

HB0188/207773/1

BY: Finance Committee

AMENDMENTS TO HOUSE BILL 188
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in lines 9 and 10, strike “by the Commissioner” and substitute “or generated”; in line 10, strike “exercise of” and substitute “course of exercising”; in the same line, after “examine” insert “certain persons required to be licensed under certain provisions of law,”; in line 11, after the first comma insert “and”; in the same line, strike “, and other persons required to be licensed under certain”; in line 12, strike “provisions of law”; and in line 13, after “altering” insert “and establishing”.

On page 2, in line 10, strike “and” and substitute a comma; in the same line, after “2-117” insert “, 11-501(o), and 11-601(s)”; and after line 12, insert:

“BY adding to

Article – Financial Institutions

Section 2-117.1

Annotated Code of Maryland

(2011 Replacement Volume and 2015 Supplement)”.

AMENDMENT NO. 2

On page 3, strike line 25 in its entirety and substitute “**(Q) “NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY” MEANS A MULTISTATE UNIFORM LICENSING SYSTEM**”; and in line 28, after the comma insert “**THAT MAY BE USED**”.

On page 4, after line 11, insert:

“**(A) IN THIS SECTION, “LICENSED PERSON” MEANS:**

(Over)

(1) A PERSON REQUIRED TO BE LICENSED UNDER THIS ARTICLE, WHETHER OR NOT THE PERSON MAINTAINS A LICENSE; AND

(2) A COLLECTION AGENCY REQUIRED TO BE LICENSED UNDER THE BUSINESS REGULATION ARTICLE, WHETHER OR NOT THE COLLECTION AGENCY MAINTAINS A LICENSE.

(B) THIS SECTION DOES NOT APPLY TO:

(1) INFORMATION RELATING TO PUBLICLY ADJUDICATED DISCIPLINARY OR ENFORCEMENT ACTIONS AGAINST A LICENSED PERSON; OR

(2) INFORMATION OR MATERIAL PROVIDED TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY UNDER TITLE 11, SUBTITLE 5 OR 6 OF THIS ARTICLE.

(C) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A PERSON, INCLUDING THE COMMISSIONER AND AN EMPLOYEE OF AND THE ATTORNEY FOR THE COMMISSIONER'S OFFICE, MAY NOT DISCLOSE ANY INFORMATION OBTAINED OR GENERATED IN THE COURSE OF EXERCISING THE COMMISSIONER'S AUTHORITY TO EXAMINE LICENSED PERSONS.

(D) THE COMMISSIONER AND AN EMPLOYEE OF AND THE ATTORNEY FOR THE COMMISSIONER'S OFFICE MAY DISCLOSE THE INFORMATION DESCRIBED IN SUBSECTION (C) OF THIS SECTION:

(1) IF PERFORMING A PUBLIC DUTY TO REPORT ON OR TAKE SPECIAL ACTION RELATING TO A LICENSED PERSON;

(2) IF TESTIFYING AS A WITNESS IN A CRIMINAL PROCEEDING;

(3) IF INFORMING A DIRECTOR, OFFICER, MEMBER, PARTNER, EMPLOYEE, OR AGENT OF A LICENSED PERSON OF THE RESULTS OF AN EXAMINATION;

(4) IF PROVIDING INFORMATION TO ANY STATE OR FEDERAL AGENCY HAVING SUPERVISORY AUTHORITY OVER THE LICENSED PERSON; AND

(5) IF ENTERING INFORMATION INTO EVIDENCE UNDER SEAL IN A PUBLIC ENFORCEMENT HEARING.

[(a)] (E) Subject to subsections [(b), (c),] (F), (G), and [(d)] (L) of this section, AND notwithstanding any other provision of State [laws or regulations] LAW, the Commissioner may:

(1) Enter into [cooperative and] information sharing agreements with any federal or state regulatory agency having authority over [financial institutions] LICENSED PERSONS or with any federal or state law enforcement agency, INCLUDING THE OFFICE OF FOREIGN ASSET CONTROL, AND ANY SUCCESSOR TO THESE AGENCIES, AND ANY AGENCY OF A FOREIGN COUNTRY WITH PRIMARY RESPONSIBILITY FOR REGULATING LICENSED PERSONS, provided that the agreements prohibit the [agency] AGENCIES from disclosing any shared information ABOUT A LICENSED PERSON without THE prior written consent from the Commissioner regarding disclosure of the particular information; and

(2) Exchange information about a [financial institution] LICENSED PERSON, including information obtained OR GENERATED during an examination, with any federal or [state] OTHER STATE'S regulatory agency having authority over the [financial institution] THE LICENSED PERSON or with any federal or state law

(Over)

enforcement agency, INCLUDING THE OFFICE OF FOREIGN ASSET CONTROL, AND ANY SUCCESSOR TO THESE AGENCIES, AND ANY AGENCY OF A FOREIGN COUNTRY WITH PRIMARY RESPONSIBILITY FOR REGULATING LICENSED PERSONS.

(F) INFORMATION SHARED BY THE COMMISSIONER UNDER SUBSECTION (E) OF THIS SECTION MAY NOT BE DISCLOSED BY AN AGENCY UNDER FEDERAL OR OTHER STATES' LAWS GOVERNING THE DISCLOSURE OF PUBLIC INFORMATION, OR BY SUBPOENA, DISCOVERY, OR ADMISSION INTO EVIDENCE IN PRIVATE CIVIL LITIGATION OR ADMINISTRATIVE PROCESS, WITHOUT THE PRIOR WRITTEN CONSENT OF THE COMMISSIONER.

[(b)](G) If the Commissioner receives a record from an agency under [a cooperative and] AN information sharing agreement authorized by subsection [(a)(1)] (E)(1) of this section and the agency expressly retains ownership of the record, either in writing or by law or regulation, the Commissioner:

(1) May not disclose the record to any person that requests the record under Title 4, Subtitles 1 through 5 of the General Provisions Article; and

(2) Shall forward the request for the record to the agency that owns the record for processing in accordance with the laws or regulations governing disclosure of the agency's records.

[(c)] (H) Notwithstanding § 2-113(d) of this subtitle, an affiliate as defined in § 2-113(a) of this subtitle is subject to [subsection (a) of] this section if that affiliate maintains or is required to maintain a license issued by the Commissioner OR THE STATE COLLECTION AGENCY LICENSING BOARD.

(I) ANY PROVISION OF TITLE 4, SUBTITLES 1 THROUGH 5 OF THE GENERAL PROVISIONS ARTICLE RELATING TO THE DISCLOSURE OF ANY

INFORMATION DESCRIBED IN SUBSECTION (C) OF THIS SECTION SHALL BE SUPERSEDED BY THE REQUIREMENTS OF THIS SECTION.

(J) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ALL INFORMATION DISCLOSED BY THE COMMISSIONER OR AN EMPLOYEE OF OR THE ATTORNEY FOR THE COMMISSIONER'S OFFICE TO ANY PERSON AS PERMITTED UNDER SUBSECTIONS (D) AND (E) OF THIS SECTION:

(1) REMAINS THE PROPERTY OF THE COMMISSIONER; AND

(2) MAY NOT BE FURTHER DISCLOSED BY ANY PERSON WITHOUT THE PRIOR WRITTEN PERMISSION OF THE COMMISSIONER.

(K) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:

(1) FORFEITURE OF THE PERSON'S OFFICE OR EMPLOYMENT; AND

(2) A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.

[(d)] (L) This section does not authorize the Commissioner to share or exchange information in any way THAT IS prohibited by federal law.

2-117.1.

(A) THIS SECTION DOES NOT APPLY TO INFORMATION RELATING TO PUBLICLY ADJUDICATED DISCIPLINARY OR ENFORCEMENT ACTIONS AGAINST BANKING INSTITUTIONS OR CREDIT UNIONS AND DESIGNATED BY THE COMMISSIONER FOR ACCESS TO THE PUBLIC.”;

(Over)

in line 12, strike “(A)” and substitute “(B)”; in the same line, strike “, A” and substitute “:

(1) A;

in line 14, after “OBTAINED” insert “OR GENERATED”; in line 15, strike “EXERCISE OF” and substitute “COURSE OF EXERCISING”; in line 16, strike the first comma and substitute “OR”; in line 16, strike “, OR OTHER PERSONS REQUIRED TO BE LICENSED”; in line 17, after “ARTICLE” insert “; AND

(2) THE COMMISSIONER AND THE EMPLOYEES OF AND THE ATTORNEY FOR THE COMMISSIONER’S OFFICE MAY NOT DISCLOSE:

(I) THE NAME OF ANY DEBTOR OF A BANKING INSTITUTION OR CREDIT UNION; OR

(II) ANY INFORMATION ABOUT THE PRIVATE ACCOUNTS WITH OR TRANSACTIONS OF A BANKING INSTITUTION OR CREDIT UNION”;

in line 18, strike “(B)” and substitute “(C)”; in the same line, after “COMMISSIONER” insert “AND AN EMPLOYEE OF AND THE ATTORNEY FOR THE COMMISSIONER’S OFFICE”; in line 19, strike “(A)” and substitute “(B)”; in line 21, strike the first comma and substitute “OR”; strike beginning with the second comma in line 21 down through “ARTICLE” in line 22; in line 25, strike the second comma and substitute “OR”; strike beginning with the third comma in line 25 down through “ARTICLE” in line 26; in line 29, strike the comma and substitute “OR”; in the same line, strike “INSTITUTIONS” and substitute “INSTITUTION”; and in line 30, strike “UNIONS, OR OTHER PERSONS REQUIRED TO BE LICENSED UNDER THIS ARTICLE” and substitute “UNION”.

On pages 6 and 7, strike in their entirety the lines beginning with line 17 on page 6 through line 2 on page 7, inclusive, and substitute:

“(D) SUBJECT TO SUBSECTIONS (E), (F), AND (J) OF THIS SECTION, AND NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW, THE COMMISSIONER MAY:

(1) ENTER INTO INFORMATION SHARING AGREEMENTS WITH ANY FEDERAL OR STATE REGULATORY AGENCY HAVING AUTHORITY OVER BANKING INSTITUTIONS OR CREDIT UNIONS, A FEDERAL HOME LOAN BANK, OR ANY FEDERAL OR STATE LAW ENFORCEMENT AGENCY, INCLUDING THE OFFICE OF FOREIGN ASSET CONTROL, AND ANY SUCCESSOR TO THESE AGENCIES, PROVIDED THAT THE AGREEMENTS PROHIBIT THE AGENCIES FROM DISCLOSING ANY SHARED INFORMATION ABOUT A BANKING INSTITUTION OR CREDIT UNION WITHOUT THE PRIOR WRITTEN CONSENT FROM THE COMMISSIONER REGARDING DISCLOSURE OF THE PARTICULAR INFORMATION; AND

(2) EXCHANGE INFORMATION ABOUT A BANKING INSTITUTION OR A CREDIT UNION, INCLUDING INFORMATION OBTAINED OR GENERATED DURING AN EXAMINATION, WITH ANY FEDERAL OR OTHER STATE’S REGULATORY AGENCY HAVING AUTHORITY OVER THE BANKING INSTITUTION OR CREDIT UNION OR WITH ANY FEDERAL OR STATE LAW ENFORCEMENT AGENCY.”.

On page 7, in line 3, strike “(D)” and substitute “(E)”; in the same line, strike “(C)” and substitute “(D)”; strike in their entirety lines 9 through 28, inclusive, and substitute:

“(F) IF THE COMMISSIONER RECEIVES A RECORD FROM AN AGENCY UNDER AN INFORMATION SHARING AGREEMENT AUTHORIZED BY SUBSECTION (D)(1) OF THIS SECTION AND THE AGENCY EXPRESSLY RETAINS OWNERSHIP OF

(Over)

THE RECORD, EITHER IN WRITING OR BY LAW OR REGULATION, THE COMMISSIONER:

(1) MAY NOT DISCLOSE THE RECORD TO ANY PERSON THAT REQUESTS THE RECORD UNDER TITLE 4, SUBTITLES 1 THROUGH 5 OF THE GENERAL PROVISIONS ARTICLE; AND

(2) SHALL FORWARD THE REQUEST FOR THE RECORD TO THE AGENCY THAT OWNS THE RECORD FOR PROCESSING IN ACCORDANCE WITH THE LAWS OR REGULATIONS GOVERNING DISCLOSURE OF THE AGENCY’S RECORDS.”;

in line 29, strike “(H)” and substitute “(G)”; in the same line, strike “PROVISIONS” and substitute “PROVISION”; and in line 31, after “IN” insert “SUBSECTION (B) OF”.

On page 8, in lines 1 and 7, strike “(I)” and “(J)”, respectively, and substitute “(H)” and “(I)”, respectively; in line 1, strike “BY” and substitute “IN”; in line 2, after “DISCLOSED” insert “BY THE COMMISSIONER OR AN EMPLOYEE OF OR THE ATTORNEY FOR THE COMMISSIONER’S OFFICE”; in the same line, strike “(B) AND (C)” and substitute “(C) AND (D)”; in line 10, strike “FOR EACH OCCURRENCE, A” and substitute “A”; in the same line, strike “\$5,000” and substitute “\$1,000”; and strike in their entirety lines 12 and 13, and substitute:

“(J) THIS SECTION DOES NOT AUTHORIZE THE COMMISSIONER TO SHARE OR EXCHANGE INFORMATION IN ANY WAY THAT IS PROHIBITED BY FEDERAL LAW.”.

AMENDMENT NO. 3

On page 11, after line 22, insert:

“11-501.

(o) “Nationwide Mortgage Licensing System and Registry” [means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators and mortgage lenders]
HAS THE MEANING STATED IN § 1-101 OF THIS ARTICLE.

11-601.

(s) “Nationwide Mortgage Licensing System and Registry” has the meaning stated in [§ 11-501 of this title] § 1-101 OF THIS ARTICLE.”.