

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 155
Finance

(Senator Augustine, *et al.*)

Economic Matters

Consumer Protection - Mobile Home Purchasers

This bill establishes several requirements related to manufactured home financing. Specifically, the bill (1) codifies the federal definition of “dwelling” and establishes a State definition of “mobile home”; (2) imposes a duty of good faith and fair dealing on mobile home retailers; and (3) generally *requires* a foreclosure notice to be provided at least 30 days before a lender or credit grantor repossesses a mobile home.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations. Enforcement can be handled with existing resources.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill incorporates the federal definition of “dwelling” within the Maryland Mortgage Lender Law (MMLL) to mean a residential structure or “mobile home” that contains one to four family housing units or individual units of condominiums or cooperatives. The bill defines “mobile home” as a structure (including the plumbing, heating, air conditioning, and electrical systems contained in the structure) that is:

- transportable in one or more sections;

- eight or more body feet in width and 30 or more body feet in length;
- built on a permanent chassis; and
- permanently attached to land or connected to utility, water, or sewage facilities.

The bill also alters the definition of “mortgage loan originator” to exclude an individual who is a retailer of mobile homes (or an employee of the retailer) if the retailer (or employee), as applicable, does not receive (directly or indirectly) compensation or gain for engaging in mortgage loan origination activities as described in § 11-601(q)(1) of the Financial Institutions Article that is in excess of compensation or gain received in a comparable cash transaction.

Mobile Home Retail Sales Requirements

The bill establishes that a mobile home retailer:

- has a duty of good faith and fair dealing in providing financial information to a prospective consumer borrower, including providing financial information in a manner that is not misleading or deceptive and that discloses all material facts;
- may not steer a consumer borrower to financing products that offer less favorable terms; and
- must provide a written disclosure statement to a consumer borrower on a form prescribed by the Office of the Commissioner of Financial Regulation (OCFR).

The written statement required by the bill must include (1) a disclosure that describes any corporate affiliation between the mobile home retailer and a financing source about which the mobile home retailer provides information to the consumer borrower; (2) a disclosure that the consumer borrower may obtain financing from any lender (and is not required to obtain financing from a lender suggested by the retailer); and (3) information regarding the rights of a consumer borrower and the procedure for filing a complaint with the commissioner.

If a mobile home retailer fails to comply with the bill’s requirements, the validity of an otherwise valid financing transaction is not affected. OCFR may enforce these requirements by exercising any of its investigative and enforcement powers delineated in §§ 2-113 through 2-116 of the Financial Institutions Article.

Repossession of Mobile Homes

The bill further establishes that, at least 30 days before a lender or credit grantor repossesses a mobile home that is primarily for personal, family, or household use, the lender or credit grantor must serve a written notice on the borrower of the lender or credit grantor’s

intention to repossess the mobile home. However, this notice is not required if the mobile home is vacant and abandoned (based on a determination by the lender or credit grantor that specified criteria have been met) or if the borrower voluntarily surrenders the mobile home to the lender or credit grantor. Any notice given less than 30 days before repossession must be accompanied by a certification demonstrating that the mobile home is vacant and abandoned (or that the mobile home has been surrendered).

Current Law/Background: The bill is a result of recommendations made by the Maryland Financial Consumer Protection Commission (MFCPC) related to mobile home financing.

Under MMLL, a “dwelling” has the meaning stated in [15 U.S.C. § 1602\(w\)](#), which defines “dwelling” as a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives. However, a “dwelling” does *not* include a residential structure or mobile home unless the residential structure or mobile home (or at least one unit contained within) is owner-occupied.

At least 10 days before a lender repossesses any goods, the lender may (but is not required to) serve a written notice on the borrower of the lender’s intention to repossess the goods. Similarly, at least 10 days before a credit grantor repossesses any tangible personal property, the credit grantor may serve a written notice on the consumer borrower of the intention to repossess the tangible personal property.

According to the 2018 MFCPC report, the U.S. Congress included a provision in the [Economic Growth, Regulatory Relief, and Consumer Protection Act](#) (which was enacted May 24, 2018) specifying that retailers of manufactured houses meeting certain requirements are not considered mortgage loan originators for purposes of the Truth in Lending Act (TILA).

TILA, enacted in 1968, is a federal law promoting transparency and protecting consumers taking out consumer loans. Its regulation is implemented through [Regulation Z](#), which in part prohibits a loan originator from steering a consumer toward a loan that provides the loan originator with greater compensation than other transactions the loan originator offered or could have offered to the consumer.

MFCPC made several recommendations related to manufactured housing in its 2018 report.

- First, the commission recommended that, if a retailer of a manufactured home provides information regarding financing the purchase of the home, the retailer (1) must do so in a fair and honest manner in compliance with the Maryland Consumer Protection Act and (2) may not otherwise steer a consumer to product offerings with less favorable terms. In addition, the commission

recommended that the retailer provide a statement, in plain English, describing any financial relationship or affiliation between the retailer and the lender about whose products the retailer provides information.

- Second, the commission recommended amending the definition of “dwelling” under Maryland law to ensure that manufactured home brokers, lenders, and originators are subject to the mortgage lending laws in the State.
- Third, the commission recommended that retailers of manufactured homes who provide information to consumers regarding financing options be required to provide a written disclosure to consumers on a form prescribed by OCFR at the time the retailer provides financing information. The commission recommended that the disclosure include information regarding borrower rights and the procedure for filing a complaint with OCFR if a consumer is harmed or has been steered to an inappropriate product.
- Fourth, the commission recommended increasing the notice requirement for an action of replevin or an action to repossess a manufactured home that is not vacant or has not been surrendered to 30 days (consistent with federal law) or to 45 days.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 93 (Delegates C. Jackson and D.E. Davis) - Economic Matters.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Congress.gov; Consumer Financial Protection Bureau; Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2020
rh/mcr Third Reader - March 15, 2020
Revised - Amendment(s) - March 15, 2020

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