

SENATE BILL 270

I2, I3

8lr0214

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**

Introduced and read first time: January 24, 2008

Rules suspended

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 13, 2008

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;
13 ~~providing that no prepayment charges may be imposed on consumer borrowers~~
14 ~~in connection with certain open end credit~~; requiring a certain representation by
15 a mortgage broker to be contained in a finder's fee agreement; authorizing the
16 Commissioner of Financial Regulation to participate in the establishment and
17 implementation of a multistate automated licensing system for mortgage
18 lenders and mortgage originators and to adopt certain regulations to facilitate
19 implementation of the system; requiring certain license applicants and licensees
20 to have and maintain a certain net worth; requiring the Commissioner to deny
21 an application for certain licenses filed by persons with certain felony
22 convictions; requiring the Commissioner to set certain fees by regulation and to

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.



1 publish certain fee schedules; requiring certain licensees to file surety bonds in
 2 certain amounts; altering the procedures for renewing a certain license; altering
 3 certain examination requirements for a mortgage originator's license; ~~requiring~~
 4 ~~mortgage originators to reside within 100 miles of the licensed office locations~~
 5 ~~from which they work~~; requiring the Commissioner to revoke the mortgage
 6 originator license of any licensee who, while licensed, has been convicted of
 7 certain felonies; requiring the Commissioner to conduct certain studies;
 8 requiring the Commissioner to report certain findings and recommendations on
 9 or before a certain date; defining certain terms; repealing ~~a certain definition~~
 10 certain definitions; altering a certain definition; making certain conforming
 11 changes; providing for the application of this Act; and generally relating to
 12 credit regulation, extensions of credit, mortgage lending, and mortgage
 13 origination.

14 BY renumbering

15 Article – Commercial Law
 16 Section 12–105(a), (b), (c), and (d), respectively
 17 to be Section 12–105(b), (c), (e), and (f), respectively
 18 Annotated Code of Maryland
 19 (2005 Replacement Volume and 2007 Supplement)

20 BY adding to

21 Article – Commercial Law
 22 Section 12–105(a) and (d), ~~12–905(g)~~, and 12–925
 23 Annotated Code of Maryland
 24 (2005 Replacement Volume and 2007 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article – Commercial Law
 27 Section 12–105(c)
 28 Annotated Code of Maryland
 29 (2005 Replacement Volume and 2007 Supplement)
 30 (As enacted by Section 1 of this Act)

31 BY repealing and reenacting, with amendments,

32 Article – Commercial Law
 33 Section 12–127, 12–311, 12–409.1, 12–805, and 12–1029
 34 Annotated Code of Maryland
 35 (2005 Replacement Volume and 2007 Supplement)

36 BY repealing and reenacting, with amendments,

37 Article – Financial Institutions
 38 Section 2–105.1, ~~11–506(a) and (d)~~ 11–506(d), 11–507(b), 11–508, 11–511,
 39 11–515(c), 11–605(a) and (b), 11–606(b), 11–609(b), and 11–615(a)
 40 Annotated Code of Maryland
 41 (2003 Replacement Volume and 2007 Supplement)

42 BY adding to

1 Article – Financial Institutions
 2 Section 11–503.1, ~~11–508.1~~, 11–612.1, and 11–615(f)
 3 Annotated Code of Maryland
 4 (2003 Replacement Volume and 2007 Supplement)

5 BY repealing and reenacting, without amendments,
 6 Article – Financial Institutions
 7 Section 11–507(a)(1) and 11–515(a)(1)
 8 Annotated Code of Maryland
 9 (2003 Replacement Volume and 2007 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 11 MARYLAND, That Section(s) 12–105(a), (b), (c), and (d), respectively, of Article –
 12 Commercial Law of the Annotated Code of Maryland be renumbered to be Section(s)
 13 12–105(b), (c), (e), and (f), respectively.

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

16 **Article – Commercial Law**

17 12–105.

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

20 ~~(2) “ANNUAL PERCENTAGE RATE” HAS THE MEANING STATED IN~~
 21 ~~12 C.F.R. PART 226.~~

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

26 ~~(4) “MORTGAGE MORTGAGE LOAN” HAS THE MEANING STATED IN~~
 27 ~~§ 11–501 OF THE FINANCIAL INSTITUTIONS ARTICLE.~~

28 ~~(5) “RESIDENTIAL REAL PROPERTY” MEANS OWNER OCCUPIED~~
 29 ~~REAL PROPERTY HAVING A DWELLING ON IT DESIGNED PRINCIPALLY AS A~~
 30 ~~RESIDENCE WITH ACCOMMODATIONS FOR NOT MORE THAN FOUR FAMILIES.~~

31 ~~(6) “SUBPRIME LOAN” MEANS:~~

32 ~~(i) IN THE CASE OF AN ADJUSTABLE RATE MORTGAGE~~
 33 ~~LOAN SECURED BY A FIRST LIEN ON RESIDENTIAL REAL PROPERTY THAT CAN~~
 34 ~~INCREASE IN INTEREST RATE BUT NOT DECREASE IN INTEREST RATE BELOW~~

~~1 THE FULLY INDEXED RATE AT THE TIME OF ORIGINATION, A MORTGAGE LOAN
2 FOR WHICH THE ANNUAL PERCENTAGE RATE IS GREATER THAN 2 PERCENTAGE
3 POINTS ABOVE THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING
4 COMPARABLE PERIODS OF MATURITY;~~

~~5 1. AS OF THE 15TH DAY OF THE PRECEDING MONTH
6 IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~

~~7 2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF
8 THE RATE IS SET ON OR AFTER THE 15TH DAY; AND~~

~~9 (II) FOR ALL OTHER MORTGAGE LOANS SECURED BY A
10 FIRST LIEN ON RESIDENTIAL REAL PROPERTY, A MORTGAGE LOAN FOR WHICH
11 THE ANNUAL PERCENTAGE RATE IS GREATER THAN 3 PERCENTAGE POINTS
12 ABOVE THE YIELD ON UNITED STATE TREASURY SECURITIES HAVING
13 COMPARABLE PERIODS OF MATURITY;~~

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

~~17 2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF
18 THE RATE IS SET ON OR AFTER THE 15TH DAY.~~

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

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

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

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

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

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

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

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

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

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

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

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

16 ~~(2) THE PROHIBITION UNDER PARAGRAPH (1) OF THIS~~
17 ~~SUBSECTION DOES NOT APPLY TO A SUBPRIME LOAN WITH A PRINCIPAL~~
18 ~~AMOUNT THAT EXCEEDS THE CONFORMING SUBPRIME LOAN SIZE LIMIT FOR A~~
19 ~~SINGLE FAMILY DWELLING AS ESTABLISHED FROM TIME TO TIME BY THE~~
20 ~~FEDERAL NATIONAL MORTGAGE ASSOCIATION.~~

21 12-127.

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

23 (2) ["Covered loan" means a mortgage loan made under this subtitle
24 that meets the criteria for a loan subject to the federal Home Ownership Equity
25 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by
26 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the
27 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §
28 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.] **"FULLY**
29 **INDEXED RATE"** ~~MEANS THE INDEX RATE APPLICABLE TO A, AS DEFINED IN THE~~
30 ~~MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY DOCUMENTS,~~
31 ~~PREVAILING AT THE TIME IT IS ORIGINATED~~ **THE MORTGAGE LOAN IS**
32 **APPROVED BY THE LENDER, PLUS THE MARGIN THAT WILL APPLY AFTER THE**
33 **EXPIRATION OF AN INTRODUCTORY INTEREST RATE.**

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

1 **(II) "MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE**
 2 **MORTGAGE LOAN.**

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

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

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

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

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

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

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

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

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

32 (II) **A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX**
 33 **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 12-311.

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

13 (2) "Covered loan" means a mortgage loan made under this subtitle
 14 that meets the criteria for a loan subject to the federal Home Ownership Equity
 15 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by
 16 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the
 17 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §
 18 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

19 (3) ~~"FULLY INDEXED RATE" MEANS THE INDEX RATE APPLICABLE~~
 20 ~~TO A, AS DEFINED IN THE MORTGAGE LOAN FOR A RESIDENTIAL REAL~~
 21 ~~PROPERTY DOCUMENTS, PREVAILING AT THE TIME IT IS ORIGINATED THE~~
 22 ~~MORTGAGE LOAN IS APPROVED BY THE LENDER, PLUS THE MARGIN THAT WILL~~
 23 ~~APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.~~

24 [(3)] (4) "Home buyer education or housing counseling" means
 25 instruction on preparing for home ownership, shopping for a home, obtaining a
 26 mortgage, loan closing, and life as a homeowner.

27 (5) (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 [(4)] (6) ~~"Residential real property" means owner-occupied real~~
 32 ~~property having a dwelling on it designed principally as a residence with~~
 33 ~~accommodations for not more than four families.~~

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

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

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

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

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

6 (i) The principal amount of the loan;

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

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

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

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

11 or

12 (ii) Personal property for any loan under \$700 in value or

13 amount.

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

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

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

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

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

1 (E) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A
 2 MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~;

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

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

8 (2) ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION
 9 INCLUDES:

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

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

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

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

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

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

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, AS DEFINED IN THE SECONDARY MORTGAGE LOAN FOR A RESIDENTIAL~~**
11 **~~REAL PROPERTY DOCUMENTS, PREVAILING AT THE TIME IT IS ORIGINATED THE~~**
12 **SECONDARY MORTGAGE LOAN IS APPROVED BY THE LENDER, 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 [(4)] (5) ~~"Residential real property" means owner-occupied real~~
19 ~~property having a dwelling on it designed principally as a residence with~~
20 ~~accommodations for not more than four families.~~

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

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

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

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

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

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

8 (2) ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION
9 INCLUDES:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (III) **CONTAIN A REPRESENTATION BY THE MORTGAGE**
21 **BROKER THAT THE MORTGAGE BROKER IS ACTING AS A MORTGAGE BROKER**
22 **AND NOT AS A LENDER IN THE TRANSACTION.**

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

26 ~~12-905.~~

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

29 **12-925.**

30 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
31 **MEANINGS INDICATED.**

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

7 (3) (I) **“MORTGAGE LOAN” HAS THE MEANING STATED IN §**
 8 **11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

9 (II) **“MORTGAGE LOAN” DOES NOT INCLUDE A REVERSE**
 10 **MORTGAGE LOAN.**

11 (B) ~~(1)~~ **A CREDIT GRANTOR MAY NOT MAKE A MORTGAGE LOAN**
 12 **WITHOUT GIVING DUE REGARD TO THE BORROWER’S ABILITY TO REPAY THE**
 13 **MORTGAGE LOAN IN ACCORDANCE WITH ITS TERMS, INCLUDING THE FULLY**
 14 **INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY**
 15 **TAXES AND HOMEOWNER’S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT**
 16 **IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.**

17 ~~(2)~~ **~~A BORROWER IS PRESUMED TO BE ABLE TO REPAY A~~**
 18 **~~MORTGAGE LOAN IF AT THE TIME THE LOAN IS MADE THE BORROWER’S TOTAL~~**
 19 **~~SCHEDULED MONTHLY PAYMENT OBLIGATIONS, INCLUDING THE PRINCIPAL,~~**
 20 **~~INTEREST, PROPERTY TAXES, AND HOMEOWNER’S INSURANCE, DO NOT EXCEED~~**
 21 **~~45 PERCENT OF THE BORROWER’S MONTHLY GROSS INCOME.~~**

22 (C) (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 CREDIT GRANTOR TO BE ACCURATE AND**
 29 **COMPLETE.**

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

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

34 (II) **A COPY OF THE BORROWER’S ~~FEDERAL~~ INCOME TAX**
 35 **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 12-1029.

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

13 (2) "Covered loan" means a mortgage loan made under this subtitle
14 that meets the criteria for a loan subject to the federal Home Ownership and Equity
15 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by
16 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the
17 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §
18 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

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

25 [(3)] (4) "Home buyer education or housing counseling" means
26 instruction on preparing for home ownership, shopping for a home, obtaining a
27 mortgage, loan closing, and life as a homeowner.

28 (5) (I) "MORTGAGE LOAN" HAS THE MEANING STATED IN §
29 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

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

32 (b) ~~(1)~~ A credit grantor may not make a [covered] **MORTGAGE** loan
33 without giving due regard to the borrower's ability to repay the **MORTGAGE** loan in
34 accordance with its terms, **INCLUDING THE FULLY INDEXED RATE OF THE**

1 MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S
 2 INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE
 3 COLLECTION AND PAYMENT OF THESE EXPENSES.

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

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

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

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

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

21 (2) ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION
 22 INCLUDES:

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

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

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

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

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

1 **(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN**
 2 **APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING**
 3 **ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY**
 4 **DEVELOPMENT ADMINISTRATION.**

5 [(c)] **(D)** (1) In this subsection, “loan application” has the meaning stated
 6 in § 12–1022 of this subtitle.

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

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

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

14 **Article – Financial Institutions**

15 2–105.1.

16 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
 17 **MEANINGS INDICATED.**

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

20 **(3) “MORTGAGE ORIGINATOR” HAS THE MEANING STATED IN**
 21 **§ 11–601 OF THIS ARTICLE.**

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

24 **(C) (1) THE COMMISSIONER MAY PARTICIPATE IN THE**
 25 **ESTABLISHMENT AND IMPLEMENTATION OF A MULTISTATE AUTOMATED**
 26 **LICENSING SYSTEM FOR MORTGAGE LENDERS AND MORTGAGE ORIGINATORS.**

27 **(2) TO FACILITATE IMPLEMENTATION OF A MULTISTATE**
 28 **AUTOMATED LICENSING SYSTEM, THE COMMISSIONER MAY ADOPT**
 29 **REGULATIONS THAT WAIVE OR MODIFY THE REQUIREMENTS OF §§ 11–507,**
 30 **11–511, 11–606, AND 11–609 OF THIS ARTICLE.**

31 **11–503.1.**

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 11-506.

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

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

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

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

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

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

23 ~~(I) THE NATURE AND VOLUME OF THE BUSINESS OR~~
24 ~~PROPOSED BUSINESS OF THE APPLICANT;~~

25 ~~(II) THE AMOUNT, NATURE, QUALITY, AND LIQUIDITY OF~~
26 ~~THE ASSETS OF THE APPLICANT;~~

27 ~~(III) THE AMOUNT AND NATURE OF THE LIABILITIES,~~
28 ~~INCLUDING CONTINGENT LIABILITIES, OF THE APPLICANT;~~

29 ~~(IV) THE HISTORY OF, AND PROSPECTS FOR, THE~~
30 ~~APPLICANT TO EARN AND RETAIN INCOME;~~

31 ~~(V) THE QUALITY OF THE OPERATIONS OF THE APPLICANT;~~

1 ~~(VI) THE QUALITY OF THE MANAGEMENT OF THE~~
2 ~~APPLICANT;~~

3 ~~(VII) THE QUALITY AND NATURE OF THE PERSON THAT~~
4 ~~CONTROLS THE APPLICANT; AND~~

5 ~~(VIII) ANY OTHER FACTOR THE COMMISSIONER CONSIDERS~~
6 ~~RELEVANT.~~

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

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

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

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

19 11-507.

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

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

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

27 (2) A license fee [of either:

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

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

1 (iii) Notwithstanding subparagraph (i) or (ii) of this paragraph,
2 \$1,000 if the applicant applies for a license to be issued on or after October 1, 1997 and
3 on or before December 31, 1997] **SET BY THE COMMISSIONER.**

4 11-508.

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

7 (b) The surety bond shall:

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

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

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

15 (4) Be approved by the Commissioner.

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

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

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

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

3 (i) Where the aggregate principal amount of loans set forth in
4 the sworn statement was \$3,000,000 or less, a surety bond in the amount of [~~\$25,000~~]
5 **\$50,000**;

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

9 (iii) Where the aggregate principal amount of loans set forth in
10 the sworn statement was more than \$10,000,000, a surety bond in the amount of
11 [~~\$75,000~~] **\$150,000**.

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

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

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

26 **11-508.1.**

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

31 **(1) IN THE CASE OF AN APPLICANT OR LICENSEE THAT DOES NOT**
32 **LEND MONEY SECURED BY RESIDENTIAL REAL PROPERTY, IN THE AMOUNT OF**
33 **\$25,000; AND**

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

1 **(I) \$25,000, IF THE APPLICANT OR LICENSEE, IN THE 12**
2 **MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION,**
3 **LENT IN THE AGGREGATE NO MORE THAN \$1,000,000 SECURED BY RESIDENTIAL**
4 **REAL PROPERTY;**

5 **(II) \$50,000, IF THE APPLICANT OR LICENSEE, IN THE 12**
6 **MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION,**
7 **LENT IN THE AGGREGATE MORE THAN \$1,000,000 BUT NO MORE THAN**
8 **\$5,000,000 SECURED BY RESIDENTIAL REAL PROPERTY;**

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

13 **(IV) \$250,000, IF THE APPLICANT OR LICENSEE, IN THE 12**
14 **MONTHS PRIOR TO THE LICENSE APPLICATION OR RENEWAL APPLICATION,**
15 **LENT IN THE AGGREGATE MORE THAN \$10,000,000 SECURED BY RESIDENTIAL**
16 **REAL PROPERTY.**

17 **(B) (1) THE MINIMUM NET WORTH REQUIREMENTS UNDER**
18 **SUBSECTION (A)(2) OF THIS SECTION MAY BE SATISFIED BY THE APPLICANT OR**
19 **LICENSEE HAVING:**

20 **(I) CASH ON DEPOSIT WITH A BANK OR DEPOSITORY**
21 **INSTITUTION;**

22 **(II) A LINE OF CREDIT FROM A BANK OR DEPOSITORY**
23 **INSTITUTION;**

24 **(III) OTHER ASSETS; OR**

25 **(IV) A COMBINATION OF CASH, A LINE OF CREDIT, OR OTHER**
26 **ASSETS.**

27 **(2) IF CASH IS USED TOWARD SATISFYING THE MINIMUM NET**
28 **WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION, THE**
29 **APPLICANT OR LICENSEE SHALL SUBMIT TO THE COMMISSIONER A BANK**
30 **LETTER VERIFYING:**

31 **(I) THE ACCOUNT BALANCE;**

32 **(II) THE TYPE OF ACCOUNT IN WHICH THE FUNDS ARE**
33 **HELD; AND**

1 (III) THAT THE FUNDS ARE NOT ENCUMBERED OR
2 HYPOTHECATED IN ANY WAY.

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

7 11-511.

8 (a) [(1) A license issued on or before September 30, 1997 expires on
9 December 31 of the year in which it was issued, unless the license is renewed for a
10 2-year term, as provided in this section.

11 (2) A license issued on or after October 1, 1997 expires on December
12 31 in each odd-numbered year after December 31, 1997 unless the license is renewed
13 for a 2-year term as provided in this section.] **A LICENSE EXPIRES ON THE SECOND**
14 **ANNIVERSARY OF ITS DATE OF ISSUE.**

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

17 (1) Otherwise is entitled to be licensed;

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

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

22 (4) Submits to the Commissioner:

23 (i) A renewal application on the form that the Commissioner
24 requires; and

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

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

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

32 11-515.

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

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

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

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

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

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

14 11-605.

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

16 (1) The applicant:

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

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

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

27 ~~(3) THE APPLICANT RESIDES WITHIN 100 MILES OF THE~~
28 ~~LICENSED OFFICE LOCATION AT WHICH THE APPLICANT WILL WORK AS A~~
29 ~~LICENSEE.~~

30 (b) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
31 **SUBSECTION, THE** Commissioner may deny an application for a license filed by an
32 individual who has committed an act that would serve as a sufficient ground for

1 suspension or revocation of a license under this subtitle or a mortgage lender license
2 under Subtitle 5 of this title.

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

6 11-606.

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

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

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

11 11-609.

12 (b) On or before December 1 of the year of expiration, a license may be
13 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 \$300] **SET BY THE**
16 **COMMISSIONER;** and

17 (3) Submits to the Commissioner:

18 (i) A renewal application on the form that the Commissioner
19 requires; and

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

22 **11-612.1.**

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

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

1 **(C) THE COMMISSIONER SHALL PUBLISH THE FEE SCHEDULE SET BY**
2 **THE COMMISSIONER.**

3 11-615.

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

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

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

11 (3) In connection with any mortgage loan or loan application
12 transaction:

13 (i) Commits any fraud;

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

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

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

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

23 **(F) IF THE COMMISSIONER DETERMINES THAT A LICENSEE HAS BEEN**
24 **CONVICTED OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY WHILE THE**
25 **LICENSEE HAS BEEN LICENSED, THE COMMISSIONER SHALL REVOKE THE**
26 **LICENSE OF THE LICENSEE.**

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

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

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

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

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

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

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

18 SECTION ~~4~~ 6. AND BE IT FURTHER ENACTED, That this Act shall take
 19 effect June 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.