

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Revised

Senate Bill 1063

(Senator Madaleno)

Finance

Economic Matters

Task Force to Study Unlicensed and Deceptive Real Estate Practices

This bill establishes the Task Force to Study Unlicensed and Deceptive Real Estate Practices in the State, staffed by the Community Law Center, located in Baltimore City. The bill specifies the membership of the task force and requires the Governor to designate a chairperson. The task force must submit a report of its findings and recommendations to the Governor and the General Assembly by December 31, 2010.

The bill takes effect July 1, 2010, and terminates December 31, 2010.

Fiscal Summary

State Effect: None. The bill does not affect governmental operations or finances because staffing for the task force will be provided by the Community Law Center, which is not a government agency.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The task force is charged with various responsibilities, including:

- studying how to reduce the incidence of and improve the enforcement of fraudulent and deceptive real estate practices, particularly in the areas of (1) real estate investing; (2) loan and debt modification; (3) purchase and selling of real

estate; (4) mortgage lending; (5) residential housing foreclosure; and (6) “get rich quick” schemes and programs;

- studying transparency in entity formation regarding real estate-related enterprises;
- making recommendations on the regulation of nonregulated entities that offer a program of real estate business-related training for a fee; and
- making recommendations regarding consumer outreach and education to aid consumers in identifying and avoiding fraudulent and deceptive real estate practices.

Task force members may not receive compensation but are entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

Background: The Community Law Center, a nonprofit organization, provides legal services and technical assistance to community organizations, small businesses, and other nonprofit organizations in an effort to improve the quality of life and economic viability of local communities.

The State’s multifaceted approach to the foreclosure crisis has involved legislative reforms of mortgage lending laws, extensive consumer outreach efforts, and enhanced mortgage industry regulation and enforcement. Legislation passed during the 2008 and 2009 sessions:

- created the Mortgage Fraud Protection Act, Maryland’s first comprehensive mortgage fraud statute;
- tightened mortgage lending standards and required a lender to give due regard to a borrower’s ability to repay a loan;
- prohibited foreclosure rescue transactions and granted the Commissioner of Financial Regulation additional enforcement powers;
- reformed the foreclosure process to provide homeowners with greater time and additional notices before their properties are sold; and
- required additional notices to be given to residential tenants renting properties pending foreclosure.

Consumer outreach efforts include statewide public workshops to assist distressed homeowners, in coordination with the Maryland Foreclosure Prevention Pro Bono Project. Since July 2008, over 1,000 volunteer attorneys trained through the project have provided free legal advice at foreclosure solutions workshops and represented borrowers referred from nonprofit housing counseling agencies. The project is coordinated by the Pro Bono Resource Center of Maryland in collaboration with other State agencies, the Maryland State Bar Association, and other nonprofit housing counseling service

providers. In addition to the project, the State has sponsored more than 200 public foreclosure solution workshops attended by approximately 25,000 homeowners.

The consumer services unit of the Office of the Commissioner of Financial Regulation consists of nine examiners and is responsible for the investigation and resolution of consumer inquiries. These inquiries involve banks, mortgage lenders, mortgage servicers, collection agencies, other regulated parties, and complaints regarding nonlicensed entities, such as debt settlement companies. In addition, the consumer services unit receives complaints about institutions outside of the office's jurisdiction. Most mortgages, for example, are serviced by national banks such as Bank of America or Wells Fargo, and the unit redirects these complaints to the appropriate regulator.

The residential foreclosure crisis has led to an increase in foreclosure-related complaints, including those involving loss-mitigation and foreclosure rescue consultants. Other mortgage-related complaints involve persons promising to negotiate with lenders or servicers to modify the terms of delinquent loans. The unit also addresses consumer inquiries about forced-placed insurance issues, the failure of servicers to credit a loan for mortgage payments, or the assessment of undue penalties and fees. The unit also fields a significant number of phone calls from homeowners seeking to avoid foreclosure. The latter are typically referred to the Department of Housing and Community Development's Home Owners Preserving Equity Foreclosure Prevention and Assistance Program for counseling.

According to DHCD, 1 in every 147 U.S. households received a foreclosure filing during the fourth quarter of 2009. During the same time, 1 in 138 Maryland households received a foreclosure filing, 6.1% above the national average. Maryland's foreclosure concentration rate was the tenth highest in the nation in the fourth quarter of 2009, up from the twelfth highest foreclosure concentration rate in the previous quarter.

Additional Comments: Although the bill specifies that members may receive reimbursements for expenses incurred in the course of their service on the task force, it is unclear which State agency is responsible for reimbursing task force members. It is assumed that task force members who are State employees may be reimbursed by their respective agencies. Nonetheless, any such reimbursements are assumed to be minimal and absorbable within existing budgeted resources. It is unclear whether or how task force members who are not employed by the State receive reimbursements for expenses related to their membership on the task force.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Housing and Community Development;
Department of Labor, Licensing, and Regulation; Department of Legislative Services

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