

MARYLAND REGISTER

Emergency Action on Regulations	
Date Filed with AELR Committee October 31, 2024	Date Filed with Division of State Documents
Emergency Status Approved	Document Number 24-186-E
Emergency Status Begins On May 5, 2024	Date of Publication in MD Register
Emergency Status Ends On January 13, 2025	
Name of AELR Committee Counsel Name	

1. COMAR Codification

Title	Subtitle	Chapter	Regulation
09	03	06	02
09	03	06	04

2. Promulgating Authority

Maryland Department of Labor

3. Name of Regulations Coordinator

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4. Name of Person to Call About this Document

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5. Check applicable items:

- New Regulations
- Amendments to Existing Regulations
- Repeal of Existing Regulations
- Recodification
- Incorporation by Reference of Documents Requiring DSD Approval

6. Date Requested for Emergency Status to Begin: May 5, 2024

Date Requested for Emergency Status to Expire: January 13, 2025

7. Agency Will Take the Following Action on These Regulations

- Promulgate them in accordance with State Government Article, §§ 10-101—10-126
- Allow them to expire

8. Is there a Proposed/Reproposed Action in ELF that is identical to this Emergency:

Yes No

9. Incorporation by Reference

Incorporation by Reference (IBR) approval form(s) attached and 16 copies of documents proposed for incorporation submitted to DSD. (Submit 16 paper copies of IBR document to DSD and one copy to AELR.)

10. Reason for Request for Emergency Status

The recent Appellate Court of Maryland decision Estate of Brown v. Carrie M. Ward, et al, 261 Md.App. 385, (2024) found that entities, specifically mortgage trusts, were required to obtain a license as a credit grantor. This proposed action allows entities whose structure would otherwise make it excessively burdensome to obtain a license.

11. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council

12. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Emily Hanson, Assistant Attorney General, telephone #410-230-6121, on October 31, 2024. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Antonio Salazar

Title

Commissioner

Telephone No.

4102306100

Date

October 31, 2024

Title 09

MARYLAND DEPARTMENT OF LABOR

Subtitle 03 COMMISSIONER OF FINANCIAL REGULATION

09.03.06 Mortgage Lenders

Authority: Authority: Financial Institutions Article, §§2-105.1, 12-926, and 12-1030, Annotated Code of Maryland

Notice of Emergency Action

[24-186-E]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to amend .02 and .04 under Subtitle COMAR 09.03.06 Mortgage Lenders.

Emergency status began: May 5, 2024.

Emergency status expires: January 13, 2025.

Estimate of Economic Impact

I. Summary of Economic Impact. The economic impact of the proposed action is expected to be low.

II. Types of Economic Impact.

Impacted Entity	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
(1) Mortgage Trust licensees	(-)	Minimal
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
(1) Consumers	(+)	Minimal

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

D(1). The proposed action provides a feasible avenue for mortgage trusts to obtain a license. The regulations impose minimal to no impact beyond what was imposed by the court decision.

F(1). It is expected that the public will directly benefit from the impact by the court decision. The regulations will indirectly benefit the public by enabling mortgage trusts to seek licensure in an efficient manner.

Economic Impact on Small Businesses

The emergency action has minimal or no economic impact on small businesses.

ANTONIO SALAZAR
Commissioner

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: **FY 25**

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

No additional funds are necessary to implement this regulation.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

The regulations impose minimal to no impact beyond what was imposed by the court decision.

G. Small Business Worksheet:

The regulations impose minimal to no impact beyond what was imposed by the court decision.

Title 09

MARYLAND DEPARTMENT OF LABOR

Subtitle 03 COMMISSIONER OF FINANCIAL REGULATION

.09.03.06.02 Definitions

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) – (34) text unchanged

(35) *“Passive trust” means a trust that:*

(a) *Acquires mortgage loans which are serviced by others;*

(b) *Does not make mortgage loans;*

(c) *Is not a mortgage broker or mortgage servicer as defined in Financial Institutions Article §11-501, Annotated Code of Maryland;*

(d) *Receives all periodic mortgage loan payments through a mortgage servicer; and*

(e) *Is not engaged in the day-to-day servicing of mortgage loans.*

([35]36) "Person" has the meaning stated in Financial Institutions Article, §11-501, Annotated Code of Maryland.

([36]37) "Processing", when used in the context of processing a loan application, means the:

(a) Collection of data, documents, and other materials which a lender or broker requires in order to evaluate whether a loan will be granted or denied;

(b) Preparation of all materials necessary for closing a loan; and

(c) Scheduling of the closing of a loan.

([37]38) "Residential real estate" has the meaning stated in Financial Institutions Article, §11-501, Annotated Code of Maryland.

([38]39) "Risk management program" means the policies, procedures, and internal controls designed to identify, measure, monitor and mitigate risk.

([39]40) "Service provider" has the meaning stated in 16 CFR Part 314, as it may be amended from time to time.

([40]41) Social Media.

(a) "Social media" means an Internet website or application software that:

(i) Requires a person to register or create an account to become a member; and

(ii) Allows two or more members to communicate directly with one another.

(b) "Social media" includes an Internet website or application software that allows members to communicate by means of one or more of the following:

(i) Text;

(ii) Video;

(iii) Still photograph; or

(iv) Audio.

(c) "Social media" does not include an electronic mail account.

([41]42) "Subservicer" means a person performing the routine administration of mortgage loans as an agent of a servicer or MSR investor under the terms of a subservicing contract.

([42]43) "Trade name" means any word or group of words used to identify a business to the public.

([43]44) "Underwriting" means the evaluation of information and materials about the loan, the applicant, and the property which will secure the loan, to determine whether the loan will be made or denied.

.04 Licensing and Application Requirements.

A. Scope.

(1) – (4) text unchanged

(5) For purposes of Financial Institutions Article, §11-506(b)(4), Annotated Code of Maryland, a “principal officer” includes:

- (a) An individual who owns, directly or indirectly, 10 percent or more of the business entity;
- (b) An individual who serves on the board of directors or board of managers;
- (c) An elected or appointed senior officer, including President, Executive Vice President, Senior Vice President, Treasurer, Secretary, Chief Executive Officer, Chief Operating Officer, Chief Legal Officer, Chief Credit Officer, and Chief Compliance Officer; [or]
- (d) An individual, regardless of title, who has the power to direct the management or policies of the mortgage lending business[.]; or

(e) *If the applicant is a passive trust:*

(i) *The trustee; or*

(ii) *If the trustee is not a natural person, a person who would be deemed a principal officer of the trustee in accordance with paragraphs (a) through (d) of this subsection.*

(6) *If an applicant is a passive trust, the individual providing the information required by Financial Institutions Article §11-506.1(b) shall be a principal officer as defined in subsection (5) of this section,*

(7) *For purposes of the net worth requirement contained in Financial Institutions Article §11-508.1, Annotated Code of Maryland, a passive trust whose only assets will be mortgage loans which it does not yet hold will be deemed to satisfy the net worth requirement at the time of application if the passive trust provides evidence satisfactory to the Commissioner that it holds or will hold sufficient assets of the type identified in Financial Institutions Article §11-508.1, to satisfy the net worth requirement within 90 days of licensure.*

(8) *A passive trust that meets the net worth requirement contained in Financial Institutions Article §11-508.1, Annotated Code of Maryland, under subsection (7) of this section shall provide the Commissioner with evidence that it satisfies the net worth requirements within 90 days after obtaining its license.*

B. – K. text unchanged