

Chapter 148

(House Bill 944)

AN ACT concerning

Financial Institutions – Mortgage Lenders and Mortgage Loan Originators

FOR the purpose of requiring a person who is exempt from certain mortgage lender licensing requirements and who employs a licensed mortgage loan originator to register with the Nationwide Mortgage Licensing System and Registry; repealing certain obsolete provisions of law relating to mortgage lender licensing requirements for certain sole proprietors; requiring an applicant for a mortgage lender license and a licensed mortgage lender to provide fingerprints for submission to certain governmental agencies or entities for certain criminal history background checks; altering the circumstances under which a mortgage lender license applicant or licensee may be required to provide certain information to the Nationwide Mortgage Licensing System and Registry; authorizing the Commissioner of Financial Regulation to request from certain agencies certain records, information, and receipts relating to criminal history records or background checks of mortgage lender and mortgage loan originator license applicants and licensees; requiring certain mortgage lender license applicants and licensees to pay certain processing or other fees related to a criminal history records check or criminal history background check; altering the circumstances under which a mortgage loan originator license must remain in nonactive status; authorizing a mortgage loan originator license to be issued to an individual who is not employed by a licensed mortgage lender or a person exempt from licensing as a mortgage lender under certain circumstances; authorizing a mortgage loan originator license to be issued to an individual who is employed by a person exempt from licensing as a mortgage lender under certain circumstances; altering the circumstances under which a mortgage loan originator license may be issued to an individual who is employed by a mortgage lender; repealing a certain obsolete provision of law exempting a mortgage lender licensee from a requirement to maintain an office in the State; repealing certain provisions of law relating to interim mortgage loan originator licenses and provisional approval of an application for a mortgage loan originator license; defining a certain term; making certain stylistic and conforming changes; and generally relating to the regulation of mortgage lenders and mortgage loan originators.

BY adding to

Article – Financial Institutions

Section 11–505(g) and 11–603(d)

Annotated Code of Maryland

(2003 Replacement Volume and 2010 Supplement)

BY repealing

Article – Financial Institutions
 Section 11–506(c), 11–603(e), and 11–605.1
 Annotated Code of Maryland
 (2003 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,

Article – Financial Institutions
 Section ~~11–506(d)~~ 11–506(b) and (d), 11–506.1, 11–603(c) and (d), 11–604, and
 11–607
 Annotated Code of Maryland
 (2003 Replacement Volume and 2010 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Financial Institutions

11–505.

(G) A PERSON EXEMPT FROM LICENSING UNDER THIS SUBTITLE WHO EMPLOYS A MORTGAGE LOAN ORIGINATOR LICENSED UNDER SUBTITLE 6 OF THIS TITLE SHALL BE REGISTERED WITH THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

11–506.

(b) (1) [Except as provided in subsection (c) of this section, to] TO qualify for a license, the applicant shall satisfy the Commissioner that the applicant has at least 3 years of experience in the mortgage lending business.

(2) If the applicant is a sole proprietor, the applicant shall have the required experience.

(3) If the applicant is a joint venture, or general or limited partnership, at least one of the coventurers or general partners shall have the required experience.

(4) If the applicant is a business entity of any other kind, type, or classification, at least one of the principal officers or members shall have the required experience.

[(c) (1) The Commissioner may issue a license to an applicant who is a sole proprietor and who does not meet the experience requirement under subsection (b) of this section if:

(i) The applicant:

1. Is a licensed insurance producer in good standing under § 10–103 of the Insurance Article; and

2. Holds an appointment as an insurance producer for an insurer that controls, is controlled by, or is under common control with a financial institution described in § 11–502(b)(1) of this subtitle;

(ii) The applicant agrees to limit the applicant's activities to brokering mortgage loans made by the single financial institution identified under item (i)2 of this paragraph;

(iii) The financial institution and affiliated insurer with which the applicant holds a current appointment are identified in the applicant's application;

(iv) The Commissioner approves the selection of the financial institution based on the following criteria:

1. The financial institution is in good standing with its primary State or federal regulator; and

2. The financial institution is in material compliance with applicable State or federal law;

(v) The applicant meets all other requirements for licensure as a mortgage lender under this subtitle;

(vi) The applicant has successfully completed at least 20 hours of classroom instruction in residential mortgage lending courses as provided in regulations adopted by the Commissioner and achieved a passing grade on a written exam developed and administered by the person that conducts the classroom education course;

(vii) An authorized representative of the financial institution identified under item (i)2 of this paragraph signs the license application; and

(viii) The financial institution identified under item (i)2 of this paragraph agrees to:

1. Supervise the applicant, including providing direction through written instructions or electronic means and by periodically examining the applicant's books, records, and other aspects of the business; and

2. Be held jointly and severally liable with the applicant for claims arising out of the applicant's mortgage brokering activities.

(2) Except as provided in paragraph (3) of this subsection, a sole proprietor who is issued a license under this subsection may not:

(i) Aid or assist a borrower to obtain a loan from a financial institution other than the financial institution identified in the application for the license;

(ii) 1. Be compensated by any person for mortgage brokerage activities on a basis that depends on the loan amount, interest rate, fees, or other terms of the brokered loan; or

2. Receive a finder's fee, as defined under Title 12, Subtitle 8 of the Commercial Law Article;

(iii) Handle borrower or other third party funds in connection with the brokering or closing of mortgage loans;

(iv) Refer a borrower to any other licensee under this subtitle; or

(v) Make mortgage loans.

(3) A sole proprietor who is issued a license under this subsection may forward a check to the financial institution identified under paragraph (1)(i)2 of this subsection if:

(i) The check is made payable to the financial institution from a borrower; and

(ii) The check is in connection with an application for a mortgage loan to cover costs for:

1. An appraisal;

2. A credit report; or

3. Processing an application.]

[(d) (C)] (1) Except as provided in paragraph (2) of this subsection, the Commissioner may deny an application for a license to any person who has been officially reprimanded or has committed any act that would be a ground for suspension or revocation of a license under this subtitle.

(2) The Commissioner shall deny an application for a license filed by:

(i) An individual who has been convicted within the last 10 years of a felony involving fraud, theft, or forgery; and

(ii) An entity that has a director, officer, partner, member, or owner of 10 percent or more of the entity who has been convicted within the last 10 years of a felony involving fraud, theft, or forgery.

11-506.1.

(A) IN THIS SECTION, "CENTRAL REPOSITORY" MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

[(a)] (B) This section [shall] **DOES** not apply to any corporation the securities of which are exempt from registration under § 11-601(8) or (12) of the Corporations and Associations Article.

[(b)] (C) In connection with an initial application and at any other time the Commissioner requests, each applicant or licensee shall provide fingerprints for [use]:

(1) USE by the [Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services] **CENTRAL REPOSITORY** to conduct **STATE** criminal history records checks; **AND**

(2) SUBMISSION TO THE FEDERAL BUREAU OF INVESTIGATION, AND ANY OTHER GOVERNMENTAL AGENCY OR ENTITY AUTHORIZED TO RECEIVE THIS INFORMATION, FOR A STATE, NATIONAL, OR INTERNATIONAL CRIMINAL HISTORY BACKGROUND CHECK.

[(c)] (D) In addition to the requirement under subsection **[(b)] (C)** of this section, **IF THE COMMISSIONER REQUIRES** in connection with an initial application, and at any other time the Commissioner requests, an applicant or licensee shall provide to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) Fingerprints for submission to the Federal Bureau of Investigation, and any other governmental agency or entity authorized to receive this information, for a state, national, or international criminal history background check; and

(2) Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the Commissioner to obtain:

(i) An independent credit report from a consumer reporting agency described in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681a(p); and

(ii) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(E) THE COMMISSIONER MAY REQUEST FROM THE CENTRAL REPOSITORY, THE FEDERAL BUREAU OF INVESTIGATION, OR THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AS APPLICABLE, FOR EACH APPLICANT OR LICENSEE WHO IS REQUIRED TO PROVIDE FINGERPRINTS UNDER SUBSECTION (C) OR (D) OF THIS SECTION:

(1) (I) THE STATE, NATIONAL, OR INTERNATIONAL CRIMINAL HISTORY RECORDS OF THE APPLICANT OR LICENSEE; AND

(II) A PRINTED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE;

(2) (I) AN UPDATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE APPLICANT OR LICENSEE; AND

(II) A REVISED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE OCCURRING AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK; AND

(3) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE APPLICANT OR LICENSEE.

(F) AN APPLICANT OR LICENSEE WHO IS REQUIRED TO PROVIDE FINGERPRINTS UNDER SUBSECTION (C) OR (D) OF THIS SECTION SHALL PAY ANY PROCESSING OR OTHER FEES REQUIRED BY THE CENTRAL REPOSITORY, THE FEDERAL BUREAU OF INVESTIGATION, AND THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

[(d)] (G) To implement this subtitle, the Commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent to request information from and distribute information to the Department of Justice, any other governmental agency with subject matter jurisdiction, and any other state licensing

entity that has loan originators registered with the Nationwide Mortgage Licensing System and Registry.

11-603.

- (c) (1) The Commissioner shall include on each license:
- (i) The name of the licensee;
 - (ii) The name of the licensee's employer; and
 - (iii) The unique identifier of the licensee if the licensee has been issued a unique identifier.
- (2) An individual may not act as a mortgage loan originator under a name or for an employer that is different from the name and employer that appear on the license unless the licensee:
- (i) Notifies the Commissioner in writing in advance of a change in the licensee's name or the licensee's employer;
 - (ii) Pays to the Commissioner a license amendment fee set by the Commissioner for each notice provided under this paragraph;
 - (iii) Returns to the Commissioner the licensee's license, or an affidavit stating that the license has been lost or destroyed; and
 - (iv) In the case of a new employer, submits to the Commissioner a notarized statement from the licensee's new employer that the licensee is an employee of the new employer.
- (3) If a licensee ceases to be employed by a licensed mortgage lender or by a person exempt from licensing as a mortgage lender, the licensee shall notify the Commissioner within 10 business days, and the license shall be placed into nonactive status.
- (4) During the time that a license is in nonactive status, it is a violation of this subtitle for the licensee to engage in any activity for which a license is required under this subtitle.
- (5) The license shall remain in nonactive status until[:
- (i) The] **THE** licensee:

[1.] (I) Notifies the Commissioner in writing that the licensee has obtained employment with a licensed mortgage lender or with a person exempt from licensing as a mortgage lender; and

[2.] (II) Has complied with the requirements set forth in paragraph (2) of this subsection]; or

(ii) The license expires or is revoked].

(D) A LICENSE MAY BE ISSUED UNDER THIS SUBTITLE TO AN INDIVIDUAL WHO IS NOT EMPLOYED BY A LICENSED MORTGAGE LENDER OR A PERSON EXEMPT FROM LICENSING AS A MORTGAGE LENDER PROVIDED THE LICENSE IS PLACED INTO AND REMAINS IN NONACTIVE STATUS UNTIL THE LICENSEE:

(1) NOTIFIES THE COMMISSIONER IN WRITING THAT THE LICENSEE HAS OBTAINED EMPLOYMENT WITH A LICENSED MORTGAGE LENDER OR WITH A PERSON EXEMPT FROM LICENSING AS A MORTGAGE LENDER; AND

(2) HAS COMPLIED WITH THE REQUIREMENTS SET FORTH IN SUBSECTION (C)(2) OF THIS SECTION.

[(d)] (E) A license may be issued under this subtitle to an individual who is employed by a mortgage lender, OR A PERSON EXEMPT FROM LICENSING AS A MORTGAGE LENDER, that has its principal office located outside the State if the mortgage lender OR THE PERSON EXEMPT FROM LICENSING AS A MORTGAGE LENDER maintains[:

(1) A] A resident agent within the State]; and

(2) An office within the State staffed by at least one employee authorized to originate mortgage loans].

[(e) Notwithstanding subsection (d)(2) of this section, a mortgage lender is not required to maintain an office in this State if the laws of the state in which its principal office is located authorize a mortgage lender from this State to engage in mortgage lending without maintaining an office in that state.]

11-604.

(A) IN THIS SECTION, “CENTRAL REPOSITORY” MEANS THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

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

(2) The applicant shall comply with all conditions and provisions of the application for a license.

[(b)] (C) With each application, the applicant shall pay to the Commissioner:

- (1) A nonrefundable investigation fee set by the Commissioner; and
- (2) A license fee set by the Commissioner.

[(c)] (D) In addition to the license fee required under subsection **[(b)(2)] (C)(2)** of this section, an applicant for an initial license shall pay to the Nationwide Mortgage Licensing System and Registry any fees that the Nationwide Mortgage Licensing System and Registry imposes in connection with the application.

[(d)] (E) In connection with an initial application for a license under this section and at any other time the Commissioner requests, an applicant or licensee shall provide to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) Fingerprints for submission to the Federal Bureau of Investigation, and any other governmental agency or entity authorized to receive this information for a state, national, or international criminal history background check; and

(2) Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the Commissioner to obtain:

(i) An independent credit report from a consumer reporting agency described in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681a(p); and

(ii) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

[(e)] (F) To implement this subtitle, the Commissioner may use the Nationwide Mortgage Licensing System and Registry as a channeling agent to request information from and distribute information to the Department of Justice, any other governmental agency with subject matter jurisdiction, and any other state licensing entity that has loan originators registered with the Nationwide Mortgage Licensing System and Registry.

[(f)] (G) In addition to the requirement under subsection **[(d)](E)** of this section, in connection with an initial application for a license under this section, and at any other time that the Commissioner requests, an applicant or licensee shall provide fingerprints for use by the **[Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services] CENTRAL REPOSITORY** to conduct criminal history records checks.

[(g)] (H) An applicant or licensee **WHO IS** required to provide fingerprints under **SUBSECTION (E) OR (G) OF** this section shall pay any processing or other fees required by the **CENTRAL REPOSITORY, THE** Federal Bureau of Investigation, **AND** the Nationwide Mortgage Licensing System and Registry~~], and the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services]~~.

(I) THE COMMISSIONER MAY REQUEST FROM THE CENTRAL REPOSITORY, THE FEDERAL BUREAU OF INVESTIGATION, OR THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AS APPLICABLE, FOR EACH APPLICANT OR LICENSEE WHO IS REQUIRED TO PROVIDE FINGERPRINTS UNDER SUBSECTION (E) OR (G) OF THIS SECTION:

(1) (I) THE STATE, NATIONAL, OR INTERNATIONAL CRIMINAL HISTORY RECORDS OF THE APPLICANT OR LICENSEE; AND

(II) A PRINTED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE;

(2) (I) AN UPDATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE APPLICANT OR LICENSEE; AND

(II) A REVISED STATEMENT LISTING ANY CONVICTION OR OTHER DISPOSITION OF, AND ANY PLEA OF GUILTY OR NOLO CONTENDERE TO, ANY CRIMINAL CHARGE OCCURRING AFTER THE DATE OF THE INITIAL CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK; AND

(3) AN ACKNOWLEDGED RECEIPT OF THE APPLICATION FOR A CRIMINAL HISTORY RECORDS CHECK OR CRIMINAL HISTORY BACKGROUND CHECK OF THE APPLICANT OR LICENSEE.

[11-605.1.

(a) Subject to subsections (b) through (g) of this section, the Commissioner may issue an interim mortgage loan originator license to an individual who provides to the Commissioner written proof, satisfactory to the Commissioner, that the individual:

(1) Is employed by a person who:

(i) Is a licensed mortgage lender, or is exempt from licensing, under Subtitle 5 of this title;

(ii) Makes mortgage loans; and

(iii) Is not a mortgage broker; or

(2) As of July 1, 2009, and the date of application for an interim license, owns a 25 percent or more interest in a mortgage lender.

(b) The Commissioner may accept applications for initial interim mortgage loan originator licenses through July 31, 2009.

(c) The term of an interim mortgage loan originator license shall:

(1) Begin on the date the license is issued; and

(2) Expire on December 31, 2010.

(d) An applicant for an interim mortgage loan originator license shall meet the qualifications for licensure as required by this subtitle, except that the applicant or interim licensee may comply with the following on or before July 31, 2010:

(1) The fingerprinting and criminal history report requirement under § 11–604 of this subtitle;

(2) The surety bond coverage requirement under § 11–619 of this subtitle;

(3) The prelicensing education requirement under § 11–606 of this subtitle; and

(4) The prelicensing testing requirement under § 11–606.1 of this subtitle.

(e) (1) This subsection does not apply to an individual described in subsection (a)(2) of this section.

(2) Subject to paragraph (3) of this subsection, an individual holding an interim mortgage loan originator license:

(i) May engage only in transactions in which the individual's employer makes a mortgage loan; and

(ii) May not engage in transactions in which the individual's employer acts as a mortgage broker, as defined in § 11-501 of this title.

(3) The restrictions on an individual's activities under paragraph (1) of this subsection shall terminate on the individual's compliance with:

(i) The fingerprinting and criminal history report requirement under § 11-604 of this subtitle;

(ii) The surety bond coverage requirement under § 11-619 of this subtitle;

(iii) The prelicensing education requirement under § 11-606 of this subtitle; and

(iv) The prelicensing testing requirement under § 11-606.1 of this subtitle.

(f) With each application for an interim mortgage loan originator license, the applicant shall pay to the Commissioner:

(1) The nonrefundable investigation fee required under § 11-604(b)(1) of this subtitle;

(2) 150 percent of the licensing fee required under § 11-604(b)(2) of this subtitle; and

(3) Any fees imposed by the Nationwide Mortgage Licensing System and Registry under § 11-604(c) of this subtitle.

(g) In addition to any other information required to be placed on a license under this subtitle, the Commissioner shall print the words "interim mortgage loan originator license" on each license issued under this section.】

11-607.

(a) When an applicant for a license files the application and pays the fees required by § 11-604 of this subtitle, the Commissioner shall conduct an investigation to determine if the applicant meets the requirements of § 11-605 of this subtitle.

(b) The Commissioner shall issue a license to an applicant who meets the requirements of § 11-605 of this subtitle.

[(c) If the Commissioner has not notified the applicant in writing that the applicant's application is incomplete or has been denied within 30 days after the Commissioner receives the completed application, the application shall be considered provisionally approved.]

[(d) (C) If the Commissioner notifies an applicant that the application is incomplete:

(1) The Commissioner's notice shall itemize the steps which the applicant must take to complete the application; and

(2) The application shall not be [considered provisionally] approved until [30 days] after the applicant supplies or completes all items and steps identified in the Commissioner's notice.

[(e) Whether or not an application has been provisionally approved, the Commissioner may deny an application:]

(D) THE COMMISSIONER MAY DENY AN APPLICATION:

(1) If the applicant fails to qualify for a license under this subtitle; or

(2) For any reason that a license may be revoked or suspended under this subtitle or a mortgage lender license may be suspended or revoked under § 11-517 of this title.

[(f) (E) The Commissioner shall approve or deny an application within 60 days after the Commissioner receives a completed application.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.