Maryland
DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT

LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lt. Governor

KENNETH C. HOLT
Secretary

DATE: **February 11, 2020**

BILL NO.: **House Bill 314**

COMMITTEE: **House Environment and Transportation Committee**

POSITION: **SUPPORT**

TITLE: **Real Property - Lien Priority of Refinance Mortgages - Exception for Government Junior Mortgages**

SPONSORS: **Delegate Holmes**

Description of Bill:

House Bill 314 would exempt specific, secondary down payment assistance loans with a 0% interest rate from being automatically subordinated in the event of a qualifying refinance of the primary mortgage loan.

Background:

As the state's housing finance agency, the Maryland Department of Housing and Community Development promotes affordable homeownership opportunities by financing mortgage loans to homebuyers through the Maryland Mortgage Program. Down payment and closing costs are often one of the most difficult barriers to achieving homeownership. The department provides Maryland Mortgage Program participants access to additional, complementary down payment or closing cost assistance. Over 80% of Maryland Mortgage Program borrowers receive this additional assistance.

One of the Maryland Mortgage Program's options for down payment assistance is a 0% deferred loan through the Downpayment and Settlement Expense Loan Program (DSELP) that is issued as junior lien to the primary mortgage. Repayment of the DSELP loan is deferred until refinance of the primary mortgage, the sale of the home, or until the maturity date of the primary mortgage is reached, typically after 30 years.

The department has always required repayment of the DSELP loan upon any payoff event, sale or refinance. However, based on advice of counsel, the department has discontinued this practice on refinances eligible for auto-subordination. House Bill 314 would enable the department to resume requiring repayment of these junior lien, down payment assistance loans upon refinance of the first lien mortgage in order to recoup vital resources that can then be redeployed to assist additional prospective homebuyers.

Under current law junior liens like DSELP's deferred loans may be automatically re-subordinated to the newly issued first mortgage upon a refinancing of that mortgage if all of the following conditions are met:

1. The principal amount of the junior lien does not exceed $150,000
2. The principal amount of the newly issued mortgage does not exceed the unpaid principal balance of the refinanced loan by more than $5,000 to pay escrow and closing costs, and;
3. The interest rate on the newly issued mortgage is lower than the interest rate on the refinanced mortgage.

EQUAL HOUSING OPPORTUNITY

MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
7800 HARKINS RD • LANHAM, MD 20706 • DHCD.MARYLAND.GOV
301-429-7400 • 1-800-756-0119 • TTY/RELAY 711 or 1-800-735-2258

Due to factors such as increased equity created by rising home values and the exclusion of certain refinances from the auto-subordination statute, there are a comparatively small number of loans in the department's portfolio that will be refinanced in a given year and eligible for auto-subordination - likely a few dozen. Despite the modest number of loans anticipated to qualify for auto-subordination, DSELP is a revolving loan fund, and repayment of these loans in a timely and expected fashion is important to the effective operation of the program. Without the expected repayments to recapitalize this fund, a commensurate number of prospective first time homebuyers will be unable to afford to purchase a home in a given year. This effect will be compounded over time as the average life of the loan will continue to increase.

Aside from impacting the number of prospective homebuyers the department may assist, there are operational and fiscal impacts borne by the agency as a result of no longer automatically receiving DSELP repayments. There are added monthly costs for servicing these subordinate loans, as, once they are divorced from the first mortgage, they must be transferred to a different servicer on different terms and may no longer be paid out of proceeds of the first mortgage. Additionally, there may be added costs of private capital formation by the Community Development Administration in the mortgage revenue bond and mortgage-backed securities markets.

DHCD Position:

Without this change, the Maryland Mortgage Program is likely to see increased costs of capital formation, higher interest rates, increased administrative costs, and a reduction in program fund recycling, helping fewer prospective Maryland homebuyers. For these reasons, the Maryland Department of Housing and Community Development requests a **favorable report** on House Bill 314.