SB 546

Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 546 (Chair, Finance Committee)(By Request - Departmental - Labor, Licensing and Regulation)

Finance Economic Matters

Financial Institutions - Mortgage Lenders and Mortgage Loan Originators

---

This departmental bill requires an applicant for a mortgage lender license or mortgage loan originator license to complete, sign, and submit the application to the Commissioner of Financial Regulation according to the process the commissioner requires and provide all information the commissioner requests. The bill makes any mortgage lender license or mortgage loan originator license application fee paid to the commissioner nonrefundable. The bill requires a mortgage lender licensee renewing a license to provide the commissioner with proof satisfying specified minimum net worth requirements within 90 days after the last day of the licensee's most recent fiscal year.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: Special fund revenues increase by at least $80,600 in FY 2013 and subsequent years due to making license fees nonrefundable. Expenditures are not materially affected.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
SF Revenue	$80,600	$80,600	$80,600	$80,600	$80,600
Expenditure	0	0	0	0	0
Net Effect	$80,600	$80,600	$80,600	$80,600	$80,600

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing, and Regulation (DLLR) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Mortgage Lenders: The bill alters the length of time a mortgage lender license is valid. If the license is issued before November 1, the license expires on December 31 of that year. However, if the license is issued after November 1, the license expires December 31 of the succeeding year. The bill also extends the amount of time a licensee is able to renew a license before its expiration.

The bill increases the frequency with which a mortgage lender licensee must provide a call report to the Nationwide Mortgage Licensing System and Registry (NMLSR) from once a year to once a quarter. A mortgage lender exempt from licensing by the commissioner must submit call reports on behalf of its licensed mortgage loan originators.

Mortgage Loan Originators: The bill changes the circumstances in which an individual may act as a mortgage loan originator under a different name or employer than the one that appears on the license. Such an individual must amend the sponsorship information on NMLSR by submitting the license amendment fee in the form required by the commissioner. The individual is no longer required to return the license, or an affidavit stating that the license has been lost or destroyed, to the commissioner.

Affiliated Insurance Producer-Mortgage Loan Originator: The bill repeals an obsolete provision relating to an affiliated insurance producer-mortgage loan originator who continues to originate mortgages under a valid mortgage lender license. The bill applies to an affiliated insurance producer-mortgage loan originator the same circumstances in which a mortgage loan originator licensee may (1) act under a name or for an employer that is different from the name or employer on the license; and (2) enter into and remain in nonactive status. The bill authorizes the commissioner to issue an affiliated insurance producer-mortgage loan originator license to an individual who is not employed by a commissioner-approved financial institution, provided that the license is placed into and remains in nonactive status until the licensee performs specified actions.

Current Law:

Mortgage Lenders – General Licensing: To apply for a license, an applicant must complete, sign, and submit to the commissioner an application made under oath on the required form. The applicant must comply with all conditions and provisions of the license application and must not act as a mortgage lender before a license is issued.

The applicant must pay to the commissioner a nonrefundable investigation fee and a license fee set by the commissioner. An applicant must submit a separate application, pay a separate application fee, and pay any application processing fee or other fee that NMLSR requires. If applicable, an applicant must pay a surcharge and file a separate surety bond or other financial guaranty.

An applicant for both a new or renewal license must satisfy the commissioner that the applicant or licensee has, and at all times will maintain, a specified net worth. The minimum net worth requirement may be satisfied by the applicant or licensee having cash on deposit, a line of credit, other assets, or a combination of the three. The applicant or licensee must provide verifying documents for both cash on deposit and a line of credit in order to satisfy the commissioner.

The initial license term is for a maximum period of one year, begins on the day issued, and expires on December 31 of that year. As least 30 days before the license's expiration, a license may be renewed if the licensee is otherwise qualified, pays to the commissioner the appropriate renewal fee, files a bond or bond continuation certificate for the correct amount, and submits to the commissioner a renewal application and satisfactory evidence of compliance with any applicable continuing education requirements.

A licensee must submit to NMLSR a report of condition once each calendar year on the date, in the form, and containing the information required by NMLSR.

Mortgage Loan Originators – General Licensing: To apply for a license, an applicant must complete, sign, and submit to the commissioner an application made under oath on the required form. The applicant must pay to the commissioner a nonrefundable investigation fee and a license fee set by the commissioner. If the commissioner denies the application, the commissioner must notify the applicant in writing within 10 days and refund the license fee. The commissioner must keep the investigation fee, however.

Mortgage Loan Originators – Change in Employment/Inactive License: The commissioner must include on each license the name of both the licensee and the licensee's employer and the unique identifier of the licensee if the licensee has been issued a unique identifier.

An individual may not act as a mortgage loan originator under a different name or employer than the one that appears on the license, unless the licensee (1) notifies the commissioner in writing in advance of a change in the name or employer; (2) pays to the commissioner a license amendment fee set by the commissioner for each notice; and (3) returns the license, or an affidavit stating that the license has been lost or destroyed, to the commissioner. When the mortgage loan originator has a new employer, the licensee must submit to the commissioner a notarized statement from the new employer that the licensee is a new employee.

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 must notify the commissioner within 10 business days. At that point the license remains nonactive until the licensee notifies the commissioner in writing that the licensee has obtained employment with a licensed mortgage lender or a person exempt from licensing as a mortgage lender and has complied with specified requirements. While a license is in nonactive status, a licensee may not engage in any activity for which a license is required.

Background: The commissioner is responsible for licensing and regulating mortgage lenders, brokers, servicers and originators, sales finance companies, consumer loan companies, money transmitters, check cashers, installment loan lenders, credit reporting agencies, consumer debt collection agencies, and debt management services providers. The office also regulates and supervises State-chartered financial institutions including State-chartered banks, credit unions, and trust companies.

Chapter 4 of 2009 overhauled the State’s mortgage lender and loan originator laws to conform to the requirements of the federal Secure and Fair Enforcement Mortgage Licensing Act of 2008. Chapter 4 altered the licensing requirements, initial license terms, and renewal terms for mortgage lenders and loan originators.

NMLSR is a web-based system that allows state-licensed mortgage lenders, mortgage brokers, and mortgage loan originators to apply for, amend, update, or renew a license online using a set of uniform applications. The online system was established in 2004 by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators in response to the increased volume and variety of residential mortgage originators. In fiscal 2011, there were 1,353 licensed mortgage lenders and 5,078 licensed mortgage loan originators in Maryland.

Licensing of mortgage lenders and mortgage loan originators is required to be conducted through the NMLSR system and to conform with federal requirements. This bill intends to conform Maryland law to both NMLSR rules and federal requirements. Additionally, NMLSR does not have the capability to issue refunds electronically on the same credit card that an applicant used to pay the initial license fee. This is because few states actually provide refunds. This bill eliminates the requirements that a refund be provided to specified applicants.

State Revenues: Special fund revenues increase by $80,265 annually beginning in fiscal 2013. This estimate is based on historical experience from DLLR. Absent the bill, 300 to 400 originators and 40 to 50 lenders would otherwise receive refunds in fiscal 2013. The commissioner also advises that approximately 15% to 25% of the applicants that receive refunds due to withdrawn or rejected applications subsequently reapply. Under the bill, a large portion of those applicants that reapply may be more careful in filing an initial application or may choose not to file. Therefore, the commissioner expects that DLLR will retain at least an additional 225 mortgage loan originator license fees and 30 mortgage lender license fees. This number may increase as the number of total applicants in both categories is at a lower point than it has been in recent years. If the number of applicants increases due to an improvement in the current economic climate, the bill may result in a more substantial increase in special fund revenues.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 20, 2012
mc/ljm Revised - Senate Third Reader - March 16, 2012
Revised - Enrolled Bill - May 17, 2012

Analysis by: Michael F. Bender

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Financial Institutions – Mortgage Lenders and Mortgage Loan Originators

BILL NUMBER: SB 546

PREPARED BY: Department of Labor, Licensing and Regulation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__X__ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.