Maryland
DEPARTMENT OF LABOR

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March 11, 2025

House Economic Matters Committee
Chair: Delegate CT Wilson
House Bill 1516 - Financial Institutions - Consumer Credit - Application of Licensing Requirements (Maryland Secondary Market Stability Act of 2025)

Re: Letter of Information

The Office of Financial Regulation (OFR) supervises mortgage lending in Maryland to ensure a stable, fair, and competitive financial marketplace while protecting consumers. OFR provides this testimony in support of House Bill 1516, which is intended to return stability to the Maryland secondary loan market; a market that was thrown into turmoil after the issuance of a Circuit Court decision earlier this year.

That Maryland Circuit Court case, (*Estate of Brown v Ward*), held that passive trusts that hold mortgage loans must be licensed by OFR. That decision, which was not appealed and is now final, represents a significant shift in regulatory and licensing expectations for mortgage and other consumer loans that are commonly bundled for sale in the secondary market. No other state requires such trusts to be licensed and, prior to this ruling, OFR did not require such passive trusts to be licensed. If the licensing requirement is not amended through HB1516, OFR believes that mortgage and other consumer lending in the State will continue to be disrupted. Moreover, if HB1516 is not passed, OFR will be required to oversee the licensing and examination of thousands of passive trusts—an unprecedented and resource-intensive undertaking for both OFR, which is not resourced to handle such increased responsibilities, and affected industries—and would require instructions on how to comply with this unique requirement.

The vast majority of all mortgage loans originated in Maryland, as in the rest of the country, are sold on the secondary market; very few are held by the original lenders. Purchasers of the loans typically pool them into residential mortgage-backed securities, with the loans assigned to passive trusts. This process ensures liquidity and allows lenders to continue making new loans. A majority of the loans are put into loan pools held by so-called "government sponsored entities (GSEs)" such as GNMA or FNMA, but a substantial minority (approximately 25-35% of Maryland loans) are pooled and sold outside of those entities. Prior to the *Brown* decision, trusts holding loans in either system did not require licensing. In the aftermath of the decision and to assuage concerns of lenders threatening the cessation of GSE backed mortgage lending in the State, OFR issued interpretive guidance to clarify that the trusts created by the GSEs were entitled to an existing exemption from licensure. To date, OFR is not aware of significant disruptions to GSE market activity.

As a result of the decision, however, a number of mortgage lenders have stopped funding loans in Maryland. Others have expressed to OFR their unwillingness to continue lending in Maryland if the effects of the decision are not remedied legislatively or if Courts fail to follow OFR's GSE determination. The decision and the uncertainty it engendered have translated into reduced mortgage loan availability. If this situation continues and other lenders follow suit as threatened, Maryland borrowers' access to mortgage and other loan types will likely be limited. OFR cannot predict the exact magnitude of lender pull-back, but it is convinced that failure to address this situation through legislation will result in reduced loan options available to borrowers in the State and subsequent harm to the broader housing market. From a historical perspective, Georgia created a similar compliance requirement in the early 2000s and immediately witnessed significant reductions in mortgage lending, which were only reversed after prompt legislative action. While the Georgia legislature remedied the situation, OFR's understanding is that the market took some time to return to normal and that loans created during the short period when Georgia's licensing requirement was effective still cannot be securitized.

This decision rendered Maryland an outlier in the licensing of passive trusts with increased compliance costs to lenders. Because it is a relatively small market, lenders do not need to make loans in the State. Further, if the effect of this decision stands, national lenders and investors may simply choose to stop originating and purchasing loans in favor of states with less burdensome regulatory frameworks. Given the evidence of early lender withdrawals, such an outcome would result in continuing harm to Maryland borrowers and disrupt mortgage and lending markets, ultimately placing Marylanders at a competitive disadvantage. **OFR strongly urges the Legislature to reverse the effect of the *Brown* decision to ensure that no further harm is done to Maryland's marketplace.**

Importantly, this bill does not reduce consumer protections. Mortgage lenders and servicers remain subject to robust licensing, oversight, and enforcement by OFR to ensure fair lending practices and compliance with state and federal laws. By clarifying that passive entities are not required to be licensed, HB1516 preserves the integrity of Maryland's financial regulatory system without diminishing substantive borrower protections. Additionally, in light of the discussion engendered by this situation HB1516 provides for the establishment of a licensing study group to meet over the summer of 2025 to review Maryland's loan licensing law and make recommendations to the Legislature on any changes to Maryland's licensing system that might potentially strengthen the balance between consumer protection and market competition.

Failure to pass HB1516 would likely result in a significant fiscal impact on OFR. While OFR is unable to determine with any certainty how many lenders and related trusts would seek licensing instead of withdrawing business, it stands that OFR also cannot reliably estimate the potential revenues that would be collected from licensing fees. However, because of the reasonably expected licensing volume and existing examination requirements under Maryland's Mortgage Law, OFR is certain that from an operational standpoint **it would be unable to meet its statutory licensing and examination obligations without the addition of a substantial number of licensing and examination staff.**

For the reasons outlined above, OFR strongly supports HB1516 and urges the General Assembly to pass this legislation to prevent unnecessary regulatory burdens, protect Maryland's mortgage market, and ensure continued access to affordable mortgage loans. We appreciate the opportunity to provide this testimony and are available to provide further information or technical assistance as needed.