

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 1091

(Senator Klausmeier, *et al.*)

Finance

Economic Matters

Financial Institutions - Registered Mortgage Loan Originators - Expedited
Licenses

This bill requires the Commissioner of Financial Regulation to waive, as applicable, the State criminal history records check of a licensure applicant who, within 45 days before the date of application for a mortgage loan originator license, was employed as a registered mortgage loan originator. The commissioner must publish on the commissioner's website, or have published on a third-party website used for licensing mortgage loan originators in the State, the expedited process for the issuance of a mortgage loan originator license.

Fiscal Summary

State Effect: The bill's requirements do not materially affect State operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Federal Law

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) and associated federal regulations provide the minimum standards that a state must meet in

licensing loan originators. The SAFE Act generally requires an individual engaging in the business of loan origination to obtain and maintain a unique identifier from the Nationwide Mortgage Licensing System Registry (NMLSR) and either (1) a registration as a registered loan originator or (2) a license and registration as a state-licensed loan originator.

Federal law requires a state to prohibit an individual from engaging in the business of a loan originator with respect to any dwelling or residential real estate, unless the individual (1) registers as a loan originator through, and obtains a unique identifier from, NMLSR and (2) obtains and maintains a valid loan originator license from the state, except as otherwise permitted. Exceptions to the license requirement include, among others, (1) an individual who is an employee of a financial institution and registered with NMLSR and (2) a specified individual who is an employee of a government or housing finance agency.

State Law

A “mortgage loan originator” is an individual who, for compensation or gain, or in the expectation of compensation or gain, takes a loan application or offers or negotiates terms of a mortgage loan. Generally, an individual may not engage in the business of mortgage loan origination unless the individual holds a valid license. In defining a “mortgage loan originator” subject to the licensing requirements, mortgage loan processors and underwriters are specifically excluded. Several other individuals are exempted from the licensing requirements, including individual loan servicers. Mortgage loan originators employed by licensed mortgage lenders are not exempt from licensing requirements.

Generally, 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. An applicant must provide NMLSR with fingerprints for a criminal history background check, an NMLSR-approved form containing the applicant’s personal history and experience, and an authorization form that allows NMLSR and the commissioner to obtain independent credit reports and information relating to administrative, civil, or criminal findings by any government jurisdiction.

After an applicant submits an application via NMLSR, a fingerprint card is sent to each applicant for a State criminal history background check. The State criminal background check is not operated through NMLSR; fingerprints must be submitted to the Maryland Criminal Justice Information System. The State criminal background check may be waived pursuant to the Maryland Veterans Full Employment Act of 2013 (Chapter 155 of 2013) if certain criteria are met.

The commissioner may not issue a mortgage loan originator's license unless the applicant (1) has never had a mortgage loan originator's license revoked in any jurisdiction; (2) has not been convicted of, pled guilty, or pled *nolo contendere* to specified felonies; (3) has demonstrated financial responsibility, character, and general fitness sufficient to command the confidence of the community; (4) has completed at least 20 hours of NMLSR-approved prelicensing education requirements and passed an NMLSR-approved written test; and (5) has met the statutory surety bond requirement. An initial term for a mortgage loan originator license is, at most, one year. The term begins on the first day the license is issued and expires on December 31 of that year.

Certain licensees may only act as mortgage originators while employed by a licensed mortgage lender. If an employee acting as a mortgage originator is no longer employed by a licensed mortgage lender, the commissioner must place that employee's license in nonactive status until the commissioner receives notice of new employment. 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.

The commissioner may issue a cease and desist order and impose a civil penalty if a mortgage loan originator, among other things, makes any material misrepresentation in a license application.

Background: The bill is directed at a registered mortgage loan originator employed by a financial institution who applies for licensure in the State. A registered mortgage loan originator must pass a criminal background investigation as part of the process of registering with NMLSR and, thus, the individual's criminal history records check is on file with NMLSR. The registered mortgage loan originator still must fulfill other prerequisites prior to obtaining licensure, including education requirements.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; U.S. Consumer Financial Protection Bureau; U.S. Government Printing Office;

Nationwide Mortgage Licensing System Resource Center; Department of Legislative Services

Fiscal Note History: First Reader - March 18, 2014
ncs/ljm Revised - Senate Third Reader - March 27, 2014

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