

SENATE BILL 1036

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EMERGENCY BILL

9lr3387
CF HB 1535

By: **Senator Middleton**

Introduced and read first time: March 9, 2009

Assigned to: Rules

Re-referred to: Finance, March 13, 2009

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 27, 2009

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of establishing ~~an exception~~ certain exceptions for certain mortgage
4 loans that refinance an existing mortgage loan to the requirement that the due
5 regard certain lenders and credit grantors must give to a borrower's ability to
6 repay certain mortgage loans include consideration of the borrower's debt to
7 income ratio and verification in a certain manner of certain income and assets of
8 the borrower; making this Act an emergency measure; and generally relating to
9 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:

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.



Article – Commercial Law

12–127.

(b) A lender 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.

(c) (1) Due regard to a borrower's ability to repay a mortgage loan must include:

(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(ii) Verification of the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the lender to be accurate and complete.

(2) Acceptable third-party written documentation includes:

(i) The borrower's Internal Revenue Service form W-2;

(ii) A copy of the borrower's income tax return;

(iii) Payroll receipts;

(iv) The records of a financial institution; or

(v) Other third-party documents that provide reasonably reliable evidence of the borrower's income or assets.

(3) This subsection does not apply to a mortgage loan [approved]:

(I) **APPROVED** for government guaranty by the Federal Housing Administration, **THE** Veterans Administration, **THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT,** or **THE** Community Development Administration; **OR**

(II) **THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE REFINANCE MORTGAGE LOAN IS:**

1. OFFERED UNDER THE FEDERAL HOMEOWNER AFFORDABILITY AND STABILITY PLAN; AND

1 **2. MADE AVAILABLE BY THE FEDERAL HOME LOAN**
2 **MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE**
3 **ASSOCIATION.**

4 12-311.

5 (d) A lender may not make a mortgage loan without giving due regard to the
6 borrower's ability to repay the mortgage loan in accordance with its terms, including
7 the fully indexed rate of the mortgage loan, if applicable, and property taxes and
8 homeowner's insurance whether or not an escrow account is established for the
9 collection and payment of these expenses.

10 (e) (1) Due regard to a borrower's ability to repay a mortgage loan must
11 include:

12 (i) Consideration of the borrower's debt to income ratio,
13 including existing debts and other obligations; and

14 (ii) Verification of the borrower's gross monthly income and
15 assets by review of third-party written documentation reasonably believed by the
16 lender 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 (v) Other third-party documents that provide reasonably
23 reliable evidence of the borrower's income or assets.

24 (3) This subsection does not apply to a mortgage loan [approved]:

25 (I) **APPROVED** for government guaranty by the Federal
26 Housing Administration, THE Veterans Administration, THE UNITED STATES
27 DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING
28 AND COMMUNITY DEVELOPMENT, or THE Community Development
29 Administration; **OR**

30 (II) **THAT REFINANCES AN EXISTING MORTGAGE LOAN IF**
31 **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 12-409.1.

7 (b) A lender may not make a secondary mortgage loan without giving due
8 regard to the borrower's ability to repay the secondary mortgage loan in accordance
9 with its terms, including the fully indexed rate of the secondary mortgage loan, if
10 applicable, and property taxes and homeowner's insurance whether or not an escrow
11 account is established for the collection and payment of these expenses.

12 (c) (1) Due regard to a borrower's ability to repay a secondary mortgage
13 loan must include:

14 (i) Consideration of the borrower's debt to income ratio,
15 including existing debts and other obligations; and

16 (ii) Verification of the borrower's gross monthly income and
17 assets by review of third-party written documentation reasonably believed by the
18 lender to be accurate and complete.

19 (2) Acceptable third-party written documentation includes:

20 (i) The borrower's Internal Revenue Service form W-2;

21 (ii) A copy of the borrower's income tax return;

22 (iii) Payroll receipts;

23 (iv) The records of a financial institution; or

24 (v) Other third-party documents that provide reasonably
25 reliable evidence of the borrower's income or assets.

26 (3) This subsection does not apply to a secondary mortgage loan
27 [approved]:

28 (I) **APPROVED** for government guaranty by the Federal
29 Housing Administration, THE Veterans Administration, THE UNITED STATES
30 DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING
31 AND COMMUNITY DEVELOPMENT, or THE Community Development
32 Administration; **OR**

(II) THAT REFINANCES AN EXISTING MORTGAGE LOAN IF
THE REFINANCE MORTGAGE LOAN IS:

1. OFFERED UNDER THE FEDERAL HOMEOWNER
AFFORDABILITY AND STABILITY PLAN; AND

2. MADE AVAILABLE BY THE FEDERAL HOME LOAN
MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE
ASSOCIATION.

12-925.

(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.

(c) (1) Due regard to a borrower's ability to repay a mortgage loan must include:

(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(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.

(2) Acceptable third-party written documentation includes:

(i) The borrower's Internal Revenue Service form W-2;

(ii) A copy of the borrower's income tax return;

(iii) Payroll receipts;

(iv) The records of a financial institution; or

(v) Other third-party documents that provide reasonably reliable evidence of the borrower's income or assets.

(3) This subsection does not apply to a mortgage loan [approved]:

(I) **APPROVED** for government guaranty by the Federal Housing Administration, THE Veterans Administration, THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING

1 AND COMMUNITY DEVELOPMENT, or THE Community Development
2 Administration; OR

3 (II) THAT REFINANCES AN EXISTING MORTGAGE LOAN IF
4 THE REFINANCE MORTGAGE LOAN IS:

5 1. OFFERED UNDER THE FEDERAL HOMEOWNER
6 AFFORDABILITY AND STABILITY PLAN; AND

7 2. MADE AVAILABLE BY THE FEDERAL HOME LOAN
8 MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE
9 ASSOCIATION.

10 12–1029.

11 (b) A credit grantor may not make a mortgage loan without giving due
12 regard to the borrower's ability to repay the mortgage loan in accordance with its
13 terms, including the fully indexed rate of the mortgage loan, if applicable, and
14 property taxes and homeowner's insurance whether or not an escrow account is
15 established for the collection and payment of these expenses.

16 (c) (1) Due regard to a borrower's ability to repay a mortgage loan must
17 include:

18 (i) Consideration of the borrower's debt to income ratio,
19 including existing debts and other obligations; and

20 (ii) Verification of the borrower's gross monthly income and
21 assets by review of third-party written documentation reasonably believed by the
22 credit grantor to be accurate and complete.

23 (2) Acceptable third-party written documentation includes:

24 (i) The borrower's Internal Revenue Service form W–2;

25 (ii) A copy of the borrower's income tax return;

26 (iii) Payroll receipts;

27 (iv) The records of a financial institution; or

28 (v) Other third-party documents that provide reasonably
29 reliable evidence of the borrower's income or assets.

30 (3) This subsection does not apply to a mortgage loan [approved]:

(I) **APPROVED** for government guaranty by the Federal Housing Administration, THE Veterans Administration, THE UNITED STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, or THE Community Development Administration; **OR**

(II) **THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE REFINANCE MORTGAGE LOAN IS:**

1. OFFERED UNDER THE FEDERAL HOMEOWNER AFFORDABILITY AND STABILITY PLAN; AND

2. MADE AVAILABLE BY THE FEDERAL HOME LOAN MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, 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 the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.