

PRESERVING HOMEOWNERSHIP

Proposed Legislative and Regulatory Reforms

Bill 1 – Credit Regulation

- Ban pre-payment penalties for all subprime loans
- Assure a borrower’s ability to repay residential, owner-occupied mortgage loans and verify source(s) of income
- For ARMs, qualify borrower at the “fully indexed rate”, not just the “teaser” rate
- Increase surety bond requirement and add a minimum net worth requirement for mortgage lender licensees
- Prohibit the granting of a license to mortgage originators and lender applicants and allow for revocation where the applicant or principal has a felony criminal conviction within ten years for fraud, theft, forgery or financial crime of any type
- Authorize the Commissioner or her designee to develop and administer the license test and to increase license fees by regulation
- Require that mortgage originators live/operate within 100 miles of employer’s office
- Require brokers to specifically disclose in the Finder’s Fee Agreement that the individual is a broker and not a lender in the transaction
- Authorize Maryland’s entry into the National Licensing System effecting Mortgage Lender Licensees (Mortgage Brokers, Lenders, Servicers) and Mortgage Originators which will give Maryland regulators access to a central repository of information about licensing and enforcement actions
- Recordation - Require that any security instrument when recorded have the license number of originator/lender on it or an affidavit line if the document was not originated by a Md. Licensee

Bill 2 - Criminal Law - Mortgage Fraud

- Creates a criminal mortgage fraud statute that covers all potential actors engaged in mortgage fraud and includes:
 - restitution
 - forfeiture
 - enhanced penalties for vulnerable adults
 - a private right of action
 - duty to report convictions to any licensing body

Bill 3 - Protection for Homeowners in Foreclosure Act (PHIFA)

- Ban the conveyance of real property in the foreclosure rescue context
- Grant the Commissioner of Financial Regulation concurrent jurisdiction with the Attorney General to investigate, enforce and enjoin action in these cases
- Require that the Commissioner receive notice about licensees who are convicted under the statute

Bill 4 – Sale of Property – Foreclosure

- Require lender to wait 90 days from borrower’s default to the filing of the foreclosure action
- Send a uniform Notice of Intent to Foreclose to the homeowner by certified and first class mail 45 days prior to the filing of foreclosure action
- Require lender to produce proof of ownership when filing a foreclosure action
- Personal Service: Require two good faith attempts at personal service on separate days and, after, allow service by posting with the filing of an affidavit documenting attempts
- Require 45 days from service of Order to Docket to foreclosure sale
- Reduce the number of times notice of the foreclosure sale must be published in a newspaper from three times to one
- Codify the right to cure during the time between filing the Order to Docket and sale, and limit the exercise of the right to one business day prior to sale

Emergency Regulation – Loss Mitigation Reporting Requirement for Servicers

- Require servicers to report monthly loss mitigation and loan modification efforts and outcomes

Regulation 1 - Chapter 6 - Maryland Mortgage Lender Licensees

- Require servicers to report loss mitigation and loan modification efforts and outcomes
- Impose a duty of good faith and fair dealing on licensees—brokers, lenders and servicers
- Require brokers and lenders to show a reasonable net tangible benefit to the borrower when refinancing
- Track rates of default and foreclosure of licensees by requiring license numbers to be placed on security instruments they originate
- Regulate the fair marketing and advertising of mortgage products
- Require risk management policies and protocols to ensure soundness and stability
- Strengthen the experience requirement to obtain a license

Regulation 2 - Chapter 9 - Maryland Mortgage Originator Licensees

- Impose a duty of good faith and fair dealing on mortgage originators
- Require originators to show a reasonable net tangible benefit to the borrower when refinancing
- Track rates of default and foreclosure of licensees by requiring license numbers to be placed on security instruments they originate

Regulation 3 - Chapter 10 – Credit Regulation

- Establish a duty to report incidents of fraud, theft, forgery or other financial crimes within 5 days of discovery or conviction
- Require disclosure at least 72 hours prior to settlement of the presence of any of these 3 terms: 1) Balloon Payment; 2) the omission of an Escrow Account for taxes and insurance; 3) mandatory binding arbitration clause