

SB 1026

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 1026

(Senator Beidle)

Finance

Economic Matters

Financial Institutions - Consumer Credit - Application of Licensing Requirements (Maryland Secondary Market Stability Act of 2025)

This emergency bill establishes that Title 11 of the Financial Institutions Article (which governs licensing requirements for various types of consumer lenders) generally does not apply to a person that acquires or is assigned (in whole or in part) (1) a mortgage, if the person does not otherwise make mortgages; (2) a mortgage loan (as defined in the Maryland Mortgage Lender Law), if the person does not otherwise make mortgages or engage in the mortgage lending business; or (3) an installment loan, if the person relies on another person to service or collect on the loan and does not otherwise make installment loans. The bill also generally exempts from State licensure requirements (1) a trust established by any corporate instrumentality of the federal government to acquire mortgage loans and (2) a passive trust that *acquires* a mortgage loan but does not make mortgage loans, is not a mortgage broker or servicer, and does not engage in servicing mortgage loans. The bill also establishes the Maryland Licensing Workgroup, staffed by the Office of Financial Regulation (OFR) within the Maryland Department of Labor to study and make recommendations on licensing requirements for persons that provide financial services in the State. By December 31, 2025, the workgroup must report its recommendations to the Governor and General Assembly, as specified. **The workgroup terminates June 30, 2026.**

Fiscal Summary

State Effect: Special fund revenues and expenditures for OFR may be affected due to the modification of licensing requirements, as discussed below. OFR can staff the workgroup with existing resources. Expense reimbursements for workgroup members are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill's requirements may not be construed to alter the definition of "student loan servicer," as specified. In addition, the bill's requirements related to the applicability of Title 11 of the Financial Institutions Article do not apply to specified provisions of law governing the sale of a loan account to an unlicensed person.

A "trust" includes any trust established under the laws of the State or any other state.

A "passive trust" means a trust that (1) acquires or is assigned mortgage loans in whole or in part; (2) does not make mortgage loans; (3) is not a mortgage broker or mortgage servicer; and (4) is not engaged in the servicing of mortgage loans, which does not include the act of transmitting or directing payments received by a mortgage servicer.

Maryland Licensing Workgroup

The workgroup must study:

- all licensing statutes and regulations adopted under those statutes concerning the provision of financial services in the State;
- the need for (and the efficacy of) the existing licensing and registration system for actively licensed persons who provide financial services in the State; and
- whether there is any benefit to expanding existing licensing or registration systems to persons not already subject to those requirements.

The workgroup must also make recommendations related to the above study requirements.

In conducting the study, the workgroup must, at a minimum, consider the potential impacts, costs, and benefits of its recommendations on:

- residents of the State;
- persons facilitating, brokering, making, servicing, or acquiring loans in the State;
- the availability of credit in the State;
- the cost of credit in the State compared to other states; and
- the capital markets, including the volume of secondary market transactions.

Current Law: An "installment loan" means a loan or extension of credit made for consideration under specified provisions of the Commercial Law Article (*i.e.*, related to interest and usury, revolving credit, and closed end credit).

Under the Maryland Mortgage Lender Law, a “mortgage lender” means any person who (1) is a mortgage broker; (2) makes a mortgage loan to any person; or (3) is a mortgage servicer. A “mortgage lender” does not include (1) a financial institution that accepts deposits and is regulated under Title 3, 4, 5, or 6 of the Financial Institutions Article; (2) the Federal Home Loan Mortgage Corporation; (3) the Federal National Mortgage Association; (3) the Government National Mortgage Association; (4) any person engaged exclusively in the acquisition of all or any portion of a mortgage loan under any federal, State, or local governmental program of mortgage loan purchases; or (5) an affiliated insurance producer-mortgage loan originator, as specified.

A “mortgage lending business” means the activities that define a mortgage lender and require the person engaging in those activities to be licensed, as specified. A “mortgage lending business” includes the making or procuring of mortgage loans secured by a dwelling or residential real estate located outside Maryland.

A “mortgage loan” means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or residential real estate on which a dwelling is constructed or intended to be constructed. A “mortgage” loan includes a loan in which funds are advanced through a shared appreciation agreement.

Additionally, a “mortgage” includes a deed of trust that secures a debt or the performance of an obligation.

A “credit grantor” is any individual, corporation, business trust, or other specified entity making a loan or other extension of credit, as specified. Among other things, a credit grantor includes any person who acquires or obtains the assignment of a revolving credit plan, as specified. A credit grantor making a loan or extension of credit is subject to the licensing, investigatory, enforcement, and penalty provisions under Title 11, Subtitle 3 of the Financial Institutions Article.

State Fiscal Effect: OFR advises that a recent Appellate Court of Maryland decision, *Estate of H. Gregory Brown v. Carrie M. Ward, et al.* (2024), which held that passive trusts that hold mortgage loans are subject to licensure under State law, obligates OFR to annually license thousands of passive trusts and to carry out related examinations.

OFR further advises that the majority of all mortgage loans are sold on the secondary market (*i.e.*, very few are held by the original lender). Purchasers of the loans typically issue residential mortgage-backed securities, with the loans assigned to passive trusts.

As a result of the Appellate Court decision, OFR notes that several lenders have expressed an unwillingness to include Maryland loans in securitized pools due to uncertainties about

compliance (and the related cost of obtaining the appropriate license). OFR advises that lenders are unlikely to make loans without certainty that the loans can be sold (and held) in loan pools; as a result, mortgage lending in the State may be inhibited, ultimately affecting borrowers' access to affordable mortgage options.

OFR advises that it is unable to determine the number of lenders and related trusts that may seek licensing (*i.e.*, as opposed to simply ceasing making or buying mortgages in the State) in the absence of the bill. Therefore, the exact impact of the bill on special fund revenues and expenditures cannot be determined. Nevertheless, this analysis generally assumes that, under current law, special fund revenues and expenditures for OFR likely increase, at least minimally, to license and regulate any new licensees, as required by the court decision. By exempting the specified entities (generally passive trusts) from licensing and regulation, the bill thus results in foregone special fund revenues and expenditures. As the exact number of entities that may seek licensing is unknown, a reliable estimate of the net effect is not feasible.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1516 (Delegate Queen) - Economic Matters.

Information Source(s): Maryland Department of Labor; Department of Legislative Services

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