

SENATE BILL 1043

I3, N1

3lr3141

By: **Senator Frosh**

Introduced and read first time: March 1, 2013

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Acceleration of Loan Indebtedness Due to Death –**
3 **Prohibited**

4 FOR the purpose of prohibiting certain loan and credit agreements from containing a
5 certain acceleration clause in which any part or all of the unpaid balance may
6 be declared due and payable due solely to the death of a borrower, a debtor, or a
7 guarantor of the loan; establishing, notwithstanding certain provisions of this
8 Act, that a lender or credit grantor is not obligated to extend additional credit or
9 make any cash advances to a certain estate or a certain person under certain
10 circumstances; providing for the scope of certain provisions of this Act;
11 providing for the application of this Act; making a stylistic change; and
12 generally relating to acceleration provisions in loan and credit agreements.

13 BY adding to

14 Article – Commercial Law
15 Section 12–125.1, 12–311.1, 12–923.2, and 12–1023.2
16 Annotated Code of Maryland
17 (2005 Replacement Volume and 2012 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – Commercial Law
20 Section 12–409
21 Annotated Code of Maryland
22 (2005 Replacement Volume and 2012 Supplement)

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

25 **Article – Commercial Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **12-125.1.**

2 (A) THIS SECTION APPLIES TO A LOAN THAT IS SECURED BY
3 RESIDENTIAL REAL PROPERTY.

4 (B) A FINANCING AGREEMENT OR ANY OTHER INSTRUMENT THAT
5 EVIDENCES OR SECURES A LOAN SUBJECT TO THIS SECTION MAY NOT CONTAIN
6 AN ACCELERATION CLAUSE UNDER WHICH ANY PART OR ALL OF THE UNPAID
7 BALANCE OF THE LOAN NOT YET MATURED MAY BE DECLARED DUE AND
8 PAYABLE DUE SOLELY TO THE DEATH OF A BORROWER OR A GUARANTOR OF
9 THE LOAN.

10 (C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, AFTER THE
11 DEATH OF THE BORROWER OR GUARANTOR OF THE LOAN, A LENDER IS NOT
12 OBLIGATED TO EXTEND ADDITIONAL CREDIT OR MAKE ANY CASH ADVANCES TO
13 THE ESTATE OF THE BORROWER OR TO ANY PERSON THAT ASSUMES THE
14 OBLIGATIONS OF THE BORROWER FOR REPAYMENT OF THE LOAN.

15 **12-311.1.**

16 (A) THIS SECTION APPLIES TO A LOAN THAT IS SECURED BY
17 RESIDENTIAL REAL PROPERTY.

18 (B) A CONTRACT OR ANY OTHER INSTRUMENT THAT EVIDENCES OR
19 SECURES A LOAN SUBJECT TO THIS SECTION MAY NOT CONTAIN AN
20 ACCELERATION CLAUSE UNDER WHICH ANY PART OR ALL OF THE UNPAID
21 BALANCE OF THE LOAN NOT YET MATURED MAY BE DECLARED DUE AND
22 PAYABLE DUE SOLELY TO THE DEATH OF A BORROWER OR A GUARANTOR OF
23 THE LOAN.

24 (C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, AFTER THE
25 DEATH OF THE BORROWER OR GUARANTOR OF THE LOAN, A LENDER IS NOT
26 OBLIGATED TO EXTEND ADDITIONAL CREDIT OR MAKE ANY CASH ADVANCES TO
27 THE ESTATE OF THE BORROWER OR TO ANY PERSON THAT ASSUMES THE
28 OBLIGATIONS OF THE BORROWER FOR REPAYMENT OF THE LOAN.

29 **12-409.**

30 (A) An instrument [which] THAT evidences or secures a loan may not contain
31 any:

32 (1) Acceleration clause under which any part or all of the unpaid
33 balance of the loan not yet maturated may be declared due and payable for any reason

1 other than default by the debtor in the payment or in another required term of the
2 instrument;

3 (2) Provision by which the debtor waives any right accruing to him
4 under the provisions of this subtitle; or

5 (3) Assignment or order for the payment of wages, whether earned or
6 to be earned.

7 **(B) (1) THIS SUBSECTION APPLIES TO A LOAN THAT IS SECURED BY
8 OWNER–OCCUPIED RESIDENTIAL REAL PROPERTY.**

9 **(2) AN INSTRUMENT THAT EVIDENCES OR SECURES A LOAN
10 SUBJECT TO THIS SUBSECTION MAY NOT CONTAIN AN ACCELERATION CLAUSE
11 UNDER WHICH ANY PART OR ALL OF THE UNPAID BALANCE OF THE LOAN NOT
12 YET MATURED MAY BE DECLARED DUE AND PAYABLE DUE SOLELY TO THE
13 DEATH OF A DEBTOR OR A GUARANTOR OF THE LOAN.**

14 **(3) NOTWITHSTANDING PARAGRAPH (2) OF THIS SUBSECTION,
15 AFTER THE DEATH OF THE DEBTOR OR GUARANTOR OF THE LOAN, A LENDER IS
16 NOT OBLIGATED TO EXTEND ADDITIONAL CREDIT OR MAKE ANY CASH
17 ADVANCES TO THE ESTATE OF THE DEBTOR OR TO ANY PERSON THAT ASSUMES
18 THE OBLIGATIONS OF THE DEBTOR FOR REPAYMENT OF THE LOAN.**

19 **12–923.2.**

20 **(A) THIS SECTION APPLIES TO AN EXTENSION OF CREDIT OR A LOAN
21 THAT IS SECURED BY REAL PROPERTY.**

22 **(B) AN AGREEMENT OR ANY OTHER INSTRUMENT THAT EVIDENCES OR
23 SECURES AN EXTENSION OF CREDIT OR LOAN SUBJECT TO THIS SECTION MAY
24 NOT CONTAIN AN ACCELERATION CLAUSE UNDER WHICH ANY PART OR ALL OF
25 THE UNPAID BALANCE OF ANY EXTENSION OF CREDIT OR LOAN NOT YET
26 MATURED MAY BE DECLARED DUE AND PAYABLE DUE SOLELY TO THE DEATH OF
27 A BORROWER OR A GUARANTOR OF THE EXTENSION OF CREDIT OR LOAN.**

28 **(C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, AFTER THE
29 DEATH OF THE BORROWER OR GUARANTOR OF THE EXTENSION OF CREDIT OR
30 LOAN, A CREDIT GRANTOR IS NOT OBLIGATED TO EXTEND ADDITIONAL CREDIT
31 OR MAKE ANY CASH ADVANCES TO THE ESTATE OF THE BORROWER OR TO ANY
32 PERSON THAT ASSUMES THE OBLIGATIONS OF THE BORROWER FOR REPAYMENT
33 OF THE EXTENSION OF CREDIT OR LOAN.**

34 **12–1023.2.**

1 **(A) THIS SECTION APPLIES TO AN AGREEMENT, A NOTE, OR ANY OTHER**
2 **EVIDENCE OF A LOAN SECURED BY RESIDENTIAL REAL PROPERTY.**

3 **(B) AN AGREEMENT, A NOTE, OR ANY OTHER EVIDENCE OF A LOAN**
4 **SUBJECT TO THIS SECTION MAY NOT CONTAIN AN ACCELERATION CLAUSE**
5 **UNDER WHICH ANY PART OR ALL OF THE UNPAID BALANCE OF THE LOAN NOT**
6 **YET MATURED MAY BE DECLARED DUE AND PAYABLE DUE SOLELY TO THE**
7 **DEATH OF A BORROWER OR A GUARANTOR OF THE LOAN.**

8 **(C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, AFTER THE**
9 **DEATH OF THE BORROWER OR GUARANTOR OF THE LOAN, A CREDIT GRANTOR**
10 **IS NOT OBLIGATED TO EXTEND ADDITIONAL CREDIT OR MAKE ANY CASH**
11 **ADVANCES TO THE ESTATE OF THE BORROWER OR TO ANY PERSON THAT**
12 **ASSUMES THE OBLIGATIONS OF THE BORROWER FOR REPAYMENT OF THE LOAN.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
14 construed to apply only prospectively and may not be applied or interpreted to have
15 any effect on or application to any agreement for a loan or extension of credit entered
16 into before the effective date of this Act.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2013.