

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 689
Finance

(Senator Gile)

**Financial Institutions - Conventional Home Mortgage Loans - Assumption and
Required Disclosures**

This bill requires banking institutions, credit unions, and mortgage lenders to include a provision in all “conventional home mortgage loans” that allows any of the existing borrowers to purchase the property interest of other borrowers in the event of a divorce, as specified. The affected financial institutions must disclose the assumption provision in writing to a loan applicant before the completion of the loan application. The bill’s provisions apply retroactively to any conventional home mortgage loan entered into prior to the bill’s effective date.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: A “conventional home 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 “conventional home mortgage loan” includes a loan in which funds are advanced through a shared appreciation agreement. A “conventional home mortgage loan” does not include a loan that is insured or guaranteed by the federal government.

The provisions of the bill apply only to a conventional home mortgage loan that is not already required by law or regulation by the State or federal government to be assumable in connection with the granting of an absolute divorce.

Affected lenders must include a provision in all conventional home mortgage loans allowing a borrower to purchase the property interest of another borrower on the same loan by assuming the seller's portion of the mortgage if (1) the assumption of the seller's portion of the mortgage is connected to a decree of absolute divorce and (2) the lender determines that the assuming borrower qualifies for the loan.

Current Law:

Definitions

A "dwelling" means a residential structure or mobile home that contains one to four family housing units or individual units of condominiums or cooperatives. "Dwelling" does not include a residential structure or mobile home unless the residential structure or mobile home, or at least one unit contained in the residential structure or mobile home is owner occupied.

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 "shared appreciation agreement" means a writing evidencing a transaction or any option, future, or any other derivative between a person and a consumer where the consumer receives money or any other item of value in exchange for an interest or future interest in a dwelling or residential real estate, or a future obligation to repay a sum on the occurrence of an event, as specified.

The Office of Financial Regulation

The Office of the Financial Regulation (OFR) is responsible for licensing and regulating mortgage lenders, brokers, servicers and loan originators, and other financial institutions. The office also supervises and regulates State-chartered financial institutions including State-chartered banks, credit unions, and trust companies. Supervision includes periodic on-site evaluations as well as off-site monitoring programs. The office responds to consumer complaints and oversees retail credit accounts, retail installment contracts, and credit grantor contracts.

OFR has the power to vigorously investigate financial transactions to determine whether a person has violated a law, regulation, rule, or order over which the commissioner of OFR has jurisdiction. For the purposes of an investigation or proceeding, the commissioner may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, and require the production of documents and other evidence. If a person refuses to obey a subpoena from the commissioner, the commissioner may apply to the appropriate circuit court to issue an order requiring the person to appear before the commissioner and produce any requested evidence. If the court issues such an order, failure to obey it subjects the person to contempt of court.

When the commissioner determines, after notice and a hearing, as specified, that a person has engaged in a violation of a law, regulation, rule, or order, the commissioner may issue a cease and desist order, suspend or revoke the license of the violator, and/or issue a penalty order against the person for up to \$10,000 for a first violation and up to \$25,000 for each subsequent violation.

Additional Information

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

Designated Cross File: HB 1018 (Delegate Pruski) - Economic Matters.

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

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Analysis by: Kayvon Samadani

Direct Inquiries to:
(410) 946-5510
(301) 970-5510