

Chapter 92

(House Bill 61)

AN ACT concerning

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

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

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

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 11–508.1(a) and (b), 11–512(c), 11–513(c)(2), 11–513.1(a), 11–515(a)(2), and
11–609
Annotated Code of Maryland
(2011 Replacement Volume and 2018 Supplement)

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

Article – Financial Institutions

1–101.

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

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

11-508.1.

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

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

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

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

(I) **\$100,000, IF THE UNPAID PRINCIPAL BALANCE OF THE ENTIRE SERVICING PORTFOLIO IS LESS THAN OR EQUAL TO \$50,000,000;**

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

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

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

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

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

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

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

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

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

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

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

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

[(iii)] (IV) Other assets; or

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

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

- (i) The account balance;
- (ii) The type of account in which the funds are held; and
- (iii) That the funds are not encumbered or hypothecated in any way.

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

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

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

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

(II) AN 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 THE COMMISSIONER.

11-512.

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

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

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

11-513.

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

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

11-513.1.

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

11-515.

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

(i) Take into account:

1. The length of time the licensee has been engaged in business as a mortgage lender;
2. Any prior violations by the licensee of the mortgage lending law or regulations;
3. The nature and number of any complaints made against the licensee; and
4. The result of findings from any prior examination of the licensee; and

(ii) Provide that:

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

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

11-609.

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

- (1) ~~[Be for a maximum period of 1 year;~~
- (2) ~~[Begin on the first day the license is issued; and~~
- ~~[(3)]~~ **(2)** ~~Expire on December 31 of the year [the license is issued]:~~

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

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

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

- (1) Subject to subsections ~~[(e)]~~ **(D)** and ~~[(f)]~~ **(E)** of this section, meets the minimum standards for the issuance of a license and otherwise is entitled to be licensed;
- (2) Pays to the Commissioner a renewal fee set by the Commissioner; and
- (3) Submits to the Commissioner:
 - (i) A renewal application on the form that the Commissioner requires; and
 - (ii) Satisfactory evidence of compliance with any continuing education requirements under this subtitle or set by regulations adopted by the Commissioner.

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

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

- (2) Begin on January 1 of each year after the initial term; and
- (3) Expire on December 31 of the year the renewal term begins.]

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

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

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

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

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

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

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

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

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

Approved by the Governor, April 18, 2019.