HB 816

Department of Legislative Services

Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 816 (Delegate Sydnor)
Economic Matters

Financial Institutions - Maryland Mortgage Lender Law - Exemption

This bill restores an exemption from the Maryland Mortgage Lender Law (MMLL) that applies to any person who (1) makes three or fewer mortgage loans per calendar year and (2) brokers no more than one mortgage loan per calendar year from MMLL.

Fiscal Summary

State Effect: Special fund revenues decrease by as much as $58,000 annually beginning in FY 2020. Expenditures are not materially affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
SF Revenue	($58,000)	($58,000)	($58,000)	($58,000)	($58,000)
Expenditure	0	0	0	0	0
Net Effect	($58,000)	($58,000)	($58,000)	($58,000)	($58,000)

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: A number of entities are exempt from MMLL, including:

- any bank, trust company, savings bank, savings and loan association, or credit union incorporated or chartered under the laws of Maryland or the United States or any other state bank having a branch in Maryland;

- any insurance company authorized to do business in the State;
- any corporate instrumentality of the U.S. government, as specified;
- any person who takes back a deferred purchase money mortgage in connection with the sale of (1) a dwelling or residential real estate owned by (and titled in the name of) that person or (2) a new residential dwelling that the person built;
- a nonprofit charitable organization registered with the Maryland Secretary of State or a nonprofit religious organization;
- an employer making a mortgage loan to an employee;
- a person making a mortgage loan to a borrower who is a specified relative;
- a real estate broker who (1) is licensed in the State and (2) makes a mortgage loan providing a repayment schedule of two years or less to assist the borrower in the purchase (or sale) of a dwelling or residential real estate through the broker;
- a licensed home improvement contractor who assigns a mortgage loan without recourse within 30 days after completion of the contract to a person licensed under MMLL or to specified exempt institutions;
- a subsidiary or affiliate of specified financial institutions that (1) is subject to an audit or examination by a regulatory body or agency in Maryland (or the state where the principal office is maintained) and (2) files required information with the Office of the Commissioner of Financial Regulation (OCFR) prior to making mortgage loans;
- any employee benefit plan qualified under Internal Revenue Code § 401 or persons acting as fiduciaries with respect to such a plan, making mortgage loans solely to plan participants from plan assets; or
- employees acting within the scope of their employment with (1) a licensed mortgage lender or (2) a person exempt from licensure under MMLL.

However, these exemptions do not apply to any person who has been denied a license to engage in business as a mortgage lender or real estate broker – or whose license to engage in such activities has been suspended or revoked – within the three immediately preceding calendar years.

Background: The bill reinstates an exemption that was eliminated by Chapter 55 of 2012.

State Revenues: OCFR notes that, in 2017 (the most recent year for which complete data is available), 75 MMLL licensees reported making no more than three loans and brokering no more than one loan. In 2016, 40 MMLL licensees reported making no more than three loans and brokering no more than one loan.

However, OCFR states that it is difficult to interpret the reasons that loans were not made or brokered. As the mortgage lender license covers brokering, making, and servicing loans, some of these entities may be solely engaged in servicing loans (which requires them to continue to maintain the license under the bill), while other companies may maintain a license under MMLL for other various reasons.

Based on the two-year average of 2017 and 2016 licensing data, OCFR advises that a maximum of 58 licensed entities are likely to take advantage of the exemption created by the bill. Based on a $1,000 licensing fee, special fund revenues decrease by as much as $58,000 annually beginning in fiscal 2020.

Small Business Effect: Any small businesses that make three or fewer mortgage loans per calendar year or broker no more than one mortgage loan per year are no longer subject to the annual licensing fee and other regulatory requirements of MMLL. As a result, those small businesses benefit meaningfully under the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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