

HOUSE BILL 51

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8lr0567

(PRE-FILED)

By: **Delegate Montgomery**

Requested: August 28, 2007

Introduced and read first time: January 9, 2008

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Credit Regulation - Residential Mortgages - Interest on Escrow Accounts**

3 FOR the purpose of requiring certain mortgagees to pay a certain rate of interest on
4 funds held in certain escrow accounts; requiring certain mortgagees to provide
5 annually a statement of the escrow balance to certain borrowers; exempting
6 certain mortgagees from the provisions of this Act; defining certain terms;
7 repealing a certain definition; providing for the application of this Act; and
8 generally relating to mortgagees and escrow accounts.

9 BY repealing and reenacting, without amendments,
10 Article - Commercial Law
11 Section 12-101(b) and 12-1001(f)
12 Annotated Code of Maryland
13 (2005 Replacement Volume and 2007 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Commercial Law
16 Section 12-109 and 12-1026(a) and (b)
17 Annotated Code of Maryland
18 (2005 Replacement Volume and 2007 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Commercial Law**

22 12-101.

23 (b) "Borrower" means a person who borrows money under this subtitle.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 12-109.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) ["Lending institution" means a bank, savings bank, or savings and
4 loan association doing business in Maryland.

5 (3)] "Escrow account" means an expense or escrow account which tends
6 to protect the security of a loan by the accumulation of funds for the payment of taxes,
7 insurance premiums, or other expenses.

8 (3) **"MORTGAGE LOAN" MEANS A LOAN SECURED BY A FIRST**
9 **MORTGAGE OR FIRST DEED OF TRUST ON ANY INTEREST IN RESIDENTIAL REAL**
10 **PROPERTY LOCATED IN THE STATE.**

11 (4) **"MORTGAGEE" MEANS A PERSON THAT HOLDS A MORTGAGE**
12 **LOAN.**

13 (b) (1) [After May 31, 1974, a lending institution which lends money
14 secured by a first mortgage or first deed of trust on any interest in residential real
15 property and creates or is the assignee of] **A MORTGAGEE THAT, IN CONNECTION**
16 **WITH A MORTGAGE LOAN, REQUIRES THE BORROWER TO MAKE PERIODIC**
17 **PAYMENTS INTO** an escrow account [in connection with that loan] shall pay interest
18 to the borrower on the funds in the escrow account at the greater of:

19 (i) A rate of 3 percent per annum simple interest; or

20 (ii) [The] **IF THE MORTGAGEE PROVIDES A REGULAR**
21 **PASSBOOK SAVINGS ACCOUNT, THE** rate of interest regularly paid by the [lending
22 institution] **MORTGAGEE** on [regular passbook savings accounts] **THE ACCOUNT.**

23 (2) Interest on these funds shall be:

24 (i) Computed on the average monthly balance in the escrow
25 account; and

26 (ii) Paid annually to the borrower by crediting the escrow
27 account with the amount of interest due.

28 (3) The [lending institution] **MORTGAGEE** shall annually provide the
29 borrower with a statement of the escrow balance.

30 (c) The provisions of this section do not apply to a [lending institution
31 which] **MORTGAGEE THAT** provides for the payment of taxes, insurance, or other
32 expenses under the direct reduction method by which these expenses, when paid by
33 the [lender] **MORTGAGEE**, are added to the outstanding principal balance of the loan.

1 (d) This section does not apply **TO A MORTGAGEE** if [the loan is purchased
2 by an out-of-state lender through the Federal National Mortgage Association, the
3 Government National Mortgage Association, or the Federal Home Loan Mortgage
4 Corporation and the out-of-state lender as a condition of purchase elects to service the
5 loan. However, this section shall apply if the out-of-state lender sells the loan to a
6 Maryland lender or places the loan with a Maryland lender for servicing]
7 **REGULATION OF THE MORTGAGEE BY THE STATE IS PREEMPTED BY FEDERAL**
8 **LAW.**

9 12-1001.

10 (f) “Consumer borrower” means an individual receiving a loan or other
11 extension of credit under this subtitle for personal, household, or family purposes or
12 an individual receiving a commercial loan or other extension of credit for any
13 commercial purpose not in excess of \$75,000, secured by residential real property.

14 12-1026.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) [“Lending institution” means a bank, savings bank, or savings and
17 loan association doing business in Maryland.

18 (3)] “Escrow account” means an expense or escrow account which tends
19 to protect the security of a loan by the accumulation of funds for the payment of taxes,
20 insurance premiums, or other expenses.

21 (3) **“MORTGAGE LOAN” MEANS A LOAN OR OTHER EXTENSION OF**
22 **CREDIT MADE TO A CONSUMER BORROWER AND SECURED BY A FIRST**
23 **MORTGAGE OR FIRST DEED OF TRUST ON ANY INTEREST IN RESIDENTIAL REAL**
24 **PROPERTY LOCATED IN THE STATE.**

25 (4) **“MORTGAGEE” MEANS A PERSON THAT HOLDS A MORTGAGE**
26 **LOAN.**

27 (b) (1) A [lending institution that makes a loan to a consumer borrower
28 secured by a first mortgage or first deed of trust on residential real property and
29 creates or is the assignee of] **MORTGAGEE THAT, IN CONNECTION WITH A**
30 **MORTGAGE LOAN, REQUIRES THE CONSUMER BORROWER TO MAKE PERIODIC**
31 **PAYMENTS INTO** an escrow account [in connection with that loan] shall pay interest
32 to the consumer borrower on the funds in the escrow account at the greater of:

33 (i) A rate of 3 percent per annum simple interest; or

1 (ii) [The] **IF THE MORTGAGEE PROVIDES A REGULAR**
2 **PASSBOOK SAVINGS ACCOUNT, THE** rate of interest regularly paid by the [lending
3 institution] **MORTGAGEE** on [regular passbook savings accounts] **THE ACCOUNT.**

4 (2) Interest on these funds shall be:

5 (i) Computed on the average monthly balance in the escrow
6 account; and

7 (ii) Paid annually to the **CONSUMER** borrower by crediting the
8 escrow account with the amount of interest due.

9 (3) The [lending institution] **MORTGAGEE** shall annually provide the
10 consumer borrower with a statement of the escrow balance.

11 (4) The provisions of this subsection do not apply to a [lending
12 institution that] **MORTGAGEE THAT** provides for the payment of taxes, insurance, or
13 other expenses under the direct reduction method by which these expenses, when paid
14 by the [lending institution] **MORTGAGEE**, are added to the outstanding principal
15 balance of the loan.

16 (5) [(i)] This subsection does not apply **TO A MORTGAGEE** if [the
17 loan:

18 1. Is purchased by an out-of-state lender through the
19 Federal National Mortgage Association, the Government National Mortgage
20 Association, or the Federal Home Loan Mortgage Corporation; and

21 2. The out-of-state lender elects to service the loan as a
22 condition of purchase.

23 (ii) Notwithstanding subparagraph (i) of this paragraph, this
24 subsection shall apply if the out-of-state lender:

25 1. Sells the loan to a Maryland lender; or

26 2. Places the loan with a Maryland lender for servicing]
27 **REGULATION OF THE MORTGAGEE BY THE STATE IS PREEMPTED BY FEDERAL**
28 **LAW.**

29 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall be
30 construed to apply only prospectively and may not be applied or interpreted to have
31 any effect on or application to any mortgage loan made before the effective date of this
32 Act.

33 **SECTION 3. AND BE IT FURTHER ENACTED,** That this Act shall take effect
34 October 1, 2008.