

*HB 282: Financial Institutions – Mortgage Loan Originators – Independent Contractors
Frequently Asked Questions*

What does this bill do?

This bill will codify that an independent contractor (1099) can be licensed in Maryland as a Mortgage Loan Originator (MLO). This will bring clarity to MLO's and mortgage companies and provide much needed flexibility for both.

Are there 1099 MLO's working in Maryland today?

Yes, and the Commissioner of Financial Regulation recognized that fact by issuing a guidance on their licensure.

Is this a new idea?

No, 39 states have either affirmative language, or do not explicitly prevent independent contractors to be licensed as MLOs, including our neighbors in PA, DE, VA and WV.

How does this bill ensure that an MLO who is a 1099 only works for one Mortgage lender?

Current law contains a proxy meant to ensure that an MLO works exclusively for a single Mortgage Company. That proxy is that a lender must withhold taxes on behalf of the MLO.

This bill doesn't change that an MLO must be exclusively engaged, in fact it makes it explicitly clear. The bill distinguishes a 1099 MLO from a W2 and allows them to be treated in a manner consistent with every other industry.

How is that different from existing law?

For current 1099 MLO's the Commissioner recommends withholding state and federal taxes of these MLOs. This creates an undue burden to standard accounting practices and removes the MLO's ability to make tax decisions as typically enjoyed by an independent contractor.

Can an MLO be a regular employee?

Yes and there are many! MLOs currently operating as W2 employees cannot be arbitrarily re-classified without appropriate business/policy changes that comply with state standards protecting W-2 employees.

Will any MLO have to change their relationship with their Mortgage Company?

This bill does not take anything away from current MLO's nor does it require them to change their arrangements with their Mortgage company.

Who REALLY benefits from this bill

This legislation provides more options for consumers and it promotes the existing trusted relationships local professionals have within the community, as well as ensuring that compensation paid on these loans remain local and benefit the local economy.

Does this bill allow brokers, realtors or somebody to start originating mortgages?

This bill doesn't change licensure standards, thresholds, requirements or anything else, other than clarifying who is withholding tax and when. One MLO, one lender – it's that simple and if you're a 1099, you take care of your own taxes!

What about current labor law?

This proposal does not impact current labor laws, it's right in the bill, in Section 2.