

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

House Bill 51 (Delegate Montgomery)
 Economic Matters

Credit Regulation - Residential Mortgages - Interest on Escrow Accounts

This bill modifies the type of mortgage holder that must pay interest on residential mortgage escrow accounts from simply “lending institutions” to all holders of specified residential mortgages.

Fiscal Summary

State Effect: Special fund expenditures could increase by approximately \$44,700 in FY 2009 due to additional staff for the Commissioner of Financial Regulation. Future year expenditure estimates reflect annualization and inflation. If the Attorney General’s Office receives fewer than 50 complaints per year stemming from the bill, the additional workload could be handled with existing resources. No effect on revenues.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	44,700	60,700	63,600	66,700	69,900
Net Effect	(\$44,700)	(\$60,700)	(\$63,600)	(\$66,700)	(\$69,900)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill requires the holder of a mortgage loan to pay or credit the borrower with interest earned on funds in a required escrow account. The bill applies specifically to loans that are secured by a first mortgage or first deed of trust on any

interest in residential real property located in the State. The interest that the loan holder must pay the borrower is calculated as the greater of either • 3% per annum simple interest; or • if the loan holder provides a regular passbook savings account, the rate of interest regularly paid on this account. The mortgage loan holder must also annually provide the borrower with a statement of the escrow balance. This bill does not apply to a loan holder that provides for the payment of taxes, insurance, or other expenses under the direct reduction method, a method through which expenses are added to the outstanding principal balance of the loan when paid by the lender.

Current Law: Frequently, as a condition to granting a loan secured by a mortgage or deed of trust, a lender requires that a borrower agree to the lender paying certain items on the borrower's behalf through an escrow account. Items typically paid from an escrow account include taxes and homeowner's insurance, and sometimes condominium or homeowners' association dues. The account is funded from payments made by the borrower as part of the monthly payment on the debt, in addition to the principal and interest payments. Currently, the law states that the only mortgage holders who must pay interest to the borrower on escrow accounts are "lending institutions," which are defined as "banks, savings banks, or savings and loan associations doing business in Maryland."

Under Maryland law, mortgage lenders doing business in the State must be licensed with the Commissioner of Financial Regulation. Mortgage lenders seeking licenses or license renewals must meet several statutory requirements for financial responsibility and general fitness. In addition, such lenders must file a surety bond, pay an investigation fee, submit to an investigation by the commissioner, and, if approved, pay the licensing fee. Licensees must also meet continuing education requirements and are subject to regulation, investigation, and discipline by the commissioner, who performs these duties using the Mortgage Special Fund. Failure to meet statutory or regulatory requirements can result in the revocation of a mortgage lender's license.

Background: As of February 1, 2008, the Commissioner of Financial Regulation has received a total of 1,030 written complaints regarding consumer issues for fiscal 2008. In fiscal 2007, 2006, and 2005, the total number of written complaints numbered 2,597, 2,682, and 2,899, respectively. The commissioner has nine examiners who answer phone calls regarding consumer complaints. They receive about 27,000 total calls per year on average. U.S. Census Bureau findings currently suggest that there are approximately 1,557,500 homeowners in Maryland, and the Mortgage Bankers Association *National Delinquency Survey* for the third quarter of 2007 lists a total of 1,058,400 mortgage loans in Maryland from reporting lenders. MBA reports that during the first half of 2007 56% of subprime loans and 33% of prime loans did not have escrow accounts.

State Fiscal Effect: The bill could affect both the Attorney General's Office and the Department of Labor, Licensing, and Regulation. A violation of the bill is not

punishable under the Maryland Consumer Protection Act but, the Attorney General's Office could receive complaints anyway. Nevertheless, the office could handle the additional workload with existing resources if it receives fewer than 50 complaints per year. The Commissioner of Financial Regulation is tasked with ensuring that mortgage lenders fulfill all statutory and regulatory requirements in order to remain licensed; therefore, Special Mortgage Fund expenditures could increase by an estimated \$44,671 in fiscal 2009, which accounts for the bill's October 1, 2008 effective date. This estimate reflects the cost of one additional financial examiner to assist the commissioner in processing and investigating consumer complaints arising from violations of the bill's provisions. This estimate is based on the large number of mortgage loans serviced in Maryland that currently do not pay interest on escrow accounts. The estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. DLLR reports that the Mortgage Special Fund balance as of December 2007 was \$6.4 million.

Positions	1
Salary and Fringe Benefits	\$39,638
Operating Expenses	<u>5,033</u>
Total FY 2009 State Expenditures	\$44,671

Future year expenditures reflect • a full salary with 4.4% annual increases and 3% employee turnover; and • 2% annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Labor, Licensing, and Regulation; Office of the Attorney General (Consumer Protection); Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2008
mcp/ljm

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