

SENATE BILL 307

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3lr2401
CF HB 282

By: **Senator Klausmeier**

Introduced and read first time: January 27, 2023

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2023

CHAPTER _____

1 AN ACT concerning

2 **Financial Institutions – Mortgage Loan Originators – Independent Contractors**

3 FOR the purpose of altering certain provisions of law relating to the licensing of mortgage
4 loan originators to provide for the licensing of certain independent contractors as
5 mortgage loan originators under certain circumstances; requiring licensed mortgage
6 lenders to supervise certain activities of certain mortgage loan originators in a
7 certain manner; and generally relating to the financial institutions and the licensing
8 of mortgage loan originators.

9 BY repealing and reenacting, without amendments,
10 Article – Financial Institutions
11 Section 11–501(a), 11–601(a), 11–603.1(a) and (b), 11–606(a), and 11–612(a)
12 Annotated Code of Maryland
13 (2020 Replacement Volume and 2022 Supplement)

14 BY adding to
15 Article – Financial Institutions
16 Section 11–501(q), 11–511.2, and 11–601(x)
17 Annotated Code of Maryland
18 (2020 Replacement Volume and 2022 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Financial Institutions
21 Section 11–501(q), 11–601(h) and (x), 11–602(a), 11–603, 11–603.1(l) and (m),
22 11–606(e), 11–606.1(a) and (g), 11–612(g), and 11–618 through 11–621

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2020 Replacement Volume and 2022 Supplement)

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

5 **Article – Financial Institutions**

6 11–501.

7 (a) In this subtitle the following words have the meanings indicated.

8 **(Q) “SPONSOR” HAS THE MEANING STATED IN § 11–601 OF THIS TITLE.**

9 **[(q)] (R)** “State” means the State of Maryland.

10 **11–511.2.**

11 **(A) A LICENSEE WHO IS THE SPONSOR OF A MORTGAGE LOAN ORIGINATOR**
12 **SHALL AT ALL TIMES REASONABLY AND ADEQUATELY SUPERVISE THE ACTIVITIES**
13 **OF THE MORTGAGE LOAN ORIGINATOR THAT ARE CONDUCTED WITHIN THE SCOPE**
14 **OF THE MORTGAGE LOAN ORIGINATOR’S EMPLOYMENT OR EXCLUSIVE**
15 **ENGAGEMENT.**

16 **(B) THE COMMISSIONER SHALL ADOPT REGULATIONS NECESSARY TO**
17 **CARRY OUT THIS SECTION.**

18 11–601.

19 (a) In this subtitle the following words have the meanings indicated.

20 (h) “Independent contractor” means **[a person]** AN INDIVIDUAL whose
21 compensation is paid without a deduction for federal or State income tax.

22 **(X) “SPONSOR” MEANS A MORTGAGE LENDER, OR A PERSON EXEMPT FROM**
23 **LICENSING TO ACT AS A MORTGAGE LENDER, WHO EMPLOYS OR EXCLUSIVELY**
24 **ENGAGES AN INDIVIDUAL TO ACT AS A MORTGAGE LOAN ORIGINATOR IN THE STATE.**

25 **[(x)] (Y)** “Unique identifier” means a number or other identifier assigned by
26 NMLS.

27 11–602.

28 (a) (1) ~~The~~ **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE**
29 **licensing provisions of this subtitle [do not] apply to independent contractors.**

1 (2) [Independent contractors are subject to the licensing provisions of
2 Subtitle 5 of this title unless exempt from licensing under that subtitle] **AN INDEPENDENT**
3 **CONTRACTOR MAY BE ISSUED A LICENSE AND ACT AS A MORTGAGE LOAN**
4 **ORIGINATOR IF THE INDEPENDENT CONTRACTOR IS ~~NOT~~**

5 **(I) A LICENSED INSURANCE PRODUCER IN GOOD STANDING**
6 **UNDER § 10-103 OF THE INSURANCE ARTICLE; AND**

7 **(II) NOT ENGAGED BY MORE THAN ONE SPONSOR IN THE STATE.**

8 11-603.

9 (a) A license issued under this subtitle authorizes the licensee to act as a
10 mortgage loan originator only when acting within the scope of employment **OR EXCLUSIVE**
11 **ENGAGEMENT** with:

12 (1) A mortgage lender; or

13 (2) A person who is exempt from licensing as a mortgage lender.

14 (b) A licensee may not:

15 (1) Maintain more than one license under this subtitle; or

16 (2) Be employed **OR ENGAGED** by more than one mortgage lender or
17 person who is exempt from licensing as a mortgage lender.

18 (c) (1) (i) Each license provided for through NMLS shall include the
19 following information:

20 1. The name of the licensee;

21 2. The name of the licensee's [employer] **SPONSOR**; and

22 3. The unique identifier of the licensee.

23 (ii) The unique identifier of the licensee shall constitute the license
24 number for the license.

25 (2) An individual may not act as a mortgage loan originator under a name
26 or for [an employer] **A SPONSOR** that is different from the name and [employer] **SPONSOR**
27 that appear on the license unless the licensee:

28 (i) Notifies the Commissioner, in the form and in accordance with
29 the process that the Commissioner requires, in advance of a change in the licensee's name
30 or the licensee's [employer] **SPONSOR**;

1 (ii) Pays to the Commissioner a license amendment fee set by the
2 Commissioner for each notice provided under this paragraph; and

3 (iii) In the case of a new [employer] **SPONSOR**, amends the
4 sponsorship information on NMLS by submitting the amendment, in the form required by
5 the Commissioner, to indicate that the licensee is an employee **OR INDEPENDENT**
6 **CONTRACTOR** of the new [employer] **SPONSOR**.

7 (3) If a licensee ceases to be employed **OR EXCLUSIVELY ENGAGED** by a
8 licensed mortgage lender or by a person exempt from licensing as a mortgage lender, the
9 licensee shall notify the Commissioner within 10 business days, and the license shall be
10 placed into nonactive status through NMLS.

11 (4) During the time that a license is in nonactive status, it is a violation of
12 this subtitle for the licensee to engage in any activity for which a license is required under
13 this subtitle.

14 (5) The license shall remain in nonactive status until the licensee:

15 (i) Notifies the Commissioner, in the form and in accordance with
16 the process that the Commissioner requires, that the licensee has obtained employment **OR**
17 **HAS BEEN EXCLUSIVELY ENGAGED** with a licensed mortgage lender or with a person
18 exempt from licensing as a mortgage lender; and

19 (ii) Has complied with the requirements set forth in paragraph (2) of
20 this subsection.

21 (d) A license may be issued under this subtitle to an individual who is not
22 employed **OR EXCLUSIVELY ENGAGED** by a licensed mortgage lender or a person exempt
23 from licensing as a mortgage lender provided the license is placed into and remains in
24 nonactive status until the licensee:

25 (1) Notifies the Commissioner, in the form and in accordance with the
26 process that the Commissioner requires, that the licensee has obtained employment **OR**
27 **EXCLUSIVE ENGAGEMENT** with a licensed mortgage lender or with a person exempt from
28 licensing as a mortgage lender; and

29 (2) Has complied with the requirements set forth in subsection (c)(2) of this
30 section.

31 (e) A license may be issued under this subtitle to an individual who is employed
32 **OR EXCLUSIVELY ENGAGED** by a mortgage lender, or a person exempt from licensing as
33 a mortgage lender, that has its principal office located outside the State if the mortgage
34 lender or the person exempt from licensing as a mortgage lender maintains a resident agent
35 within the State.

1 (f) This section does not apply to an affiliated insurance producer–mortgage loan
2 originator licensed under § 11–603.1 of this subtitle.

3 11–603.1.

4 (a) In this section, “affiliated insurance producer–mortgage loan originator”
5 means an individual who:

6 (1) Originates mortgage loans only on behalf of a single financial
7 institution that is:

8 (i) Described in § 11–502(b)(1) of this title; and

9 (ii) Approved by the Commissioner under subsection (b) of this
10 section;

11 (2) Is a licensed insurance producer in good standing under § 10–103 of the
12 Insurance Article; and

13 (3) Holds an appointment as an insurance producer for an insurer that
14 controls, is controlled by, or is under common control with:

15 (i) The financial institution described in item (1) of this subsection;
16 or

17 (ii) A mortgage lender licensee that:

18 1. Is approved by the Commissioner under subsection (c) of
19 this section; and

20 2. Originates loans only on behalf of the financial institution
21 described in item (1) of this subsection under an exclusive contract with the financial
22 institution.

23 (b) The Commissioner shall approve a financial institution described in
24 subsection (a)(1) of this section based on the following criteria:

25 (1) The financial institution is in good standing with its primary state or
26 federal regulator; and

27 (2) The financial institution is in material compliance with applicable state
28 and federal law.

29 (l) (1) An individual may not act as an affiliated insurance
30 producer–mortgage loan originator under a name or for [an employer] **A SPONSOR** that is

1 different from the name and [employer] **SPONSOR** that appear on the license unless the
2 licensee:

3 (i) Notifies the Commissioner, in the form and in accordance with
4 the process that the Commissioner requires, in advance of a change in the licensee's name
5 or the licensee's [employer] **SPONSOR**;

6 (ii) Pays to the Commissioner a license amendment fee set by the
7 Commissioner for each notice provided under item (i) of this paragraph; and

8 (iii) In the case of a new [employer] **SPONSOR**, amends the
9 sponsorship information on NMLS by submitting the amendment in the form required by
10 the Commissioner to indicate that the licensee is an employee **OR INDEPENDENT**
11 **CONTRACTOR** of the new [employer] **SPONSOR**.

12 (2) If a licensee ceases to be employed **OR EXCLUSIVELY ENGAGED** by a
13 financial institution approved by the Commissioner under subsection (b) of this section, the
14 licensee shall notify the Commissioner within 10 business days, and the license shall be
15 placed into nonactive status through NMLS.

16 (3) During the time that a license is in nonactive status, it is a violation of
17 this subtitle for the licensee to engage in any activity for which a license is required under
18 this subtitle.

19 (4) The license shall remain in nonactive status until the licensee:

20 (i) Notifies the Commissioner, in the form and in accordance with
21 the process that the Commissioner requires, that the licensee has obtained employment **OR**
22 **HAS BEEN EXCLUSIVELY ENGAGED** with a financial institution that is approved by the
23 Commissioner under subsection (b) of this section; and

24 (ii) Has complied with the requirements set forth in paragraph (1) of
25 this subsection.

26 (m) The Commissioner may issue a license under this subtitle to an individual
27 who is not employed **OR EXCLUSIVELY ENGAGED** by a financial institution approved by
28 the Commissioner under subsection (b) of this section, provided that the license is placed
29 into and remains in nonactive status until the licensee:

30 (1) Notifies the Commissioner, in the form and in accordance with the
31 process that the Commissioner requires, that the licensee has obtained employment **OR**
32 **EXCLUSIVE ENGAGEMENT** with a financial institution approved by the Commissioner
33 under subsection (b) of this section; and

34 (2) Has complied with the requirements set forth in subsection (l)(1) of this
35 section.

1 11-606.

2 (a) To qualify for an initial license, an applicant shall complete at least 20 hours
3 of prelicensing education that shall include:

4 (1) 3 hours of instruction on federal law and regulations relating to
5 mortgage origination;

6 (2) 3 hours of instruction on ethics, including instruction on fraud,
7 consumer protection, and fair lending issues; and

8 (3) 2 hours of training related to lending standards and loan terms for
9 nontraditional mortgage products.

10 (e) This section does not preclude any prelicensing education course, as approved
11 by [the Nationwide Mortgage Licensing System and Registry] **NMLS**, that is provided by
12 the [employer] **SPONSOR** of the applicant or an entity that is affiliated with the applicant
13 by an agency contract, or any subsidiary or affiliate of the [employer] **SPONSOR** or
14 **AFFILIATED** entity.

15 11-606.1.

16 (a) To qualify for an initial license, an applicant shall pass a qualified written test
17 developed by [the Nationwide Mortgage Licensing System and Registry] **NMLS** and
18 administered by a test provider approved by [the Nationwide Mortgage Licensing System
19 and Registry] **NMLS**.

20 (g) This section does not prohibit a test provider approved by [the Nationwide
21 Mortgage Licensing System and Registry] **NMLS** from providing a test at the location of
22 the [employer] **SPONSOR** of the applicant or any subsidiary or affiliate of the [employer]
23 **SPONSOR** of the applicant, or any entity with which the applicant holds an exclusive
24 arrangement to conduct the business of a mortgage loan originator.

25 11-612.

26 (a) Before applying for renewal of a license, a licensee shall complete at least 8
27 hours of continuing education, which shall include:

28 (1) 3 hours of instruction on federal law and regulations relating to
29 mortgage origination;

30 (2) 2 hours of instruction on ethics, including instruction on fraud,
31 consumer protection, and fair lending issues; and

1 (3) 2 hours of training related to lending standards for the nontraditional
2 mortgage product marketplace.

3 (g) This section does not preclude any continuing education course, as approved
4 by [the Nationwide Mortgage Licensing System and Registry] **NMLS**, that is provided by
5 the [employer] **SPONSOR** of the mortgage loan originator or an entity that is affiliated with
6 the mortgage loan originator by an agency contract, or any subsidiary or affiliate of the
7 [employer] **SPONSOR** or **AFFILIATED** entity.

8 11-618.

9 The employment **OR EXCLUSIVE ENGAGEMENT** of a mortgage loan originator
10 licensed under this subtitle by a mortgage lender does not relieve the mortgage lender of a
11 responsibility under this subtitle or under Subtitle 5 of this title, a rule or regulation
12 adopted under this subtitle or under Subtitle 5 of this title, or a law governing mortgage
13 lending in the State.

14 11-619.

15 (a) Each mortgage loan originator shall be covered by a surety bond in accordance
16 with this section.

17 (b) (1) A mortgage loan originator who is an employee **OR INDEPENDENT**
18 **CONTRACTOR** of a person subject to licensure under Subtitle 5 of this title may use the
19 surety bond of that person to meet the mortgage loan originator's surety bond requirement.

20 (2) A mortgage loan originator who is an employee **OR INDEPENDENT**
21 **CONTRACTOR** of a person exempt from licensure under Subtitle 5 of this title may use a
22 surety bond of the person to meet the mortgage loan originator's surety bond requirement,
23 provided the surety bond meets the requirements, based on mortgage loan volume, under
24 § 11-508 of this title.

25 (c) A licensee who is an affiliated insurance producer-mortgage loan originator
26 shall be deemed in compliance with this section if the licensee:

27 (1) Holds a surety bond that would satisfy the surety bond requirements
28 under § 11-508 of this title if the affiliated insurance producer-mortgage loan originator
29 were a licensee under Subtitle 5 of this title; or

30 (2) Is covered under a blanket surety bond held by the financial institution
31 or mortgage lender licensee identified in § 11-603.1(a)(3) of this subtitle if the blanket
32 surety bond:

33 (i) Covers all affiliated insurance producer-mortgage loan
34 originators; and

1 (ii) Is in the amount of \$1,000,000 or another amount as required by
2 the Commissioner by regulation.

3 11-620.

4 (a) (1) Except as otherwise provided in 12 U.S.C. § 5111, the requirements
5 under any federal law and Title 4, Subtitles 1 through 5 of the General Provisions Article
6 regarding the privacy or confidentiality of information or material provided to [the
7 Nationwide Mortgage Licensing System and Registry] **NMLS**, and any privilege arising
8 under federal or state law, including the rules of any federal or state court with respect to
9 that information or material, shall continue to apply to that information or material after
10 the information or material has been disclosed to [the Nationwide Mortgage Licensing
11 System and Registry] **NMLS**.

12 (2) The information and material may be shared with all state and federal
13 regulatory officials having mortgage industry oversight authority without the loss of
14 privilege or the loss of confidentiality protections provided by federal law or Title 4,
15 Subtitles 1 through 5 of the General Provisions Article.

16 (b) The Commissioner may enter into information sharing agreements with other
17 governmental agencies, the Conference of State Bank Supervisors, the American
18 Association of Residential Mortgage Regulators, or other associations representing
19 governmental agencies.

20 (c) Information or material that is subject to a privilege or confidentiality under
21 subsection (a) of this section may not be subject to:

22 (1) Disclosure under any federal or state law governing the disclosure to
23 the public of information held by an officer or agency of the federal government or a state
24 that has received the information or material; or

25 (2) Subpoena, discovery, or admission into evidence, in any private civil
26 action or administrative process, unless with respect to any privilege held by [the
27 Nationwide Mortgage Licensing System and Registry] **NMLS** the person to whom the
28 information or material pertains waives, in whole or in part, that privilege.

29 (d) Any provisions of Title 4, Subtitles 1 through 5 of the General Provisions
30 Article relating to the disclosure of any information or material described in subsection (a)
31 of this section that are inconsistent with subsection (a) of this section shall be superseded
32 by the requirements of this section.

33 (e) This section does not apply to information or material relating to the
34 employment **AND ENGAGEMENT** history of, and publicly adjudicated disciplinary and
35 enforcement actions against, mortgage loan originators that is included in [the Nationwide
36 Mortgage Licensing System and Registry] **NMLS** and designated for access by the public.

1 11-621.

2 Nonfederally insured credit unions that [employ] **SPONSOR** mortgage loan
 3 originators shall register these employees **OR INDEPENDENT CONTRACTORS** with [the
 4 Nationwide Mortgage Licensing System and Registry] **NMLS** by providing the information
 5 concerning the employees' **OR INDEPENDENT CONTRACTORS'** identity set forth in 12
 6 U.S.C. § 5106(a)(2).

7 **SECTION 2. AND BE IT FURTHER ENACTED**, That this Act is not intended to
 8 conflict with or be interpreted to supersede any provision of the Labor and Employment
 9 Article, including any standards established under that article for protecting employees
 10 from abusive labor practices.

11 **SECTION 3. AND BE IT FURTHER ENACTED**, That, on or before December 31,
 12 2024, the Commissioner of Financial Regulation shall submit a report to the Senate
 13 Finance Committee and the House Economic Matters Committee, in accordance with §
 14 2-1257 of the State Government Article, on:

15 (1) the number of complaints received by the Office of Financial Regulation
 16 from consumers who receive mortgage loan origination services from independent
 17 contractors between October 1, 2023, and November 1, 2024; and

18 (2) the number of violations of law or regulations or other concerns
 19 regarding the supervision by sponsors of mortgage loan originators providing services as
 20 independent contractors cited by Office of Financial Regulation examiners during
 21 examinations of sponsors conducted between October 1, 2023, and November 1, 2024.

22 **SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED**, That this Act shall take effect
 23 October 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.