

HOUSE BILL 358

C2

11r0454
CF SB 103

By: **Chair, Economic Matters Committee**

Introduced and read first time: February 3, 2011

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 23, 2011

CHAPTER _____

1 AN ACT concerning

2 **Office of the Commissioner of Financial Regulation, the Banking Board, and**
3 **the State Collection Agency Licensing Board – Sunset Extension and**
4 **Program Evaluation**

5 FOR the purpose of repealing the Banking Board in the Department of Labor,
6 Licensing, and Regulation; continuing the Office of the Commissioner of
7 Financial Regulation and the State Collection Agency Licensing Board in
8 accordance with the provisions of the Maryland Program Evaluation Act (sunset
9 law) by extending to a certain date the termination provisions relating to the
10 statutory and regulatory authority of the Office of the Commissioner of
11 Financial Regulation and the State Collection Agency Licensing Board;
12 requiring that an evaluation of the Office of the Commissioner of Financial
13 Regulation and the State Collection Licensing Board and the statutes and
14 regulations that relate to them be performed on or before a certain date;
15 repealing certain provisions requiring the Commissioner of Financial
16 Regulation to seek the advice of the Banking Board on certain matters;
17 providing that deposits of certain trust money in financial institutions located
18 outside the State are subject to the approval of the Commissioner of Financial
19 Regulation instead of the Banking Board; requiring the Commissioner to
20 implement a risk-based mortgage lender licensee examination schedule on or
21 before a certain date and report to certain committees of the General Assembly
22 on the implementation of the examination schedule on or before a certain date;
23 requiring the Maryland Judiciary, in consultation with the State Collection
24 Agency Licensing Board and the Attorney General's Office, to study a certain
25 issue and report its findings and recommendations to certain committees of the

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 General Assembly on or before a certain date; and generally relating to the
2 Office of the Commissioner of Financial Regulation, the State Collection Agency
3 Licensing Board, and the Banking Board.

4 BY repealing

5 Article – Business Regulation
6 Section 2–108(a)(4)
7 Annotated Code of Maryland
8 (2010 Replacement Volume and 2010 Supplement)

9 BY renumbering

10 Article – Business Regulation
11 Section 2–108(a)(5) through (34), respectively
12 to be Section 2–108(a)(4) through (33), respectively
13 Annotated Code of Maryland
14 (2010 Replacement Volume and 2010 Supplement)

15 BY repealing

16 Article – Financial Institutions
17 Section 2–201 through 2–204 and the subtitle “Subtitle 2. Banking Board”; and
18 2–402
19 Annotated Code of Maryland
20 (2003 Replacement Volume and 2010 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article – Business Regulation
23 Section 7–502
24 Annotated Code of Maryland
25 (2010 Replacement Volume and 2010 Supplement)

26 BY repealing and reenacting, with amendments,

27 Article – Financial Institutions
28 Section 2–401, 3–203(d)(1), 3–607, 3–705, 4–203(d)(1), 4–701(b), 4–803(d)(1),
29 5–209(a), 5–405(b), and 5–801
30 Annotated Code of Maryland
31 (2003 Replacement Volume and 2010 Supplement)

32 BY repealing and reenacting, without amendments,

33 Article – Financial Institutions
34 Section 3–203(a), 4–203(a), 4–701(a), 4–803(a), and 5–405(a)
35 Annotated Code of Maryland
36 (2003 Replacement Volume and 2010 Supplement)

37 BY repealing and reenacting, with amendments,

38 Article – Insurance
39 Section 22–103
40 Annotated Code of Maryland

1 (2006 Replacement Volume and 2010 Supplement)

2 BY repealing and reenacting, without amendments,
 3 Article – State Government
 4 Section 8–403(a)
 5 Annotated Code of Maryland
 6 (2009 Replacement Volume and 2010 Supplement)

7 BY repealing and reenacting, with amendments,
 8 Article – State Government
 9 Section 8–403(b)(13) and (24)
 10 Annotated Code of Maryland
 11 (2009 Replacement Volume and 2010 Supplement)

12 BY repealing
 13 Article – State Government
 14 Section 8–403(b)(8)
 15 Annotated Code of Maryland
 16 (2009 Replacement Volume and 2010 Supplement)

17 BY renumbering
 18 Article – State Government
 19 Section 8–403(b)(9) through (68), respectively
 20 to be Section 8–403(b)(8) through (67), respectively
 21 Annotated Code of Maryland
 22 (2009 Replacement Volume and 2010 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 24 MARYLAND, That Section(s) 2–108(a)(4) of Article – Business Regulation of the
 25 Annotated Code of Maryland be repealed.

26 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2–108(a)(5)
 27 through (34), respectively, of Article – Business Regulation of the Annotated Code of
 28 Maryland be renumbered to be Section(s) 2–108(a)(4) through (33), respectively.

29 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 2–201 through
 30 2–204 and the subtitle “Subtitle 2. Banking Board”; and 2–402 of Article – Financial
 31 Institutions of the Annotated Code of Maryland be repealed.

32 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 33 read as follows:

34 **Article – Business Regulation**

35 7–502.

1 Subject to the evaluation and reestablishment provisions of the Maryland
2 Program Evaluation Act, this title and all regulations adopted under this title shall
3 terminate on July 1, [2012] **2022**.

4 **Article – Financial Institutions**

5 2–401.

6 Subject to the evaluation and reestablishment provisions of the Program
7 Evaluation Act, the provisions of this article that create the office of the Commissioner
8 of Financial Regulation or relate to the powers and duties of the Commissioner and
9 any regulations adopted under these provisions shall terminate and be of no effect
10 after July 1, [2012] **2022**.

11 3–203.

12 (a) The incorporators shall file with the Commissioner for examination the
13 two copies of the articles of incorporation.

14 (d) (1) Within 6 months after the articles are filed for examination, the
15 Commissioner[, after receiving the advice of the Banking Board,] shall sign, date, and
16 endorse each copy of the articles as “approved” or “refused”.

17 3–607.

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

19 (2) “Demand deposit” means a deposit that is payable within 30 days.

20 (3) (i) “Time deposit” means a deposit that is payable after 30 days.

21 (ii) “Time deposit” includes a savings account or certificate of
22 deposit that requires at least a 30–day notice before payment.

23 (b) This section does not apply to any deposit of public funds for which the
24 commercial bank pledges collateral.

25 (c) (1) A commercial bank shall have at all times a reserve equal to at
26 least 15 percent of its demand deposits.

27 (2) The board of directors of a commercial bank by resolution shall
28 direct the commercial bank to keep the demand deposit reserve required by this
29 section in:

30 (i) Cash on hand;

31 (ii) Demand deposits in a bank of good standing in any state; or

1 (iii) As to 5 percent of its demand deposits, on approval of the
2 Commissioner:

3 1. Registered or coupon bonds; or

4 2. General obligations of or obligations guaranteed by
5 the United States government, an agency of the United States government, this State,
6 or any political subdivision.

7 (d) (1) A commercial bank shall have at all times a reserve equal to at
8 least 3 percent of its time deposits.

9 (2) The board of directors of a commercial bank by resolution shall
10 direct the commercial bank to keep the time deposit reserves required by this section
11 in:

12 (i) Cash on hand;

13 (ii) Deposits in a bank of good standing in any state; or

14 (iii) Direct obligations of the United States government or of this
15 State.

16 (e) (1) If the Commissioner[, with the advice of the Banking Board,]
17 determines that a change in the demand deposit reserve or in the time deposit reserve
18 requirements is advisable to maintain sound banking practices or to prevent injurious
19 credit expansion or contraction, the Commissioner may change the requirements as
20 provided in this subsection.

21 (2) Subject to paragraph (3) of this subsection, the Commissioner may
22 adopt rules or regulations to change the requirements as to reserves for commercial
23 banks.

24 (3) The rules and regulations may:

25 (i) Increase the demand deposit reserve to an amount equal to
26 not more than 30 percent of those deposits;

27 (ii) Increase the time deposit reserve to an amount equal to not
28 more than 6 percent of those deposits;

29 (iii) Decrease the demand deposit reserve to an amount equal to
30 not less than 15 percent of those deposits;

31 (iv) Decrease the time deposit reserve to an amount equal to not
32 less than 3 percent of those deposits; and

1 (v) Notwithstanding items (i) through (iv) of this paragraph,
2 increase or decrease the demand deposit reserve or time deposit reserve to conform to
3 the reserve requirements that apply to a member bank of the Federal Reserve System.

4 3–705.

5 Within 6 months after the papers specified in § 3–703(c) of this subtitle have
6 been filed with the Commissioner, the Commissioner[, after receiving the advice of the
7 Banking Board,] shall approve or disapprove the agreement.

8 4–203.

9 (a) The incorporators shall:

10 (1) File with the Commissioner for examination the two copies of the
11 articles of incorporation; and

12 (2) Pay to the Commissioner an examination fee of \$1,500.

13 (d) (1) Within 6 months after the articles are filed for examination, the
14 Commissioner[, with the approval of the Banking Board,] shall sign, date, and endorse
15 each copy as “approved” or “refused”.

16 4–701.

17 (a) In this section, “transfer assets”, “transfer its assets”, or “transfer of
18 assets” means to sell, lease, exchange, or otherwise transfer all or substantially all of
19 the property and assets of a savings bank.

20 (b) (1) A savings bank may consolidate with, merge into, or transfer its
21 assets to any banking institution in this State, any other bank in this State, or any
22 State or federal savings and loan association in this State if the Commissioner[, after
23 receiving the advice of the Banking Board,] gives written consent to the transaction.

24 (2) A savings bank may have any banking institution in this State,
25 any other bank in this State, or any State or federal savings and loan association in
26 this State merge into the savings bank if the Commissioner[, after receiving the advice
27 of the Banking Board,] gives written consent to the transaction.

28 4–803.

29 (a) The savings bank shall:

30 (1) File with the Commissioner for examination the application for
31 approval of reorganization; and

1 (2) At the time of filing of an application for approval of
2 reorganization, pay to the Commissioner a fee of \$1,500.

3 (d) As to the proposed articles of incorporation of the subsidiary savings
4 bank:

5 (1) Within 3 months after the application is filed for examination, the
6 Commissioner[, after receiving the advice of the Banking Board,] shall sign, date, and
7 endorse each copy of the articles of incorporation as “approved” or “refused”.

8 5–209.

9 (a) Except as otherwise provided in this article, the Commissioner[,] AND
10 the employees of and the attorney for the Commissioner’s office[, and the members of
11 the Banking Board] may not disclose:

12 (1) The name of any debtor of a banking institution;

13 (2) Any information about the private accounts with or transactions of
14 a banking institution;

15 (3) Any information obtained in the course of examining a banking
16 institution; or

17 (4) Any confidential information obtained from a federal banking
18 authority.

19 5–405.

20 (a) Except as provided in this section, or otherwise expressly provided by
21 State law, a banking institution may not have a bank service corporation.

22 (b) If the Commissioner[, after receiving the advice of the Banking Board,]
23 approves, a banking institution may have a bank service corporation.

24 5–801.

25 (a) If the Commissioner believes that a director or officer of a banking
26 institution has engaged in an unsafe or unsound banking practice, the Commissioner
27 shall send a warning to the director or officer.

28 (b) (1) If the Commissioner finds that the director or officer has continued
29 to engage in the unsafe or unsound practice, the Commissioner[, with the advice of the
30 Banking Board,] may report the facts to the Secretary of Labor, Licensing, and
31 Regulation and the Attorney General.

1 a financial institution outside the State that complies with the requirements of this
2 subtitle.

3 (e) A title insurer or its agent does not violate, and may not be charged by
4 the Commissioner with a violation of, any ethical or legal duties by placing trust
5 money in an account under subsection (b) of this section with the interest paid to the
6 Maryland Affordable Housing Trust under subsection (c) of this section.

7 (f) Except for trust money that a title insurer or its agent places in a
8 commingled account under subsections (b) and (c) of this section, and subject to
9 regulations of the Commissioner, trust money in the possession of the title insurer or
10 its agent may be deposited in any other deposit or investment vehicle:

11 (1) specified by the client or beneficial owner; or

12 (2) as agreed on by the client or beneficial owner and the title insurer
13 or its agent.

14 Article – State Government

15 8–403.

16 (a) On or before December 15 of the 2nd year before the evaluation date of a
17 governmental activity or unit, the Legislative Policy Committee, based on a
18 preliminary evaluation, may waive as unnecessary the evaluation required under this
19 section.

20 (b) Except as otherwise provided in subsection (a) of this section, on or before
21 the evaluation date for the following governmental activities or units, an evaluation
22 shall be made of the following governmental activities or units and the statutes and
23 regulations that relate to the governmental activities or units:

24 (13) Collection Agency Licensing Board, State (§ 7–201 of the Business
25 Regulation Article: July 1, [2011] **2021**);

26 (24) Financial Regulation, Office of the Commissioner of (§ 2–101 of the
27 Financial Institutions Article: July 1, [2011] **2021**);

28 SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 8–403(b)(8) of
29 Article – State Government of the Annotated Code of Maryland be repealed.

30 SECTION 6. AND BE IT FURTHER ENACTED, That Section(s) 8–403(b)(9)
31 through (68), respectively, of Article – State Government of the Annotated Code of
32 Maryland be renumbered to be Section(s) 8–403(b)(8) through (67), respectively.

33 SECTION 7. AND BE IT FURTHER ENACTED, That the Commissioner of
34 Financial Regulation shall:

1 (1) implement a risk-based mortgage lender licensee examination
2 schedule to supplement the existing calendar-based examination schedule by January
3 1, 2012; and

4 (2) report to the Senate Finance Committee and the House Economic
5 Matters Committee on or before October 1, 2012, in accordance with § 2-1246 of the
6 State Government Article, on the implementation of the risk-based mortgage lender
7 licensee examination schedule.

8 SECTION 8. AND BE IT FURTHER ENACTED, That the Maryland Judiciary,
9 in consultation with the State Collection Agency Licensing Board and the Attorney
10 General's Office, shall:

11 (1) examine whether the Maryland Rules should be amended to
12 strengthen protections for defendants in consumer debt collection cases; and

13 (2) report to the Senate Finance Committee, the Senate Judicial
14 Proceedings Committee, the House Economic Matters Committee, and the House
15 Judiciary Committee on or before October 1, 2011, in accordance with § 2-1246 of the
16 State Government Article, on its findings and recommendations.

17 SECTION 9. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 July 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.