

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 375

(Senator Middleton, *et al.*)

Finance

Economic Matters

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Commercial Law - Maryland Credit Services Businesses Act - Scope

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This bill narrows the scope of the Maryland Credit Services Businesses Act by excluding a State-licensed associate real estate broker or real estate salesperson from the definition of “credit services business.”

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Fiscal Summary

**State Effect:** None. The bill codifies existing practice.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** The Maryland Credit Services Businesses Act regulates credit services businesses. A credit services business is any person who, with respect to the extension of credit by others, sells, provides, or performs, or represents that the person will sell, provide, or perform, any of the following services for money or other valuable consideration: (1) improving a consumer’s credit record, history, or rating or establishing a new credit file or record; (2) obtaining an extension of credit for the consumer; or (3) advising or assisting a consumer in the aforementioned acts.

A “credit services business” does not include:

- any person authorized to make loans or extensions of credit under State or federal laws who is actively engaged in the business of lending or other extensions of credit to State residents;
- any banking institution insured by the Federal Deposit Insurance Corporation or any credit union organized and chartered under State or federal laws;
- any § 501(c)(3) tax-exempt (nonprofit) organization;
- any real estate broker licensed by the State where the broker is acting within the course and scope of that license;
- any person licensed as a mortgage lender by the State;
- an individual admitted to the Bar of the Court of Appeals of Maryland when the individual renders services within the course and scope of practice by the individual as a lawyer and does not regularly or continually engage in the credit services business;
- any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of that regulation;
- any consumer reporting agency as defined in the federal Fair Credit Reporting Act; and
- an individual licensed by the Maryland Board of Public Accountancy when the individual renders services within the course and scope of practice by the individual as a certified public accountant.

A credit services business must be licensed by the Commissioner of Financial Regulation. A credit services business, its employees, and its independent contractors may not:

- receive payment from the consumer unless the business is appropriately licensed by the Commissioner of Financial Regulation;
- receive payment solely for referring a customer to a credit grantor who will or may extend credit to the consumer, if the credit is extended on substantially similar terms available to the general public;
- make, assist, or advise a consumer to make false statements connected with a credit application;
- make or use false or misleading representations in offering or selling its services;
- engage in an act, practice, or course of business that operates as a fraud or deception in connection with offering or selling its services;
- accept payment before rendering full and complete performance of the contracted services;

- charge or receive any payment in connection with an extension of credit that, when combined with any interest charged on the extension of credit, would exceed the interest rate permitted by law;
- create or assist a consumer in creating a new consumer credit report by obtaining and using a different name, address, telephone number, Social Security number, or employer tax identification number; or
- assist a consumer in obtaining an extension of credit at an interest rate which, except for federal preemption, would be prohibited under the State’s consumer credit provisions.

**Background:** Maryland’s Protecting Homeowners in Foreclosure Act, which prohibits specified actions by “foreclosure consultants,” also exempts persons licensed as a real estate broker, associate real estate broker, or real estate salesperson.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 785 (Delegate A. Washington, *et al.*) - Economic Matters.

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

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