

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 400
Economic Matters

(Delegate Kipke)

Finance

Commercial Law - Ability to Repay Verification - Exemption

This bill exempts mortgage loans made by community development financial institutions from certain requirements to verify a borrower’s ability to repay the loan.

Fiscal Summary

State Effect: The bill does not materially affect State finances or operations.

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law: Under the Maryland Mortgage Lending Law, a mortgage lender may not make a mortgage loan without giving due regard to a borrower’s ability to repay the mortgage. “Due regard” to a borrower’s ability to repay a mortgage loan includes (1) consideration of the borrower’s debt-to-income ratio, including existing debts and other obligations and (2) verification of the borrower’s gross monthly income and assets by review of third-party written documentation reasonably believed by the lender to be accurate and complete. Acceptable third-party written documentation includes:

- the borrower’s Internal Revenue Service form W-2;
- a copy of the borrower’s income tax return;
- payroll receipts;
- the records of a financial institution; or

- other third-party documents that provide reasonably reliable evidence of the borrower’s income or assets.

Federal regulations specify the factors that federally chartered financial institutions can and cannot consider when evaluating loan applications.

Under State and federal law, “community development financial institution” generally means a person that:

- has a primary mission of promoting community development;
- serves an investment area or targeted population;
- provides development services in conjunction with equity investments or loans (directly or through a subsidiary or affiliate);
- maintains, through representation on its governing board or otherwise, accountability to residents of its investment area or targeted population; and
- is not an agency or instrumentality of the United States, or of any State or political subdivision of a State.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 943 (Senator Jennings) - Rules.

Information Source(s): Department of Housing and Community Development; Maryland Department of Labor; Department of Legislative Services

Fiscal Note History: First Reader - February 13, 2023
km/mcr Third Reader - March 17, 2023

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