

HOUSE BILL 61

11

9lr0053

By: **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: January 17, 2019

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions – Commissioner of Financial Regulation – Mortgage**
3 **Lenders, Loan Servicers, and Loan Originators**

4 FOR the purpose of altering certain net worth requirements for certain applicants and
5 licensees for certain mortgage lending, loan servicing, and loan origination activities;
6 establishing certain net worth requirements for certain applicants and licensees
7 acting as mortgage loan servicers for government–sponsored enterprises and other
8 entities; authorizing the use of an irrevocable letter of credit from certain institutions
9 to satisfy certain minimum net worth requirements under certain circumstances;
10 providing that certain lines of credit may be used toward satisfying certain minimum
11 net worth requirements under certain circumstances; prohibiting the use of a
12 working capital line of credit toward satisfying certain minimum net worth
13 requirements by certain applicants and licensees; requiring that an original
14 irrevocable letter of credit be submitted to the Commissioner of Financial Regulation
15 under certain circumstances; prohibiting revocation of an irrevocable letter of credit
16 without prior written consent by the Commissioner; removing the requirement to
17 reapply for a license by a licensee that fails to request approval of a change in location
18 in a timely manner; extending the mandatory examination cycle period for certain
19 licensees; altering certain provisions on the expiration of mortgage loan originator
20 licenses; making stylistic changes; and generally relating to mortgage lenders and
21 mortgage originators.

22 BY repealing and reenacting, without amendments,
23 Article – Financial Institutions
24 Section 1–101(a) and (q)
25 Annotated Code of Maryland
26 (2011 Replacement Volume and 2018 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article – Financial Institutions

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 11-508.1(a) and (b), 11-512(c), 11-513(c)(2), 11-513.1(a),
 2 11-515(a)(2), and 11-609
 3 Annotated Code of Maryland
 4 (2011 Replacement Volume and 2018 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 6 That the Laws of Maryland read as follows:

7 **Article – Financial Institutions**

8 1-101.

9 (a) In this article, unless the context clearly requires otherwise, the following
 10 words have the meanings indicated.

11 (q) “Nationwide Mortgage Licensing System and Registry” or “NMLS” means a
 12 multistate uniform licensing system developed and maintained by the Conference of State
 13 Bank Supervisors, or by a subsidiary or an affiliate of the Conference of State Bank
 14 Supervisors, that may be used for the licensing and registration of persons required to be
 15 licensed or registered under this article or the Commercial Law Article.

16 11-508.1.

17 (a) An applicant for a new license or for the renewal of a license shall satisfy the
 18 Commissioner that the applicant or licensee has, and at all times will maintain, a minimum
 19 **TANGIBLE** net worth computed according to generally accepted accounting principles or,
 20 with respect to an applicant or licensee described in item (1) of this subsection, any other
 21 recognized comprehensive basis of accounting approved by the Commissioner:

22 (1) In the case of an applicant **THAT APPLIES TO ACT AS A MORTGAGE**
 23 **BROKER** or A licensee that [does not lend money secured by a dwelling or residential real
 24 estate] **ACTS AS A MORTGAGE BROKER**, in the amount of \$25,000; [and]

25 (2) **IN THE CASE OF AN APPLICANT THAT APPLIES TO ACT AS A**
 26 **MORTGAGE LOAN SERVICER THAT OPERATES AS AN APPROVED SERVICER FOR A**
 27 **GOVERNMENT-SPONSORED ENTERPRISE (GSE) OR A LICENSEE THAT ACTS AS A**
 28 **MORTGAGE SERVICER AND OPERATES AS AN APPROVED SERVICER FOR A GSE, IN**
 29 **THE LARGEST AMOUNT REQUIRED OF THE APPLICANT OR LICENSEE BY THE**
 30 **STANDARDS OF THE GSE;**

31 (3) **IN THE CASE OF AN APPLICANT THAT APPLIES TO ACT AS A**
 32 **MORTGAGE SERVICER THAT DOES NOT OPERATE AS AN APPROVED SERVICER FOR A**
 33 **GSE OR A LICENSEE THAT ACTS AS A MORTGAGE SERVICER THAT DOES NOT**
 34 **OPERATE AS AN APPROVED SERVICER FOR A GSE:**

35 (I) **\$100,000, IF THE UNPAID PRINCIPAL BALANCE OF THE**

1 ENTIRE SERVICING PORTFOLIO IS LESS THAN OR EQUAL TO **\$50,000,000**;

2 (II) **\$250,000**, IF THE UNPAID PRINCIPAL OF THE ENTIRE
3 SERVICING PORTFOLIO IS GREATER THAN **\$50,000,000** BUT LESS THAN OR EQUAL
4 TO **\$100,000,000**;

5 (III) **\$500,000**, IF THE UNPAID PRINCIPAL BALANCE OF THE
6 ENTIRE SERVICING PORTFOLIO IS GREATER THAN **\$100,000,000** BUT LESS THAN OR
7 EQUAL TO **\$250,000,000**; OR

8 (IV) **\$1,000,000**, IF THE UNPAID PRINCIPAL BALANCE OF THE
9 ENTIRE SERVICING PORTFOLIO IS GREATER THAN **\$250,000,000**; AND

10 [(2)] (4) In the case of an applicant **THAT APPLIES TO LEND MONEY**
11 **SECURED BY A DWELLING OR RESIDENTIAL REAL ESTATE** or A licensee that lends
12 money secured by a dwelling or residential real estate, in the amount of:

13 (i) \$25,000, if the applicant or licensee, in the 12 months prior to the
14 license application or the renewal application, lent in the aggregate not more than
15 \$1,000,000 secured by a dwelling or residential real estate;

16 (ii) \$50,000, if the applicant or licensee, in the 12 months prior to the
17 license application or the renewal application, lent in the aggregate more than \$1,000,000,
18 but not more than \$5,000,000 secured by a dwelling or residential real estate;

19 (iii) \$100,000, if the applicant or licensee, in the 12 months prior to
20 the license application or the renewal application, lent in the aggregate more than
21 \$5,000,000, but not more than \$10,000,000 secured by a dwelling or residential real estate;
22 and

23 (iv) \$250,000, if the applicant or licensee, in the 12 months prior to
24 the license application or the renewal application, lent in the aggregate more than
25 \$10,000,000 secured by a dwelling or residential real estate.

26 (b) (1) Subject to paragraphs (2) [and], (3), **AND (4)** of this subsection, the
27 minimum net worth requirements under subsection [(a)(2)] **(A)** of this section may be
28 satisfied by the applicant or licensee having:

29 (i) Cash on deposit with a bank or depository institution;

30 (ii) A **WORKING CAPITAL** line of credit from a bank or depository
31 institution;

32 (III) **AN IRREVOCABLE LETTER OF CREDIT FROM A BANK OR**
33 **DEPOSITORY INSTITUTION**;

1 ~~[(iii)]~~ **(IV)** Other assets; or

2 ~~[(iv)]~~ **(V)** A combination of cash, a **WORKING CAPITAL** line of
3 credit, **AN IRREVOCABLE LETTER OF CREDIT**, or other assets.

4 (2) If cash is used toward satisfying the minimum net worth requirements
5 under subsection ~~[(a)(2)]~~ **(A)** of this section, the applicant or licensee shall submit to the
6 Commissioner a bank letter verifying:

7 (i) The account balance;

8 (ii) The type of account in which the funds are held; and

9 (iii) That the funds are not encumbered or hypothecated in any way.

10 (3) (i) If a **WORKING CAPITAL** line of credit is used toward satisfying
11 the minimum net worth requirements under subsection ~~[(a)(2)]~~ **(A)** of this section, the
12 applicant or licensee shall submit to the Commissioner a copy of the line of credit agreement
13 and the promissory note, **AND, SUBJECT TO PARAGRAPHS (II) AND (III) OF THIS**
14 **SUBSECTION, A RESERVATION OF THE WORKING CAPITAL LINE OF CREDIT IN FAVOR**
15 **OF THE COMMISSIONER BY THE BANK OR DEPOSITORY INSTITUTION.**

16 (ii) A **WORKING CAPITAL** line of credit may not be used toward
17 satisfying more than 75% of the minimum net worth requirements under subsection ~~[(a)(2)]~~
18 **(A)** of this section.

19 **(III) A WORKING CAPITAL LINE OF CREDIT MAY NOT BE USED**
20 **TOWARD SATISFYING THE MINIMUM NET WORTH REQUIREMENTS UNDER**
21 **SUBSECTION (A)(2) AND (3) OF THIS SECTION.**

22 **(4) (I) IF AN IRREVOCABLE LETTER OF CREDIT IS USED TOWARD**
23 **SATISFYING THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A) OF**
24 **THIS SECTION, THE APPLICANT OR LICENSEE SHALL SUBMIT TO THE**
25 **COMMISSIONER THE ORIGINAL IRREVOCABLE LETTER OF CREDIT.**

26 **(II) AN IRREVOCABLE LETTER OF CREDIT MAY NOT:**

27 1. **TERMINATE PRIOR TO THE EXPIRATION OF A**
28 **LICENSE; OR**

29 2. **BE MODIFIED OR REVOKED WITHOUT THE PRIOR**
30 **WRITTEN CONSENT OF THE COMMISSIONER.**

1 (c) In addition to any sanctions which may be imposed under this subtitle by the
2 Commissioner, a licensee who fails to [timely] provide **IN A TIMELY MANNER** the notice
3 required under subsection (a)(1) or (b)(1) of this section shall:

4 (1) For each such failure pay to the Commissioner a surcharge in the
5 amount of \$500; and

6 (2) [File] **FOR A LICENSEE WHO FAILS TO PROVIDE IN A TIMELY**
7 **MANNER THE NOTICE REQUIRED UNDER SUBSECTION (B)(1) OF THIS SECTION, FILE**
8 with the Commissioner an application for a new license, together with all applicable
9 application and investigation fees.

10 11-513.

11 (c) Notwithstanding subsection (a) of this section, on approval of the
12 Commissioner, a licensee need not keep at the licensee's place of business any books and
13 records otherwise required by the Commissioner under subsection (a) of this section if the
14 licensee:

15 (2) Retains the records for at least [25] **61** months in a storage facility
16 disclosed to the Commissioner.

17 11-513.1.

18 (a) A licensee shall submit to [the Nationwide Mortgage Licensing System and
19 Registry] **NMLS** a call report once each quarter on the date, in the form, and containing
20 the information required by [the Nationwide Mortgage Licensing System and Registry]
21 **NMLS**.

22 11-515.

23 (a) (2) The schedule established by the Commissioner under paragraph (1)(i)
24 of this subsection shall:

25 (i) Take into account:

26 1. The length of time the licensee has been engaged in
27 business as a mortgage lender;

28 2. Any prior violations by the licensee of the mortgage
29 lending law or regulations;

30 3. The nature and number of any complaints made against
31 the licensee; and

1 4. The result of findings from any prior examination of the
2 licensee; and

3 (ii) Provide that:

4 1. New licensees shall be examined within 18 months [of]
5 **AFTER** the date the license is issued; and

6 2. Each licensee shall be examined at least once during any
7 [~~36-month~~] **60-MONTH** period.

8 11-609.

9 (a) Subject to any regulations the Commissioner adopts in connection with the
10 transition to [the Nationwide Mortgage Licensing System and Registry] **NMLS**, an initial
11 license term shall:

12 (1) [Be for a maximum period of 1 year;

13 (2)] Begin on the first day the license is issued; and

14 [~~(3)~~] **(2)** Expire on December 31 of the year [the license is issued]:

15 **(I) IN WHICH THE LICENSE IS ISSUED, IF THE LICENSE IS**
16 **ISSUED BEFORE NOVEMBER 1; OR**

17 **(II) SUCCEEDING THE YEAR IN WHICH THE LICENSE IS ISSUED,**
18 **IF THE LICENSE IS ISSUED ON OR AFTER NOVEMBER 1.**

19 (b) On or [before] **AFTER** November 1 of the year [of expiration, a license] **IN**
20 **WHICH THE LICENSE EXPIRES, THE LICENSE** may be renewed **FOR AN ADDITIONAL**
21 **1-YEAR TERM**, if the licensee:

22 (1) Subject to subsections [~~(e)~~] **(D)** and [~~(f)~~] **(E)** of this section, meets the
23 minimum standards for the issuance of a license and otherwise is entitled to be licensed;

24 (2) Pays to the Commissioner a renewal fee set by the Commissioner; and

25 (3) Submits to the Commissioner:

26 (i) A renewal application on the form that the Commissioner
27 requires; and

28 (ii) Satisfactory evidence of compliance with any continuing
29 education requirements under this subtitle or set by regulations adopted by the
30 Commissioner.

1 [(c) Subject to any regulations the Commissioner adopts in connection with the
2 transition to the Nationwide Mortgage Licensing System and Registry, a renewal term
3 shall:

4 (1) Be for a maximum period of 1 year;

5 (2) Begin on January 1 of each year after the initial term; and

6 (3) Expire on December 31 of the year the renewal term begins.]

7 [(d) (C) In addition to the license renewal fee required under subsection (b)(2)
8 of this section, an applicant for a license renewal shall pay to [the Nationwide Mortgage
9 Licensing System and Registry] **NMLS** any fees that [the Nationwide Mortgage Licensing
10 System and Registry] **NMLS** imposes in connection with the renewal application.

11 [(e) (D) Notwithstanding anything to the contrary in this section or § 11–605 of
12 this subtitle, an applicant for renewal of a license who is duly licensed under this subtitle
13 on July 1, 2009:

14 (1) May comply with the following requirements for renewal of the license
15 on or before December 31, 2010:

16 (i) The fingerprinting and criminal history report requirement
17 under § 11–604 of this subtitle;

18 (ii) The surety bond coverage requirement under § 11–619 of this
19 subtitle; and

20 (iii) The prelicensing testing requirement under § 11–606.1 of this
21 subtitle; and

22 (2) Is deemed to have satisfied the prelicensing educational course
23 requirement under § 11–606 of this subtitle if the applicant completed 20 hours of
24 continuing education courses approved by the Commissioner within 5 years prior to the
25 expiration date of the applicant’s current license.

26 [(f) (E) If a license is surrendered voluntarily or is suspended or revoked, the
27 Commissioner may not refund any part of the license fee regardless of the time remaining
28 in the license term.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2019.