

SENATE BILL 546

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By: **Chair, Finance Committee (By Request – Departmental – Labor,
Licensing and Regulation)**

Introduced and read first time: February 3, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions – Mortgage Lenders and Mortgage Loan Originators**

3 FOR the purpose of providing that an applicant for a mortgage lender license or a
4 mortgage loan originator license shall complete, sign, and submit an application
5 in accordance with the process that the Commissioner of Financial Regulation
6 requires; providing that the applicants shall provide certain information to the
7 Commissioner; making certain mortgage lender and mortgage loan originator
8 license fees nonrefundable; requiring a mortgage lender licensee to provide
9 proof to the Commissioner of satisfying certain minimum net worth
10 requirements within a certain time period; altering the initial license term and
11 renewal period for a mortgage lender license; altering certain reporting
12 requirements for mortgage lender licensees; requiring a mortgage lender who is
13 exempt from certain licensing requirements to submit certain reports to the
14 Nationwide Mortgage Licensing System and Registry on behalf of certain
15 persons; altering the circumstances under which an individual is prohibited
16 from acting as a mortgage loan originator under a certain name or for a certain
17 employer; prohibiting an individual from acting as an affiliated insurance
18 producer–mortgage loan originator under a certain name or for a certain
19 employer unless the individual takes certain actions; requiring a certain
20 mortgage loan originator licensee who ceases to be employed by a certain
21 financial institution to notify the Commissioner within a certain time period;
22 requiring a certain mortgage loan originator licensee’s license to be placed into
23 nonactive status under certain circumstances; providing that it is a violation of
24 certain provisions of law to engage in any activity for which a certain mortgage
25 loan originator license is required while the license is in nonactive status;
26 requiring a certain mortgage loan originator license that is in nonactive status
27 to remain in nonactive status until the licensee takes certain actions;
28 authorizing the Commissioner to issue a certain mortgage loan originator
29 license to an individual who is not employed by a certain financial institution
30 under certain circumstances; repealing certain obsolete provisions of law;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 making certain stylistic and conforming changes; and generally relating to the
2 regulation of mortgage lenders and mortgage loan originators.

3 BY repealing and reenacting, with amendments,
4 Article – Financial Institutions
5 Section 11–507(a), (b), and (d), 11–508.1, 11–511(a) and (b), 11–513.1, 11–603(c),
6 11–604(b) and (c), and 11–608(a)
7 Annotated Code of Maryland
8 (2011 Replacement Volume and 2011 Supplement)

9 BY repealing
10 Article – Financial Institutions
11 Section 11–603.1(l)
12 Annotated Code of Maryland
13 (2011 Replacement Volume and 2011 Supplement)

14 BY adding to
15 Article – Financial Institutions
16 Section 11–603.1(l) and (m)
17 Annotated Code of Maryland
18 (2011 Replacement Volume and 2011 Supplement)

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

21 **Article – Financial Institutions**

22 11–507.

23 (a) (1) To apply for a license, an applicant shall:

24 (I) [complete] COMPLETE, sign, and submit to the
25 Commissioner an application made under oath [on] IN the form, AND IN
26 ACCORDANCE WITH THE PROCESS, that the Commissioner requires; AND

27 (II) PROVIDE ALL INFORMATION THAT THE COMMISSIONER
28 REQUESTS.

29 (2) The applicant shall comply with all conditions and provisions of
30 the application for licensure and be issued a license before acting as a mortgage lender
31 at a particular location.

32 (b) With each application, the applicant shall pay to the Commissioner the
33 following fees:

34 (1) A nonrefundable investigation fee set by the Commissioner; and

1 (2) A **NONREFUNDABLE** license fee set by the Commissioner.

2 (d) For each license for which an applicant applies, the applicant shall:

3 (1) Submit a separate application;

4 (2) Pay a separate **NONREFUNDABLE** license fee;

5 (3) Pay any application processing fee or other fees that the
6 Nationwide Mortgage Licensing System and Registry imposes in connection with the
7 application;

8 (4) If applicable, pay the surcharge; and

9 (5) File a separate surety bond or other financial guaranty under
10 § 11-508 of this subtitle.

11 11-508.1.

12 (a) An applicant for a new license or for the renewal of a license shall satisfy
13 the Commissioner that the applicant or licensee has, and at all times will maintain, a
14 minimum net worth computed according to generally accepted accounting principles
15 or, with respect to an applicant or licensee described in item (1) of this subsection, any
16 other recognized comprehensive basis of accounting approved by the Commissioner:

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

19 (2) In the case of an applicant or licensee that lends money secured by
20 a dwelling or residential real estate, in the amount of:

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

24 (ii) \$50,000, if the applicant or licensee, in the 12 months prior
25 to the license application or the renewal application, lent in the aggregate more than
26 \$1,000,000, but not more than \$5,000,000 secured by a dwelling or residential real
27 estate;

28 (iii) \$100,000, if the applicant or licensee, in the 12 months prior
29 to the license application or the renewal application, lent in the aggregate more than
30 \$5,000,000, but not more than \$10,000,000 secured by a dwelling or residential real
31 estate; and

1 (iv) \$250,000, if the applicant or licensee, in the 12 months prior
2 to the license application or the renewal application, lent in the aggregate more than
3 \$10,000,000 secured by a dwelling or residential real estate.

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

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

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

9 (iii) Other assets; or

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

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

14 (i) The account balance;

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

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

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

22 (ii) A line of credit may not be used toward satisfying more than
23 75% of the minimum net worth requirements under subsection (a)(2) of this section.

24 **(C) A LICENSEE SHALL PROVIDE TO THE COMMISSIONER PROOF OF**
25 **SATISFYING MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A) OF**
26 **THIS SECTION WITHIN 90 DAYS AFTER THE LAST DAY OF THE LICENSEE'S MOST**
27 **RECENT FISCAL YEAR.**

28 11-511.

29 (a) Subject to any regulations the Commissioner adopts in connection with
30 the transition to the Nationwide Mortgage Licensing System and Registry, an initial
31 license term shall:

32 (1) [Be for a maximum period of 1 year;]

1 [(2)] Begin on the day the license is issued; and

2 [(3)] (2) Expire on December 31 of the year [the]:

3 (I) **THE** license is issued, **IF THE LICENSE IS ISSUED BEFORE**
4 **NOVEMBER 1; OR**

5 (II) **SUCCEEDING THE YEAR THAT THE LICENSE IS ISSUED,**
6 **IF THE LICENSE IS ISSUED ON OR AFTER NOVEMBER 1.**

7 (b) At least [30] **60** days before its expiration, a license may be renewed if
8 the licensee:

9 (1) Otherwise is entitled to be licensed;

10 (2) Pays to the Commissioner a **NONREFUNDABLE** renewal fee set by
11 the Commissioner;

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

14 (4) Submits to the Commissioner:

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

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

19 11-513.1.

20 (A) A licensee shall submit to the Nationwide Mortgage Licensing System
21 and Registry a **CALL** report [of condition] once each [calendar year] **QUARTER** on the
22 date, in the form, and containing the information required by the Nationwide
23 Mortgage Licensing System and Registry.

24 (B) **A MORTGAGE LENDER WHO IS EXEMPT FROM LICENSING UNDER**
25 **THIS SUBTITLE SHALL SUBMIT THE CALL REPORTS REQUIRED UNDER**
26 **SUBSECTION (A) OF THIS SECTION ON BEHALF OF ITS MORTGAGE LOAN**
27 **ORIGINATORS.**

28 11-603.

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

- 1 (i) The name of the licensee;
- 2 (ii) The name of the licensee's employer; and
- 3 (iii) The unique identifier of the licensee if the licensee has been
4 issued a unique identifier.

5 (2) An individual may not act as a mortgage loan originator under a
6 name or for an employer that is different from the name and employer that appear on
7 the license unless the licensee:

- 8 (i) Notifies the Commissioner in writing in advance of a change
9 in the licensee's name or the licensee's employer;
- 10 (ii) Pays to the Commissioner a license amendment fee set by
11 the Commissioner for each notice provided under this paragraph; **AND**
- 12 (iii) [Returns to the Commissioner the licensee's license, or an
13 affidavit stating that the license has been lost or destroyed; and

14 (iv)] In the case of a new employer, [submits to the Commissioner
15 a notarized statement from the licensee's new employer] **AMENDS THE**
16 **SPONSORSHIP INFORMATION ON THE NATIONWIDE MORTGAGE LICENSING**
17 **SYSTEM AND REGISTRY BY SUBMITTING THE AMENDMENT, IN THE FORM**
18 **REQUIRED BY THE COMMISSIONER, TO INDICATE** that the licensee is an employee
19 of the new employer.

20 (3) If a licensee ceases to be employed by a licensed mortgage lender or
21 by a person exempt from licensing as a mortgage lender, the licensee shall notify the
22 Commissioner within 10 business days, and the license shall be placed into nonactive
23 status.

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

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

28 (i) Notifies the Commissioner in writing that the licensee has
29 obtained employment with a licensed mortgage lender or with a person exempt from
30 licensing as a mortgage lender; and

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

1 **[(I) An affiliated insurance producer–mortgage loan originator who holds a**
2 **mortgage lender license under § 11–506(c) of this title on July 1, 2009, may continue to**
3 **originate mortgages under a valid mortgage lender license until December 31, 2009,**
4 **provided that the affiliated insurance producer–mortgage loan originator takes the**
5 **actions necessary to participate in the Nationwide Mortgage Licensing System and**
6 **Registry, as required by the Commissioner.]**

7 **(L) (1) AN INDIVIDUAL MAY NOT ACT AS AN AFFILIATED INSURANCE**
8 **PRODUCER–MORTGAGE LOAN ORIGINATOR UNDER A NAME OR FOR AN**
9 **EMPLOYER THAT IS DIFFERENT FROM THE NAME AND EMPLOYER THAT APPEAR**
10 **ON THE LICENSE UNLESS THE LICENSEE:**

11 **(I) NOTIFIES THE COMMISSIONER IN WRITING IN ADVANCE**
12 **OF A CHANGE IN THE LICENSEE’S NAME OR THE LICENSEE’S EMPLOYER;**

13 **(II) PAYS TO THE COMMISSIONER A LICENSE AMENDMENT**
14 **FEE SET BY THE COMMISSIONER FOR EACH NOTICE PROVIDED UNDER ITEM (I)**
15 **THIS PARAGRAPH; AND**

16 **(III) IN THE CASE OF A NEW EMPLOYER, AMENDS THE**
17 **SPONSORSHIP INFORMATION ON THE NATIONWIDE MORTGAGE LICENSING**
18 **SYSTEM AND REGISTRY BY SUBMITTING THE AMENDMENT IN THE FORM**
19 **REQUIRED BY THE COMMISSIONER TO INDICATE THAT THE LICENSEE IS AN**
20 **EMPLOYEE OF THE NEW EMPLOYER.**

21 **(2) IF A LICENSEE CEASES TO BE EMPLOYED BY A FINANCIAL**
22 **INSTITUTION APPROVED BY THE COMMISSIONER UNDER SUBSECTION (B) OF**
23 **THIS SECTION, THE LICENSEE SHALL NOTIFY THE COMMISSIONER WITHIN 10**
24 **BUSINESS DAYS, AND THE LICENSE SHALL BE PLACED INTO NONACTIVE STATUS.**

25 **(3) DURING THE TIME THAT A LICENSE IS IN NONACTIVE STATUS,**
26 **IT IS A VIOLATION OF THIS SUBTITLE FOR THE LICENSEE TO ENGAGE IN ANY**
27 **ACTIVITY FOR WHICH A LICENSE IS REQUIRED UNDER THIS SUBTITLE.**

28 **(4) THE LICENSE SHALL REMAIN IN NONACTIVE STATUS UNTIL**
29 **THE LICENSEE:**

30 **(I) NOTIFIES THE COMMISSIONER IN WRITING THAT THE**
31 **LICENSEE HAS OBTAINED EMPLOYMENT WITH A FINANCIAL INSTITUTION THAT**
32 **IS APPROVED BY THE COMMISSIONER UNDER SUBSECTION (B) OF THIS**
33 **SECTION; AND**

1 **(II) HAS COMPLIED WITH THE REQUIREMENTS SET FORTH**
2 **IN PARAGRAPH (1) OF THIS SUBSECTION.**

3 **(M) THE COMMISSIONER MAY ISSUE A LICENSE UNDER THIS SUBTITLE**
4 **TO AN INDIVIDUAL WHO IS NOT EMPLOYED BY A FINANCIAL INSTITUTION**
5 **APPROVED BY THE COMMISSIONER UNDER SUBSECTION (B) OF THIS SECTION,**
6 **PROVIDED THAT THE LICENSE IS PLACED INTO AND REMAINS IN NONACTIVE**
7 **STATUS UNTIL THE LICENSEE:**

8 **(1) NOTIFIES THE COMMISSIONER IN WRITING THAT THE**
9 **LICENSEE HAS OBTAINED EMPLOYMENT WITH A FINANCIAL INSTITUTION**
10 **APPROVED BY THE COMMISSIONER UNDER SUBSECTION (B) OF THIS SECTION;**
11 **AND**

12 **(2) HAS COMPLIED WITH THE REQUIREMENTS SET FORTH IN**
13 **SUBSECTION (L)(1) OF THIS SECTION.**

14 11-604.

15 (b) (1) To apply for a license, an applicant shall [complete]:

16 **(I) COMPLETE, sign, and submit to the Commissioner an**
17 **application made under oath [on] IN the form, AND IN ACCORDANCE WITH THE**
18 **PROCESS, that the Commissioner requires; AND**

19 **(II) PROVIDE ALL INFORMATION AS REQUESTED BY THE**
20 **COMMISSIONER.**

21 (2) The applicant shall comply with all conditions and provisions of
22 the application for a license.

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

24 (1) A nonrefundable investigation fee set by the Commissioner; and

25 (2) A **NONREFUNDABLE** license fee set by the Commissioner.

26 11-608.

27 (a) If the Commissioner denies an application, the Commissioner:

28 (1) Within 10 days, shall notify the applicant, in writing, of the denial;
29 **AND**

30 (2) [Shall refund the license fee; and

1 (3)] Shall keep the **LICENSE FEE AND THE** investigation fee.

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 July 1, 2012.