

Chapter 479

(Senate Bill 924)

AN ACT concerning

Commissioner of Financial Regulation and State Collection Agency Licensing Board – Surety Bond Requirements for Licensees and Registrants

FOR the purpose of altering and establishing certain surety bond requirements for certain persons licensed or registered by the Commissioner of Financial Regulation and certain persons licensed by the State Collection Agency Licensing Board; requiring a certain applicant for a new license to file, with the application, a surety bond with the Board; requiring the bond to run to the Board, as obligee, for the benefit of the State and certain persons; altering the requirements that a bond filed with the Board must meet; altering and establishing the liability of a surety under certain bonds; authorizing the cancellation of certain bonds under certain circumstances; authorizing the Board, the Commissioner, and certain claimants to file a claim against certain bonds; requiring, under certain circumstances, a surety to pay the amount of a bond to the Board or the Commissioner; requiring certain licensees and registrants to file a new or an additional bond or deposit in lieu of a bond under certain circumstances; authorizing certain penalties to be collected and paid from the proceeds of certain bonds or deposits in lieu of a bond; requiring certain bonds to run to the Commissioner, as obligee, for the benefit of the State and certain persons; altering and establishing the requirements that a bond filed with the Commissioner must meet; repealing a requirement that certain licensees file a bond on renewal of a license; providing that the aggregate principal amount of certain mortgage loans that must be reported in a certain sworn statement by certain mortgage lenders includes loans serviced by the mortgage lenders; authorizing a certain receiver or the Commissioner, under certain circumstances, to reduce a certain bond or a deposit in lieu of a bond to cash and use the cash for a certain purpose; requiring a certain deposit in lieu of a surety to be in a certain amount; requiring the Commissioner to consider certain factors in setting the amount of a certain deposit in lieu of a surety bond; authorizing the Commissioner to require evidence of an additional deposit in lieu of a surety bond to be filed by a certain licensee under certain circumstances; repealing certain obsolete provisions of law; making certain stylistic, clarifying, and conforming changes; and generally relating to surety bond requirements for licensees and registrants of the Commissioner of Financial Regulation and licensees of the State Collection Agency Licensing Board.

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 7–304
Annotated Code of Maryland
(2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Financial Institutions

Section 11–206, 11–508, 11–511, 12–412, 12–914, and 12–1014

Annotated Code of Maryland

(2011 Replacement Volume and 2016 Supplement)

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

Article – Business Regulation

7–304.

(a) (1) [An applicant] **WITH AN APPLICATION** for a **NEW** license, **AN APPLICANT** shall [execute] **FILE** a surety bond [for the benefit of any] **WITH THE BOARD**.

(2) THE BOND SHALL RUN TO THE BOARD, AS OBLIGEE, FOR THE BENEFIT OF:

(I) THE STATE; AND

(II) ANY member of the public who has a loss or other damage as a result of a violation of this title or the Maryland Consumer Debt Collection Act by the applicant or an agent or employee of the applicant.

[(2)] (3) The [surety] bond shall be:

[(i)] in a form that the Board approves;

[(ii)] with a surety that the Board approves; and

[(iii)] (I) in the amount of \$5,000;

(II) ISSUED BY A SURETY COMPANY THAT:

1. IS AUTHORIZED TO DO BUSINESS IN THE STATE; AND

2. HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER; AND

(III) CONDITIONED THAT THE LICENSEE SHALL COMPLY WITH THE MARYLAND CONSUMER DEBT COLLECTION ACT AND ANY OTHER LAWS APPLICABLE TO CONSUMER DEBT COLLECTION.

[(3)] (4) The [total] liability of [a] **THE** surety [on a bond under this section may not exceed the amount of the bond, regardless of the number or amount of claims against the bond]:

(I) SHALL BE CONTINUOUS;

(II) MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;

(III) MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;

(IV) SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;

(V) MAY NOT BE AFFECTED BY:

1. THE INSOLVENCY OR BANKRUPTCY OF THE LICENSEE;

2. ANY MISREPRESENTATION, BREACH OF WARRANTY, FAILURE TO PAY A PREMIUM, OR ANY OTHER ACT OR OMISSION OF THE LICENSEE OR AN AGENT OF THE LICENSEE; OR

3. THE SUSPENSION OF THE LICENSEE'S LICENSE;

(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE BOARD AS A PREREQUISITE TO LIABILITY; AND

(VII) SHALL CONTINUE FOR 3 YEARS AFTER THE LATER OF THE DATE ON WHICH:

1. THE BOND IS CANCELED; OR

2. THE LICENSEE, FOR ANY REASON, CEASES TO BE LICENSED.

(5) (I) A BOND MAY BE CANCELED BY THE SURETY OR THE LICENSEE BY GIVING NOTICE OF CANCELLATION TO THE BOARD.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. BE IN WRITING; AND

2. BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(III) A CANCELLATION OF A BOND UNDER THIS PARAGRAPH IS NOT EFFECTIVE UNTIL 90 DAYS AFTER RECEIPT OF A NOTICE OF CANCELLATION BY THE BOARD.

(6) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:

(I) A CLAIMANT; OR

(II) THE BOARD FOR THE BENEFIT OF A CLAIMANT OR THE STATE.

[(4)] (7) If the amount of claims against a bond exceeds the amount of the bond, the surety:

(i) shall pay the amount of the bond to the Board for PRO RATA distribution to claimants; and

(ii) [then] is relieved of liability under the bond.

(8) IF THE PENAL AMOUNT OF THE BOND IS REDUCED BY PAYMENT OF A CLAIM OR JUDGMENT, THE LICENSEE SHALL FILE A NEW OR ADDITIONAL BOND WITH THE BOARD.

(9) A PENALTY IMPOSED AGAINST A LICENSEE UNDER § 7-205(B) OF THIS TITLE MAY BE COLLECTED AND PAID FROM THE PROCEEDS OF A BOND REQUIRED UNDER THIS SUBSECTION.

(b) The Board shall issue a license to each applicant who meets the requirements of this subtitle.

Article – Financial Institutions

11-206.

(a) (1) To apply for a license, an applicant shall sign and submit to the Commissioner a verified application on the form that the Commissioner requires.

(2) The application shall include:

(i) The applicant's name and address and, if the applicant is not an individual, the names and addresses of each of its principal owners and each of its officers, directors, or members;

(ii) The address at which the business is to be conducted; and

(iii) Any other pertinent information that the Commissioner requires for an investigation and findings under § 11-207 of this subtitle.

(b) With the application, the applicant shall pay to the Commissioner:

(1) An investigation fee of \$100; and

(2) A license fee of:

(i) \$1,700 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an even-numbered year; **OR**

(ii) [Effective January 1, 1999,] \$850 if the applicant applies for a license to be issued on or after January 1 and on or before December 31 of an odd-numbered year[; or

(iii) \$1,700 if the applicant applies for a license to be issued on or after October 1, 1997 and on or before December 31, 1997].

(c) (1) With the application, the applicant shall file **A SURETY BOND** with the Commissioner [a surety bond].

(2) The [surety] bond [filed under this subsection] shall run to [this State] **THE COMMISSIONER, AS OBLIGEE**, for the benefit of [this]:

(I) **THE** State; and [of any]

(II) **ANY** person who has a cause of action against the applicant under the Maryland Consumer Loan Law.

(3) The [surety] bond shall be:

(i) In an amount equal to twice the amount of the largest loan that may be made under the Maryland Consumer Loan Law;

(ii) [With sureties that the Commissioner approves] **ISSUED BY A SURETY COMPANY THAT:**

1. IS AUTHORIZED TO DO BUSINESS IN THE STATE; and
2. HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER; AND

(iii) Conditioned that the [applicant will comply] LICENSEE SHALL:

1. COMPLY with the Maryland Consumer Loan Law; and
[will pay]
2. PAY to [this] THE State or to any person any money that the [applicant] LICENSEE may owe to [this] THE State or to [that] THE person under the Maryland Consumer Loan Law.

(4) THE LIABILITY OF THE SURETY:

(I) SHALL BE CONTINUOUS;

(II) MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;

(III) MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;

(IV) SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;

(V) MAY NOT BE AFFECTED BY:

1. THE INSOLVENCY OR BANKRUPTCY OF THE LICENSEE;

2. ANY MISREPRESENTATION, BREACH OF WARRANTY, FAILURE TO PAY A PREMIUM, OR ANY OTHER ACT OR OMISSION OF THE LICENSEE OR AN AGENT OF THE LICENSEE; OR

3. THE SUSPENSION OF THE LICENSEE'S LICENSE;

(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE COMMISSIONER AS A PREREQUISITE TO LIABILITY; AND

(VII) SHALL CONTINUE FOR 3 YEARS AFTER THE LATER OF THE DATE ON WHICH:

- 1. THE BOND IS CANCELED; OR**
- 2. THE LICENSEE, FOR ANY REASON, CEASES TO BE LICENSED.**

(5) (I) A BOND MAY BE CANCELED BY THE SURETY OR THE LICENSEE BY GIVING NOTICE OF CANCELLATION TO THE COMMISSIONER.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

- 1. BE IN WRITING; AND**
- 2. BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.**

(III) A CANCELLATION OF A BOND UNDER THIS PARAGRAPH IS NOT EFFECTIVE UNTIL 90 DAYS AFTER RECEIPT OF A NOTICE OF CANCELLATION BY THE COMMISSIONER.

(6) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:

- (I) A CLAIMANT; OR**
- (II) THE COMMISSIONER FOR THE BENEFIT OF A CLAIMANT OR THE STATE.**

(7) IF THE AMOUNT OF CLAIMS AGAINST A BOND EXCEEDS THE AMOUNT OF THE BOND, THE SURETY:

- (I) SHALL PAY THE AMOUNT OF THE BOND TO THE COMMISSIONER FOR PRO RATA DISTRIBUTION TO CLAIMANTS; AND**
- (II) IS RELIEVED OF LIABILITY UNDER THE BOND.**

(8) IF THE PENAL AMOUNT OF A BOND IS REDUCED BY PAYMENT OF A CLAIM OR JUDGMENT, THE LICENSEE SHALL FILE A NEW OR ADDITIONAL BOND WITH THE COMMISSIONER.

(9) A PENALTY IMPOSED AGAINST A LICENSEE UNDER § 2-115(B) OF THIS ARTICLE MAY BE COLLECTED AND PAID FROM THE PROCEEDS OF A BOND REQUIRED UNDER THIS SUBSECTION.

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

- (1) Submit a separate application; **AND**
- (2) Pay a separate investigation fee and license fee[; and
- (3) File a separate bond].

11-508.

(a) **[An] WITH THE APPLICATION FOR A NEW LICENSE, AN** applicant [for a new license or for the renewal of a license] shall file a surety bond with [each original application and any renewal application for the license] **THE COMMISSIONER.**

(b) **(1)** The [surety] bond shall[:

(1) Run] **RUN** to the Commissioner [and be], **AS OBLIGEE**, for the benefit of [any]:

(I) THE STATE; AND

(II) ANY mortgage loan borrower who has been damaged by a violation committed by a licensee of any law or regulation governing the activities of mortgage lenders[;].

(2) [Be issued] **THE BOND SHALL BE:**

(I) IN AN AMOUNT DETERMINED BY THE COMMISSIONER UNDER SUBSECTION (C) OF THIS SECTION;

(II) ISSUED by a surety company **THAT:**

1. **IS** authorized to do business in the State; **AND**

2. **HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER; AND**

[(3)] (III) [Be conditioned] CONDITIONED that the [applicant] **LICENSEE** shall comply with all Maryland laws regulating the activities of mortgage lenders and mortgage loan lending[; and

(4) Be approved by the Commissioner].

(3) THE LIABILITY OF THE SURETY:

(I) SHALL BE CONTINUOUS;

(II) MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;

(III) MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;

(IV) SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;

(V) MAY NOT BE AFFECTED BY:

1. THE INSOLVENCY OR BANKRUPTCY OF THE LICENSEE;

2. ANY MISREPRESENTATION, BREACH OF WARRANTY, FAILURE TO PAY A PREMIUM, OR ANY OTHER ACT OR OMISSION OF THE LICENSEE OR AN AGENT OF THE LICENSEE; OR

3. THE SUSPENSION OF THE LICENSEE'S LICENSE;

(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE COMMISSIONER AS A PREREQUISITE TO LIABILITY; AND

(VII) SHALL CONTINUE FOR 3 YEARS AFTER THE LATER OF THE DATE ON WHICH:

1. THE BOND IS CANCELED; OR

2. THE LICENSEE, FOR ANY REASON, CEASES TO BE LICENSED.

(4) (I) A BOND MAY BE CANCELED BY THE SURETY OR THE LICENSEE BY GIVING NOTICE OF CANCELLATION TO THE COMMISSIONER.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

- 1. BE IN WRITING; AND**
- 2. BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.**

(III) A CANCELLATION OF A BOND UNDER THIS PARAGRAPH IS NOT EFFECTIVE UNTIL 90 DAYS AFTER RECEIPT OF A NOTICE OF CANCELLATION BY THE COMMISSIONER.

(5) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:

- (I) A CLAIMANT; OR**
- (II) THE COMMISSIONER FOR THE BENEFIT OF A CLAIMANT OR THE STATE.**

(6) IF THE AMOUNT OF CLAIMS AGAINST A BOND EXCEEDS THE AMOUNT OF THE BOND, THE SURETY:

- (I) SHALL PAY THE AMOUNT OF THE BOND TO THE COMMISSIONER FOR PRO RATA DISTRIBUTION TO CLAIMANTS; AND**
- (II) IS RELIEVED OF LIABILITY UNDER THE BOND.**

(7) IF THE PENAL AMOUNT OF A BOND IS REDUCED BY PAYMENT OF A CLAIM OR JUDGMENT, THE LICENSEE SHALL FILE A NEW OR ADDITIONAL BOND WITH THE COMMISSIONER.

(8) A PENALTY IMPOSED AGAINST A LICENSEE UNDER § 2-115(B) OF THIS ARTICLE OR § 11-517(C) OF THIS SUBTITLE MAY BE COLLECTED AND PAID FROM THE PROCEEDS OF A BOND REQUIRED UNDER THIS SECTION.

(c) (1) If an applicant has not conducted a mortgage lending business any time during the 36 months prior to the filing of an original application for a license, the applicant shall provide a sworn statement setting forth that fact.

[(d) (1)] (2) If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original [or renewal] application, the applicant shall provide a sworn statement setting forth the aggregate principal amount of mortgage loans secured or to be secured by property located in Maryland and applied for

and accepted **OR SERVICED** or mortgage loans secured or to be secured by property located in Maryland and applied for, procured, and accepted **OR SERVICED** by the mortgage lender during the 12 months immediately preceding the month in which the application is filed.

[(2)] (3) If an applicant has conducted a mortgage lending business any time during the 36 months prior to the filing of an original application, but during that time has not acted as a mortgage lender in Maryland, the applicant shall provide with the original application a sworn statement setting forth the aggregate principal amount of loans secured or to be secured by a dwelling or residential real estate located in states other than Maryland and applied for, procured, and accepted **OR SERVICED** by the mortgage lender during the 12 months preceding the month in which the application is filed.

[(3)] (4) Except as provided in subsection **[(e)] (D)** of this section, the applicant shall file with the original **[or renewal]** application:

(i) Where the aggregate principal amount of loans set forth in the sworn statement was \$3,000,000 or less, a surety bond in the amount of \$50,000;

(ii) Where the aggregate principal amount of loans set forth in the sworn statement was more than \$3,000,000 but not more than \$10,000,000, a surety bond in the amount of \$100,000; and

(iii) Where the aggregate principal amount of loans set forth in the sworn statement was more than \$10,000,000, a surety bond in the amount of \$150,000.

[(e)] (D) Notwithstanding any other provisions of this section, and subject to approval by the Commissioner, if an applicant files five or more original or renewal applications at the same time, the applicant may provide a blanket surety bond for all licensed offices in the amount of \$750,000.

[(f)] (E) Subject to approval by the Commissioner, an applicant for license who files an application for a new license **[or for the renewal of a license]** may satisfy the bonding requirement under this section by establishing a trust account with or obtaining an irrevocable letter of credit from a financial institution insured by the Federal Deposit Insurance Corporation in an amount equal to the bond required under this section.

[(g)] (F) (1) The Commissioner may adopt regulations reasonably necessary to assure that the proper surety bond amount established by this section is maintained by each licensee throughout each licensing term.

(2) The regulations may provide for periodic reporting, recalculation, and enforcement of required bond amounts.

(G) IF A MORTGAGE SERVICER IS SUBJECT TO A RECEIVERSHIP PROCEEDING, THE COMMISSIONER OR A RECEIVER APPOINTED UNDER §

7-404.1(B)(2) OR § 7-506(B) OF THE REAL PROPERTY ARTICLE, WITHOUT REGARD TO ANY PRIORITIES, PREFERENCES, OR ADVERSE CLAIMS, MAY:

- (1) REDUCE THE BOND OR THE DEPOSIT IN LIEU OF A BOND TO CASH; AND**
- (2) USE THE CASH TO DEFRAY THE COSTS ASSOCIATED WITH THE RECEIVERSHIP.**

11-511.

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

- (1) Begin on the day the license is issued; and
- (2) Expire on December 31 of the year:

(i) The license is issued, if the license is issued before November 1;

or

(ii) Succeeding the year that the license is issued, if the license is issued on or after November 1.

(b) At least 60 days before its expiration, a license may be renewed if the licensee:

- (1) Otherwise is entitled to be licensed;
- (2) Pays to the Commissioner a nonrefundable renewal fee set by the Commissioner; **AND**

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

[(4) (3) Submits to the Commissioner:

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

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

(c) Subject to any regulations the Commissioner adopts in connection with the transition to the Nationwide Mortgage Licensing System and Registry, a renewal term shall:

- (1) Be for a period of 1 year;
- (2) Begin on January 1 of each year after the initial term; and
- (3) Expire on December 31 of the year the renewal term begins.

(d) In addition to the license renewal fee required under subsection (b)(2) of this section, an applicant for a license renewal shall pay to the Nationwide Mortgage Licensing System and Registry any fees that the Nationwide Mortgage Licensing System and Registry imposes in connection with the renewal application.

(e) If a license is surrendered voluntarily, or is suspended or revoked, the Commissioner may not refund any part of the license fee regardless of the time remaining in the license term.

12-412.

(a) In this section, “trust company” has the meaning stated in § 1-101 of the Estates and Trusts Article.

(b) **(1)** With [the] AN application for a new [or renewal] license, [the] AN applicant shall file [evidence of] a surety [device] BOND with the Commissioner [as provided in this section].

[(c) (1)] **(2)** [A surety] THE bond [purchased to satisfy the provisions of subsection (b) of this section] shall run to [this State] THE COMMISSIONER, AS OBLIGEE, for the benefit of [any]:

(I) THE STATE; AND

(II) ANY individual who has been damaged by a violation of State law or regulation governing the business of money transmission committed by a licensee or an authorized delegate of a licensee.

[(2)] **(3)** The [surety] bond shall be:

- (i) In the amount required under subsection [(e)] **(D)** of this section;
- [and]
- (ii) Issued by a [bonding,] surety [, or insurance] company that [is]:

1. **IS** authorized to do business in [this] **THE State**[.]; **AND**

2. **HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER; AND**

[(3)] **(III)** [The surety bond shall be conditioned so] **CONDITIONED** that the licensee and any authorized delegate of the licensee shall [comply]:

1. **COMPLY** with all State and federal laws and regulations governing the business of money transmission; and [shall fulfill]

2. **FULFILL** all obligations to all parties to a money transmission.

(4) The liability of [a] **THE** surety:

(I) SHALL BE CONTINUOUS;

(II) MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;

(III) MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;

(IV) SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;

[(i)] **(V)** [Is] **MAY** not **BE** affected by [the]:

1. **THE** insolvency or bankruptcy of the licensee [or by any];

2. **ANY** misrepresentation, breach of warranty, failure to pay a premium, or **ANY** other act or omission of the licensee; [and] **OR**

3. **THE SUSPENSION OF THE LICENSEE'S LICENSE;**

(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE COMMISSIONER AS A PREREQUISITE TO LIABILITY; AND

(VII) SHALL CONTINUE FOR 3 YEARS AFTER THE LATER OF THE DATE ON WHICH:

1. **THE BOND IS CANCELED; OR**
2. **THE LICENSEE, FOR ANY REASON, CEASES TO BE LICENSED.**

[(ii) Continues as to all transactions of the licensee or an authorized delegate, for no longer than 5 years after the licensee ceases, for any reason, to be licensed. However, the Commissioner may permit the surety bond to be reduced or eliminated prior to that time if the amount of the licensee's payment instruments outstanding in this State are reduced.]

(5) (I) A [licensee or surety may cancel a surety] bond **MAY BE CANCELED BY THE SURETY OR THE LICENSEE** by giving **NOTICE OF CANCELLATION TO** the Commissioner [notice of the cancellation].

(II) **NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:**

1. **BE IN WRITING; AND**
2. **BE SENT** by certified mail, return receipt requested[, bearing a postmark from the United States Postal Service].

(III) [However, the cancellation] **A CANCELLATION OF A BOND UNDER THIS PARAGRAPH** is not effective until 90 days after **RECEIPT OF A NOTICE OF CANCELLATION BY** the Commissioner [receives the notice].

(6) **A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:**

- (I) **A CLAIMANT; OR**
- (II) **THE COMMISSIONER FOR THE BENEFIT OF A CLAIMANT OR THE STATE.**

(7) **IF THE AMOUNT OF CLAIMS UNDER A BOND EXCEEDS THE AMOUNT OF THE BOND, THE SURETY:**

- (I) **SHALL PAY THE AMOUNT OF THE BOND TO THE COMMISSIONER FOR PRO RATA DISTRIBUTION TO CLAIMANTS; AND**
- (II) **IS RELIEVED OF LIABILITY UNDER THE BOND.**

(8) (I) IF THE PENAL AMOUNT OF A BOND IS REDUCED BY PAYMENT OF A CLAIM OR JUDGMENT, THE LICENSEE SHALL FILE A NEW OR ADDITIONAL BOND WITH THE COMMISSIONER.

(II) THE COMMISSIONER MAY PERMIT A BOND TO BE REDUCED OR ELIMINATED IF THE AMOUNT OF THE LICENSEE'S PAYMENT INSTRUMENTS OUTSTANDING IN THE STATE ARE REDUCED.

[(d)] (C) (1) A deposit in lieu of a surety bond made to satisfy the provisions of subsection (b) of this section shall:

(i) Have a market value equal to the amount required under subsection **[(e)] (D)** of this section; and

(ii) Be held by the Commissioner to secure the same obligations as are required to be secured by a surety bond under subsection **[(c)] (B)** of this section.

(2) At any time, a licensee may exchange investments for other investments that meet the requirements of this subsection.

(3) The Commissioner may sell or transfer investments and distribute the proceeds on the same basis as provided for claims against a surety bond under paragraph **[(c)(1)] (B)(2)** of this section.

(4) As long as a licensee is solvent, the licensee is entitled to receive any interest or dividends earned by the investments.

(5) (i) The Commissioner may place the investments in the custody of any qualified trust company in this State.

(ii) The licensee shall pay the compensation of this custodian.

[(e)] (D) (1) The amount of the surety **[device] BOND UNDER SUBSECTION (B) OF THIS SECTION OR THE DEPOSIT IN LIEU OF A SURETY BOND UNDER SUBSECTION (C) OF THIS SECTION** shall be in an amount of not less than \$150,000 and not more than \$1,000,000, as determined by the Commissioner.

(2) In setting the amount of the surety **[device] BOND OR THE DEPOSIT IN LIEU OF A SURETY BOND**, the Commissioner shall consider:

(i) The financial condition of the licensee or applicant;

(ii) For a licensee, the average monthly outstanding payment instruments or outstanding money transmission liability for the previous 12 months;

(iii) For an applicant, the projected monthly payment instrument sales and money transmission volume in the State, the business experience, and any other factor deemed appropriate; and

(iv) The potential loss of buyers and holders of payment instruments or persons for whom or to whom money is transmitted if the applicant or licensee becomes financially impaired.

[(f)] (E) (1) If the **[principal] PENAL** amount of a surety **[device] BOND OR A DEPOSIT IN LIEU OF A SURETY BOND** is reduced by a payment of a claim or judgment, the licensee shall file with the Commissioner evidence of any new or additional surety **[device] BOND OR DEPOSIT IN LIEU OF A SURETY BOND** in the amount that the Commissioner sets.

(2) If the Commissioner at any time believes that the surety **[device] BOND OR THE DEPOSIT IN LIEU OF A SURETY BOND** is insufficient, exhausted, or otherwise unsatisfactory, the Commissioner may require evidence of an additional surety **[device] BOND OR DEPOSIT IN LIEU OF A SURETY BOND** to be filed by the licensee.

(3) Within 30 days after the Commissioner makes a written demand for the new surety **[device] BOND OR DEPOSIT IN LIEU OF A SURETY BOND**, the licensee shall file the evidence of the new surety **[device] BOND OR DEPOSIT IN LIEU OF A SURETY BOND**.

[(g)] (F) A penalty imposed **AGAINST A LICENSEE** under **§ 2-115(B) OF THIS ARTICLE OR § 12-426(e)(2)** of this subtitle may be **[paid and]** collected **AND PAID** from the proceeds of a surety **[device] BOND OR A DEPOSIT IN LIEU OF A SURETY BOND REQUIRED UNDER THIS SECTION**.

12-914.

(a) With the application for a new **[or renewal]** license, **[the] AN** applicant **[or licensee]** shall file a surety bond **[or bond renewal certificate]** with the Commissioner **[as provided in this section]**.

(b) (1) **[A surety] THE** bond **[filed under this section]** shall run to the **[State] COMMISSIONER, AS OBLIGEE**, for the benefit of **[any]**:

(I) THE STATE; AND

(II) ANY consumer who is injured by a violation of this subtitle or a regulation adopted under this subtitle committed by a licensee or an agent of a licensee, including an agent managing a trust account.

(2) The [surety] bond shall be:

(i) In an amount not less than \$10,000 and not more than \$1,000,000, as set by the Commissioner;

(ii) Issued by a [bonding,] surety [, or insurance] company that [is]:

1. IS authorized to do business in the State; and

2. **HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER; AND**

(iii) Conditioned [so] that the licensee and its agent shall comply with all State and federal laws and regulations governing the business of providing debt management services.

(3) The liability of [a] **THE** surety:

(I) **SHALL BE CONTINUOUS;**

(II) **MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;**

(III) **MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;**

(IV) **SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;**

[i] (v) [Is] **MAY not BE** affected by [the]:

1. **THE** insolvency or bankruptcy of the licensee or its agent [or by any];

2. **ANY** misrepresentation, breach of warranty, failure to pay a premium, or **ANY** other act or omission of the licensee or its agent; [and] **OR**

3. **THE SUSPENSION OF THE LICENSEE'S LICENSE;**

(VI) **MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE COMMISSIONER AS A PREREQUISITE TO LIABILITY; AND**

[(ii)] (VII) [Continues as to all transactions of the licensee, and transactions of its agent on behalf of the licensee, for no longer than 2] **SHALL CONTINUE FOR 3** years after the **LATER OF THE DATE ON WHICH:**

1. THE BOND IS CANCELED; OR

2. THE licensee [ceases], for any reason, **CEASES** to be licensed.

(4) (I) A BOND MAY BE CANCELED BY THE SURETY OR THE LICENSEE BY GIVING NOTICE OF CANCELLATION TO THE COMMISSIONER.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

1. BE IN WRITING; AND

2. BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

(III) A CANCELLATION OF A BOND UNDER THIS PARAGRAPH IS NOT EFFECTIVE UNTIL 90 DAYS AFTER RECEIPT OF A NOTICE OF CANCELLATION BY THE COMMISSIONER.

(5) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:

(I) A CLAIMANT; OR

(II) THE COMMISSIONER FOR THE BENEFIT OF A CLAIMANT OR THE STATE.

(6) IF THE AMOUNT OF CLAIMS UNDER A BOND EXCEEDS THE AMOUNT OF THE BOND, THE SURETY:

(I) SHALL PAY THE AMOUNT OF THE BOND TO THE COMMISSIONER FOR PRO RATA DISTRIBUTION TO CLAIMANTS; AND

(II) IS RELIEVED OF LIABILITY UNDER THE BOND.

[(4)] (7) The Commissioner may allow the amount of the surety bond to be reduced if the amount of the licensee's outstanding debt management services liabilities in the State is reduced.

[(5)] (8) In setting the amount of the surety bond, the Commissioner shall consider:

(i) The financial condition and business experience of the applicant or licensee and the agent of the applicant or licensee;

(ii) For an applicant, the projected monthly and annual volume of debt management services to be provided in the State;

(iii) For a licensee, the average monthly and annual volume of debt management services provided in the State during the previous 12-month period;

(iv) The potential loss to consumers who remit funds to the applicant or licensee if the applicant or licensee becomes financially impaired; and

(v) Any other factor the Commissioner considers appropriate.

(c) If the **[principal] PENAL** amount of a surety bond is reduced by payment of a claim or judgment, the licensee shall file with the Commissioner any new or additional surety bond in the amount that the Commissioner sets.

(d) The Commissioner may waive the surety bond requirement under this section if the Commissioner determines that the volume of debt management services provided by the applicant or licensee does not warrant the need for a surety bond.

(e) A penalty imposed **AGAINST A LICENSEE** under § 12-928 or § 12-929 of this subtitle may be **[paid and]** collected **AND PAID** from the proceeds of a surety bond required under this section.

12-1014.

(a) A registrant that establishes a dedicated account in accordance with § 12-1010(d) of this subtitle shall file a surety bond with the Commissioner at the time the dedicated account is established.

(b) **(1)** **[A surety] THE** bond **[filed under this section]** shall^{[:}

(1) **Run] RUN** to the Commissioner, **AS OBLIGEE**, for the benefit of **[any]:**

(I) THE STATE; AND

(II) ANY consumer who is injured by a violation of this subtitle committed by a registrant^[:].

(2) [Be in] **THE BOND SHALL BE:**

(I) **IN** the amount of \$50,000;

[(3)] (II) [Be issued] **ISSUED** by a [bonding,] surety [, or insurance] company that [is]:

1. **IS** authorized to do business in the State; and

2. **HOLDS A CERTIFICATE OF AUTHORITY ISSUED BY THE MARYLAND INSURANCE COMMISSIONER; AND**

[(4)] (III) [Be conditioned so] **CONDITIONED** that the registrant shall comply with all State and federal laws and regulations governing the business of providing debt settlement services.

(3) **THE LIABILITY OF THE SURETY:**

(I) **SHALL BE CONTINUOUS;**

(II) **MAY NOT BE AGGREGATED OR CUMULATIVE, WHETHER OR NOT THE BOND IS RENEWED, CONTINUED, REPLACED, OR MODIFIED;**

(III) **MAY NOT BE DETERMINED BY ADDING TOGETHER THE PENAL SUM OF THE BOND, OR ANY PART OF THE PENAL SUM OF THE BOND, IN EXISTENCE AT ANY TWO OR MORE POINTS IN TIME;**

(IV) **SHALL BE CONSIDERED TO BE ONE CONTINUOUS OBLIGATION, REGARDLESS OF INCREASES OR DECREASES IN THE PENAL SUM OF THE BOND;**

(V) **MAY NOT BE AFFECTED BY:**

1. **THE INSOLVENCY OR BANKRUPTCY OF THE REGISTRANT;**

2. **ANY MISREPRESENTATION, BREACH OF WARRANTY, FAILURE TO PAY A PREMIUM, OR ANY OTHER ACT OR OMISSION OF THE REGISTRANT OR AN AGENT OF THE REGISTRANT; OR**

3. **THE SUSPENSION OF THE REGISTRANT'S REGISTRATION;**

(VI) MAY NOT REQUIRE AN ADMINISTRATIVE ENFORCEMENT ACTION BY THE COMMISSIONER AS A PREREQUISITE TO LIABILITY; AND

(VII) SHALL CONTINUE FOR 3 YEARS AFTER THE LATER OF THE DATE ON WHICH:

- 1. THE BOND IS CANCELED; OR**
- 2. THE REGISTRANT, FOR ANY REASON, CEASES TO BE REGISTERED.**

(4) (I) A BOND MAY BE CANCELED BY THE SURETY OR THE REGISTRANT BY GIVING NOTICE OF CANCELLATION TO THE COMMISSIONER.

(II) NOTICE UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

- 1. BE IN WRITING; AND**
- 2. BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.**

(III) A CANCELLATION OF A BOND UNDER THIS PARAGRAPH IS NOT EFFECTIVE UNTIL 90 DAYS AFTER RECEIPT OF A NOTICE OF CANCELLATION BY THE COMMISSIONER.

(5) A CLAIM AGAINST THE BOND MAY BE FILED WITH THE SURETY BY:

- (I) A CLAIMANT; OR**
- (II) THE COMMISSIONER FOR THE BENEFIT OF A CLAIMANT OR THE STATE.**

(6) IF THE AMOUNT OF CLAIMS AGAINST A BOND EXCEEDS THE AMOUNT OF THE BOND, THE SURETY:

- (I) SHALL PAY THE AMOUNT OF THE BOND TO THE COMMISSIONER FOR PRO RATA DISTRIBUTION TO CLAIMANTS; AND**
- (II) IS RELIEVED OF LIABILITY UNDER THE BOND.**

(7) IF THE PENAL AMOUNT OF A BOND IS REDUCED BY PAYMENT OF A CLAIM OR JUDGMENT, THE REGISTRANT SHALL FILE A NEW OR ADDITIONAL BOND WITH THE COMMISSIONER.

(8) A PENALTY IMPOSED AGAINST A REGISTRANT UNDER § 2-115(B) OF THIS ARTICLE OR § 13-410 OF THE COMMERCIAL LAW ARTICLE MAY BE COLLECTED AND PAID FROM THE PROCEEDS OF A BOND REQUIRED UNDER THIS SECTION.

[(c) If the amount of the surety bond initially filed with the Commissioner must be increased to meet the minimum requirements under subsection (b)(2) of this section, the registrant shall file with the Commissioner evidence of the increased bond amount in a form satisfactory to the Commissioner.]

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.

Approved by the Governor, May 4, 2017.