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EMERGENCY BILL

9lr3396 CF SB 1036

By: **Delegate Rudolph**

Introduced and read first time: March 9, 2009 Assigned to: Rules and Executive Nominations

A BILL ENTITLED

| 4 | A 7A T | | • |
|---|--------|----------------|-------------|
| 1 | AN | \mathbf{ACT} | concerning |
| _ | , | | 00110011111 |

Credit Regulation - Mortgage Loans - Proof of Ability to Repay - Exception

- FOR the purpose of establishing an exception for certain mortgage loans that refinance an existing mortgage loan to the requirement that the due regard certain lenders and credit grantors must give to a borrower's ability to repay certain mortgage loans include consideration of the borrower's debt to income ratio and verification in a certain manner of certain income and assets of the borrower; making this Act an emergency measure; and generally relating to mortgage loans.
- 10 BY repealing and reenacting, without amendments,
- 11 Article Commercial Law
- 12 Section 12–127(b), 12–311(d), 12–409.1(b), 12–925(b), and 12–1029(b)
- 13 Annotated Code of Maryland
- 14 (2005 Replacement Volume and 2008 Supplement)
- 15 BY repealing and reenacting, with amendments,
- 16 Article Commercial Law
- 17 Section 12–127(c), 12–311(e), 12–409.1(c), 12–925(c), and 12–1029(c)
- 18 Annotated Code of Maryland
- 19 (2005 Replacement Volume and 2008 Supplement)
- 20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 21 MARYLAND, That the Laws of Maryland read as follows:
- 22 Article Commercial Law
- 23 12–127.

| 1 2 3 4 5 | borrower's ability to the fully indexed rate | may not make a mortgage loan without giving due regard to the repay the mortgage loan in accordance with its terms, including te of the mortgage loan, if applicable, and property taxes and acc whether or not an escrow account is established for the at of these expenses. |
|-----------------------|---|--|
| 6 7 | (c) (1) Dinclude: | ue regard to a borrower's ability to repay a mortgage loan must |
| 8 9 | (i) including existing del | Consideration of the borrower's debt to income ratio, ots and other obligations; and |
| 10 11 12 | (ii assets by review of lender to be accurate | third-party written documentation reasonably believed by the |
| 13 | (2) Ac | cceptable third–party written documentation includes: |
| 14 | (i) | The borrower's Internal Revenue Service form W–2; |
| 15 | (ii | A copy of the borrower's income tax return; |
| 16 | (ii | i) Payroll receipts; |
| 17 | (iv | The records of a financial institution; or |
| 18 19 | (v reliable evidence of th | Other third–party documents that provide reasonably ne borrower's income or assets. |
| 20 | (3) Tl | nis subsection does not apply to a mortgage loan [approved]: |
| 21 22 23 | (I Housing Administra Administration; OR | APPROVED for government guaranty by the Federal tion, Veterans Administration, or Community Development |
| 24 25 | (I THE REFINANCE MO | |
| 26 27 | AFFORDABILITY AN | 1. OFFERED UNDER THE FEDERAL HOMEOWNER D STABILITY PLAN; AND |
| 28 29 30 | MORTGAGE CORP | 2. Made available by the Federal Home Loan Poration or the Federal National Mortgage |

31 12–311.

| 1 2 3 4 5 | borrower's ability to repa the fully indexed rate or | y not make a mortgage loan without giving due regard to the by the mortgage loan in accordance with its terms, including if the mortgage loan, if applicable, and property taxes and whether or not an escrow account is established for the other expenses. |
|-----------------------|---|--|
| 6 7 | (e) (1) Due r include: | egard to a borrower's ability to repay a mortgage loan must |
| 8 9 | (i) including existing debts a | Consideration of the borrower's debt to income ratio, and other obligations; and |
| 10 11 12 | | Verification of the borrower's gross monthly income and d-party written documentation reasonably believed by the complete. |
| 13 | (2) Accep | table third–party written documentation includes: |
| 14 | (i) | The borrower's Internal Revenue Service form W–2; |
| 15 | (ii) | A copy of the borrower's income tax return; |
| 16 | (iii) | Payroll receipts; |
| 17 | (iv) | The records of a financial institution; or |
| 18 19 | (v) reliable evidence of the bo | Other third-party documents that provide reasonably orrower's income or assets. |
| 20 | (3) This s | ubsection does not apply to a mortgage loan [approved]: |
| 21 22 23 | (I) Housing Administration Administration; OR | APPROVED for government guaranty by the Federal, Veterans Administration, or Community Development |
| 24 25 | (II) THE REFINANCE MORTO | THAT REFINANCES AN EXISTING MORTGAGE LOAN IF |
| 26 27 | AFFORDABILITY AND S | 1. OFFERED UNDER THE FEDERAL HOMEOWNER FABILITY PLAN; AND |
| 28 29 30 | MORTGAGE CORPORA ASSOCIATION. | 2. Made available by the Federal Home Loan ation or the Federal National Mortgage |

| 1 | 12–409.1. | | |
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| 2 3 4 5 6 | (b) A lender may not make a secondary mortgage loan without giving due regard to the borrower's ability to repay the secondary mortgage loan in accordance with its terms, including the fully indexed rate of the secondary mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses. | | |
| 7 8 | (c) (1) loan must include: | | regard to a borrower's ability to repay a secondary mortgage |
| 9 10 | including existing | (i) debts | Consideration of the borrower's debt to income ratio, and other obligations; and |
| 11 12 13 | assets by review lender to be accura | | Verification of the borrower's gross monthly income and rd-party written documentation reasonably believed by the d complete. |
| 14 | (2) | Acce | ptable third-party written documentation includes: |
| 15 | | (i) | The borrower's Internal Revenue Service form W-2; |
| 16 | | (ii) | A copy of the borrower's income tax return; |
| 17 | | (iii) | Payroll receipts; |
| 18 | | (iv) | The records of a financial institution; or |
| 19 20 | reliable evidence o | (v) of the b | Other third-party documents that provide reasonably corrower's income or assets. |
| 21 22 | (3) [approved]: | This | subsection does not apply to a secondary mortgage loan |
| 23 24 25 | Housing Administration; O | | APPROVED for government guaranty by the Federal n, Veterans Administration, or Community Development |
| 26 27 | THE REFINANCE | (II) MORT | THAT REFINANCES AN EXISTING MORTGAGE LOAN IF GAGE LOAN IS: |

1. Offered under the federal Homeowner 29 **Affordability and Stability Plan; and**

| 1 2 3 | MORTGAGE CO ASSOCIATION. | 2. RPORATION | | | HE FEDERAL I | |
|---------------------------------|--|--|--|---------------------------------------|--------------------------------|------------------------------|
| 4 | 12–925. | | | | | |
| 5 6 7 8 9 | (b) A cre regard to the born terms, including to property taxes an established for the | rower's abilit the fully ind id homeowne | y to repay th lexed rate of er's insurance | the mortgage the mortga whether or | ge loan, if ap not an escro | ance with its pplicable, and |
| 10 11 | (c) (1) include: | Due regard | to a borrower | 's ability to r | epay a mortga | age loan must |
| 12 13 | including existing | | | | r's debt to i | income ratio, |
| 14 15 16 | assets by review credit grantor to be | of third–part | y written doo | | gross monthly reasonably be | |
| 17 | (2) | Acceptable t | hird–party wr | ritten docume | ntation include | es: |
| 18 | | (i) The b | orrower's Inte | rnal Revenue | Service form | W-2; |
| 19 | | (ii) A copy | y of the borrov | ver's income t | ax return; | |
| 20 | | (iii) Payro | ll receipts; | | | |
| 21 | | (iv) The re | ecords of a fina | ancial institu | tion; or | |
| 22 23 | reliable evidence of | | | | that provide | e reasonably |
| 24 | (3) | This subsect | ion does not a | pply to a mor | tgage loan [ap | proved]: |
| 25 26 27 | Housing Administration; OI | tration, Vet | _ | | guaranty by Community | |
| 28 | | • • | | S AN EXIST | ING MORTGA | GE LOAN IF |
| 2930 | THE REFINANCE I | MORTGAGE I 1. | | INDER THE | FEDERAL H | IOMFOWNED |

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AFFORDABILITY AND STABILITY PLAN; AND

| 1 2 3 | 2. MADE AVAILABLE BY THE FEDERAL HOME LOAN MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION. |
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| 4 | 12–1029. |
| 5 6 7 8 9 | (b) A credit grantor may not make a mortgage loan without giving due regard to the borrower's ability to repay the mortgage loan in accordance with its terms, including the fully indexed rate of the mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses. |
| 10 11 | (c) (1) Due regard to a borrower's ability to repay a mortgage loan must include: |
| 12 13 | (i) Consideration of the borrower's debt to income ratio including existing debts and other obligations; and |
| 14 15 16 | (ii) Verification of the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the credit grantor to be accurate and complete. |
| 17 | (2) Acceptable third–party written documentation includes: |
| 18 | (i) The borrower's Internal Revenue Service form W-2; |
| 19 | (ii) A copy of the borrower's income tax return; |
| 20 | (iii) Payroll receipts; |
| 21 | (iv) The records of a financial institution; or |
| 22 23 | (v) Other third–party documents that provide reasonably reliable evidence of the borrower's income or assets. |
| 24 | (3) This subsection does not apply to a mortgage loan [approved]: |
| 25 26 27 | (I) APPROVED for government guaranty by the Federal Housing Administration, Veterans Administration, or Community Development Administration; OR |
| 28 29 | (II) THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE REFINANCE MORTGAGE LOAN IS: |

| 1 | 1. OFFERED UNDER THE FEDERAL HOMEOWNER |
|---|--|
| 2 | AFFORDABILITY AND STABILITY PLAN; AND |
| 3 | 2. MADE AVAILABLE BY THE FEDERAL HOME LOAN |
| 4 | MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE |
| 5 | ASSOCIATION. |
| 6 | SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency |
| 7 | measure, is necessary for the immediate preservation of the public health or safety, |
| 8 | has been passed by a yea and nay vote supported by three-fifths of all the members |

elected to each of the two Houses of the General Assembly, and shall take effect from

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the date it is enacted.