

# SENATE BILL 270

I2, I3

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By: **The President (By Request – Administration) and Senators Currie, Della, Gladden, Jones, Kelley, Lenett, Madaleno, Middleton, Muse, Pinsky, Pugh, Raskin, and Stone**

Introduced and read first time: January 24, 2008

Rules suspended

Assigned to: Finance

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## A BILL ENTITLED

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 loans; prohibiting certain lenders and credit grantors from  
6 making certain mortgage loans without giving due regard to the borrower's  
7 ability to repay the loans; requiring due regard to a borrower's ability to repay  
8 to include verification of certain income by review of certain written  
9 documentation; altering the threshold amount of a commercial loan on which  
10 prepayment charges or penalties may be charged; providing that no prepayment  
11 charges may be imposed on consumer borrowers in connection with certain open  
12 end credit; requiring a certain representation by a mortgage broker to be  
13 contained in a finder's fee agreement; authorizing the Commissioner of  
14 Financial Regulation to participate in the establishment and implementation of  
15 a multistate automated licensing system for mortgage lenders and mortgage  
16 originators and to adopt certain regulations to facilitate implementation of the  
17 system; requiring certain license applicants to have and maintain a certain net  
18 worth; requiring the Commissioner to deny an application for certain licenses  
19 filed by persons with certain felony convictions; requiring the Commissioner to  
20 set certain fees by regulation and to publish certain fee schedules; requiring  
21 certain licensees to file surety bonds in certain amounts; altering the procedures  
22 for renewing a certain license; altering certain examination requirements for a  
23 mortgage originator's license; requiring mortgage originators to reside within  
24 100 miles of the licensed office locations from which they work; requiring the  
25 Commissioner to revoke the mortgage originator license of any licensee who,  
26 while licensed, has been convicted of certain felonies; defining certain terms;  
27 repealing a certain definition; making certain conforming changes; providing for

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the application of this Act; and generally relating to credit regulation,  
2 extensions of credit, mortgage lending, and mortgage origination.

3 BY renumbering

4 Article – Commercial Law  
5 Section 12–105(a), (b), (c), and (d), respectively  
6 to be Section 12–105(b), (c), (e), and (f), respectively  
7 Annotated Code of Maryland  
8 (2005 Replacement Volume and 2007 Supplement)

9 BY adding to

10 Article – Commercial Law  
11 Section 12–105(a) and (d), 12–905(g), and 12–925  
12 Annotated Code of Maryland  
13 (2005 Replacement Volume and 2007 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article – Commercial Law  
16 Section 12–105(c)  
17 Annotated Code of Maryland  
18 (2005 Replacement Volume and 2007 Supplement)  
19 (As enacted by Section 1 of this Act)

20 BY repealing and reenacting, with amendments,

21 Article – Commercial Law  
22 Section 12–127, 12–311, 12–409.1, 12–805, and 12–1029  
23 Annotated Code of Maryland  
24 (2005 Replacement Volume and 2007 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article – Financial Institutions  
27 Section 2–105.1, 11–506(a) and (d), 11–507(b), 11–508, 11–511, 11–515(c),  
28 11–605(a) and (b), 11–606(b), 11–609(b), and 11–615(a)  
29 Annotated Code of Maryland  
30 (2003 Replacement Volume and 2007 Supplement)

31 BY adding to

32 Article – Financial Institutions  
33 Section 11–503.1, 11–612.1, and 11–615(f)  
34 Annotated Code of Maryland  
35 (2003 Replacement Volume and 2007 Supplement)

36 BY repealing and reenacting, without amendments,

37 Article – Financial Institutions  
38 Section 11–507(a)(1) and 11–515(a)(1)  
39 Annotated Code of Maryland  
40 (2003 Replacement Volume and 2007 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That Section(s) 12-105(a), (b), (c), and (d), respectively, of Article –  
3 Commercial Law of the Annotated Code of Maryland be renumbered to be Section(s)  
4 12-105(b), (c), (e), and (f), respectively.

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

7 **Article – Commercial Law**

8 12-105.

9 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
10 MEANINGS INDICATED.

11 (2) “ANNUAL PERCENTAGE RATE” HAS THE MEANING STATED IN  
12 12 C.F.R. PART 226.

13 (3) “FULLY INDEXED RATE” MEANS THE INDEX RATE APPLICABLE  
14 TO A MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY AT THE TIME IT IS  
15 ORIGINATED, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF  
16 AN INTRODUCTORY INTEREST RATE.

17 (4) “MORTGAGE LOAN” HAS THE MEANING STATED IN § 11-501  
18 OF THE FINANCIAL INSTITUTIONS ARTICLE.

19 (5) “RESIDENTIAL REAL PROPERTY” MEANS OWNER-OCCUPIED  
20 REAL PROPERTY HAVING A DWELLING ON IT DESIGNED PRINCIPALLY AS A  
21 RESIDENCE WITH ACCOMMODATIONS FOR NOT MORE THAN FOUR FAMILIES.

22 (6) “SUBPRIME LOAN” MEANS:

23 (I) IN THE CASE OF AN ADJUSTABLE RATE MORTGAGE  
24 LOAN SECURED BY A FIRST LIEN ON RESIDENTIAL REAL PROPERTY THAT CAN  
25 INCREASE IN INTEREST RATE BUT NOT DECREASE IN INTEREST RATE BELOW  
26 THE FULLY INDEXED RATE AT THE TIME OF ORIGINATION, A MORTGAGE LOAN  
27 FOR WHICH THE ANNUAL PERCENTAGE RATE IS GREATER THAN 2 PERCENTAGE  
28 POINTS ABOVE THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING  
29 COMPARABLE PERIODS OF MATURITY:

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

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

1                   **(II) FOR ALL OTHER MORTGAGE LOANS SECURED BY A**  
2 **FIRST LIEN ON RESIDENTIAL REAL PROPERTY, A MORTGAGE LOAN FOR WHICH**  
3 **THE ANNUAL PERCENTAGE RATE IS GREATER THAN 3 PERCENTAGE POINTS**  
4 **ABOVE THE YIELD ON UNITED STATE TREASURY SECURITIES HAVING**  
5 **COMPARABLE PERIODS OF MATURITY:**

6                   **1. AS OF THE 15TH DAY OF THE PRECEDING MONTH**  
7 **IF THE RATE IS SET BETWEEN THE FIRST AND THE 14TH DAY OF THE MONTH;**  
8 **AND**

9                   **2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF**  
10 **THE RATE IS SET ON OR AFTER THE 15TH DAY.**

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

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

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

18                           (i) Money is advanced on the security of pledged investment  
19 securities; and

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

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

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

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

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

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

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

6 **(D) (1) IN CONNECTION WITH A SUBPRIME LOAN, A LENDER MAY NOT**  
7 **REQUIRE OR AUTHORIZE THE IMPOSITION OF A PENALTY, FEE, PREMIUM, OR**  
8 **OTHER CHARGE IN THE EVENT THE SUBPRIME LOAN IS PREPAID IN WHOLE OR**  
9 **IN PART.**

10 **(2) THE PROHIBITION UNDER PARAGRAPH (1) OF THIS**  
11 **SUBSECTION DOES NOT APPLY TO A SUBPRIME LOAN WITH A PRINCIPAL**  
12 **AMOUNT THAT EXCEEDS THE CONFORMING SUBPRIME LOAN SIZE LIMIT FOR A**  
13 **SINGLE FAMILY DWELLING AS ESTABLISHED FROM TIME TO TIME BY THE**  
14 **FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

15 12–127.

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

17 (2) [“Covered loan” means a mortgage loan made under this subtitle  
18 that meets the criteria for a loan subject to the federal Home Ownership Equity  
19 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by  
20 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the  
21 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §  
22 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.] **“FULLY**  
23 **INDEXED RATE” MEANS THE INDEX RATE APPLICABLE TO A MORTGAGE LOAN**  
24 **FOR A RESIDENTIAL REAL PROPERTY AT THE TIME IT IS ORIGINATED, PLUS THE**  
25 **MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY**  
26 **INTEREST RATE.**

27 (3) “Mortgage loan” has the meaning stated in § 11–501 of the  
28 Financial Institutions Article.

29 (4) “Residential real property” means owner-occupied real property  
30 having a dwelling on it designed principally as a residence with accommodations for  
31 not more than four families.

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

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

6           [(3) This section does not apply to a covered loan to a borrower whose  
 7 monthly gross income is greater than 120 percent of the median family income for the  
 8 metropolitan statistical area in which the residential real property securing the loan is  
 9 located.]

10           **(C) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A**  
 11 **MORTGAGE LOAN MUST INCLUDE VERIFICATION OF THE BORROWER'S GROSS**  
 12 **MONTHLY INCOME BY REVIEW OF WRITTEN DOCUMENTATION REASONABLY**  
 13 **BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.**

14           **(2) ACCEPTABLE WRITTEN DOCUMENTATION INCLUDES:**

15                   **(I) A WRITTEN STATEMENT SUBMITTED BY THE**  
 16 **BORROWER;**

17                   **(II) A COPY OF THE BORROWER'S FEDERAL INCOME TAX**  
 18 **RETURN;**

19                   **(III) THE BORROWER'S MOST RECENT PAY STUB; AND**

20                   **(IV) A WRITTEN STATEMENT SUBMITTED BY THE**  
 21 **BORROWER'S EMPLOYER.**

22 12-311.

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

24           (2) "Covered loan" means a mortgage loan made under this subtitle  
 25 that meets the criteria for a loan subject to the federal Home Ownership Equity  
 26 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by  
 27 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the  
 28 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §  
 29 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

30           **(3) "FULLY INDEXED RATE" MEANS THE INDEX RATE APPLICABLE**  
 31 **TO A MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY AT THE TIME IT IS**  
 32 **ORIGINATED, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF**  
 33 **AN INTRODUCTORY INTEREST 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            (5) **“MORTGAGE LOAN” HAS THE MEANING STATED IN § 11-501**  
5 **OF THE FINANCIAL INSTITUTIONS ARTICLE.**

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

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

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

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

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

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

15                    (i) The principal amount of the loan;

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

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

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

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

20 or

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

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

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

27            (d) (1) A lender may not make a [covered] **MORTGAGE** loan without  
28 giving due regard to the borrower’s ability to repay the loan in accordance with its  
29 terms, **INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN, IF**  
30 **APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER’S INSURANCE WHETHER**

1 **OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND**  
2 **PAYMENT OF THESE EXPENSES.**

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

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

12 **(E) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A**  
13 **MORTGAGE LOAN MUST INCLUDE VERIFICATION OF THE BORROWER'S GROSS**  
14 **MONTHLY INCOME BY REVIEW OF WRITTEN DOCUMENTATION REASONABLY**  
15 **BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.**

16 **(2) ACCEPTABLE WRITTEN DOCUMENTATION INCLUDES:**

17 **(I) A WRITTEN STATEMENT SUBMITTED BY THE**  
18 **BORROWER;**

19 **(II) A COPY OF THE BORROWER'S FEDERAL INCOME TAX**  
20 **RETURN;**

21 **(III) THE BORROWER'S MOST RECENT PAY STUB; AND**

22 **(IV) A WRITTEN STATEMENT SUBMITTED BY THE**  
23 **BORROWER'S EMPLOYER.**

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

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

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

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



1 12-409.1.

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 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 SECONDARY MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY AT**  
11 **THE TIME IT IS ORIGINATED, PLUS THE MARGIN THAT WILL APPLY AFTER THE**  
12 **EXPIRATION OF AN INTRODUCTORY INTEREST RATE.**

13 [(3)] (4) "Home buyer education or housing counseling" means  
14 instruction on preparing for home ownership, shopping for a home, obtaining a  
15 mortgage, loan closing, and life as a homeowner.

16 [(4)] (5) "Residential real property" means owner-occupied real  
17 property having a dwelling on it designed principally as a residence with  
18 accommodations for not more than four families.

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

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

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

34 (c) (1) **DUE REGARD TO A BORROWER'S ABILITY TO REPAY A**  
35 **SECONDARY MORTGAGE LOAN MUST INCLUDE VERIFICATION OF THE**  
36 **BORROWER'S GROSS MONTHLY INCOME BY REVIEW OF WRITTEN**

1 DOCUMENTATION REASONABLY BELIEVED BY THE LENDER TO BE ACCURATE  
2 AND COMPLETE.

3 (2) ACCEPTABLE WRITTEN DOCUMENTATION INCLUDES:

4 (I) A WRITTEN STATEMENT SUBMITTED BY THE  
5 BORROWER;

6 (II) A COPY OF THE BORROWER'S FEDERAL INCOME TAX  
7 RETURN;

8 (III) THE BORROWER'S MOST RECENT PAY STUB; AND

9 (IV) A WRITTEN STATEMENT SUBMITTED BY THE  
10 BORROWER'S EMPLOYER.

11 [(c)] (D) (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 12-805.

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

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

26 (c) If the finder's fee is paid from the proceeds of the loan, the lender shall  
27 comply with the disclosure provisions of § 12-106 of this article or the federal Truth in  
28 Lending Act and in addition shall advise the borrower, in writing, of the borrower's  
29 right to a refund of the finder's fee upon the exercise of any right of rescission of the  
30 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 MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY AT THE TIME IT IS**  
23 **ORIGINATED, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF**  
24 **AN INTRODUCTORY INTEREST RATE.**

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

27 (B) (1) **A CREDIT GRANTOR MAY NOT MAKE A MORTGAGE LOAN**  
28 **WITHOUT GIVING DUE REGARD TO THE BORROWER'S ABILITY TO REPAY THE**  
29 **MORTGAGE LOAN IN ACCORDANCE WITH ITS TERMS, INCLUDING THE FULLY**  
30 **INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY**  
31 **TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT**  
32 **IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.**

1           **(2) A BORROWER IS PRESUMED TO BE ABLE TO REPAY A**  
2 **MORTGAGE LOAN IF AT THE TIME THE LOAN IS MADE THE BORROWER’S TOTAL**  
3 **SCHEDULED MONTHLY PAYMENT OBLIGATIONS, INCLUDING THE PRINCIPAL,**  
4 **INTEREST, PROPERTY TAXES, AND HOMEOWNER’S INSURANCE, DO NOT EXCEED**  
5 **45 PERCENT OF THE BORROWER’S MONTHLY GROSS INCOME.**

6           **(C) (1) DUE REGARD TO A BORROWER’S ABILITY TO REPAY A**  
7 **MORTGAGE LOAN MUST INCLUDE VERIFICATION OF THE BORROWER’S GROSS**  
8 **MONTHLY INCOME BY REVIEW OF WRITTEN DOCUMENTATION REASONABLY**  
9 **BELIEVED BY THE CREDIT GRANTOR TO BE ACCURATE AND COMPLETE.**

10           **(2) ACCEPTABLE WRITTEN DOCUMENTATION INCLUDES:**

11                   **(I) A WRITTEN STATEMENT SUBMITTED BY THE**  
12 **BORROWER;**

13                   **(II) A COPY OF THE BORROWER’S FEDERAL INCOME TAX**  
14 **RETURN;**

15                   **(III) THE BORROWER’S MOST RECENT PAY STUB; AND**

16                   **(IV) A WRITTEN STATEMENT SUBMITTED BY THE**  
17 **BORROWER’S EMPLOYER.**

18 12-1029.

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

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

26                   **(3) “FULLY INDEXED RATE” MEANS THE INDEX RATE APPLICABLE**  
27 **TO A MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY AT THE TIME IT IS**  
28 **ORIGINATED, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF**  
29 **AN INTRODUCTORY INTEREST RATE.**

30                   **[(3)] (4) “Home buyer education or housing counseling” means**  
31 **instruction on preparing for home ownership, shopping for a home, obtaining a**  
32 **mortgage, loan closing, and life as a homeowner.**

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

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

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

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

18           **(C) (1) DUE REGARD TO A BORROWER’S ABILITY TO REPAY A**  
19 **MORTGAGE LOAN MUST INCLUDE VERIFICATION OF THE BORROWER’S GROSS**  
20 **MONTHLY INCOME BY REVIEW OF WRITTEN DOCUMENTATION REASONABLY**  
21 **BELIEVED BY THE CREDIT GRANTOR TO BE ACCURATE AND COMPLETE.**

22           **(2) ACCEPTABLE WRITTEN DOCUMENTATION INCLUDES:**

23                   **(I) A WRITTEN STATEMENT SUBMITTED BY THE**  
24 **BORROWER;**

25                   **(II) A COPY OF THE BORROWER’S FEDERAL INCOME TAX**  
26 **RETURN;**

27                   **(III) THE BORROWER’S MOST RECENT PAY STUB; AND**

28                   **(IV) A WRITTEN STATEMENT SUBMITTED BY THE**  
29 **BORROWER’S EMPLOYER.**

30           **[(c) (D) (1) In this subsection, “loan application” has the meaning stated**  
31 **in § 12-1022 of this subtitle.**

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

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

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

6 **Article – Financial Institutions**

7 2–105.1.

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
9 MEANINGS INDICATED.

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

12 (3) “MORTGAGE ORIGINATOR” HAS THE MEANING STATED IN  
13 § 11–601 OF THIS ARTICLE.

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

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

19 (2) TO FACILITATE IMPLEMENTATION OF A MULTISTATE  
20 AUTOMATED LICENSING SYSTEM, THE COMMISSIONER MAY ADOPT  
21 REGULATIONS THAT WAIVE OR MODIFY THE REQUIREMENTS OF §§ 11–507,  
22 11–511, 11–606, AND 11–609 OF THIS ARTICLE.

23 11–503.1.

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

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

31 (C) THE COMMISSIONER SHALL PUBLISH THE FEE SCHEDULE SET BY  
32 THE COMMISSIONER.

1 11-506.

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

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

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

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

9 [(3)] (III) Command the confidence of the public; **AND**

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

14 (I) **THE NATURE AND VOLUME OF THE BUSINESS OR**  
15 **PROPOSED BUSINESS OF THE APPLICANT;**

16 (II) **THE AMOUNT, NATURE, QUALITY, AND LIQUIDITY OF**  
17 **THE ASSETS OF THE APPLICANT;**

18 (III) **THE AMOUNT AND NATURE OF THE LIABILITIES,**  
19 **INCLUDING CONTINGENT LIABILITIES, OF THE APPLICANT;**

20 (IV) **THE HISTORY OF, AND PROSPECTS FOR, THE**  
21 **APPLICANT TO EARN AND RETAIN INCOME;**

22 (V) **THE QUALITY OF THE OPERATIONS OF THE APPLICANT;**

23 (VI) **THE QUALITY OF THE MANAGEMENT OF THE**  
24 **APPLICANT;**

25 (VII) **THE QUALITY AND NATURE OF THE PERSON THAT**  
26 **CONTROLS THE APPLICANT; AND**

27 (VIII) **ANY OTHER FACTOR THE COMMISSIONER CONSIDERS**  
28 **RELEVANT.**

1 (d) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
2 **SUBSECTION, THE** Commissioner may deny an application for a license to any person  
3 who has been officially reprimanded or has committed any act that would be a ground  
4 for suspension or revocation of a license under this subtitle.

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

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

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

13 11-507.

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

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

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

21 (2) A license fee [of either:

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

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

27 (iii) Notwithstanding subparagraph (i) or (ii) of this paragraph,  
28 \$1,000 if the applicant applies for a license to be issued on or after October 1, 1997 and  
29 on or before December 31, 1997] **SET BY THE COMMISSIONER.**

30 11-508.

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



1 (b) The surety bond shall:

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

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

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

9 (4) Be approved by the Commissioner.

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

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

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

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

31 (i) Where the aggregate principal amount of loans set forth in  
32 the sworn statement was \$3,000,000 or less, a surety bond in the amount of [\$25,000]  
33 **\$50,000**;

34 (ii) Where the aggregate principal amount of loans set forth in  
35 the sworn statement was more than \$3,000,000 but not more than \$10,000,000, a  
36 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**.

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 11-511.

19 (a) [(1) A license issued on or before September 30, 1997 expires on  
20 December 31 of the year in which it was issued, unless the license is renewed for a  
21 2-year term, as provided in this section.

22 (2) A license issued on or after October 1, 1997 expires on December  
23 31 in each odd-numbered year after December 31, 1997 unless the license is renewed  
24 for a 2-year term as provided in this section.] **A LICENSE EXPIRES ON THE SECOND**  
25 **ANNIVERSARY OF ITS DATE OF ISSUE.**

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

28 (1) Otherwise is entitled to be licensed;

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

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

33 (4) Submits to the Commissioner:

34 (i) A renewal application on the form that the Commissioner  
35 requires; and

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

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

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

8 11-515.

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

10 (i) In accordance with a schedule established by the  
11 Commissioner; and

12 (ii) At any other time that the Commissioner reasonably  
13 considers necessary.

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

17 (1) An examination required under subsection (a)(1) of this section;  
18 and

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

22 11-605.

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

24 (1) The applicant:

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

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

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.

31 **11-612.1.**

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

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

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

10 11-615.

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

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

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

18           (3) In connection with any mortgage loan or loan application  
19 transaction:

20           (i) Commits any fraud;

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

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

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

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

30           **(F) IF THE COMMISSIONER DETERMINES THAT A LICENSEE HAS BEEN**  
31 **CONVICTED OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY WHILE THE**

1 **LICENSEE HAS BEEN LICENSED, THE COMMISSIONER SHALL REVOKE THE**  
2 **LICENSE OF THE LICENSEE.**

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

8 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 June 1, 2008.