
House Bill 1213

Date: February 16, 2020
Committee: Economic Matters
Bill Title: Financial Institutions - Determination of Creditworthiness - Alternative Methods
Re: Letter of Information

House Bill 1213 adds new requirements to Title 1, Subtitle 2 of the Financial Institutions (“FI”) Article for certain credit grantors when determining whether to accept an application for a primary residential mortgage loan or an extension of credit. HB 1213 requires Maryland chartered banking institutions, credit unions, and savings and loan associations, and other licensed credit grantors regulated under Title 11 of the FI Article to consider “alternative methods” of evaluating an applicant’s creditworthiness. This proposal does not impose its requirements on banks, credit unions, and saving and loan associations chartered by other jurisdictions. The “alternative methods” enumerated in the bill are the applicant’s: (1) history of rent and mortgage payments; (2) history of utility payments; (3) school attendance; and (4) work attendance.

This Agency understands the desire for broader underwriting methodologies that are designed to expand safe and affordable credit opportunities for all communities in Maryland. However, if passed as proposed, the OCFR believes that there could be unintended consequences stemming from the bills requirements that could result in decreasing access to credit and uncertainty regarding implementation by lenders. These factors may make it more difficult for the OCFR to implement and enforce this bill in a manner that provides the intended benefits to Maryland consumers.

Initially, the listed “alternative methods” of determining the creditworthiness of an applicant may not be readily available to lenders. Information such as utility payments may be embedded in an applicant’s credit score but not otherwise available to the lender. Information regarding rent payments, school attendance and work attendance is generally not readily available or public. To the extent the lender can even obtain this information, the consumer may lack the remedies to challenge potentially inaccurate information that the consumer possesses with respect to other items listed on the consumer’s credit report.

It is unclear what a lender must do when the lender cannot access the information required to comply with the statute or when the lender cannot evaluate the accuracy of the information. For example, requiring a lender to consider work attendance and school attendance, could leave a lender unwilling to extend credit based on the strict mandate to review such information. Another practical consideration concerns how credit grantors would be able to collect or otherwise validate school and work attendance statistics, for both factors may have to be provided by a third party who may or may not be equipped to do so. Additionally, the bill does not mandate how credit providers should interpret and weigh such factors into the applicant’s credit assessment and could have a disparate and unintended impact on lower economic communities.

Further, this proposal appears to disregard considerable progress made in evaluating credit risk through financial technology and the complex algorithms used today that leverage a broader set of individual and community identifiers that have expanded the way lenders think about who they can lend to and the credit risk attendant thereto. These technological advances, coupled with robust regulatory supervision that OCFR and other financial regulators are providing, is driving industry to provide safer and more affordable credit to a broader set of consumers (the very public policy this proposal is intending to address).

Finally, as explained above, this proposal would place Maryland-chartered institutions at a competitive disadvantage vis-à-vis other lenders operating in the State. The disadvantage arises because the proposal only imposes its obligations on OCFR chartered financial institutions and OCFR licensed credit grantors, and not necessarily on other state and federally chartered financial institutions. The failure to include other lenders under the bills scope would impose unequal mandates leaving Maryland chartered entities regulated by OCFR to comply with the law, while other financial institutions could lend to Maryland consumers without such requirements.