

## CHAPTER 8

(House Bill 363)

AN ACT concerning

### **Credit Regulation – Mortgage Lending and Other Extensions of Credit**

FOR the purpose of prohibiting a lender from requiring or authorizing the imposition of a prepayment penalty, fee, premium, or other charge in connection with certain ~~subprime~~ mortgage loans; prohibiting certain lenders and credit grantors from making certain mortgage loans without giving due regard to the borrower's ability to repay the loans; repealing certain provisions of law that establish a certain presumption about a borrower's ability to repay a loan; requiring due regard to a borrower's ability to repay to include consideration of a certain debt to income ratio and verification of certain income and assets by review of certain written documentation; altering the threshold amount of a commercial loan on which prepayment charges or penalties may be charged; ~~providing that no prepayment charges may be imposed on consumer borrowers in connection with certain open end credit;~~ requiring a certain representation by a mortgage broker to be contained in a finder's fee agreement; authorizing the Commissioner of Financial Regulation to participate in the establishment and implementation of a multistate automated licensing system for mortgage lenders and mortgage originators and to adopt certain regulations to facilitate implementation of the system; requiring certain license applicants and licensees to have and maintain a certain net worth; requiring the Commissioner to deny an application for certain licenses filed by persons with certain felony convictions; requiring the Commissioner to set certain fees by regulation and to publish certain fee schedules; requiring certain licensees to file surety bonds in certain amounts; altering the procedures for renewing a certain license; altering certain examination requirements for a mortgage originator's license; ~~requiring mortgage originators to reside within 100 miles of the licensed office locations from which they work;~~ requiring the Commissioner to revoke the mortgage originator license of any licensee who, while licensed, has been convicted of certain felonies; requiring the Commissioner to conduct certain studies; requiring the Commissioner to report certain findings and recommendations on or before a certain date; defining certain terms; ~~repealing a certain definition~~ certain definitions; altering a certain definition; making certain conforming changes; providing for the application of this Act; providing that certain licensing, examination, and investigation fees shall remain in effect until the fees set by regulation by the Commissioner take effect; *providing for the effective dates of this Act;* and generally relating to credit regulation, extensions of credit, mortgage lending, and mortgage origination.

BY renumbering

Article – Commercial Law  
 Section 12–105(a), (b), (c), and (d), respectively  
 to be Section 12–105(b), (c), (e), and (f), respectively  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

BY adding to  
 Article – Commercial Law  
 Section 12–105(a) and (d), ~~12–905(e)~~, and 12–925  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Commercial Law  
 Section 12–105(c)  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)  
 (As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,  
 Article – Commercial Law  
 Section 12–127, 12–311, 12–409.1, 12–805, and 12–1029  
 Annotated Code of Maryland  
 (2005 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,  
 Article – Financial Institutions  
 Section 2–105.1, ~~11–506(a) and (d)~~ 11–506(d), 11–507(b), 11–508, 11–511,  
 11–515(c), 11–603(c), 11–605(a) and (b), 11–606(b), 11–609(b), 11–613(b),  
 and 11–615(a)  
 Annotated Code of Maryland  
 (2003 Replacement Volume and 2007 Supplement)

BY adding to  
 Article – Financial Institutions  
 Section 11–503.1, 11–508.1, 11–612.1, and 11–615(f)  
 Annotated Code of Maryland  
 (2003 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,  
 Article – Financial Institutions  
 Section 11–507(a)(1) and 11–515(a)(1)  
 Annotated Code of Maryland  
 (2003 Replacement Volume and 2007 Supplement)

*BY repealing and reenacting, with amendments,*

*Article – Financial Institutions*  
*Section 11-508.1*  
*Annotated Code of Maryland*  
*(2003 Replacement Volume and 2007 Supplement)*  
*(As enacted by Section 2 of this Act)*

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 12-105(a), (b), (c), and (d), respectively, of Article – Commercial Law of the Annotated Code of Maryland be renumbered to be Section(s) 12-105(b), (c), (e), and (f), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

**Article – Commercial Law**

12-105.

(A) ~~(1) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(2) “ANNUAL PERCENTAGE RATE” HAS THE MEANING STATED IN 12 C.F.R PART 226.~~

~~(3) “FULLY INDEXED RATE” MEANS THE INDEX RATE APPLICABLE TO A MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY AT THE TIME IT IS ORIGINATED, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.~~

~~(4) “MORTGAGE MORTGAGE LOAN” HAS THE MEANING STATED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.~~

~~(5) “RESIDENTIAL REAL PROPERTY” MEANS OWNER OCCUPIED REAL PROPERTY HAVING A DWELLING ON IT DESIGNED PRINCIPALLY AS A RESIDENCE WITH ACCOMMODATIONS FOR NOT MORE THAN FOUR FAMILIES.~~

~~(6) “SUBPRIME LOAN” MEANS:~~

~~(i) IN THE CASE OF AN ADJUSTABLE RATE MORTGAGE LOAN SECURED BY A FIRST LIEN ON RESIDENTIAL REAL PROPERTY THAT CAN INCREASE IN INTEREST RATE BUT NOT DECREASE IN INTEREST RATE BELOW THE FULLY INDEXED RATE AT THE TIME OF ORIGINATION, A MORTGAGE LOAN FOR WHICH THE ANNUAL PERCENTAGE RATE IS GREATER THAN 2 PERCENTAGE POINTS ABOVE THE YIELD ON UNITED STATES TREASURY SECURITIES HAVING COMPARABLE PERIODS OF MATURITY;~~

~~1. AS OF THE 15TH DAY OF THE PRECEDING MONTH IF THE RATE IS SET BETWEEN THE FIRST AND 14TH DAY OF THE MONTH; AND~~

~~2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF THE RATE IS SET ON OR AFTER THE 15TH DAY; AND~~

~~(H) FOR ALL OTHER MORTGAGE LOANS SECURED BY A FIRST LIEN ON RESIDENTIAL REAL PROPERTY, A MORTGAGE LOAN FOR WHICH THE ANNUAL PERCENTAGE RATE IS GREATER THAN 3 PERCENTAGE POINTS ABOVE THE YIELD ON UNITED STATE TREASURY SECURITIES HAVING COMPARABLE PERIODS OF MATURITY;~~

~~1. AS OF THE 15TH DAY OF THE PRECEDING MONTH IF THE RATE IS SET BETWEEN THE FIRST AND THE 14TH DAY OF THE MONTH; AND~~

~~2. AS OF THE 15TH DAY OF THE CURRENT MONTH IF THE RATE IS SET ON OR AFTER THE 15TH DAY.~~

(c) [If] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, IF the loan contract provides for them, the following fees and charges also may be collected and are not interest under this subtitle:

(1) A service charge for investigation and the continued servicing of collateral for a commercial loan secured by inventory or accounts receivable;

(2) A service charge made by a broker or dealer dealing in investment securities if:

(i) Money is advanced on the security of pledged investment securities; and

(ii) Services are rendered in the collection, crediting, and disbursement of income on the investment securities and in the furnishing of income tax and other information in connection with that income;

(3) A delinquent or late charge of the greater of \$2 or 5 percent of the total amount of any delinquent or late periodic installment of principal and interest, if:

(i) The delinquency has continued for at least 15 calendar days; and

(ii) A delinquent or late charge has not already been charged for the same delinquency; and

(4) A prepayment charge or penalty on a prepayment of the unpaid principal balance of the loan, if the loan is secured by a home, by a combination of home and business property, or by agricultural property, or if the loan is a commercial loan not in excess of ~~[\$5,000]~~ **\$15,000**, provided that the charge or penalty:

(i) May be imposed only on prepayments made within three years from the date the loan is made; and

(ii) May not exceed an amount equal to two months' advance interest on the aggregate amount of all prepayments made in any 12-month period in excess of one third of the amount of the original loan.

**(D) ~~(1)~~ IN CONNECTION WITH A SUBPRIME MORTGAGE LOAN, A LENDER MAY NOT REQUIRE OR AUTHORIZE THE IMPOSITION OF A PENALTY, FEE, PREMIUM, OR OTHER CHARGE IN THE EVENT THE SUBPRIME MORTGAGE LOAN IS PREPAID IN WHOLE OR IN PART.**

**~~(2) THE PROHIBITION UNDER PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO A SUBPRIME LOAN WITH A PRINCIPAL AMOUNT THAT EXCEEDS THE CONFORMING SUBPRIME LOAN SIZE LIMIT FOR A SINGLE FAMILY DWELLING AS ESTABLISHED FROM TIME TO TIME BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.~~**

12-127.

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

(2) ["Covered loan" means a mortgage loan made under this subtitle that meets the criteria for a loan subject to the federal Home Ownership Equity Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.] **"FULLY INDEXED RATE" MEANS THE INDEX RATE APPLICABLE TO A, AS DEFINED IN THE MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY DOCUMENTS, PREVAILING AT THE TIME IT IS ORIGINATED THE MORTGAGE LOAN IS APPROVED BY THE LENDER, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.**

(3) **(I)** "Mortgage loan" has the meaning stated in § 11-501 of the Financial Institutions Article.

**(II) "MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.**

~~(4) "Residential real property" means owner-occupied real property having a dwelling on it designed principally as a residence with accommodations for not more than four families.~~

(b) ~~(1)~~ A lender may not make a [covered] MORTGAGE loan without giving due regard to the borrower's ability to repay the MORTGAGE loan in accordance with its terms, **INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.**

~~(2) A borrower is presumed to be able to repay a MORTGAGE loan if at the time the MORTGAGE loan is made the borrower's total scheduled monthly payment obligations, including the [required loan payment] **PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE**, do not exceed 45 percent of the borrower's monthly gross income.~~

[(3) This section does not apply to a covered loan to a borrower whose monthly gross income is greater than 120 percent of the median family income for the metropolitan statistical area in which the residential real property securing the loan is located.]

(c) (1) **DUE REGARD TO A BORROWER'S ABILITY TO REPAY A MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:**

**(I) CONSIDERATION OF THE BORROWER'S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND**

**(II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD-PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.**

(2) **ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION INCLUDES:**

**(I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~ THE BORROWER'S INTERNAL REVENUE SERVICE FORM W-2;**

**(II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;**

**(III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~ PAYROLL RECEIPTS;**

~~(IV) A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR

(V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.

12-311.

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

(2) "Covered loan" means a mortgage loan made under this subtitle that meets the criteria for a loan subject to the federal Home Ownership Equity Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

(3) ~~"FULLY INDEXED RATE" MEANS THE INDEX RATE APPLICABLE TO A, AS DEFINED IN THE MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY DOCUMENTS, PREVAILING AT THE TIME IT IS ORIGINATED THE MORTGAGE LOAN IS APPROVED BY THE LENDER, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.~~

[(3)] (4) "Home buyer education or housing counseling" means instruction on preparing for home ownership, shopping for a home, obtaining a mortgage, loan closing, and life as a homeowner.

(5) (I) "MORTGAGE LOAN" HAS THE MEANING STATED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(II) "MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.

~~[(4)] (6) "Residential real property" means owner-occupied real property having a dwelling on it designed principally as a residence with accommodations for not more than four families.~~

(b) A lender may not take as security for a loan any:

- (1) Confession of judgment or power of attorney to him or to a third person to confess judgment or appear for the borrower in a judicial proceeding;
- (2) Assignment or order for payment of wages;
- (3) Instrument in which blanks are left to be filled after execution; or
- (4) Note, promise to pay, or security instrument which does not state:
- (i) The principal amount of the loan;
  - (ii) A schedule of payments or a description of the schedule; and
  - (iii) The agreed amount and rate of interest, charges, and fees.
- (c) (1) A lender may not take any security interest in:
- (i) Real property for any loan under \$2,000 in value or amount;
  - (ii) Personal property for any loan under \$700 in value or amount.
- (2) Any lien taken in violation of this subsection is void.
- (3) This subsection does not apply to or affect a lien on an interest in real property which results from a judgment obtained by the lender based on a loan otherwise secured or unsecured.

(d) ~~(1)~~ A lender may not make a [covered] **MORTGAGE** loan without giving due regard to the borrower's ability to repay the **MORTGAGE** loan in accordance with its terms, **INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.**

~~(2) A borrower is presumed to be able to repay a **MORTGAGE** loan if at the time the **MORTGAGE** loan is made the borrower's total scheduled monthly payment obligations, including the [required loan payment] **PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE**, do not exceed 45 percent of the borrower's monthly gross income.~~

[(3) This subsection does not apply to a covered loan to a borrower whose monthly gross income is greater than 120 percent of the median family income

for the metropolitan statistical area in which the residential real property securing the loan is located.]

**(E) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:**

**(I) CONSIDERATION OF THE BORROWER'S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND**

**(II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD-PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.**

**(2) ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION INCLUDES:**

**(I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~ THE BORROWER'S INTERNAL REVENUE SERVICE FORM W-2;**

**(II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;**

**(III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~ PAYROLL RECEIPTS;**

**(IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR**

**(V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.**

**(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.**

[(e)] **(F) (1)** In this subsection, "loan application" has the meaning stated in § 12-125 of this title.

**(2)** At the time a borrower completes a loan application for a covered loan, the lender shall provide the borrower with:

**(i)** A written recommendation that the borrower seek home buyer education or housing counseling; and

(ii) A list of agencies and organizations approved by the county in which the residential real property securing the covered loan is located to provide home buyer education or housing counseling.

12-409.1.

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

(2) "Covered loan" means a mortgage loan made under this subtitle that meets the criteria for a loan subject to the federal Home Ownership Equity Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

**(3) "FULLY INDEXED RATE" MEANS THE INDEX RATE APPLICABLE TO A, AS DEFINED IN THE SECONDARY MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY DOCUMENTS, PREVAILING AT THE TIME IT IS ORIGINATED THE SECONDARY MORTGAGE LOAN IS APPROVED BY THE LENDER, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.**

[(3)] (4) "Home buyer education or housing counseling" means instruction on preparing for home ownership, shopping for a home, obtaining a mortgage, loan closing, and life as a homeowner.

[(4)] (5) "~~Residential real property~~" means ~~owner occupied real property having a dwelling on it designed principally as a residence with accommodations for not more than four families.~~

(b) (1) A lender may not make a [covered] **SECONDARY MORTGAGE** loan without giving due regard to the borrower's ability to repay the **SECONDARY MORTGAGE** loan in accordance with its terms, **INCLUDING THE FULLY INDEXED RATE OF THE SECONDARY MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER'S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.**

(2) ~~A borrower is presumed to be able to repay a SECONDARY MORTGAGE loan if at the time the SECONDARY MORTGAGE loan is made the borrower's total scheduled monthly payment obligations, including the [required loan payment] PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER'S INSURANCE, do not exceed 45 percent of the borrower's monthly gross income.~~

[(3) This subsection does not apply to a covered loan to a borrower whose monthly gross income is greater than 120 percent of the median family income for the metropolitan statistical area in which the residential real property securing the loan is located.]

**(C) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A SECONDARY MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:**

**(I) CONSIDERATION OF THE BORROWER'S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND**

**(II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD-PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE LENDER TO BE ACCURATE AND COMPLETE.**

**(2) ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION INCLUDES:**

**(I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~ THE BORROWER'S INTERNAL REVENUE SERVICE FORM W-2;**

**(II) A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;**

**(III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~ PAYROLL RECEIPTS;**

**(IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER~~ THE RECORDS OF A FINANCIAL INSTITUTION; OR**

**(V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.**

**(3) THIS SUBSECTION DOES NOT APPLY TO A SECONDARY MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.**

[(c)] **(D) (1)** In this subsection, "loan application" has the meaning stated in § 12-125 of this title.

**(2)** At the time a borrower completes a loan application for a covered loan, the lender shall provide the borrower with:

(i) A written recommendation that the borrower seek home buyer education or housing counseling; and

(ii) A list of agencies and organizations approved by the county in which the residential real property securing the covered loan is located to provide home buyer education or housing counseling.

~~12-805.~~

(a) A mortgage broker may not receive any fee in the form of a note, mortgage, or other evidence of indebtedness.

(b) Payment of the finder's fee to the mortgage broker out of the proceeds of the loan is not considered as interest to the lender if the finder's fee is not in excess of that permitted by this subtitle.

(c) If the finder's fee is paid from the proceeds of the loan, the lender shall comply with the disclosure provisions of § 12-106 of this article or the federal Truth in Lending Act and in addition shall advise the borrower, in writing, of the borrower's right to a refund of the finder's fee upon the exercise of any right of rescission of the loan.

(d) (1) A finder's fee may not be charged unless it is pursuant to a written agreement between the mortgage broker and the borrower which is separate and distinct from any other document.

(2) The terms of the proposed agreement shall:

(I) [be] **BE** disclosed to the borrower before the mortgage broker undertakes to assist the borrower in obtaining a loan or advance of money [and shall];

(II) [specify] **SPECIFY** the amount of the finder's fee; **AND**

(III) **CONTAIN A REPRESENTATION BY THE MORTGAGE BROKER THAT THE MORTGAGE BROKER IS ACTING AS A MORTGAGE BROKER AND NOT AS A LENDER IN THE TRANSACTION.**

(3) A copy of the agreement, dated and signed by the mortgage broker and the borrower, shall be provided to the borrower within 10 business days after the date the loan application is completed.

~~12-905.~~

~~(C) IN CONNECTION WITH A PREPAYMENT OF A LOAN BY A CONSUMER BORROWER, THE CREDIT GRANTOR MAY NOT IMPOSE A PREPAYMENT CHARGE.~~

12-925.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “FULLY INDEXED RATE” MEANS THE INDEX RATE APPLICABLE TO A, AS DEFINED IN THE MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY DOCUMENTS, PREVAILING AT THE TIME IT IS ORIGINATED THE MORTGAGE LOAN IS APPROVED BY THE CREDIT GRANTOR, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.

(3) (I) “MORTGAGE LOAN” HAS THE MEANING STATED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(II) “MORTGAGE LOAN” DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.

(B) ~~(1)~~ A CREDIT GRANTOR MAY NOT MAKE A MORTGAGE LOAN WITHOUT GIVING DUE REGARD TO THE BORROWER’S ABILITY TO REPAY THE MORTGAGE LOAN IN ACCORDANCE WITH ITS TERMS, INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER’S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.

~~(2) A BORROWER IS PRESUMED TO BE ABLE TO REPAY A MORTGAGE LOAN IF AT THE TIME THE LOAN IS MADE THE BORROWER’S TOTAL SCHEDULED MONTHLY PAYMENT OBLIGATIONS, INCLUDING THE PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER’S INSURANCE, DO NOT EXCEED 45 PERCENT OF THE BORROWER’S MONTHLY GROSS INCOME.~~

(C) (1) DUE REGARD TO A BORROWER’S ABILITY TO REPAY A MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:

(I) CONSIDERATION OF THE BORROWER’S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION OF THE BORROWER’S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD-PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE CREDIT GRANTOR TO BE ACCURATE AND COMPLETE.

(2) **ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION INCLUDES:**

(I) ~~A WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~  
**THE BORROWER'S INTERNAL REVENUE SERVICE FORM W-2;**

(II) **A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;**

(III) ~~THE BORROWER'S MOST RECENT PAY STUB; AND~~  
**PAYROLL RECEIPTS;**

(IV) ~~A WRITTEN STATEMENT SUBMITTED BY THE~~  
~~BORROWER'S EMPLOYER~~ **THE RECORDS OF A FINANCIAL INSTITUTION; OR**

(V) **OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE**  
**REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.**

**(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN**  
**APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING**  
**ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY**  
**DEVELOPMENT ADMINISTRATION.**

12-1029.

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

(2) "Covered loan" means a mortgage loan made under this subtitle that meets the criteria for a loan subject to the federal Home Ownership and Equity Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

(3) **"FULLY INDEXED RATE" MEANS THE INDEX RATE APPLICABLE**  
**TO A, AS DEFINED IN THE MORTGAGE LOAN FOR A RESIDENTIAL REAL**  
**PROPERTY DOCUMENTS, PREVAILING AT THE TIME IT IS ORIGINATED THE**  
**MORTGAGE LOAN IS APPROVED BY THE CREDIT GRANTOR, PLUS THE MARGIN**  
**THAT WILL APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST**  
**RATE.**

[(3)] (4) “Home buyer education or housing counseling” means instruction on preparing for home ownership, shopping for a home, obtaining a mortgage, loan closing, and life as a homeowner.

(5) (I) **“MORTGAGE LOAN” HAS THE MEANING STATED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

(II) **“MORTGAGE LOAN” DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.**

(b) ~~(1)~~ A credit grantor may not make a [covered] MORTGAGE loan without giving due regard to the borrower’s ability to repay the MORTGAGE loan in accordance with its terms, **INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND HOMEOWNER’S INSURANCE WHETHER OR NOT AN ESCROW ACCOUNT IS ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.**

~~(2) A borrower is presumed to be able to repay a MORTGAGE loan if at the time the MORTGAGE loan is made the borrower’s total scheduled monthly payment obligations, including the [required loan payment] **PRINCIPAL, INTEREST, PROPERTY TAXES, AND HOMEOWNER’S INSURANCE**, do not exceed 45 percent of the borrower’s monthly gross income.~~

[(3) This subsection does not apply to a loan to a borrower whose monthly gross income is greater than 120 percent of the median family income for the metropolitan statistical area in which the residential real property securing the loan is located.]

(C) (1) **DUE REGARD TO A BORROWER’S ABILITY TO REPAY A MORTGAGE LOAN MUST INCLUDE ~~VERIFICATION~~:**

(I) **CONSIDERATION OF THE BORROWER’S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND**

(II) **VERIFICATION OF THE BORROWER’S GROSS MONTHLY INCOME AND ASSETS BY REVIEW OF THIRD-PARTY WRITTEN DOCUMENTATION REASONABLY BELIEVED BY THE CREDIT GRANTOR TO BE ACCURATE AND COMPLETE.**

(2) **ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION INCLUDES:**

(I) **A ~~WRITTEN STATEMENT SUBMITTED BY THE BORROWER~~ THE BORROWER’S INTERNAL REVENUE SERVICE FORM W-2;**

(II) **A COPY OF THE BORROWER'S ~~FEDERAL~~ INCOME TAX RETURN;**

(III) **THE BORROWER'S MOST RECENT PAY STUB; AND PAYROLL RECEIPTS;**

(IV) **A WRITTEN STATEMENT SUBMITTED BY THE BORROWER'S EMPLOYER THE RECORDS OF A FINANCIAL INSTITUTION; OR**

(V) **OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.**

**(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.**

[(c)] (D) (1) In this subsection, "loan application" has the meaning stated in § 12-1022 of this subtitle.

(2) At the time a borrower completes a loan application for a covered loan, the credit grantor shall provide the borrower with:

(i) A written recommendation that the borrower seek home buyer education or housing counseling; and

(ii) A list of agencies and organizations approved by the county in which the residential real property securing the covered loan is located to provide home buyer education or housing counseling.

### **Article - Financial Institutions**

2-105.1.

(A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) **"MORTGAGE LENDER" HAS THE MEANING STATED IN § 11-501 OF THIS ARTICLE.**

(3) **"MORTGAGE ORIGINATOR" HAS THE MEANING STATED IN § 11-601 OF THIS ARTICLE.**

(B) The Commissioner may adopt and enforce regulations reasonably necessary to carry out the authority and responsibility of the office of Commissioner.

(C) (1) **THE COMMISSIONER MAY PARTICIPATE IN THE ESTABLISHMENT AND IMPLEMENTATION OF A MULTISTATE AUTOMATED LICENSING SYSTEM FOR MORTGAGE LENDERS AND MORTGAGE ORIGINATORS.**

(2) **TO FACILITATE IMPLEMENTATION OF A MULTISTATE AUTOMATED LICENSING SYSTEM, THE COMMISSIONER MAY ADOPT REGULATIONS THAT WAIVE OR MODIFY THE REQUIREMENTS OF §§ 11-507, 11-511, 11-606, AND 11-609 OF THIS ARTICLE.**

**11-503.1.**

(A) **THE COMMISSIONER SHALL SET BY REGULATION THE FEES PROVIDED FOR IN THIS SUBTITLE.**

(B) **THE FEES ESTABLISHED BY THE COMMISSIONER UNDER THIS SECTION SHALL BE REASONABLE AND SET IN A MANNER THAT WILL PRODUCE FUNDS SUFFICIENT TO COVER THE ACTUAL DIRECT AND INDIRECT COSTS OF REGULATING LICENSEES IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.**

(C) **THE COMMISSIONER SHALL PUBLISH THE FEE SCHEDULE SET BY THE COMMISSIONER.**

**11-506.**

~~(a) To qualify for a license, an applicant shall satisfy the Commissioner that the applicant:~~

~~(1) [is] IS of good moral character and has sufficient financial responsibility, business experience, and general fitness to:~~

~~[(1)] (I) Engage in business as a mortgage lender;~~

~~[(2)] (II) Warrant the belief that the business will be conducted lawfully, honestly, fairly, and efficiently; and~~

~~[(3)] (III) Command the confidence of the public; AND~~

~~(2) HAS, AND AT ALL TIMES WILL MAINTAIN, A MINIMUM NET WORTH COMPUTED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING~~

~~PRINCIPLES OF \$25,000, OR OF UP TO \$500,000 IF THE COMMISSIONER SO REQUIRES AFTER CONSIDERING THE FOLLOWING FACTORS:~~

~~(I) THE NATURE AND VOLUME OF THE BUSINESS OR PROPOSED BUSINESS OF THE APPLICANT;~~

~~(II) THE AMOUNT, NATURE, QUALITY, AND LIQUIDITY OF THE ASSETS OF THE APPLICANT;~~

~~(III) THE AMOUNT AND NATURE OF THE LIABILITIES, INCLUDING CONTINGENT LIABILITIES, OF THE APPLICANT;~~

~~(IV) THE HISTORY OF, AND PROSPECTS FOR, THE APPLICANT TO EARN AND RETAIN INCOME;~~

~~(V) THE QUALITY OF THE OPERATIONS OF THE APPLICANT;~~

~~(VI) THE QUALITY OF THE MANAGEMENT OF THE APPLICANT;~~

~~(VII) THE QUALITY AND NATURE OF THE PERSON THAT CONTROLS THE APPLICANT; AND~~

~~(VIII) ANY OTHER FACTOR THE COMMISSIONER CONSIDERS RELEVANT.~~

(d) (1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE Commissioner may deny an application for a license to any person who has been officially reprimanded or has committed any act that would be a ground for suspension or revocation of a license under this subtitle.

(2) THE COMMISSIONER SHALL DENY AN APPLICATION FOR A LICENSE FILED BY:

(I) AN INDIVIDUAL WHO HAS BEEN CONVICTED WITHIN THE LAST 10 YEARS OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY; AND

(II) AN ENTITY THAT HAS A DIRECTOR, OFFICER, PARTNER, MEMBER, OR OWNER OF 10 PERCENT OR MORE OF THE ENTITY WHO HAS BEEN CONVICTED WITHIN THE LAST 10 YEARS OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY.

(a) (1) To apply for a license, an applicant shall complete, sign, and submit to the Commissioner an application made under oath on the form that the Commissioner requires.

(b) With each application, the applicant shall pay to the Commissioner **THE FOLLOWING FEES:**

(1) A nonrefundable investigation fee [of \$100] **SET BY THE COMMISSIONER;** and

(2) A license fee [of either:

(i) \$1,000 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an even-numbered year;

(ii) Effective January 1, 1999, \$500 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an odd-numbered year; or

(iii) Notwithstanding subparagraph (i) or (ii) of this paragraph, \$1,000 if the applicant applies for a license to be issued on or after October 1, 1997 and on or before December 31, 1997] **SET BY THE COMMISSIONER.**

11-508.

(a) An applicant for a new license or for the renewal of a license shall file a surety bond with each original application and any renewal application for the license.

(b) The surety bond shall:

(1) Run to the Commissioner and be for the benefit of any mortgage loan borrower who has been damaged by a violation committed by a licensee of any law or regulation governing the activities of mortgage lenders;

(2) Be issued by a surety company authorized to do business in the State;

(3) Be conditioned that the applicant shall comply with all Maryland laws regulating the activities of mortgage lenders and mortgage loan lending; and

(4) Be approved by the Commissioner.

(c) If an applicant has not conducted a mortgage lending business any time during the 36 months prior to the filing of an original application for a license, the applicant shall provide a sworn statement setting forth that fact[, and shall file with the original application a surety bond in the amount of \$15,000].

(d) (1) If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original or renewal application, the applicant shall provide a sworn statement setting forth the aggregate principal amount of mortgage loans secured or to be secured by property located in Maryland and applied for and accepted or mortgage loans secured or to be secured by property located in Maryland and applied for, procured, and accepted by the mortgage lender during the 12 months immediately preceding the month in which the application is filed.

(2) If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original application, but during that time has not acted as a mortgage lender in Maryland, the applicant shall provide with the original application a sworn statement setting forth the aggregate principal amount of loans secured or to be secured by residential real property located in states other than Maryland and applied for, procured, and accepted by the mortgage lender during the 12 months preceding the month in which the application is filed.

(3) Except as provided in [subsections (c) and] **SUBSECTION (e)** of this section, the applicant shall file with the original or renewal application:

(i) Where the aggregate principal amount of loans set forth in the sworn statement was \$3,000,000 or less, a surety bond in the amount of [~~\$25,000~~] **\$50,000**;

(ii) Where the aggregate principal amount of loans set forth in the sworn statement was more than \$3,000,000 but not more than \$10,000,000, a surety bond in the amount of [~~\$50,000~~] **\$100,000**; and

(iii) Where the aggregate principal amount of loans set forth in the sworn statement was more than \$10,000,000, a surety bond in the amount of [~~\$75,000~~] **\$150,000**.

(e) Notwithstanding any other provisions of this section, and subject to approval by the Commissioner, if an applicant files five or more original or renewal applications at the same time, the applicant may provide a blanket surety bond for all licensed offices in the amount of [~~\$375,000~~] ~~**\$1,000,000**~~ **\$750,000**.

(f) Subject to approval by the Commissioner, an applicant for license who files an application for a new license or for the renewal of a license may satisfy the bonding requirement under this section by establishing a trust account with or obtaining an irrevocable letter of credit from a financial institution insured by the Federal Deposit Insurance Corporation in an amount equal to the bond required under this section.

(g) The Commissioner may adopt regulations reasonably necessary to assure that the proper surety bond amount established by this section is maintained by each licensee throughout each licensing term. The regulations may provide for periodic reporting, recalculation, and enforcement of required bond amounts.

**11-508.1.**

**(A) AN APPLICANT FOR A NEW LICENSE OR FOR THE RENEWAL OF A LICENSE SHALL SATISFY THE COMMISSIONER THAT THE APPLICANT OR LICENSEE HAS, AND AT ALL TIMES WILL MAINTAIN, A MINIMUM NET WORTH COMPUTED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES:**

**(1) IN THE CASE OF AN APPLICANT OR LICENSEE THAT DOES NOT LEND MONEY SECURED BY RESIDENTIAL REAL PROPERTY, IN THE AMOUNT OF \$25,000; AND**

**(2) IN THE CASE OF AN APPLICANT OR LICENSEE THAT LENDS MONEY SECURED BY RESIDENTIAL REAL PROPERTY, IN THE AMOUNT OF:**

**(I) \$25,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION, LENT IN THE AGGREGATE NOT MORE THAN \$1,000,000 SECURED BY RESIDENTIAL REAL PROPERTY;**

**(II) \$50,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN \$1,000,000 BUT NOT MORE THAN \$5,000,000 SECURED BY RESIDENTIAL REAL PROPERTY; AND**

**(III) \$100,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN \$5,000,000 BUT NOT MORE THAN \$10,000,000 SECURED BY RESIDENTIAL REAL PROPERTY; AND**

**(IV) \$250,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN \$10,000,000 SECURED BY RESIDENTIAL REAL PROPERTY.**

**(B) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION MAY BE SATISFIED BY THE APPLICANT OR LICENSEE HAVING:**

**(I) CASH ON DEPOSIT WITH A BANK OR DEPOSITORY INSTITUTION;**

**(II) A LINE OF CREDIT FROM A BANK OR DEPOSITORY INSTITUTION;**

**(III) OTHER ASSETS; OR**

**(IV) A COMBINATION OF CASH, A LINE OF CREDIT, OR OTHER ASSETS.**

**(2) IF CASH IS USED TOWARD SATISFYING THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION, THE APPLICANT OR LICENSEE SHALL SUBMIT TO THE COMMISSIONER A BANK LETTER VERIFYING:**

**(I) THE ACCOUNT BALANCE;**

**(II) THE TYPE OF ACCOUNT IN WHICH THE FUNDS ARE HELD; AND**

**(III) THAT THE FUNDS ARE NOT ENCUMBERED OR HYPOTHECATED IN ANY WAY.**

**(3) (I) IF A LINE OF CREDIT IS USED TOWARD SATISFYING THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION, THE APPLICANT OR LICENSEE SHALL SUBMIT TO THE COMMISSIONER A COPY OF THE LINE OF CREDIT AGREEMENT AND PROMISSORY NOTE.**

**(II) A LINE OF CREDIT MAY NOT BE USED TOWARD SATISFYING MORE THAN ~~50%~~ 75% OF THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION.**

11-511.

(a) [(1) A license issued on or before September 30, 1997 expires on December 31 of the year in which it was issued, unless the license is renewed for a 2-year term, as provided in this section.

(2) A license issued on or after October 1, 1997 expires on December 31 in each odd-numbered year after December 31, 1997 unless the license is renewed for a 2-year term as provided in this section.] **A LICENSE EXPIRES ON THE SECOND ANNIVERSARY OF ITS DATE OF ISSUE.**

(b) [On or before December 1 of the year of] **AT LEAST 30 DAYS BEFORE ITS** expiration, a license may be renewed for an additional 2-year term, if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Commissioner a renewal fee [of \$1,000] **SET BY THE COMMISSIONER;**

(3) Files a bond or bond continuation certificate for the amount required under § 11-508 of this subtitle; and

(4) Submits to the Commissioner:

(i) A renewal application on the form that the Commissioner requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set by regulations adopted by the Commissioner.

(c) If a license is issued for less than 2 full years and is surrendered voluntarily, or is suspended or revoked, the Commissioner may not refund any part of the license fee regardless of the time remaining in the license term.

(d) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

11-515.

(a) (1) The Commissioner shall examine the business of each licensee:

(i) In accordance with a schedule established by the Commissioner; and

(ii) At any other time that the Commissioner reasonably considers necessary.

(c) A licensee shall pay to the Commissioner a **PER-DAY** fee [of not more than \$250 per day] **SET BY THE COMMISSIONER** for each of the Commissioner's employees engaged in:

(1) An examination required under subsection (a)(1) of this section; and

(2) Any other examination or investigation conducted under this section that [results in the discovery of a violation of this subtitle by the licensee] **THE COMMISSIONER REASONABLY CONSIDERS NECESSARY.**

11-603.

(c) (1) The Commissioner shall include on each license:

(i) The name of the licensee; and

(ii) The name of the licensee's employer.

(2) Unless the licensee notifies the Commissioner in writing in advance of a change in the licensee's name or the licensee's employer and pays to the Commissioner a license amendment fee [of \$75] SET BY THE COMMISSIONER for each notice provided under this paragraph, an individual may not act as a mortgage originator under a name or for an employer that is different from the name and employer that appear on the license.

## 11-605.

(a) To qualify for a license, an applicant shall satisfy the Commissioner that:

(1) The applicant:

(i) Has at least 3 years of experience in the mortgage lending business and has completed any required courses for continuing education established by the Commissioner; or

(ii) Has completed 40 hours of classroom education and achieved a passing grade on a written examination [developed and administered by the person conducting the classroom education course approved by the Commissioner for new applicants; and] **AS REQUIRED BY REGULATION; AND**

(2) The applicant is of good moral character and has general fitness to warrant the belief that the applicant will act as a mortgage originator in a lawful, honest, fair, and efficient manner; ~~AND~~

~~(3) THE APPLICANT RESIDES WITHIN 100 MILES OF THE LICENSED OFFICE LOCATION AT WHICH THE APPLICANT WILL WORK AS A LICENSEE.~~

(b) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE** Commissioner may deny an application for a license filed by an individual who has committed an act that would serve as a sufficient ground for suspension or revocation of a license under this subtitle or a mortgage lender license under Subtitle 5 of this title.

**(2) THE COMMISSIONER SHALL DENY AN APPLICATION FOR A LICENSE FILED BY AN INDIVIDUAL WHO HAS BEEN CONVICTED WITHIN THE LAST 10 YEARS OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY.**

11-606.

(b) With each application, the applicant shall pay to the Commissioner:

(1) A nonrefundable investigation fee [of \$100] **SET BY THE COMMISSIONER**; and

(2) A license fee [of \$300] **SET BY THE COMMISSIONER.**

11-609.

(b) On or before December 1 of the year of expiration, a license may be renewed for an additional 2-year term if the licensee:

(1) Otherwise is entitled to be licensed;

(2) Pays to the Commissioner a renewal fee [of \$300] **SET BY THE COMMISSIONER**; and

(3) Submits to the Commissioner:

(i) A renewal application on the form that the Commissioner requires; and

(ii) Satisfactory evidence of compliance with any continuing education requirements set by regulations adopted by the Commissioner.

**11-612.1.**

**(A) THE COMMISSIONER SHALL SET BY REGULATION THE FEES PROVIDED FOR IN THIS SUBTITLE.**

**(B) THE FEES ESTABLISHED BY THE COMMISSIONER UNDER THIS SECTION SHALL BE REASONABLE AND SET IN A MANNER THAT WILL PRODUCE FUNDS SUFFICIENT TO COVER THE ACTUAL DIRECT AND INDIRECT COSTS OF REGULATING LICENSEES IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE.**

**(C) THE COMMISSIONER SHALL PUBLISH THE FEE SCHEDULE SET BY THE COMMISSIONER.**

11-613.

(b) A licensee shall pay to the Commissioner a PER-DAY fee [of not more than \$250 per day] SET BY THE COMMISSIONER for each of the Commissioner's employees engaged in any investigation conducted under this section that [results in the discovery of a violation of this subtitle by the licensee] THE COMMISSIONER REASONABLY CONSIDERS NECESSARY.

## 11-615.

(a) Subject to the hearing provisions of § 11-616 of this subtitle, **AND EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION**, the Commissioner may suspend or revoke the license of any licensee if the licensee:

- (1) Makes any material misstatement in an application for a license;
- (2) Is convicted under the laws of the United States or of any state of a felony or a misdemeanor that is directly related to the fitness and qualification of the individual to act as a mortgage originator;
- (3) In connection with any mortgage loan or loan application transaction:
  - (i) Commits any fraud;
  - (ii) Engages in any illegal or dishonest activities; or
  - (iii) Misrepresents or fails to disclose any material facts to a person entitled to that information;
- (4) Violates any provision of this subtitle, any regulation adopted under this subtitle, or any other law regulating mortgage lending or mortgage origination in the State; or
- (5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly.

**(F) IF THE COMMISSIONER DETERMINES THAT A LICENSEE HAS BEEN CONVICTED OF A FELONY INVOLVING FRAUD, THEFT, OR FORGERY WHILE THE LICENSEE HAS BEEN LICENSED, THE COMMISSIONER SHALL REVOKE THE LICENSE OF THE LICENSEE.**

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have

any effect on or application to any contract, agreement, or loan entered into, or the granting of any license under Title 11, Subtitle 5 or 6 of the Financial Institutions Article, before the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) The Commissioner of Financial Regulation shall study the feasibility of conducting examinations of mortgage lender licensees using a risk-based approach rather than a fixed schedule approach.

(b) On or before January 1, 2009, the Commissioner shall report the findings of the study and any recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) The Commissioner of Financial Regulation shall study the use of a call feature in which a mortgage loan contains a provision that permits the lender or credit grantor, in its sole discretion, absent a default or failure of the borrower to abide by the material terms of the mortgage loan, to accelerate the indebtedness of a mortgage loan.

(b) On or before January 1, 2009, the Commissioner shall report the findings of the study and any recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION 6. AND BE IT FURTHER ENACTED, That, notwithstanding Section 2 of this Act, the fees relating to the licensing, examination, and investigation of mortgage lenders and mortgage originators under §§ 11-507(b), 11-511(b), 11-515(c), 11-603(c), 11-606(b), 11-609(b), and 11-613(b) of the Financial Institutions Article that are in effect on June 1, 2008, shall remain in effect until the fees set by regulation by the Commissioner of Financial Regulation, as required under this Act, take effect.

SECTION 7. AND BE IT FURTHER ENACTED, That:

**Article – Financial Institutions**

11-508.1.

(a) An applicant for a new license or for the renewal of a license shall satisfy the Commissioner that the applicant or licensee has, and at all times will maintain, a minimum net worth computed according to generally accepted accounting principles:

(1) In the case of an applicant or licensee that does not lend money secured by residential real property, in the amount of \$25,000; and

(2) In the case of an applicant or licensee that lends money secured by residential real property, in the amount of:

(i) \$25,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate not more than \$1,000,000 secured by residential real property;

(ii) \$50,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than \$1,000,000, but not more than \$5,000,000 secured by residential real property; [and]

(iii) \$100,000, if the applicant or licensee, in the 12 months prior to the license application or the renewal application, lent in the aggregate more than \$5,000,000, **BUT NOT MORE THAN \$10,000,000** secured by residential real property; **AND**

**(IV) \$250,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN \$10,000,000 SECURED BY RESIDENTIAL REAL PROPERTY.**

(b) (1) Subject to paragraphs (2) and (3) of this subsection, the minimum net worth requirements under subsection (a)(2) of this section may be satisfied by the applicant or licensee having:

(i) Cash on deposit with a bank or depository institution;

(ii) A line of credit from a bank or depository institution;

(iii) Other assets; or

(iv) A combination of cash, a line of credit, or other assets.

(2) If cash is used toward satisfying the minimum net worth requirements under subsection (a)(2) of this section, the applicant or licensee shall submit to the Commissioner a bank letter verifying:

(i) The account balance;

(ii) The type of account in which the funds are held; and

(iii) That the funds are not encumbered or hypothecated in any way.

(3) (i) If a line of credit is used toward satisfying the minimum net worth requirements under subsection (a)(2) of this section, the applicant or licensee shall submit to the Commissioner a copy of the line of credit agreement and the promissory note.

(ii) A line of credit may not be used toward satisfying more than 75% of the minimum net worth requirements under subsection (a)(2) of this section.

SECTION 8. AND BE IT FURTHER ENACTED, That Section 7 of this Act shall take effect January 1, 2009.

SECTION ~~4~~ ~~7~~ 9. AND BE IT FURTHER ENACTED, That, *except as provided in Section 8 of this Act*, this Act shall take effect June 1, 2008.

**Approved by the Governor, April 8, 2008.**