

SENATE BILL 103

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By: **Chair, Finance Committee**

Introduced and read first time: January 21, 2011

Assigned to: Finance

A BILL ENTITLED

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

29 BY repealing

30 Article – Business Regulation

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 Section 2–108(a)(4)
2 Annotated Code of Maryland
3 (2010 Replacement Volume and 2010 Supplement)
- 4 BY renumbering
5 Article – Business Regulation
6 Section 2–108(a)(5) through (34), respectively
7 to be Section 2–108(a)(4) through (33), respectively
8 Annotated Code of Maryland
9 (2010 Replacement Volume and 2010 Supplement)
- 10 BY repealing
11 Article – Financial Institutions
12 Section 2–201 through 2–204 and the subtitle “Subtitle 2. Banking Board”; and
13 2–402
14 Annotated Code of Maryland
15 (2003 Replacement Volume and 2010 Supplement)
- 16 BY repealing and reenacting, with amendments,
17 Article – Business Regulation
18 Section 7–502
19 Annotated Code of Maryland
20 (2010 Replacement Volume and 2010 Supplement)
- 21 BY repealing and reenacting, with amendments,
22 Article – Financial Institutions
23 Section 2–401, 3–203(d)(1), 3–607, 3–705, 4–203(d)(1), 4–701(b), 4–803(d)(1),
24 5–209(a), 5–405(b), and 5–801
25 Annotated Code of Maryland
26 (2003 Replacement Volume and 2010 Supplement)
- 27 BY repealing and reenacting, without amendments,
28 Article – Financial Institutions
29 Section 3–203(a), 4–203(a), 4–701(a), 4–803(a), and 5–405(a)
30 Annotated Code of Maryland
31 (2003 Replacement Volume and 2010 Supplement)
- 32 BY repealing and reenacting, with amendments,
33 Article – Insurance
34 Section 22–103
35 Annotated Code of Maryland
36 (2006 Replacement Volume and 2010 Supplement)
- 37 BY repealing and reenacting, without amendments,
38 Article – State Government
39 Section 8–403(a)
40 Annotated Code of Maryland
41 (2009 Replacement Volume and 2010 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article – State Government
3 Section 8–403(b)(13) and (24)
4 Annotated Code of Maryland
5 (2009 Replacement Volume and 2010 Supplement)

6 BY repealing
7 Article – State Government
8 Section 8–403(b)(8)
9 Annotated Code of Maryland
10 (2009 Replacement Volume and 2010 Supplement)

11 BY renumbering
12 Article – State Government
13 Section 8–403(b)(9) through (68), respectively
14 to be Section 8–403(b)(8) through (67), respectively
15 Annotated Code of Maryland
16 (2009 Replacement Volume and 2010 Supplement)

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

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

23 SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 2–201 through
24 2–204 and the subtitle “Subtitle 2. Banking Board”; and 2–402 of Article – Financial
25 Institutions of the Annotated Code of Maryland be repealed.

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

28 **Article – Business Regulation**

29 7–502.

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

33 **Article – Financial Institutions**

34 2–401.

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

6 3–203.

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

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

12 3–607.

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

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

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

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

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

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

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

25 (i) Cash on hand;

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

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

29 1. Registered or coupon bonds; or

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

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

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

9 (i) Cash on hand;

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

11 (iii) Direct obligations of the United States government or of this
12 State.

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

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

21 (3) The rules and regulations may:

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

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

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

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

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

33 3-705.

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

4 4-203.

5 (a) The incorporators shall:

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

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

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

12 4-701.

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

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

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

24 4-803.

25 (a) The savings bank shall:

26 (1) File with the Commissioner for examination the application for
27 approval of reorganization; and

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

30 (d) As to the proposed articles of incorporation of the subsidiary savings
31 bank:

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

4 5–209.

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

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

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

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

13 (4) Any confidential information obtained from a federal banking
14 authority.

15 5–405.

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

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

20 5–801.

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

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

28 (2) A copy of the report shall be sent by certified mail, return receipt
29 requested, bearing a postmark from the United States Postal Service, to each director
30 of the banking institution.

31 (c) (1) After giving the officer or director an opportunity to be heard, if the
32 Commissioner finds that the unsafe or unsound practice continued after the warning,

1 the Commissioner with the approval of the Secretary of Labor, Licensing, and
2 Regulation may remove the officer or director.

3 (2) A copy of the removal order shall be served on the individual
4 removed and the banking institution.

5 Article – Insurance

6 22–103.

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

8 (2) “Beneficial owner” means a person, other than the buyer in a real
9 estate transaction, for whose benefit a title insurer or its agent is entrusted to hold
10 trust money.

11 (3) “Trust money” means a deposit, payment, or other money that a
12 person entrusts to a title insurer or its agent to hold for the benefit of a buyer in a real
13 estate transaction or for a beneficial owner, in connection with an escrow, settlement,
14 closing, or title indemnification.

15 (b) A title insurer or its agent shall pool and commingle trust money received
16 from clients or beneficial owners in connection with escrows, settlements, closings, or
17 title indemnifications if, in the judgment of the title insurer or its agent, a separate
18 deposit of the trust money would generate interest in an amount not greater than \$50
19 or the cost of administering a separate account.

20 (c) At least quarterly, the financial institution in which a commingled
21 account is maintained under this section shall pay the interest earned on the account,
22 less any service charges of the financial institution, to the Maryland Affordable
23 Housing Trust to enhance the availability of affordable housing throughout the State
24 as provided in § 10–102 of the Housing and Community Development Article.

25 (d) Trust money required to be commingled under subsection (b) of this
26 section in connection with a real estate transaction shall be deposited and maintained
27 until disbursed in accordance with the transaction:

28 (1) in a financial institution located in the State; or

29 (2) subject to approval of the [Banking Board in the Department of
30 Labor, Licensing, and Regulation] **COMMISSIONER OF FINANCIAL REGULATION**, in
31 a financial institution outside the State that complies with the requirements of this
32 subtitle.

33 (e) A title insurer or its agent does not violate, and may not be charged by
34 the Commissioner with a violation of, any ethical or legal duties by placing trust

1 money in an account under subsection (b) of this section with the interest paid to the
2 Maryland Affordable Housing Trust under subsection (c) of this section.

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

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

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

10 Article – State Government

11 8–403.

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

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

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

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

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

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

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

31 (1) implement a risk–based mortgage lender licensee examination
32 schedule to supplement the existing calendar–based examination schedule by January
33 1, 2012; and

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

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

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

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

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