

# HOUSE BILL 282

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CF SB 307

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By: **Delegate Queen**

Introduced and read first time: January 25, 2023

Assigned to: Economic Matters

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Committee Report: Favorable

House action: Adopted

Read second time: March 11, 2023

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Financial Institutions – Mortgage Loan Originators – Independent Contractors**

3 FOR the purpose of altering certain provisions of law relating to the licensing of mortgage  
4 loan originators to provide for the licensing of certain independent contractors as  
5 mortgage loan originators under certain circumstances; requiring licensed mortgage  
6 lenders to supervise certain activities of certain mortgage loan originators in a  
7 certain manner; and generally relating to the financial institutions and the licensing  
8 of mortgage loan originators.

9 BY repealing and reenacting, without amendments,  
10 Article – Financial Institutions  
11 Section 11–501(a), 11–601(a), 11–603.1(a) and (b), 11–606(a), and 11–612(a)  
12 Annotated Code of Maryland  
13 (2020 Replacement Volume and 2022 Supplement)

14 BY adding to  
15 Article – Financial Institutions  
16 Section 11–501(q), 11–511.2, and 11–601(x)  
17 Annotated Code of Maryland  
18 (2020 Replacement Volume and 2022 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article – Financial Institutions  
21 Section 11–501(q), 11–601(h) and (x), 11–602(a), 11–603, 11–603.1(l) and (m),  
22 11–606(e), 11–606.1(a) and (g), 11–612(g), and 11–618 through 11–621

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland  
2 (2020 Replacement Volume and 2022 Supplement)

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

5 **Article – Financial Institutions**

6 11–501.

7 (a) In this subtitle the following words have the meanings indicated.

8 **(Q) “SPONSOR” HAS THE MEANING STATED IN § 11–601 OF THIS TITLE.**

9 **[(q)] (R)** “State” means the State of Maryland.

10 **11–511.2.**

11 **(A) A LICENSEE WHO IS THE SPONSOR OF A MORTGAGE LOAN ORIGINATOR**  
12 **SHALL AT ALL TIMES REASONABLY AND ADEQUATELY SUPERVISE THE ACTIVITIES**  
13 **OF THE MORTGAGE LOAN ORIGINATOR THAT ARE CONDUCTED WITHIN THE SCOPE**  
14 **OF THE MORTGAGE LOAN ORIGINATOR’S EMPLOYMENT OR EXCLUSIVE**  
15 **ENGAGEMENT.**

16 **(B) THE COMMISSIONER SHALL ADOPT REGULATIONS NECESSARY TO**  
17 **CARRY OUT THIS SECTION.**

18 11–601.

19 (a) In this subtitle the following words have the meanings indicated.

20 (h) “Independent contractor” means **[a person]** **AN INDIVIDUAL** whose  
21 compensation is paid without a deduction for federal or State income tax.

22 **(X) “SPONSOR” MEANS A MORTGAGE LENDER, OR A PERSON EXEMPT FROM**  
23 **LICENSING TO ACT AS A MORTGAGE LENDER, WHO EMPLOYS OR EXCLUSIVELY**  
24 **ENGAGES AN INDIVIDUAL TO ACT AS A MORTGAGE LOAN ORIGINATOR IN THE STATE.**

25 **[(x)] (Y)** “Unique identifier” means a number or other identifier assigned by  
26 NMLS.

27 11–602.

28 (a) (1) The licensing provisions of this subtitle **[do not]** apply to independent  
29 contractors.

1           (2) [Independent contractors are subject to the licensing provisions of  
2 Subtitle 5 of this title unless exempt from licensing under that subtitle] **AN INDEPENDENT**  
3 **CONTRACTOR MAY BE ISSUED A LICENSE AND ACT AS A MORTGAGE LOAN**  
4 **ORIGINATOR IF THE INDEPENDENT CONTRACTOR IS NOT ENGAGED BY MORE THAN**  
5 **ONE SPONSOR IN THE STATE.**

6 11-603.

7           (a) A license issued under this subtitle authorizes the licensee to act as a  
8 mortgage loan originator only when acting within the scope of employment **OR EXCLUSIVE**  
9 **ENGAGEMENT** with:

10           (1) A mortgage lender; or

11           (2) A person who is exempt from licensing as a mortgage lender.

12           (b) A licensee may not:

13           (1) Maintain more than one license under this subtitle; or

14           (2) Be employed **OR ENGAGED** by more than one mortgage lender or  
15 person who is exempt from licensing as a mortgage lender.

16           (c) (1) (i) Each license provided for through NMLS shall include the  
17 following information:

18                   1. The name of the licensee;

19                   2. The name of the licensee's [employer] **SPONSOR**; and

20                   3. The unique identifier of the licensee.

21                   (ii) The unique identifier of the licensee shall constitute the license  
22 number for the license.

23           (2) An individual may not act as a mortgage loan originator under a name  
24 or for [an employer] **A SPONSOR** that is different from the name and [employer] **SPONSOR**  
25 that appear on the license unless the licensee:

26                   (i) Notifies the Commissioner, in the form and in accordance with  
27 the process that the Commissioner requires, in advance of a change in the licensee's name  
28 or the licensee's [employer] **SPONSOR**;

29                   (ii) Pays to the Commissioner a license amendment fee set by the  
30 Commissioner for each notice provided under this paragraph; and

1 (iii) In the case of a new [employer] **SPONSOR**, amends the  
2 sponsorship information on NMLS by submitting the amendment, in the form required by  
3 the Commissioner, to indicate that the licensee is an employee **OR INDEPENDENT**  
4 **CONTRACTOR** of the new [employer] **SPONSOR**.

5 (3) If a licensee ceases to be employed **OR EXCLUSIVELY ENGAGED** by a  
6 licensed mortgage lender or by a person exempt from licensing as a mortgage lender, the  
7 licensee shall notify the Commissioner within 10 business days, and the license shall be  
8 placed into nonactive status through NMLS.

9 (4) During the time that a license is in nonactive status, it is a violation of  
10 this subtitle for the licensee to engage in any activity for which a license is required under  
11 this subtitle.

12 (5) The license shall remain in nonactive status until the licensee:

13 (i) Notifies the Commissioner, in the form and in accordance with  
14 the process that the Commissioner requires, that the licensee has obtained employment **OR**  
15 **HAS BEEN EXCLUSIVELY ENGAGED** with a licensed mortgage lender or with a person  
16 exempt from licensing as a mortgage lender; and

17 (ii) Has complied with the requirements set forth in paragraph (2) of  
18 this subsection.

19 (d) A license may be issued under this subtitle to an individual who is not  
20 employed **OR EXCLUSIVELY ENGAGED** by a licensed mortgage lender or a person exempt  
21 from licensing as a mortgage lender provided the license is placed into and remains in  
22 nonactive status until the licensee:

23 (1) Notifies the Commissioner, in the form and in accordance with the  
24 process that the Commissioner requires, that the licensee has obtained employment **OR**  
25 **EXCLUSIVE ENGAGEMENT** with a licensed mortgage lender or with a person exempt from  
26 licensing as a mortgage lender; and

27 (2) Has complied with the requirements set forth in subsection (c)(2) of this  
28 section.

29 (e) A license may be issued under this subtitle to an individual who is employed  
30 **OR EXCLUSIVELY ENGAGED** by a mortgage lender, or a person exempt from licensing as  
31 a mortgage lender, that has its principal office located outside the State if the mortgage  
32 lender or the person exempt from licensing as a mortgage lender maintains a resident agent  
33 within the State.

34 (f) This section does not apply to an affiliated insurance producer–mortgage loan  
35 originator licensed under § 11–603.1 of this subtitle.

1 11-603.1.

2 (a) In this section, “affiliated insurance producer–mortgage loan originator”  
3 means an individual who:

4 (1) Originates mortgage loans only on behalf of a single financial  
5 institution that is:

6 (i) Described in § 11-502(b)(1) of this title; and

7 (ii) Approved by the Commissioner under subsection (b) of this  
8 section;

9 (2) Is a licensed insurance producer in good standing under § 10-103 of the  
10 Insurance Article; and

11 (3) Holds an appointment as an insurance producer for an insurer that  
12 controls, is controlled by, or is under common control with:

13 (i) The financial institution described in item (1) of this subsection;  
14 or

15 (ii) A mortgage lender licensee that:

16 1. Is approved by the Commissioner under subsection (c) of  
17 this section; and

18 2. Originates loans only on behalf of the financial institution  
19 described in item (1) of this subsection under an exclusive contract with the financial  
20 institution.

21 (b) The Commissioner shall approve a financial institution described in  
22 subsection (a)(1) of this section based on the following criteria:

23 (1) The financial institution is in good standing with its primary state or  
24 federal regulator; and

25 (2) The financial institution is in material compliance with applicable state  
26 and federal law.

27 (l) (1) An individual may not act as an affiliated insurance  
28 producer–mortgage loan originator under a name or for [an employer] **A SPONSOR** that is  
29 different from the name and [employer] **SPONSOR** that appear on the license unless the  
30 licensee:

1 (i) Notifies the Commissioner, in the form and in accordance with  
2 the process that the Commissioner requires, in advance of a change in the licensee's name  
3 or the licensee's [employer] **SPONSOR**;

4 (ii) Pays to the Commissioner a license amendment fee set by the  
5 Commissioner for each notice provided under item (i) of this paragraph; and

6 (iii) In the case of a new [employer] **SPONSOR**, amends the  
7 sponsorship information on NMLS by submitting the amendment in the form required by  
8 the Commissioner to indicate that the licensee is an employee **OR INDEPENDENT**  
9 **CONTRACTOR** of the new [employer] **SPONSOR**.

10 (2) If a licensee ceases to be employed **OR EXCLUSIVELY ENGAGED** by a  
11 financial institution approved by the Commissioner under subsection (b) of this section, the  
12 licensee shall notify the Commissioner within 10 business days, and the license shall be  
13 placed into nonactive status through NMLS.

14 (3) During the time that a license is in nonactive status, it is a violation of  
15 this subtitle for the licensee to engage in any activity for which a license is required under  
16 this subtitle.

17 (4) The license shall remain in nonactive status until the licensee:

18 (i) Notifies the Commissioner, in the form and in accordance with  
19 the process that the Commissioner requires, that the licensee has obtained employment **OR**  
20 **HAS BEEN EXCLUSIVELY ENGAGED** with a financial institution that is approved by the  
21 Commissioner under subsection (b) of this section; and

22 (ii) Has complied with the requirements set forth in paragraph (1) of  
23 this subsection.

24 (m) The Commissioner may issue a license under this subtitle to an individual  
25 who is not employed **OR EXCLUSIVELY ENGAGED** by a financial institution approved by  
26 the Commissioner under subsection (b) of this section, provided that the license is placed  
27 into and remains in nonactive status until the licensee:

28 (1) Notifies the Commissioner, in the form and in accordance with the  
29 process that the Commissioner requires, that the licensee has obtained employment **OR**  
30 **EXCLUSIVE ENGAGEMENT** with a financial institution approved by the Commissioner  
31 under subsection (b) of this section; and

32 (2) Has complied with the requirements set forth in subsection (l)(1) of this  
33 section.

1 (a) To qualify for an initial license, an applicant shall complete at least 20 hours  
2 of prelicensing education that shall include:

3 (1) 3 hours of instruction on federal law and regulations relating to  
4 mortgage origination;

5 (2) 3 hours of instruction on ethics, including instruction on fraud,  
6 consumer protection, and fair lending issues; and

7 (3) 2 hours of training related to lending standards and loan terms for  
8 nontraditional mortgage products.

9 (e) This section does not preclude any prelicensing education course, as approved  
10 by [the Nationwide Mortgage Licensing System and Registry] **NMLS**, that is provided by  
11 the [employer] **SPONSOR** of the applicant or an entity that is affiliated with the applicant  
12 by an agency contract, or any subsidiary or affiliate of the [employer] **SPONSOR** or  
13 **AFFILIATED** entity.

14 11-606.1.

15 (a) To qualify for an initial license, an applicant shall pass a qualified written test  
16 developed by [the Nationwide Mortgage Licensing System and Registry] **NMLS** and  
17 administered by a test provider approved by [the Nationwide Mortgage Licensing System  
18 and Registry] **NMLS**.

19 (g) This section does not prohibit a test provider approved by [the Nationwide  
20 Mortgage Licensing System and Registry] **NMLS** from providing a test at the location of  
21 the [employer] **SPONSOR** of the applicant or any subsidiary or affiliate of the [employer]  
22 **SPONSOR** of the applicant, or any entity with which the applicant holds an exclusive  
23 arrangement to conduct the business of a mortgage loan originator.

24 11-612.

25 (a) Before applying for renewal of a license, a licensee shall complete at least 8  
26 hours of continuing education, which shall include:

27 (1) 3 hours of instruction on federal law and regulations relating to  
28 mortgage origination;

29 (2) 2 hours of instruction on ethics, including instruction on fraud,  
30 consumer protection, and fair lending issues; and

31 (3) 2 hours of training related to lending standards for the nontraditional  
32 mortgage product marketplace.

1 (g) This section does not preclude any continuing education course, as approved  
2 by [the Nationwide Mortgage Licensing System and Registry] **NMLS**, that is provided by  
3 the [employer] **SPONSOR** of the mortgage loan originator or an entity that is affiliated with  
4 the mortgage loan originator by an agency contract, or any subsidiary or affiliate of the  
5 [employer] **SPONSOR** or **AFFILIATED** entity.

6 11-618.

7 The employment **OR EXCLUSIVE ENGAGEMENT** of a mortgage loan originator  
8 licensed under this subtitle by a mortgage lender does not relieve the mortgage lender of a  
9 responsibility under this subtitle or under Subtitle 5 of this title, a rule or regulation  
10 adopted under this subtitle or under Subtitle 5 of this title, or a law governing mortgage  
11 lending in the State.

12 11-619.

13 (a) Each mortgage loan originator shall be covered by a surety bond in accordance  
14 with this section.

15 (b) (1) A mortgage loan originator who is an employee **OR INDEPENDENT**  
16 **CONTRACTOR** of a person subject to licensure under Subtitle 5 of this title may use the  
17 surety bond of that person to meet the mortgage loan originator's surety bond requirement.

18 (2) A mortgage loan originator who is an employee **OR INDEPENDENT**  
19 **CONTRACTOR** of a person exempt from licensure under Subtitle 5 of this title may use a  
20 surety bond of the person to meet the mortgage loan originator's surety bond requirement,  
21 provided the surety bond meets the requirements, based on mortgage loan volume, under  
22 § 11-508 of this title.

23 (c) A licensee who is an affiliated insurance producer-mortgage loan originator  
24 shall be deemed in compliance with this section if the licensee:

25 (1) Holds a surety bond that would satisfy the surety bond requirements  
26 under § 11-508 of this title if the affiliated insurance producer-mortgage loan originator  
27 were a licensee under Subtitle 5 of this title; or

28 (2) Is covered under a blanket surety bond held by the financial institution  
29 or mortgage lender licensee identified in § 11-603.1(a)(3) of this subtitle if the blanket  
30 surety bond:

31 (i) Covers all affiliated insurance producer-mortgage loan  
32 originators; and

33 (ii) Is in the amount of \$1,000,000 or another amount as required by  
34 the Commissioner by regulation.



1 11-620.

2 (a) (1) Except as otherwise provided in 12 U.S.C. § 5111, the requirements  
3 under any federal law and Title 4, Subtitles 1 through 5 of the General Provisions Article  
4 regarding the privacy or confidentiality of information or material provided to [the  
5 Nationwide Mortgage Licensing System and Registry] **NMLS**, and any privilege arising  
6 under federal or state law, including the rules of any federal or state court with respect to  
7 that information or material, shall continue to apply to that information or material after  
8 the information or material has been disclosed to [the Nationwide Mortgage Licensing  
9 System and Registry] **NMLS**.

10 (2) The information and material may be shared with all state and federal  
11 regulatory officials having mortgage industry oversight authority without the loss of  
12 privilege or the loss of confidentiality protections provided by federal law or Title 4,  
13 Subtitles 1 through 5 of the General Provisions Article.

14 (b) The Commissioner may enter into information sharing agreements with other  
15 governmental agencies, the Conference of State Bank Supervisors, the American  
16 Association of Residential Mortgage Regulators, or other associations representing  
17 governmental agencies.

18 (c) Information or material that is subject to a privilege or confidentiality under  
19 subsection (a) of this section may not be subject to:

20 (1) Disclosure under any federal or state law governing the disclosure to  
21 the public of information held by an officer or agency of the federal government or a state  
22 that has received the information or material; or

23 (2) Subpoena, discovery, or admission into evidence, in any private civil  
24 action or administrative process, unless with respect to any privilege held by [the  
25 Nationwide Mortgage Licensing System and Registry] **NMLS** the person to whom the  
26 information or material pertains waives, in whole or in part, that privilege.

27 (d) Any provisions of Title 4, Subtitles 1 through 5 of the General Provisions  
28 Article relating to the disclosure of any information or material described in subsection (a)  
29 of this section that are inconsistent with subsection (a) of this section shall be superseded  
30 by the requirements of this section.

31 (e) This section does not apply to information or material relating to the  
32 employment **AND ENGAGEMENT** history of, and publicly adjudicated disciplinary and  
33 enforcement actions against, mortgage loan originators that is included in [the Nationwide  
34 Mortgage Licensing System and Registry] **NMLS** and designated for access by the public.

35 11-621.

1 Nonfederally insured credit unions that [employ] **SPONSOR** mortgage loan  
2 originators shall register these employees **OR INDEPENDENT CONTRACTORS** with [the  
3 Nationwide Mortgage Licensing System and Registry] **NMLS** by providing the information  
4 concerning the employees' **OR INDEPENDENT CONTRACTORS**' identity set forth in 12  
5 U.S.C. § 5106(a)(2).

6 **SECTION 2. AND BE IT FURTHER ENACTED**, That this Act is not intended to  
7 conflict with or be interpreted to supersede any provision of the Labor and Employment  
8 Article, including any standards established under that article for protecting employees  
9 from abusive labor practices.

10 **SECTION 3. AND BE IT FURTHER ENACTED**, That this Act shall take effect  
11 October 1, 2023.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.