

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 525
Economic Matters

(Delegate Sydnor)

Maryland Mortgage Lender Law - Mortgage Lender - Definition

This bill alters the definition of “mortgage lender” under the Maryland Mortgage Lender Law (MMLL) in two ways. First, the bill expands the definition of “mortgage lender” to include an assignee or a successor to a person who makes a mortgage loan to any person and acquires the mortgage when it is in default. Second, the bill excludes licensed collection agencies from the definition of “mortgage lender.”

The bill may not be construed to imply that a purchaser of defaulted mortgage loans was not required before the enactment of the bill to be licensed as a mortgage lender or collection agency.

Fiscal Summary

State Effect: General fund revenues may increase minimally as additional entities that acquire mortgage loans that are in default (other than collection agencies) are required to register with the Commissioner of Financial Regulation as mortgage lenders and pay the associated licensing fees. Any such increase may be offset by some entities opting to become licensed as collection agencies to avoid the higher fee and greater scrutiny of being licensed as mortgage lenders. Expenditures are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: A “mortgage lender” is any person who (1) is a mortgage broker; (2) makes a mortgage loan to any person; or (3) is a mortgage servicer.

A “mortgage lender” does *not* include (1) specified financial institutions (including commercial banks, savings banks, and credit unions) that accept deposits and are regulated under the Financial Institutions Article; (2) the Federal Home Loan Mortgage Corporation (Freddie Mac); (3) the Federal National Mortgage Association (Fannie Mae); (4) the Government National Mortgage Association (Ginnie Mae); (5) any person engaged exclusively in the acquisition of all or any portion of a mortgage loan under any federal, State, or local governmental program of mortgage loan purchases; or (6) a licensed affiliated insurance producer-mortgage loan originator.

A “collection agency” is a person who engages among other things, directly or indirectly, in collecting for, or soliciting from another, a consumer claim or in collecting a consumer claim that the person owns, if the claim was in default when it was acquired by the collection agency.

A person licensed as a mortgage lender under MMLL is exempt from licensing under the Maryland Collection Agency Licensing Act.

Background: The Office of the Commissioner of Financial Regulation is responsible for licensing and regulating mortgage lenders in the State. The commissioner also licenses a number of other types of financial institutions and entities, including:

- State-chartered banks and credit unions;
- mortgage loan originators;
- affiliated insurance producer-originators;
- check cashers;
- collection agencies;
- consumer lenders;
- credit reporting agencies;
- credit services businesses;
- debt management companies;
- debt settlement companies;
- installment loan lenders;
- money transmitters; and
- sales finance companies.

Although it is unclear how many entities would be required to register as mortgage lenders under the bill, the commissioner advises that the bill's expansion of the definition of mortgage lender appears to apply to a narrow population of persons, as a quite specific set of transactions need to occur before the bill's licensing requirement is triggered. As of February 1, 2017, the Commissioner of Financial Regulation licenses 1,626 collection agencies and 2,107 mortgage lenders. The fee for a mortgage license is \$1,000 per year; for collection agencies, it is \$700 per year.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Department of Labor, Licensing, and Regulation; Maryland Insurance Administration; Department of Legislative Services

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