

Department of Legislative Services  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**

Senate Bill 482  
Finance

(Senator Zirkin)

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**Residential Real Estate - Transfer of Mortgage Servicing - Disclosure of  
Additional Information**

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This bill requires that the written notice a mortgage servicer must send a mortgagor within seven days of acquiring the mortgage servicing include the interest rate and term of the loan. If the mortgage is an adjustable interest rate mortgage, the servicer must also provide information on the next date the interest rate is scheduled to adjust and any calculations used to determine the new adjusted interest rate.

Violation of the bill is an unfair or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions.

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**Fiscal Summary**

**State Effect:** The bill's imposition of existing penalty provisions does not have a material impact on State finances or operations.

**Local Effect:** The bill's imposition of existing penalty provisions does not have a material impact on local government finances or operations.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** For the purposes of a transfer of mortgage servicing, "servicer" means a person responsible for collection and payment of principal, interest, escrow, and other moneys under an original mortgage. "Mortgage" includes a mortgage, deed of trust,

security agreement, or other lien on one to four family residential real estate located in Maryland.

Within seven days of acquiring mortgage servicing, a servicer must provide the mortgagor a written notice containing the following information regarding the mortgage on the date of transfer:

- the principal balance and escrow balance;
- the telephone number for a contact which the servicer has designated to handle any direct complaints and inquiries from a mortgagor;
- the responsibilities of the contact; and
- a statement that the servicer's violation in transferring the mortgage servicing will result in the servicer being held liable for any economic damages caused by the violation, as well as any other applicable remedies.

The contact designated by the servicer to receive complaints and inquiries must provide a written response within 15 days of receiving a written complaint or inquiry. Additionally, a servicer must provide a toll-free telephone number that any borrower residing in Maryland may contact with inquiries on outstanding loans during regular business hours.

Mortgage servicers are licensed and regulated by the Commissioner of Financial Regulation. Any violation of the Maryland Mortgage Lender Law is punishable as a felony and, on conviction, a violator is subject to maximum penalties of a fine of \$50,000 and/or or 10 years imprisonment.

An unfair or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, hold a public hearing, seek an injunction, or bring an action for damages. A merchant who violates MCPA is subject to a fine of up to \$1,000 for the first violation and up to \$5,000 for each subsequent violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1343 (Delegate Hucker, *et al.*) – Rules and Executive Nominations.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 17, 2012  
mlm/kdm

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