HB 61

Department of Legislative Services

Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 61 — (Chair, Economic Matters Committee)(By Request - Departmental - Labor, Licensing and Regulation)

Economic Matters — Finance

Financial Institutions - Commissioner of Financial Regulation - Mortgage Lenders, Loan Servicers, and Loan Originators

This departmental bill (1) establishes a sliding scale tangible net worth requirement for mortgage loan servicers; (2) clarifies and expands methods that may be used to meet minimum net worth requirements for mortgage lenders, mortgage brokers, and mortgage loan servicers; (3) repeals a requirement that a mortgage lender license be canceled if the licensee fails to timely notify the Office of the Commissioner of Financial Regulation (OCFR) of a change in place of business; (4) reduces the frequency of examinations for mortgage lender licensees while it also extends recordkeeping requirements; and (5) extends the license duration period for mortgage loan originator licensees whose registration date occurs late in a calendar year.

Fiscal Summary

State Effect: Special fund revenues decrease minimally in FY 2020 and by about $4,000 annually in subsequent years. Expenditures are not materially affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
SF Revenue	(-)	($4,000)	($4,000)	($4,000)	($4,000)
Expenditure	0	0	0	0	0
Net Effect	($-)	($4,000)	($4,000)	($4,000)	($4,000)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: The Department of Labor, Licensing, and Regulation has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Net Worth Requirements for Mortgage Loan Servicers

The bill establishes a new sliding scale applicable to mortgage servicers, who are required to hold a minimum tangible net worth requirement dependent on the volume of servicing work carried out in the State. If a mortgage loan servicer applicant (or an existing licensee) operates as an approved servicer for a government-sponsored enterprise (GSE), then the minimum tangible net worth requirement is the largest amount required by GSE standards.

For a mortgage loan servicer applicant (or an existing licensee) that does not operate as an approved servicer for a GSE, the minimum tangible net worth requirements are shown in **Exhibit 1**.

Exhibit 1
Net Worth Requirements of Mortgage Loan Servicers under the Bill

Minimum Tangible Net Worth Requirement	Unpaid Principal Balance of Entire Servicing Portfolio
$100,000	$50,000,000 or less
$250,000	$50,000,001 - $100,000,000
$500,000	$100,000,001 - $250,000,000
$1,000,000	more than $250,000,000

Source: Department of Legislative Services

Methods of Satisfying Net Worth Requirements for Mortgage Lenders, Mortgage Brokers, and Mortgage Loan Servicers

The bill establishes that minimum net worth requirements for mortgage lenders and mortgage brokers may be satisfied by having a working capital line of credit from a bank or depository institution or an irrevocable letter of credit from a bank or depository institution.

The bill also clarifies that mortgage lenders and mortgage brokers (but not mortgage loan servicers) may use a *working capital* line of credit to satisfy minimum net worth requirements. However, a working capital line of credit may not be used toward satisfying more than 75% of minimum net worth requirements. If an applicant or licensee uses a working capital line of credit to meet minimum net worth requirements, then, pursuant to current law, the applicant or licensee must submit to OCFR a copy of the line of credit agreement and the promissory note. In addition, the applicant or licensee must submit a reservation of the working capital line of credit in favor of the Commissioner of Financial Regulation by the bank or depository institution.

The bill authorizes mortgage lenders, mortgage brokers, and mortgage loan servicers to use an irrevocable letter of credit from a bank or depository institution to satisfy minimum net worth requirements. If an irrevocable letter of credit is used, the applicant or licensee must submit to OCFR the original irrevocable letter of credit. The irrevocable letter of credit may not (1) terminate prior to the expiration of a license or (2) be modified or revoked without the prior written consent of OCFR.

Loss of License for Failure to Timely Notify a Change in the Place of Business

The bill repeals a requirement that OCFR cancel the license of a mortgage lender if the licensee fails to timely provide notice of a change in the place of business. However, such licensees are still subject to a $500 surcharge.

Recordkeeping Requirements and Exam Cycle for Mortgage Lenders

The bill extends, from 25 to 61 months, the period during which a mortgage lender must retain records in a storage facility that must be disclosed to OCFR. The bill also reduces the frequency of required examinations by altering the authorized time between examinations from 36 to 60 months.

Mortgage Loan Originator License Duration

The bill modifies the licensing scheme for mortgage loan originators such that a license issued prior to November 1 expires on December 31 of the same year, while a license issued on or after November 1 expires on December 31 of the following year.

Current Law:

Net Worth Requirements for Mortgage Lenders, Mortgage Brokers, and Mortgage Loan Servicers

An applicant for a new mortgage lender license (or an applicant for a renewal license) must satisfy OCFR that the applicant or licensee has (and at all times will maintain) a minimum net worth computed according to generally accepted accounting principles. However, an applicant or licensee that does *not* lend money secured by a dwelling or residential real estate (*i.e.*, a mortgage broker or mortgage loan servicer) must satisfy OCFR that it has met (and at all times will maintain) a minimum net worth computed according to any other recognized comprehensive basis of accounting approved by OCFR.

Mortgage brokers and mortgage loan servicers are required to maintain a minimum net worth of $25,000. However, mortgage lenders are subject to a sliding scale of net worth requirements, as shown in **Exhibit 2**.

Exhibit 2
Net Worth Requirements for Mortgage Lenders

Minimum Net Worth Requirement	Aggregate Lending in 12 Months Prior to Application or Renewal of License
$25,000	$1,000,000 or less
$50,000	$1,000,001-$5,000,000
$100,000	$5,000,001-$10,000,000
$250,000	more than $10,000,000

Source: Department of Legislative Services

Loss of License for Timely Notification Failures

A mortgage lender licensee is prohibited from changing the place of business for which a license is issued unless the licensee (1) notifies OCFR in writing of the proposed change and (2) receives the written approval of OCFR. Similarly, a licensee is prohibited from undergoing a change in control unless the licensee (1) notifies OCFR in writing of the proposed change; (2) makes a written request that OCFR approve the proposed change; (3) provides any information OCFR may require, as specified; and (4) receives the written approval of OCFR.

Recordkeeping Requirement and Exam Cycles for Mortgage Lenders

On approval of OCFR, a mortgage lender licensee need not keep at the licensee's place of business any books and records otherwise required if the licensee (1) makes the books and records available to OCFR at the licensee's place of business within five business days and (2) retains the records for at least 25 months in a storage facility disclosed to OCFR.

OCFR must examine the business of each mortgage lender licensee (1) in accordance with a schedule established by OCFR and (2) at any other time OCFR reasonably considers necessary. The schedule must take into account specified factors and require that (1) new licensees be examined within 18 months of the date the license is issued and (2) each licensee be examined at least once during any 36-month period.

Mortgage Loan Originator License Duration

Licenses for mortgage loan originators are issued for a maximum period of one year and expire December 31 of the year the license is issued.

Background:

Mortgage Loan Servicer Net Worth Provisions

OCFR advises that its sliding scale proposal for mortgage loan servicers is similar to requirements in Washington. Although the bill may require licensees to change current net worth coverage, OCFR anticipates that large loan servicers are likely already in compliance with the bill's provisions due to federal requirements. OCFR further notes that most servicers doing business in Maryland are already required to meet higher net worth requirements for other states in which they do business and in order to comply with federal servicing standards. Thus, OCFR does not anticipate changes to the net worth requirement to increase business costs for the vast majority of servicers doing business in Maryland.

Loss of License for Timely Notification Failures

OCFR advises that it is proposing to eliminate the provision of law requiring a license cancellation solely from the licensee's failure to notify OCFR of a business location change because it already has ample authority to address noncompliance without mandating license loss.

Recordkeeping Requirement and Exam Cycles for Mortgage Lenders

OCFR notes that it is authorized to examine the business of a licensee at any time deemed necessary and would like to extend the statutory examination requirement to once every five, rather than three, years. The change in examination frequency would permit OCFR to engage in risk-based examinations that target troubled lenders with more frequent examinations, while rewarding compliant lenders with less frequent exams.

Mortgage Loan Originator License Duration

According to OCFR, under current requirements, a license issued on November 1 is only valid for two months and, therefore, modifying the requirement such that a license issued late in the year (*i.e.*, on or after November 1) would be valid through the following year would align the statute with current practice.

State Revenues: OCFR advises that eliminating the license suspension requirement for licensees that fail to provide timely notification of a change in the place of business is expected to have a minimal effect on special fund revenues. Based on the recent number of licenses that were canceled due to failure to provide the required notification, OCFR estimates that special fund revenues decrease by about $4,000 in fiscal 2021 and annually thereafter. The effect in fiscal 2020 is expected to be minimal.

While the bill increases the period of time between exams for mortgage lenders, OCFR does not anticipate any meaningful impact on revenues from this change as the amount of examination work (and billing) is expected to remain constant in any given year.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - January 29, 2019
mag/kdm Third Reader - March 20, 2019

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Financial Institutions- Commissioner of Financial Regulation- Mortgage Lenders and Mortgage Loan Originators

BILL NUMBER: HB 61

PREPARED BY: Nora Corasaniti, Director of Legislative Response and Special Projects

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

__ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

_X_ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

With regards to the extension of the life of the examination cycle, we anticipate a mostly positive impact on the business community as those financial institutions deemed to be low risk will enjoy fewer examinations thereby avoiding the costs associated with more frequent examinations. Financial institutions may initially incur additional costs associated with the storage of data for longer periods of time associated with the elongated examination schedule, but such costs are not thought to be substantial and should be outweighed by the savings resulting from the extension of the examination cycle. Moreover, with the passage of time, storage costs can be expected to shrink as electronic records replace paper records.

With regards to the proposed change in the net worth provision, some servicers doing business in Maryland may have to increase their net worth coverage, thereby increasing their costs. However, as most servicers doing business in Maryland are already required to meet higher net worth requirements for other states in which they do business and in order to comply with federal servicing standards, this portion of the proposal is not anticipated to increase costs for the vast majority of servicers doing business in Maryland.