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March 11, 2025

TO: The Honorable Pamela Beidle, Chair
Finance Committee

FROM: Steven M. Sakamoto-Wengel
Consumer Protection Counsel for Regulation, Legislation and Policy

RE: Senate Bill 1026 – Financial Institutions -- Consumer Credit – Application
of Licensing Requirements – CONCERN

The Consumer Protection Division of the Office of the Attorney General has concerns about Senate Bill 1026, sponsored by Chair Beidle, which would reverse a recent decision of the Appellate Court of Maryland holding that the licensing requirements of the Credit Grantor Closed End Credit subtitle apply to a foreign statutory trust that acquires or obtains the assignment of a revolving credit plan. The Division is concerned that failure to require these entities to be licensed by the Commissioner of Financial Regulation could result in predatory or abusive lending practices by the foreign statutory trusts.

The court in *Estate of H. Gregory Brown v. Ward*, 261 Md. App. 385 (2024), addressed a Delaware statutory trust that acquired a “zombie” deed of trust on residential property securing the debt under a home equity line of credit and sought to foreclose on the property. The Court rejected the statutory trust’s contentions that it was not required to be licensed in order to foreclose on the property (1) because it was an assignee of the credit plan rather than the original lender, and (2) because the licensing requirement did not apply to foreign statutory trusts. *Id.*, 261 Md. App. at 427.

The Court noted that “[a]n evident purpose of the licensing scheme is, however, to protect consumer borrowers from unscrupulous or unqualified actors, by requiring the credit grantor to establish its overall ‘fitness’ to the satisfaction of the Commissioner of Financial Regulation.” *Id.*, at 422. Along these lines, Maryland has a history of statutory trusts that bought up mortgages in distress just so they could foreclose with no intention of trying to

work with the homeowner to modify the mortgages. *See, e.g., John Bullock et al., 'Vulture Capital' Firm Preys on Baltimore, Baltimore Sun (Mar. 27, 2017), <https://www.baltimoresun.com/news/opinion/oped/bs-ed-oaktree-20170327-story.html>.*

The Court further rejected the arguments from the foreign statutory trust that the limited holding of the Supreme Court of Maryland (then known as the Court of Appeals) in *Blackstone v. Sharma*, 461 Md. 87, 95 (2018), that a foreign statutory trust did not need to obtain a collection agency license applied to the licensing requirement of the Credit Grantor Revolving Credit statute. *Brown v. Ward*, 261 Md, App. at 426-27. The Court found that “[t]he primary function of CL § 12-915(b) is to make certain mortgage industry actors subject to the licensing requirements of the Maryland Mortgage Lender Law in connection with mortgages securing a revolving line of credit.” *Id.*, at 427,

The Division agrees that the licensing requirement is critical to protecting Maryland consumers. The fact that a foreign statutory trust may rely upon a licensed mortgage servicer to collect the loan does not alter that conclusion. The servicer works at the direction of the trust and the trust should be subject to oversight by the Office of Financial Regulation as well.

Claims that the licensing ruling will cause lenders to leave the State do not make sense because many lenders are licensed and sell Fannie, Freddie, VA and FHA loans—all of which are exempt from the court decision. Moreover, while the licensing process deters unfair predatory practices in connection with mortgages, it would be relatively simple for a trust that is purchasing Maryland mortgages to become licensed.

Accordingly, the Consumer Protection Division respectfully requests that the Finance Committee take its concerns into account when considering Senate Bill 1026.

cc: The Honorable Pamela Beidle
The Honorable Antonio Salazar