HB 286

Department of Legislative Services

Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 286 (Delegate Bobo)
Economic Matters

Credit Regulation - Loans Secured by Residential Real Property - Escrow Accounts

This bill requires lenders that do business in Maryland to establish an escrow account in connection with any loan that is secured by a first mortgage or first deed of trust on any interest in residential real property.

Fiscal Summary

State Effect: The bill would not directly affect State finances or operations. If the Attorney General's Office receives fewer than 50 complaints per year stemming from the bill, the additional workload could be handled with existing resources.

Local Effect: The bill would not directly affect local finances or operations.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The required escrow account must be established at the time the loan is made, and the lender must furnish the borrower with a written statement detailing the monthly amount to be paid by the borrower and placed in the escrow account.

Current Law: Escrow accounts for residential real property mortgages are not currently required by State law. Under current law, banks, savings banks, and savings and loan associations doing business in Maryland that create or are the assignee of an escrow account in connection with such a loan are required to pay interest to the borrower on the funds in the escrow account, at the greater of • a rate of 3% per annum simple interest; or

• the rate of interest regularly paid by the lending institution on regular passbook savings accounts.

National banks, federal savings and loan associations, State and federal credit unions, and mortgage companies are not required by law to establish an escrow account for residential mortgages or pay interest on the account. Banks, savings banks, and savings and loan associations doing business in Maryland may either form mortgage company subsidiaries or not require escrow accounts in order to avoid the escrow account interest payments currently required by State law.

Background: Frequently, as a condition to granting a loan secured by a mortgage or deed of trust, a lender requires that a borrower agree to the lender paying certain items on the borrower's behalf through an escrow account. Items typically paid from an escrow account include taxes and homeowner's insurance, and sometimes condominium or homeowners' association dues. The account is funded from payments made by the borrower as part of the monthly payment on the debt, in addition to the principal and interest payments. Currently, the law states that the only mortgage holders who must pay interest to the borrower on escrow accounts are "lending institutions," which are defined as "banks, savings banks, or savings and loan associations doing business in Maryland."

Under Maryland law, both State-chartered banks and mortgage lenders doing business in the State must be licensed with the Commissioner of Financial Regulation. Licensees must also meet continuing education requirements and are subject to regulation, investigation, and discipline by the commissioner. As of February 1, 2008, the commissioner had received a total of 1,030 written complaints regarding consumer issues for fiscal 2008. In fiscal 2007, 2006, and 2005 the total number of written complaints numbered 2,597, 2,682, and 2,899, respectively. The commissioner has nine examiners who answer phone calls regarding consumer complaints; they receive about 27,000 total calls per year on average.

U.S. Census Bureau findings suggest that there are approximately 1,557,500 homeowners in Maryland, and the Mortgage Bankers Association (MBA) National Delinquency Survey for the third quarter of 2007 lists a total of 1,058,400 mortgage loans in Maryland from reporting lenders. MBA reports that during the first half of 2007, 56% of subprime loans and 33% of prime loans did not have escrow accounts. The commissioner estimates that the bill would have an impact on between 20% and 40% of mortgages in the State, with the remaining mortgages exempt from the bill's requirements.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Office of the Attorney General (Consumer Protection); Department of Legislative Services

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