

# SENATE BILL 621

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By: **Senator Rosapepe**

Introduced and read first time: February 3, 2020

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Mortgage Lender Law – Considerations of a Mortgage Servicer –**  
3 **Borrower’s Ability to Repay**

4 FOR the purpose of prohibiting certain mortgage servicers from making or modifying  
5 certain mortgage loans without giving due regard to the borrower’s ability to repay  
6 the loans; requiring that due regard to a borrower’s ability to repay include  
7 consideration of a certain debt-to-income ratio and verification of certain income  
8 and assets by review of certain written documentation; exempting certain mortgage  
9 loans from this Act; defining certain terms; and generally relating to required  
10 considerations by a mortgage servicer.

11 BY adding to  
12 Article – Financial Institutions  
13 Section 11–522  
14 Annotated Code of Maryland  
15 (2011 Replacement Volume and 2019 Supplement)

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

18 **Article – Financial Institutions**

19 **11–522.**

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
21 INDICATED.

22 (2) “FULLY INDEXED RATE” MEANS THE INDEX RATE, AS DEFINED IN  
23 THE MORTGAGE LOAN DOCUMENTS, PREVAILING AT THE TIME THE MORTGAGE

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 LOAN IS APPROVED BY THE MORTGAGE SERVICER, PLUS THE MARGIN THAT WILL  
2 APPLY AFTER THE EXPIRATION OF AN INTRODUCTORY INTEREST RATE.

3 (3) (I) "MORTGAGE LOAN" HAS THE MEANING STATED IN § 11-501  
4 OF THIS SUBTITLE.

5 (II) "MORTGAGE LOAN" DOES NOT INCLUDE A REVERSE  
6 MORTGAGE LOAN.

7 (B) A MORTGAGE SERVICER MAY NOT MAKE A MORTGAGE LOAN OR MODIFY  
8 A MORTGAGE LOAN WITHOUT GIVING DUE REGARD TO THE BORROWER'S ABILITY TO  
9 REPAY THE MORTGAGE LOAN OR THE MODIFIED MORTGAGE LOAN IN ACCORDANCE  
10 WITH ITS TERMS, INCLUDING THE FULLY INDEXED RATE OF THE MORTGAGE LOAN  
11 OR THE MODIFIED MORTGAGE LOAN, IF APPLICABLE, AND PROPERTY TAXES AND  
12 HOMEOWNER'S INSURANCE, WHETHER OR NOT AN ESCROW ACCOUNT IS  
13 ESTABLISHED FOR THE COLLECTION AND PAYMENT OF THESE EXPENSES.

14 (C) (1) DUE REGARD TO A BORROWER'S ABILITY TO REPAY A MORTGAGE  
15 LOAN OR A MODIFIED MORTGAGE LOAN MUST INCLUDE:

16 (I) CONSIDERATION OF THE BORROWER'S DEBT-TO-INCOME  
17 RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

18 (II) VERIFICATION OF THE BORROWER'S GROSS MONTHLY  
19 INCOME AND ASSETS BY REVIEW OF THIRD-PARTY WRITTEN DOCUMENTATION  
20 REASONABLY BELIEVED BY THE MORTGAGE SERVICER TO BE ACCURATE AND  
21 COMPLETE.

22 (2) ACCEPTABLE THIRD-PARTY WRITTEN DOCUMENTATION  
23 INCLUDES:

24 (I) THE BORROWER'S INTERNAL REVENUE SERVICE FORM  
25 W-2;

26 (II) A COPY OF THE BORROWER'S INCOME TAX RETURN;

27 (III) PAYROLL RECEIPTS;

28 (IV) THE RECORDS OF A FINANCIAL INSTITUTION; OR

29 (V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE  
30 REASONABLY RELIABLE EVIDENCE OF THE BORROWER'S INCOME OR ASSETS.

1                   **(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN OR A**  
2 **MODIFIED MORTGAGE LOAN:**

3                   **(I) APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL**  
4 **HOUSING ADMINISTRATION, THE VETERANS ADMINISTRATION, THE UNITED**  
5 **STATES DEPARTMENT OF AGRICULTURE, THE MARYLAND DEPARTMENT OF**  
6 **HOUSING AND COMMUNITY DEVELOPMENT, OR THE COMMUNITY DEVELOPMENT**  
7 **ADMINISTRATION; OR**

8                   **(II) THAT REFINANCES AN EXISTING MORTGAGE LOAN IF THE**  
9 **REFINANCED MORTGAGE LOAN IS:**

10                   **1. OFFERED UNDER THE FEDERAL HOMEOWNER**  
11 **AFFORDABILITY AND STABILITY PLAN; AND**

12                   **2. MADE AVAILABLE BY THE FEDERAL HOME LOAN**  
13 **MORTGAGE CORPORATION OR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION.**

14                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2020.