

SENATE BILL 546

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2lr0020

By: **Chair, Finance Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: February 3, 2012

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 24, 2012

CHAPTER _____

1 AN ACT concerning

2 **Financial Institutions – Mortgage Lenders and Mortgage Loan Originators**

3 FOR the purpose of providing that an applicant for a mortgage lender license or a
4 mortgage loan originator license shall complete, sign, and submit an application
5 in accordance with the process that the Commissioner of Financial Regulation
6 requires; providing that the applicants shall provide certain information to the
7 Commissioner; making certain mortgage lender and mortgage loan originator
8 license fees nonrefundable; requiring a mortgage lender licensee to provide
9 proof to the Commissioner of satisfying certain minimum net worth
10 requirements within a certain time period; altering the initial license term and
11 renewal period for a mortgage lender license; altering certain reporting
12 requirements for mortgage lender licensees; requiring a mortgage lender who is
13 exempt from certain licensing requirements to submit certain reports to the
14 Nationwide Mortgage Licensing System and Registry on behalf of certain
15 persons; altering the circumstances under which an individual is prohibited
16 from acting as a mortgage loan originator under a certain name or for a certain
17 employer; prohibiting an individual from acting as an affiliated insurance
18 producer–mortgage loan originator under a certain name or for a certain
19 employer unless the individual takes certain actions; requiring a certain
20 mortgage loan originator licensee who ceases to be employed by a certain
21 financial institution to notify the Commissioner within a certain time period;
22 requiring a certain mortgage loan originator licensee’s license to be placed into
23 nonactive status under certain circumstances; providing that it is a violation of
24 certain provisions of law to engage in any activity for which a certain mortgage

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.



1 loan originator license is required while the license is in nonactive status;
 2 requiring a certain mortgage loan originator license that is in nonactive status
 3 to remain in nonactive status until the licensee takes certain actions;
 4 authorizing the Commissioner to issue a certain mortgage loan originator
 5 license to an individual who is not employed by a certain financial institution
 6 under certain circumstances; repealing certain obsolete provisions of law;
 7 making certain stylistic and conforming changes; and generally relating to the
 8 regulation of mortgage lenders and mortgage loan originators.

9 BY repealing and reenacting, with amendments,
 10 Article – Financial Institutions
 11 Section 11–507(a), (b), and (d), 11–508.1, 11–511(a) and (b), 11–513.1, 11–603(c),
 12 11–604(b) and (c), and 11–608(a)
 13 Annotated Code of Maryland
 14 (2011 Replacement Volume and 2011 Supplement)

15 BY repealing
 16 Article – Financial Institutions
 17 Section 11–603.1(l)
 18 Annotated Code of Maryland
 19 (2011 Replacement Volume and 2011 Supplement)

20 BY adding to
 21 Article – Financial Institutions
 22 Section 11–603.1(l) and (m)
 23 Annotated Code of Maryland
 24 (2011 Replacement Volume and 2011 Supplement)

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

27 **Article – Financial Institutions**

28 11–507.

29 (a) (1) To apply for a license, an applicant shall:

30 (I) [complete] COMPLETE, sign, and submit to the
 31 Commissioner an application made under oath [on] IN the form, AND IN
 32 ACCORDANCE WITH THE PROCESS, that the Commissioner requires; AND

33 (II) PROVIDE ALL INFORMATION THAT THE COMMISSIONER
 34 REQUESTS.

1 (2) The applicant shall comply with all conditions and provisions of
2 the application for licensure and be issued a license before acting as a mortgage lender
3 at a particular location.

4 (b) With each application, the applicant shall pay to the Commissioner the
5 following fees:

6 (1) A nonrefundable investigation fee set by the Commissioner; and

7 (2) A **NONREFUNDABLE** license fee set by the Commissioner.

8 (d) For each license for which an applicant applies, the applicant shall:

9 (1) Submit a separate application;

10 (2) Pay a separate **NONREFUNDABLE** license fee;

11 (3) Pay any application processing fee or other fees that the
12 Nationwide Mortgage Licensing System and Registry imposes in connection with the
13 application;

14 (4) If applicable, pay the surcharge; and

15 (5) File a separate surety bond or other financial guaranty under
16 § 11-508 of this subtitle.

17 11-508.1.

18 (a) An applicant for a new license or for the renewal of a license shall satisfy
19 the Commissioner that the applicant or licensee has, and at all times will maintain, a
20 minimum net worth computed according to generally accepted accounting principles
21 or, with respect to an applicant or licensee described in item (1) of this subsection, any
22 other recognized comprehensive basis of accounting approved by the Commissioner:

23 (1) In the case of an applicant or licensee that does not lend money
24 secured by a dwelling or residential real estate, in the amount of \$25,000; and

25 (2) In the case of an applicant or licensee that lends money secured by
26 a dwelling or residential real estate, in the amount of:

27 (i) \$25,000, if the applicant or licensee, in the 12 months prior
28 to the license application or the renewal application, lent in the aggregate not more
29 than \$1,000,000 secured by a dwelling or residential real estate;

30 (ii) \$50,000, if the applicant or licensee, in the 12 months prior
31 to the license application or the renewal application, lent in the aggregate more than

1 \$1,000,000, but not more than \$5,000,000 secured by a dwelling or residential real
2 estate;

3 (iii) \$100,000, if the applicant or licensee, in the 12 months prior
4 to the license application or the renewal application, lent in the aggregate more than
5 \$5,000,000, but not more than \$10,000,000 secured by a dwelling or residential real
6 estate; and

7 (iv) \$250,000, if the applicant or licensee, in the 12 months prior
8 to the license application or the renewal application, lent in the aggregate more than
9 \$10,000,000 secured by a dwelling or residential real estate.

10 (b) (1) Subject to paragraphs (2) and (3) of this subsection, the minimum
11 net worth requirements under subsection (a)(2) of this section may be satisfied by the
12 applicant or licensee having:

13 (i) Cash on deposit with a bank or depository institution;

14 (ii) A line of credit from a bank or depository institution;

15 (iii) Other assets; or

16 (iv) A combination of cash, a line of credit, or other assets.

17 (2) If cash is used toward satisfying the minimum net worth
18 requirements under subsection (a)(2) of this section, the applicant or licensee shall
19 submit to the Commissioner a bank letter verifying:

20 (i) The account balance;

21 (ii) The type of account in which the funds are held; and

22 (iii) That the funds are not encumbered or hypothecated in any
23 way.

24 (3) (i) If a line of credit is used toward satisfying the minimum net
25 worth requirements under subsection (a)(2) of this section, the applicant or licensee
26 shall submit to the Commissioner a copy of the line of credit agreement and the
27 promissory note.

28 (ii) A line of credit may not be used toward satisfying more than
29 75% of the minimum net worth requirements under subsection (a)(2) of this section.

30 **(C) A LICENSEE SHALL PROVIDE TO THE COMMISSIONER PROOF OF**
31 **SATISFYING MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A) OF**
32 **THIS SECTION WITHIN 90 DAYS AFTER THE LAST DAY OF THE LICENSEE'S MOST**
33 **RECENT FISCAL YEAR.**

1 11-511.

2 (a) Subject to any regulations the Commissioner adopts in connection with
3 the transition to the Nationwide Mortgage Licensing System and Registry, an initial
4 license term shall:

5 (1) [Be for a maximum period of 1 year;]

6 [(2)] Begin on the day the license is issued; and

7 [(3)] (2) Expire on December 31 of the year [the]:

8 (I) **THE** license is issued, **IF THE LICENSE IS ISSUED BEFORE**
9 **NOVEMBER 1; OR**

10 (II) **SUCCEEDING THE YEAR THAT THE LICENSE IS ISSUED,**
11 **IF THE LICENSE IS ISSUED ON OR AFTER NOVEMBER 1.**

12 (b) At least [30] **60** days before its expiration, a license may be renewed if
13 the licensee:

14 (1) Otherwise is entitled to be licensed;

15 (2) Pays to the Commissioner a **NONREFUNDABLE** renewal fee set by
16 the Commissioner;

17 (3) Files a bond or bond continuation certificate for the amount
18 required under § 11-508 of this subtitle; and

19 (4) Submits to the Commissioner:

20 (i) A renewal application on the form that the Commissioner
21 requires; and

22 (ii) Satisfactory evidence of compliance with any continuing
23 education requirements set by regulations adopted by the Commissioner.

24 11-513.1.

25 (A) A licensee shall submit to the Nationwide Mortgage Licensing System
26 and Registry a **CALL** report [of condition] once each [calendar year] **QUARTER** on the
27 date, in the form, and containing the information required by the Nationwide
28 Mortgage Licensing System and Registry.

1 **(B) A MORTGAGE LENDER WHO IS EXEMPT FROM LICENSING UNDER**
2 **THIS SUBTITLE SHALL SUBMIT THE CALL REPORTS REQUIRED UNDER**
3 **SUBSECTION (A) OF THIS SECTION ON BEHALF OF ITS MORTGAGE LOAN**
4 **ORIGINATORS, EXCEPT FOR A MORTGAGE LOAN ORIGINATOR WHO IS EMPLOYED**
5 **DIRECTLY BY THE EXEMPT MORTGAGE LENDER OR BY AN AFFILIATE OF THE**
6 **EXEMPT MORTGAGE LENDER.**

7 11-603.

8 (c) (1) The Commissioner shall include on each license:

9 (i) The name of the licensee;

10 (ii) The name of the licensee's employer; and

11 (iii) The unique identifier of the licensee if the licensee has been
12 issued a unique identifier.

13 (2) An individual may not act as a mortgage loan originator under a
14 name or for an employer that is different from the name and employer that appear on
15 the license unless the licensee:

16 (i) Notifies the Commissioner in writing in advance of a change
17 in the licensee's name or the licensee's employer;

18 (ii) Pays to the Commissioner a license amendment fee set by
19 the Commissioner for each notice provided under this paragraph; **AND**

20 (iii) **[Returns to the Commissioner the licensee's license, or an**
21 **affidavit stating that the license has been lost or destroyed; and**

22 (iv) **In the case of a new employer, [submits to the Commissioner**
23 **a notarized statement from the licensee's new employer] **AMENDS THE****
24 **SPONSORSHIP INFORMATION ON THE NATIONWIDE MORTGAGE LICENSING**
25 **SYSTEM AND REGISTRY BY SUBMITTING THE AMENDMENT, IN THE FORM**
26 **REQUIRED BY THE COMMISSIONER, TO INDICATE** that the licensee is an employee
27 of the new employer.

28 (3) If a licensee ceases to be employed by a licensed mortgage lender or
29 by a person exempt from licensing as a mortgage lender, the licensee shall notify the
30 Commissioner within 10 business days, and the license shall be placed into nonactive
31 status.

32 (4) During the time that a license is in nonactive status, it is a
33 violation of this subtitle for the licensee to engage in any activity for which a license is
34 required under this subtitle.

1 (5) The license shall remain in nonactive status until the licensee:

2 (i) Notifies the Commissioner in writing that the licensee has
3 obtained employment with a licensed mortgage lender or with a person exempt from
4 licensing as a mortgage lender; and

5 (ii) Has complied with the requirements set forth in paragraph
6 (2) of this subsection.

7 11-603.1.

8 [(1) An affiliated insurance producer-mortgage loan originator who holds a
9 mortgage lender license under § 11-506(c) of this title on July 1, 2009, may continue to
10 originate mortgages under a valid mortgage lender license until December 31, 2009,
11 provided that the affiliated insurance producer-mortgage loan originator takes the
12 actions necessary to participate in the Nationwide Mortgage Licensing System and
13 Registry, as required by the Commissioner.]

14 **(L) (1) AN INDIVIDUAL MAY NOT ACT AS AN AFFILIATED INSURANCE**
15 **PRODUCER-MORTGAGE LOAN ORIGINATOR UNDER A NAME OR FOR AN**
16 **EMPLOYER THAT IS DIFFERENT FROM THE NAME AND EMPLOYER THAT APPEAR**
17 **ON THE LICENSE UNLESS THE LICENSEE:**

18 **(I) NOTIFIES THE COMMISSIONER IN WRITING IN ADVANCE**
19 **OF A CHANGE IN THE LICENSEE'S NAME OR THE LICENSEE'S EMPLOYER;**

20 **(II) PAYS TO THE COMMISSIONER A LICENSE AMENDMENT**
21 **FEE SET BY THE COMMISSIONER FOR EACH NOTICE PROVIDED UNDER ITEM (I)**
22 **THIS PARAGRAPH; AND**

23 **(III) IN THE CASE OF A NEW EMPLOYER, AMENDS THE**
24 **SPONSORSHIP INFORMATION ON THE NATIONWIDE MORTGAGE LICENSING**
25 **SYSTEM AND REGISTRY BY SUBMITTING THE AMENDMENT IN THE FORM**
26 **REQUIRED BY THE COMMISSIONER TO INDICATE THAT THE LICENSEE IS AN**
27 **EMPLOYEE OF THE NEW EMPLOYER.**

28 **(2) IF A LICENSEE CEASES TO BE EMPLOYED BY A FINANCIAL**
29 **INSTITUTION APPROVED BY THE COMMISSIONER UNDER SUBSECTION (B) OF**
30 **THIS SECTION, THE LICENSEE SHALL NOTIFY THE COMMISSIONER WITHIN 10**
31 **BUSINESS DAYS, AND THE LICENSE SHALL BE PLACED INTO NONACTIVE STATUS.**

32 **(3) DURING THE TIME THAT A LICENSE IS IN NONACTIVE STATUS,**
33 **IT IS A VIOLATION OF THIS SUBTITLE FOR THE LICENSEE TO ENGAGE IN ANY**
34 **ACTIVITY FOR WHICH A LICENSE IS REQUIRED UNDER THIS SUBTITLE.**

1 **(4) THE LICENSE SHALL REMAIN IN NONACTIVE STATUS UNTIL**
2 **THE LICENSEE:**

3 **(I) NOTIFIES THE COMMISSIONER IN WRITING THAT THE**
4 **LICENSEE HAS OBTAINED EMPLOYMENT WITH A FINANCIAL INSTITUTION THAT**
5 **IS APPROVED BY THE COMMISSIONER UNDER SUBSECTION (B) OF THIS**
6 **SECTION; AND**

7 **(II) HAS COMPLIED WITH THE REQUIREMENTS SET FORTH**
8 **IN PARAGRAPH (1) OF THIS SUBSECTION.**

9 **(M) THE COMMISSIONER MAY ISSUE A LICENSE UNDER THIS SUBTITLE**
10 **TO AN INDIVIDUAL WHO IS NOT EMPLOYED BY A FINANCIAL INSTITUTION**
11 **APPROVED BY THE COMMISSIONER UNDER SUBSECTION (B) OF THIS SECTION,**
12 **PROVIDED THAT THE LICENSE IS PLACED INTO AND REMAINS IN NONACTIVE**
13 **STATUS UNTIL THE LICENSEE:**

14 **(1) NOTIFIES THE COMMISSIONER IN WRITING THAT THE**
15 **LICENSEE HAS OBTAINED EMPLOYMENT WITH A FINANCIAL INSTITUTION**
16 **APPROVED BY THE COMMISSIONER UNDER SUBSECTION (B) OF THIS SECTION;**
17 **AND**

18 **(2) HAS COMPLIED WITH THE REQUIREMENTS SET FORTH IN**
19 **SUBSECTION (L)(1) OF THIS SECTION.**

20 11-604.

21 (b) (1) To apply for a license, an applicant shall [complete]:

22 **(I) COMPLETE, sign, and submit to the Commissioner an**
23 **application made under oath [on] IN the form, AND IN ACCORDANCE WITH THE**
24 **PROCESS, that the Commissioner requires; AND**

25 **(II) PROVIDE ALL INFORMATION AS REQUESTED BY THE**
26 **COMMISSIONER.**

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

29 (c) With each application, the applicant shall pay to the Commissioner:

30 (1) A nonrefundable investigation fee set by the Commissioner; and

31 (2) A **NONREFUNDABLE** license fee set by the Commissioner.

1 11-608.

2 (a) If the Commissioner denies an application, the Commissioner:

3 (1) Within 10 days, shall notify the applicant, in writing, of the denial;

4 **AND**

5 (2) [Shall refund the license fee; and

6 (3)] Shall keep the **LICENSE FEE AND THE** investigation fee.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 July 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.