNDS SUFFICIENT TO COVER THE ACTUAL DIRECT AND INDIRECT COSTS OF**  
7 **REGULATING LICENSEES IN ACCORDANCE WITH THE PROVISIONS OF THIS**  
8 **SUBTITLE.**

9 (C) **THE COMMISSIONER SHALL PUBLISH THE FEE SCHEDULE SET BY**  
10 **THE COMMISSIONER.**

11 11-613.

12 (b) A licensee shall pay to the Commissioner a **PER-DAY** fee [of not more than  
13 \$250 per day] **SET BY THE COMMISSIONER** for each of the Commissioner's employees  
14 engaged in any investigation conducted under this section that [results in the discovery  
15 of a violation of this subtitle by the licensee] **THE COMMISSIONER REASONABLY**  
16 **CONSIDERS NECESSARY.**

## 17 11-615.

18 (a) Subject to the hearing provisions of § 11-616 of this subtitle, **AND**  
19 **EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION**, the Commissioner  
20 may suspend or revoke the license of any licensee if the licensee:

21 (1) Makes any material misstatement in an application for a license;

22 (2) Is convicted under the laws of the United States or of any state of a  
23 felony or a misdemeanor that is directly related to the fitness and qualification of the  
24 individual to act as a mortgage originator;

25 (3) In connection with any mortgage loan or loan application  
26 transaction:

27 (i) Commits any fraud;

28 (ii) Engages in any illegal or dishonest activities; or

29 (iii) Misrepresents or fails to disclose any material facts to a  
30 person entitled to that information;

1 (4) Violates any provision of this subtitle, any regulation adopted  
2 under this subtitle, or any other law regulating mortgage lending or mortgage  
3 origination in the State; or

4 (5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or  
5 any other quality that indicates that the business of the licensee has not been or will  
6 not be conducted honestly.

7 **(F) IF THE COMMISSIONER DETERMINES THAT A LICENSEE HAS BEEN**  
8 **CONVICTED OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY WHILE THE**  
9 **LICENSEE HAS BEEN LICENSED, THE COMMISSIONER SHALL REVOKE THE**  
10 **LICENSE OF THE LICENSEE.**

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be  
12 construed to apply only prospectively and may not be applied or interpreted to have  
13 any effect on or application to any contract, agreement, or loan entered into, or the  
14 granting of any license under Title 11, Subtitle 5 or 6 of the Financial Institutions  
15 Article, before the effective date of this Act.

16 SECTION 4. AND BE IT FURTHER ENACTED, That:

17 (a) The Commissioner of Financial Regulation shall study the feasibility of  
18 conducting examinations of mortgage lender licensees using a risk-based approach  
19 rather than a fixed schedule approach.

20 (b) On or before January 1, 2009, the Commissioner shall report the findings  
21 of the study and any recommendations, in accordance with § 2-1246 of the State  
22 Government Article, to the Senate Finance Committee and the House Economic  
23 Matters Committee.

24 SECTION 5. AND BE IT FURTHER ENACTED, That:

25 (a) The Commissioner of Financial Regulation shall study the use of a call  
26 feature in which a mortgage loan contains a provision that permits the lender or credit  
27 grantor, in its sole discretion, absent a default or failure of the borrower to abide by  
28 the material terms of the mortgage loan, to accelerate the indebtedness of a mortgage  
29 loan.

30 (b) On or before January 1, 2009, the Commissioner shall report the findings  
31 of the study and any recommendations, in accordance with § 2-1246 of the State  
32 Government Article, to the Senate Finance Committee and the House Economic  
33 Matters Committee.

34 SECTION 6. AND BE IT FURTHER ENACTED, That, notwithstanding Section  
35 2 of this Act, the fees relating to the licensing, examination, and investigation of  
36 mortgage lenders and mortgage originators under §§ 11-507(b), 11-511(b), 11-515(c).

1 11-603(c), 11-606(b), 11-609(b), and 11-613(b) of the Financial Institutions Article  
2 that are in effect on June 1, 2008, shall remain in effect until the fees set by regulation  
3 by the Commissioner of Financial Regulation, as required under this Act, take effect.

4 SECTION 7. AND BE IT FURTHER ENACTED, That:

5 Article – Financial Institutions

6 11-508.1.

7 (a) An applicant for a new license or for the renewal of a license shall satisfy  
8 the Commissioner that the applicant or licensee has, and at all times will maintain, a  
9 minimum net worth computed according to generally accepted accounting principles:

10 (1) In the case of an applicant or licensee that does not lend money  
11 secured by residential real property, in the amount of \$25,000; and

12 (2) In the case of an applicant or licensee that lends money secured by  
13 residential real property, in the amount of:

14 (i) \$25,000, if the applicant or licensee, in the 12 months prior to  
15 the license application or the renewal application, lent in the aggregate not more than  
16 \$1,000,000 secured by residential real property;

17 (ii) \$50,000, if the applicant or licensee, in the 12 months prior to  
18 the license application or the renewal application, lent in the aggregate more than  
19 \$1,000,000, but not more than \$5,000,000 secured by residential real property; [and]

20 (iii) \$100,000, if the applicant or licensee, in the 12 months prior  
21 to the license application or the renewal application, lent in the aggregate more than  
22 \$5,000,000, BUT NOT MORE THAN \$10,000,000 secured by residential real property;

23 AND

24 (IV) \$250,000, IF THE APPLICANT OR LICENSEE, IN THE 12  
25 MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION,  
26 LENT IN THE AGGREGATE MORE THAN \$10,000,000 SECURED BY RESIDENTIAL  
27 REAL PROPERTY.

28 (b) (1) Subject to paragraphs (2) and (3) of this subsection, the minimum  
29 net worth requirements under subsection (a)(2) of this section may be satisfied by the  
30 applicant or licensee having:

31 (i) Cash on deposit with a bank or depository institution;

32 (ii) A line of credit from a bank or depository institution;

1                    (iii) Other assets; or

2                    (iv) A combination of cash, a line of credit, or other assets.

3                    (2) If cash is used toward satisfying the minimum net worth  
 4 requirements under subsection (a)(2) of this section, the applicant or licensee shall  
 5 submit to the Commissioner a bank letter verifying:

6                    (i) The account balance;

7                    (ii) The type of account in which the funds are held; and

8                    (iii) That the funds are not encumbered or hypothecated in any  
 9 way.

10                   (3) (i) If a line of credit is used toward satisfying the minimum net  
 11 worth requirements under subsection (a)(2) of this section, the applicant or licensee  
 12 shall submit to the Commissioner a copy of the line of credit agreement and the  
 13 promissory note.

14                   (ii) A line of credit may not be used toward satisfying more than  
 15 75% of the minimum net worth requirements under subsection (a)(2) of this section.

16                   SECTION 8. AND BE IT FURTHER ENACTED, That Section 7 of this Act  
 17 shall take effect January 1, 2009.

18                   SECTION ~~4~~ ~~6~~ 9. AND BE IT FURTHER ENACTED, That, except as provided  
 19 in Section 8 of this Act, this Act shall take effect June 1, 2008.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.