

# **Preliminary Evaluation of the Office of the Commissioner of Financial Regulation and the Banking Board**

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**Recommendation:**

**Full Evaluation**

## **The Sunset Review Process**

This evaluation was undertaken under the auspices of the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article), which establishes a process better known as “sunset review” because most of the agencies subject to review are also subject to termination. Since 1978, the Department of Legislative Services (DLS) has evaluated about 70 State agencies according to a rotating statutory schedule as part of sunset review. The review process begins with a preliminary evaluation conducted on behalf of the Legislative Policy Committee (LPC). Based on the preliminary evaluation, LPC decides whether to waive an agency from further (or full) evaluation. If waived, legislation to reauthorize the agency typically is enacted. Otherwise, a full evaluation typically is undertaken the following year.

The Office of the Commissioner of Financial Regulation and the Banking Board last underwent a full evaluation as part of sunset review in 2000. Ensuing legislation, Chapter 226 of 2001, extended the termination date of the Office of the Commissioner of Financial Regulation and the Banking Board from July 1, 2002, to the current termination date of July 1, 2012. Chapter 226 also required the commissioner to submit annual reports to both the Governor and the General Assembly.

In conducting this preliminary evaluation, DLS staff interviewed the Commissioner of Financial Regulation, the deputy commissioner, assistant commissioners, division directors, and staff; reviewed State statutes and regulations pertaining to the office and the board; and analyzed documents relating to the office’s finances and licensing, examination, complaint, and enforcement units.

The office reviewed a draft of this report, and its response is contained in **Appendix 5**. Appropriate factual corrections and clarifications have been made throughout the document; therefore, references in office comments may not reflect the final version of the report.

## **Office of the Commissioner of Financial Regulation**

The Office of the Commissioner of Financial Regulation is responsible for licensing and regulating mortgage lenders, brokers, servicers and originators, sales finance companies,

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consumer loan companies, money transmitters, check cashers, installment loan lenders, credit reporting agencies, consumer debt collection agencies, and debt management service providers. The office also regulates and supervises State-chartered financial institutions including State-chartered banks, credit unions, and trust companies. Supervision includes periodic on-site evaluations as well as off-site monitoring programs. The office analyzes financial institutions' corporate applications for new banks, charter conversions, mergers and acquisitions, affiliates, new activities, and new branches. The office also oversees retail credit accounts, retail installment contracts, and credit grantor contracts.

Chapter 326 of 1996 established the office as a budgetary unit of the Department of Labor, Licensing, and Regulation (DLLR). The office assumed the duties, responsibilities, authority, and functions of the Commissioner of Consumer Credit and the State Bank Commissioner, which were abolished by the aforementioned law. The office is divided into six units: depository corporate activities; depository supervision; nondepository licensing; nondepository supervision and compliance; enforcement and consumer services; and internal policy (*see Appendix 1*). The commissioner is appointed by the Secretary of Labor, Licensing, and Regulation with the approval of the Governor and the advice and consent of the Senate. The deputy commissioner is appointed by the commissioner, with the approval of the Secretary.

For purposes of this evaluation, the depository and nondepository functions of the office are discussed separately. An overview of depository and nondepository complaint and enforcement activity precedes a summary of the office's financial structure and an overview of the most recent Banking Board activity.

### **The Banking Board**

The Banking Board consists of nine members, including the Comptroller and eight members appointed by the Governor (*see Appendix 2*). By law, the Governor's appointees must include three representatives of the Maryland Bankers Association, one economist, one certified public accountant, one consumer representative, and two public members. Members serve six-year staggered terms until the Governor appoints their successors.

The Banking Board is intended to provide advice, as needed, on certain bank applications submitted to the commissioner. The board is available, if necessary, to provide advice to the commissioner on ways to protect the interests of the public, depositors, and stockholders of banking institutions and other matters concerning the general banking business in the State. Throughout the year, copies of bank applications submitted to the commissioner are sent to board members for their review. The commissioner determines the frequency and timing of Banking Board meetings.

## **Impact of Legislation on the Office of the Commissioner of Financial Regulation**

Since 2007, changes in the real estate market and the economy in general have had a number of negative effects on lenders and borrowers, both nationwide and in Maryland. One of the most significant of these effects has been a marked increase in the number of foreclosures affecting homeowners and their mortgage lenders. Many such foreclosures have involved residential properties that were financed through sub-prime loans and nonbank loan originators, leading to increased concerns regarding the lending practices that surround these nontraditional financing methods.

Emergency legislation in the 2008 session revised the residential foreclosure process in the State. Chapters 1 and 2 of 2008 require a secured party to send a notice of intent to foreclose to a homeowner at least 45 days before filing an action to foreclose a residential mortgage. The notice must contain the names and telephone numbers of the secured party, the mortgage servicer, the mortgage broker or originator, and any agent of the secured party who is authorized to modify the terms of the mortgage loan. A copy of the notice must also be sent to the Office of the Commissioner of Financial Regulation. In fiscal 2009, the office received over 112,000 copies of Notices of Intent to Foreclose.

Chapters 7 and 8 of 2008 made a number of substantive changes to State law governing mortgage lending. For various types of mortgage loans, due regard must now be given to the borrower's ability to repay a loan in accordance with its terms. The Acts also prohibit lenders from imposing penalties or fees in the event certain mortgages are prepaid by the mortgagor. Chapters 7 and 8 authorize the Commissioner of Financial Regulation to participate in the establishment and implementation of a multistate automated licensing system for mortgage lenders and loan originators.

Other significant reforms include Chapters 3 and 4 of 2008, which create a comprehensive mortgage fraud statute and establish criminal penalties. In Maryland, prior to 2008, mortgage fraud was not a crime specifically defined in statute. Although mortgage fraud previously was prosecuted as theft by deception, the Maryland Homeownership Preservation Task Force found that prosecuting these cases under the general theft statute was cumbersome and difficult to explain to juries. Chapters 3 and 4 authorize the Attorney General, a State's Attorney, and the Commissioner of Financial Regulation to take action to enforce the comprehensive mortgage fraud statute.

Chapters 5 and 6 of 2008, the Protection of Homeowners in Foreclosure Act (PHIFA) prohibit foreclosure rescue transactions and expand consumer protections. Foreclosure rescue transactions typically involve a residence in default that is conveyed by a homeowner to a third party to prevent or delay foreclosure proceedings. Under PHIFA, foreclosure consultants are prohibited from engaging in, arranging, promoting, participating in, assisting with, or carrying out foreclosure rescue transactions. PHIFA granted the Commissioner of Financial Regulation concurrent jurisdiction, along with the Attorney General, to investigate, enforce, and enjoin persons involved in foreclosure rescue schemes.

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Chapter 4 of 2009 overhauled the State's mortgage lender and loan originator laws to conform to the requirements of the federal Secure and Fair Enforcement Mortgage Licensing Act of 2008. Chapter 4 altered the licensing requirements, initial license terms, and renewal terms for mortgage lenders and loan originators. The Act requires applicants and licensees to submit certain information and fees to the Nationwide Mortgage Licensing System and Registry (NMLSR). The Act also increases civil penalties for violations of State mortgage lender and loan originator laws.

Other major legislative changes modified the funding structure of the Office of the Commissioner of Financial Regulation. Since the last sunset evaluation in October 2000, several regulatory areas under the purview of the Office of the Commissioner of Financial Regulation have become special funded operations. **Appendix 3** outlines all of the legislative changes affecting the Office of the Commissioner of Financial Regulation since the last sunset evaluation in October 2000. **Exhibit 1** provides details on each of the newly created special funds.

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**Exhibit 1**  
**Office of the Commissioner of Financial Regulation**  
**Special Funded Operations**

<u>Fund Name</u>	<u>Created</u>	<u>Revenue Sources</u>
Money Transmission Fund	Ch. 539 of 2002	Initial and renewal licensing fees; investigation fees
Debt Management Services Fund	Chs. 374 and 375 of 2003	Debt management company initial and renewal licensing fees; investigation fees
Mortgage Lender-Originator Fund	Ch. 590 of 2005	Licensing fees (initial and renewal); examination and investigation fees; license amendment fees
Banking Institution and Credit Union Regulation Fund	Ch. 293 of 2008	Bank and credit union assessments; corporate application fees

Source: Laws of Maryland

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**Number of State-chartered Depository Institutions Declines, but May Rise**

The Office of the Commissioner of Financial Regulation monitors and evaluates State-chartered banks, including examining and evaluating their capital, asset quality, management, earnings and liquidity position, sensitivity to market risk, as well as their internal

controls and risk management systems. As of June 2009, the office oversaw the condition of 48 State-chartered banks with assets exceeding \$21.7 billion, down from 62 State-chartered banks as of June 30, 2004. The office also examines and regulates six State-chartered trust companies, nine State-chartered credit unions, the Anne Arundel Economic Development Corporation, and the American Share Insurance Corporation. The total assets of State-chartered banks are shown in **Exhibit 2**.

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**Exhibit 2**  
**Consolidated Financial Statement of State-chartered Banks**  
**As of June 30 of Each Year**  
**Fiscal 2004-2009**  
**(\$ in Thousands)**

<u>Fiscal Year</u>	<u>State Banks</u>	<u>Total Assets</u>	<u>Total Loans</u>	<u>Securities</u>	<u>Total Deposits</u>	<u>Total Capital</u>
2004	62	\$33,337,923	\$22,129,584	\$7,918,866	\$25,046,174	\$3,002,066
2005	56	37,159,487	25,497,448	7,660,557	27,542,622	3,711,691
2006	56	39,619,518	27,115,636	7,627,391	29,262,128	4,147,295
2007	56	42,139,079	29,403,517	7,216,069	30,421,947	4,469,387
2008	51	29,381,521	21,881,597	4,415,664	21,813,397	2,728,926
2009	48	21,792,246	16,059,416	3,200,633	17,135,262	2,113,331

Source: Annual Reports, Office of the Commissioner of Financial Regulation

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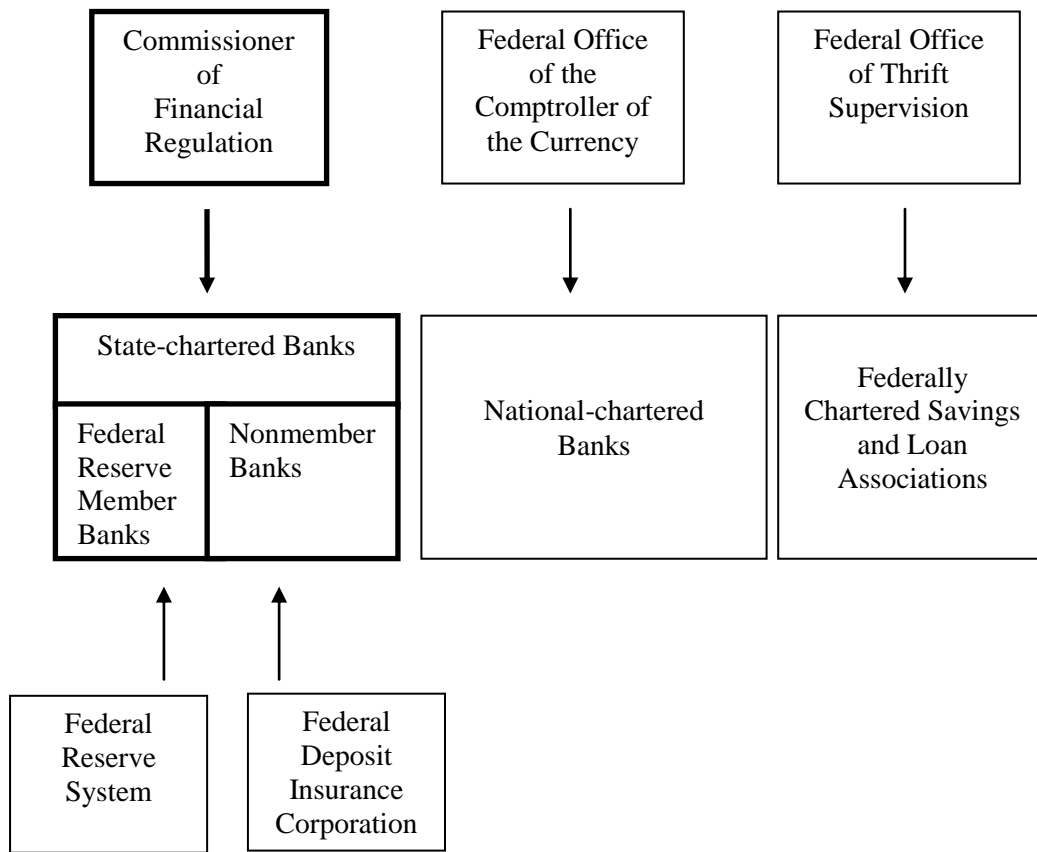
The Maryland banking industry comprises Maryland State-chartered banks, banks chartered by other states that operate in Maryland, and federally chartered national banks and savings banks. The primary regulator of Maryland State-chartered banks is the Commissioner of Financial Regulation. National banks are regulated by the federal Office of Comptroller of the Currency (OCC), and federal savings banks are regulated by the federal Office of Thrift Supervision (OTS). As shown in **Exhibit 3**, State-chartered banks are secondarily regulated by either the Federal Reserve Bank of Richmond or the Federal Deposit Insurance Corporation (FDIC).

Banks that choose membership in the Federal Reserve fall under the regulatory purview of that federal agency. FDIC regulates the remaining banks, also known as nonmember banks. Sandy Spring Bank, for example, operates under a State charter and is a Federal Reserve member bank. Therefore, the Commissioner of Financial Regulation and the Federal Reserve both regulate Sandy Spring Bank.

By offering a State charter, Maryland plays an important role in shaping the State's banking industry. The General Assembly identifies banking policies beneficial to the State and adopts laws to mandate or encourage these practices. In addition, State-chartered banks are said

to be more committed to investing in the State. For example, they tend to use local deposits to provide the loan services needed by area residents and businesses. Banks with many out-of-state locations could use the funds deposited by Maryland residents to provide more profitable loan services in other parts of the country.

**Exhibit 3  
Dual Regulatory System for Depository Institutions**



Source: Department of Legislative Services

**Federal Banking Reforms May Affect State Regulation**

Potential federal legislation that modifies the roles of OCC, OTS, FDIC and the Federal Reserve System may impact the State financial regulatory environment. In June 2009, President Barack Obama proposed legislation that grants the Federal Reserve new authority to regulate bank holding companies and other large institutions that pose systemic risk to the nation’s economy in the event of failure. The proposal, among other things, merges OTS and OCC to create a single national bank supervisor and establishes a new federal consumer protection

agency. In September 2009, Senator Christopher Dodd, chairman of the Senate Banking Committee, proposed an alternative plan that merges the supervisory authority of the Federal Reserve, OTS, FDIC, and OCC into a single, financial “super-regulator.”

The proposed overhaul of the federal financial regulatory system is intended to strengthen and improve supervision under the federal bank regulatory structure, with the overall goal of preventing a repeat of the recent financial crisis. From January 2008 to November 2009, 149 banking institutions failed nationwide – 124 of which failed in calendar 2009 so far. During this time, while no Maryland-chartered banks have failed, there were failures of two federally chartered thrifts located in Maryland. In August 2009, OTS shuttered Baltimore-based Bradford Bank and appointed FDIC as receiver. All deposits were subsequently acquired by M&T Bank. OTS closed Suburban Federal Savings Bank in January 2009, and the Bank of Essex acquired Suburban’s deposits via an agreement with FDIC. Prior to those failures, the last bank in Maryland to fail was Second National Federal Savings Bank in 1992; this bank was also a federally chartered institution.

The depository corporate applications unit is currently working with a national bank headquartered in Maryland to convert its charter to a State bank charter. Furthermore, if OTS is eliminated as part of the federal banking regulatory reform, 43 federal thrifts headquartered in Maryland will need to convert their charters to either a State charter or a national bank charter. As of October 2009, the depository corporate applications unit is aware of at least four institutions considering conversion to a State charter. Many of these institutions are regional or community banks that may prefer local supervision to a federal “super regulator” that will simultaneously regulate the largest banks in the nation (the “too-big-to-fail” banks).

The depository corporate applications unit currently consists of one assistant commissioner who reviews and processes applications from banks, credit unions, and trust companies. The applications include various corporate documents ranging from charter conversions and bank branch applications to ATM approvals and closings. Typically, the assistant commissioner, along with senior-level bank examiners, can review a national bank charter application within approximately 90 days. However, a significant backlog of applications may occur if a large percentage of the remaining 39 federal thrifts headquartered in Maryland choose a State charter. The effect of a potentially significant increase in workload due to proposed federal financial regulatory reforms should be monitored.

## **Depository Examinations Are Conducted in a Timely Fashion**

The Office of the Commissioner of Financial Regulation supervises the safety and soundness of State-chartered banks through regular on-site examinations and a quarterly off-site monitoring program. The office also conducts joint examinations with FDIC, and some examinations are conducted with the Federal Reserve Bank of Richmond. As illustrated in **Exhibit 4**, between fiscal 2004 and 2009, the office performed 38 to 63 examinations per year.

**Exhibit 4**  
**Depository Examinations**  
**Fiscal 2004-2009**

<b><u>Fiscal Year</u></b>	<b><u>Independent Bank Exams</u></b>	<b><u>Joint Exams with the FDIC</u></b>	<b><u>Joint Exams with the Federal Reserve</u></b>	<b><u>Special Bank Exams</u></b>	<b><u>Independent Credit Union Exams</u></b>
2004	18	10	2	6	12
2005	18	7	7	9	11
2006	20	9	6	5	10
2007	15	7	3	3	10
2008	15	8	4	5	10
2009	15	21	6	11	10

Notes: Special bank exams include visitations, target exams, inter-agency exams, and the Anne Arundel Economic Development Corporation. Independent credit union examination totals include the American Share Insurance Corporation.

Source: Office of the Commissioner of Financial Regulation, September and December 2009

The Office of the Commissioner of Financial Regulation currently has 13 full-time bank examiners and 4 contractual examiners. The depository supervision unit conducts joint examinations with either FDIC or the Federal Reserve Bank of Richmond if a depository institution has at least \$1 billion in assets, or if an institution receives a composite CAMELS soundness rating of 3, 4, or 5. CAMELS is an acronym for capital, asset quality, management, earnings, liquidity, and sensitivity to market risk. A rating of 1 indicates a financially sound institution, while a bank with an extensive portfolio of nonperforming loans and delinquencies may receive a rating of 4 or 5. Banks and credit unions with a CAMELS rating of 1 or 2 are examined at least every 18 months, and institutions with ratings of 3, 4, or 5 are examined at least every 12 months.

When necessary, the commissioner has brought enforcement actions against institutions, either independently or jointly with FDIC or the Federal Reserve Bank of Richmond. Enforcement actions include formal cease and desist orders, written agreements, and memoranda of understanding. Institutions subject to enforcement actions are subject to heightened supervision and provide the office with plans on meeting certain requirements (such as capital plans) and regular process reports.

If a bank's capitalization levels are deemed insufficient, the Commissioner of Financial Regulation may require the bank to cease and desist from any unsafe or unsound banking practices. A cease and desist order may require a bank to take affirmative actions regarding



management policies, suspend certain dividends and distributions, and fix any capital deficiencies, as determined by the commissioner.

## **Decline in Mortgage-related Licensees Reflects Current Economic Conditions**

As of June 2009, the Office of the Commissioner of Financial Regulation monitors the business activities of more than 11,270 nondepository licensees to ensure their compliance with both State and federal laws and regulations. These licensees provide mortgages, consumer loans, retail sales financing, as well as credit reporting, debt collection, debt management, check cashing, and money transmission services to Maryland consumers. The complete application and licensing fee schedule for all depository and nondepository licensees can be found in **Appendix 4**. The number of licensees in each nondepository category is shown in **Exhibit 5**.

The nondepository licensing unit currently consists of 11 permanent employees, 4.5 contractual employees, and 6 employees borrowed from other functions. These employees are assisting with the transition to the Nationwide Mortgage Licensing System and Registry. Due to deteriorating revenue in the Mortgage Lender-Originator Fund detailed later in this report, the number of contractual positions has been reduced from 12 as of July 2008, to 4.5 as of November 2009, necessitating the temporary transfer of staff from other functions.

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### **Exhibit 5 Nondepository Licensee Totals Fiscal 2005-2009**

<b><u>License Type</u></b>	<b><u>FY 2005</u></b>	<b><u>FY 2006</u></b>	<b><u>FY 2007</u></b>	<b><u>FY 2008</u></b>	<b><u>FY 2009</u></b>
Check Cashier	493	412	470	531	493
Collection Agency	1,288	1,204	1,346	1,449	1,457
Consumer Lender	259	279	282	232	171
Debt Management	41	44	43	36	35
Installment Lender	235	240	293	249	122
Money Transmitter	74	80	87	76	75
Mortgage Lender	4,990	5,193	6,174	3,714	2,437
Mortgage Originator	0	0	9,663	11,171	5,900
Sales Finance Company	676	726	777	676	588
<b>Total Licenses Issued</b>	<b>8,056</b>	<b>8,178</b>	<b>19,135</b>	<b>18,134</b>	<b>11,278</b>

Note: Mortgage loan originator licensing started on January 1, 2007.

Source: Office of the Commissioner of Financial Regulation

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With respect to mortgage lenders and originators, the office is responsible for licensing those companies and individuals that are not employed by, or affiliated with, banking institutions

(which are exempt). As noted in Exhibit 5, the number of licensed mortgage lenders has declined 34% from fiscal 2008 to 2009, while the number of licensed loan originators has declined 47% during the same period. The office attributes the drop in mortgage-related licensees to a combination of the deteriorating residential real estate market and a tightening of banks' lending standards in the wake of the credit crunch in 2008 and 2009. Broadly, the residential mortgage industry has contracted significantly and the impact on market participants licensed by the Office of the Commissioner of Financial Regulation has been disproportionately large.

In addition, several national bank and thrift affiliates with multiple locations in Maryland, such as Citi Mortgage and Wells Fargo Home Mortgage, have restructured operations into their respective banks and are no longer subject to the jurisdiction of the Commissioner of Financial Regulation. Other national bank and thrift affiliates, such as HSBC, have simply exited the mortgage industry in the wake of the credit crisis. Elevated licensing standards and costs have also reduced the number of licensees.

While the decline in the number of licensees is primarily driven by the failure of licensees to renew, there has also been a significant decline in new applications for lender licenses. The licensing unit issued 1,371 new mortgage lender licenses in fiscal 2007, compared with 707 in fiscal 2008 and only 357 in fiscal 2009.

### **Mortgage-related Supervision and Compliance Activity Has Increased**

The compliance unit monitors the business activities of all nondepository licensees to ensure their compliance with State and federal laws and regulations. The unit consists of the director of compliance, 2 examiner supervisors, 1 lead financial examiner, 14 mortgage compliance examiners (including 5 examiners currently assisting with licensing), 4 compliance examiners responsible for nonmortgage related activities, and 2 support personnel.

To protect State financial services consumers, the unit has focused its attention on ensuring that mortgage companies doing business in the State are closely regulated. The Office of the Commissioner of Financial Regulation has a statutory mandate to perform examinations of all mortgage lenders licensed by the State within 18 months of licensure, and after their first examination, within 36 months of their prior examination.

The unit is moving away from a strictly compliance-based examination process to one that also examines lenders' underwriting standards. In 2008, the compliance unit began examining mortgage servicers and has gradually increased the scope of examinations to include mortgage lenders as well. As of August 2009, approximately half of the compliance examiners in the unit are trained to perform mortgage servicer compliance exams. The compliance unit is also responsible for providing advice on regulations concerning prelicensing and continuing education courses, fidelity and surety bond amounts, and licensing and application requirements.

## **Transition to the Nationwide Mortgage Licensing System and Registry Is Ongoing**

Title V of the federal Housing and Economic Recovery Act of 2008, known as the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act), mandated that all mortgage loan originators must be federally registered or state-licensed through a nationwide system jointly developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. The resultant Nationwide Mortgage Licensing System and Registry is a web-based interface that utilizes a single set of applications and allows state-licensed mortgage lenders, brokers, and loan officers to apply for, update, and renew their licenses online. NMLSR streamlines the licensing process and allows state regulators to track violations of law and actions taken by regulators across the country. Although not yet operational, NMLSR is scheduled in the future to allow complaints to be processed through a centralized web-based database. As of September 2009, 33 states including Maryland and the District of Columbia are participating in NMLSR.

Chapter 4 of 2009 brought Maryland into compliance with the SAFE Act and mandated that the Office of the Commissioner of Financial Regulation transition to NMLSR for mortgage originator licensure. Among other things, Chapter 4 set minimum loan originator licensing standards and modified lender and loan originator license terms from two-year terms to one-year terms. Beginning in July 2009, the office's compliance and licensing units are overseeing an 18-month transitional period to NMLSR from the existing State licensing system. The nondepository compliance unit is heavily involved in all aspects of the NMLSR transition including the State component of the SAFE Mortgage Loan Originator Test and prelicensing and continuing education requirements.

## **Mortgage-related Complaints Increase as a Percentage of Total Workload**

The consumer services unit consists of nine examiners and is responsible for the investigation and resolution of consumer inquiries. These inquiries involve banks, mortgage lenders, mortgage servicers, collection agencies, other regulated parties, and complaints regarding nonlicensed entities, such as debt settlement companies. In addition, the consumer services unit receives complaints about institutions outside of the office's jurisdiction. Most mortgages, for example, are serviced by national banks such as Bank of America or Wells Fargo, and the unit redirects these complaints to the appropriate regulator.

The residential foreclosure crisis has led to an increase in foreclosure-related complaints, including those involving loss-mitigation and foreclosure rescue consultants. Other mortgage-related complaints involve persons promising to negotiate with lenders or servicers to modify the terms of delinquent loans. The unit also addresses consumer inquiries about forced-placed insurance issues, the failure of servicers to credit a loan for mortgage payments, or the assessment of undue penalties and fees. The unit also fields a significant number of phone calls from homeowners seeking to avoid foreclosure. The latter are typically referred to the

Department of Housing and Community Development's Home Owners Preserving Equity (HOPE) Foreclosure Prevention and Assistance Program for counseling.

Written consumer complaints against nondepository licensees are logged into a computer database and assigned to an examiner upon receipt. An acknowledgment letter is sent to the complainant within three days of assignment to an examiner. If the complaint is within the office's jurisdiction, a letter is sent to the applicable licensee requesting information. Upon receipt of the requested information, the financial examiner reviews the licensee's written response. A licensee's books and records are subject to review during the complaint investigation. If the examiner is satisfied, a closeout letter is generated and forwarded to the complainant with a summary of findings; otherwise, additional information may be requested.

If the second communication from the licensee fails to resolve the complaint, the examiner documents his or her findings and contacts a supervisor. Alternatively, the enforcement unit or the compliance unit may conduct an on-site investigation or consult the Office of the Attorney General regarding consumer claims against the licensee's bond. The complaint unit retains closed files on-site for a minimum of 25 months.

As shown in **Exhibit 6**, the office received approximately 2,600 to 2,900 complaints per year from fiscal 2005 through 2009. These totals consist of written consumer complaints (including those received by facsimile and e-mail) and include complaints forwarded by legislative or executive offices. General consumer complaints include installment lender complaints, automobile repossessions, and other related credit contracts. Credit reporting agency complaints typically refer to entries on individuals' consumer reports kept by three major credit reporting companies: TransUnion, Equifax, and Experian.

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**Exhibit 6**  
**Consolidated Written Consumer Complaints by Type**  
**Fiscal 2005-2009**

	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>Total</u>
Mortgage Complaints	492	451	419	602	653	<b>2,617</b>
Collection Agency Complaints	518	491	596	589	590	<b>2,784</b>
Maryland Bank & Credit Union	69	78	66	76	88	<b>377</b>
Nonjurisdictional Bank	885	771	649	559	637	<b>3,501</b>
Credit Reporting Agency	629	604	632	483	407	<b>2,755</b>
General Consumer Complaints	274	208	188	255	283	<b>1,208</b>
Miscellaneous	71	79	47	34	18	<b>249</b>
<b>Total</b>	<b>2,938</b>	<b>2,682</b>	<b>2,597</b>	<b>2,598</b>	<b>2,676</b>	<b>13,491</b>

Source: Office of the Commissioner of Financial Regulation

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Mortgage-related complaints have risen from 16% of all complaints in fiscal 2007 to approximately 24% of all complaints in fiscal 2009. In addition, the average time to close a mortgage-related complaint has also risen steadily from 59 days in fiscal 2007, to 77 days in fiscal 2008, and 93 days in fiscal 2009. The office notes that it is taking longer to resolve mortgage complaints given the increased workload and the complexity of the complaints, which typically involve multiple parties including lenders, servicers, brokers, and settlement agents. The average time to close a nonmortgage-related complaint has also risen from 41 days in 2007 to 55 days in 2009. The impact of an increased workload of complex, mortgage-related complaints on the unit should be further examined.

### **Additional Enforcement Personnel Required**

The enforcement unit is the investigative branch of the Office of the Commissioner of Financial Regulation and consists of six investigators and an assistant commissioner. Two investigators are fluent in Spanish to serve an increasingly targeted population. The unit investigates fraud, predatory lending, financial misappropriation, and any other violations of law applicable to depository and nondepository financial institutions whose activities fall under the regulatory oversight of the Commissioner of Financial Regulation.

The regulatory authority of the office includes broad investigative and subpoena powers, which allow for expeditious access to files, e-mail, financial records, and any other documentation appropriate to the investigation at hand. If a person engages in a practice over which the commissioner has jurisdiction and is violating State law, the commissioner may issue a cease and desist order or suspend or revoke the person's license. The commissioner may also issue civil penalties for initial and subsequent violations of the law or bring an action in circuit court for a temporary restraining order or permanent injunction. Finally, in order to take legal action, the commissioner must refer charges to the Maryland Assistant Attorney General assigned to litigate the office's enforcement actions.

The enforcement unit works in partnership with the complaint, compliance, licensing, and depository supervision units, as well as with its federal and other-state counterparts. The number of investigations initiated by the enforcement unit between fiscal 2005 and 2009 is shown in **Exhibit 7**.

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**Exhibit 7**  
**Investigations Initiated by the Enforcement Unit**  
**Fiscal 2005-2009**

<u>Year</u>	<u>Total</u>	<u>% Increase Over Prior Year</u>	<u>Investigators</u>
FY 2005	110	–	5
FY 2006	123	17.5%	5
FY 2007	142	14.5%	7*
FY 2008	247	75.0%	8
FY 2009	316	23.5%	7

\*Two contractual investigators were hired in fiscal 2007.

Source: Office of the Commissioner of Financial Regulation, Enforcement Unit

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The significant increase in the number of investigations initiated between fiscal 2007 and 2008 can be attributed to the mortgage foreclosure crisis and the enactment of the Protection of Homeowners in Foreclosure Act, the Mortgage Fraud Act, and other legislation that enhanced the jurisdiction of the office. As shown in Exhibit 7, the unit's workload has nearly tripled over the last five fiscal years while the number of investigators has increased from five to seven. Investigators within the enforcement unit note that approximately 75% of investigations in fiscal 2009 were mortgage-related.

The enforcement unit has played a significant role in State-federal joint mortgage fraud investigations, several of which originated from complaints filed with the Office of the Commissioner of Financial Regulation. For example, in late 2006, the enforcement unit launched a mortgage fraud investigation that lasted for three years and involved over 100 homeowners who lost \$10 million worth of net equity in their homes. This mortgage fraud investigation by the enforcement unit was the largest in State history.

More recently, until the enforcement unit conducted an investigation, payday lenders had illegally been using confessed judgments to collect on loan defaults. In certain contracts or promissory notes, a confessed judgment clause typically waives a person's rights to defend against a legal action. Maryland law specifically prohibits consumer loan contracts, including payday lending agreements, from containing confessed judgment clauses.

Upon the conclusion of the enforcement unit's investigation, the Commissioner of Financial Regulation issued a 30-page cease and desist order outlining 1,500 judgments in Maryland courts that violated the Maryland Consumer Loan Law and the Maryland Mortgage Lender Law. As a result of this action, Maryland courts vacated several hundred actions pending against Maryland consumers.

## **Fines and Consumer Recoveries**

The office generates fines and penalties paid to the State general fund and consumer recoveries paid directly to harmed individuals. Fines are generated by the licensing, compliance and enforcement units, while recoveries are generated by the compliance, consumer services, and enforcement units. Monetary recoveries for consumers, along with fines and penalties collected for the general fund, are shown in **Exhibit 8**.

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**Exhibit 8**  
**Fines and Consumer Recoveries**  
**Fiscal 2007-2009**

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
Fines and Penalties	\$415,651	\$392,239	\$1,122,789
Consumer Recoveries	\$1,997,632	\$1,318,938	\$2,906,241

Note: The fines for fiscal 2009 include a \$642,000 fine imposed on a licensee per a consent agreement signed in June 2009 and paid in July 2009 (fiscal 2010).

Source: StateStat; Office of the Commissioner of Financial Regulation

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The increase in fines and penalties in fiscal 2009 is a function of the growing volume of consumer complaint activities and the increase in examinations and investigations completed. In addition, consumer recoveries include mortgage loan modifications that were achieved by the consumer services unit.

The significant year-over-year growth in fines and consumer recoveries is not likely to continue, as resources to pursue additional cases have not been provided. However, it should be noted that, since fiscal 2007, the workload has doubled, staffing levels have dropped, and total fines and consumer recoveries collected have increased by almost \$1.62 million. DLS notes that data provided by internal records, annual reports, and StateStat reporting are not consistent. Reasons include a shift to reporting fines on a cash-collected basis rather than fines imposed. The inconsistencies should be explored further.

## **All Funds Except the Mortgage Lender-Originator Fund Are Fiscally Sound**

The Office of the Commissioner of Financial Regulation is now primarily funded by the supervision, examination, application, and licensing fees assessed upon individuals and institutions regulated by the office. Revenues collected from the regulation of check cashers, sales finance companies, installment lenders, consumer lenders, and collection agencies are

deposited in the general fund along with fines and penalties collected by the office. General fund revenues and expenditures for fiscal 2005 through 2009 are shown in **Exhibit 9**.

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**Exhibit 9**  
**General Fund Revenue and Expenditures**  
**Fiscal 2005-2009**

	<u><b>FY 2005</b></u>	<u><b>FY 2006</b></u>	<u><b>FY 2007</b></u>	<u><b>FY 2008</b></u>	<u><b>FY 2009</b></u>
Revenue	\$5,716,069	\$5,096,870	\$4,422,200	\$4,503,059	\$2,370,384
Expenditures	4,799,384	3,485,894	3,055,637	3,061,866	793,493
Net Revenue	916,885	1,610,886	1,366,563	1,441,193	1,576,891

Source: Office of the Commissioner of Financial Regulation, 2005-2008 Annual Reports; Department of Legislative Services

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Prior to the creation of the Banking Institution and Credit Union Regulation Fund in fiscal 2009, depository assessments and filing fees also went to the general fund. General fund banking fees and assessments collected in fiscal 2008 shifted to the special banking fund in fiscal 2009, which accounts for the year-over-year drop in general fund revenues and expenditures. However, fines and penalties collected from licensing and compliance violations, which increased by \$730,550 from fiscal 2008 to 2009, remain general funds.

As noted earlier, four dedicated special funds are intended to pay the costs associated with regulating their respective licensees: the Debt Management Fund, the Money Transmission Fund, the Banking Institution and Credit Union Regulation Fund, and the Mortgage Lender-Originator Fund. Special fund balances as of June 30, 2009, are shown in **Exhibit 10**.



**Exhibit 10**  
**Financial Regulation Special Fund Balances**  
**As of June 30, 2009**

<b><u>Fund</u></b>	<b><u>Beginning Balance</u></b> <b><u>FY 2009</u></b>	<b><u>Revenue</u></b>	<b><u>Expenditures</u></b>	<b><u>Ending Balance</u></b> <b><u>FY 2009</u></b>
Debt Management Fund	\$7,657	\$54,401	\$38,832	\$23,226
Money Transmission Fund	459,725	49,705	282,427	227,003
Mortgage Lender- Originator Fund	3,721,807	3,325,137	5,400,041	1,657,186
Banking and Credit Union Regulation Fund	N/A (new fund)	3,877,631	3,201,653	666,978

Note: Revenue totals exclude fines and penalties, which are directed to the general fund, and refunds, which are directed to consumers.

Source: Office of the Commissioner of Financial Regulation

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**Mortgage Lender-Originator Fund Expenditures Exceed Licensing Revenue**

Prior to fiscal 2006, mortgage lender licensing fees were general fund revenue. However, with the establishment of the Mortgage Lender-Originator Fund in the 2005 session, mortgage lender licensing revenue shifted to the special fund. These funds included a \$100 investigation fee for new applicants, a \$1,000 fee for a new mortgage lender license, and a \$1,000 biennial license renewal fee. Mortgage loan originator licensing began January 1, 2007, with licensees paying a one-time \$100 investigation fee, a \$300 initial licensing fee, and a \$300 biennial renewal fee. Effective January 1, 2009, licensing fees for mortgage lenders increased to \$1,000 per year from \$1,000 every two years. Fees for mortgage originators increased to \$225 per year from \$300 every two years. Revenues and expenditures for the Mortgage Lender-Originator Fund are shown in **Exhibit 11**.

**Exhibit 11**  
**Mortgage Lender-Originator Fund Revenue and Expenditures**  
**Fiscal 2006-2009**

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
Beginning Balance	\$0	\$3,036,084	\$5,510,927	\$3,732,089
Revenue	5,302,290	7,379,653	3,400,769	3,325,137
Expenditures	2,266,206	4,904,811	5,179,607	5,400,041
Net Revenue	3,036,084	2,474,842	(1,778,837)	(2,074,904)
Balance Carried Forward	3,036,084	5,510,927	3,732,089	1,657,186

Note: Revenue totals exclude fines and penalties, which are directed to the general fund, and refunds, which are directed to consumers. Numbers may not sum due to rounding.

Source: Office of the Commissioner of Financial Regulation

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Revenue for the fund remained fairly stable from fiscal 2008 to 2009; an increase in license fees was largely offset by a significant decrease in mortgage licensees. The licensing fee for mortgage lenders effectively doubled between fiscal 2008 and 2009 when the license term was shortened from two years to one year to comply with federal law. However, the significant decrease in the number of lender and originator licensees during the same period has kept licensing revenues relatively stable. However, continued increases in the fund's expenditures raise concerns about its future solvency. Further examination may be needed to clarify the fund's finances, as inconsistencies exist within annual reports and the office's internal records.

### **Role of the Banking Board Should Be Reconsidered**

Established in 1935, the Banking Board is intended to advise the Commissioner of Financial Regulation on matters concerning the business of any State banking institution and meets at the request of the commissioner. To comply with State law, the Office of the Commissioner of Financial Regulation must notify members of the Banking Board of certain events such as a merger, consolidation, or transfer of assets among State banks. Prior to giving consent to such transactions, the commissioner must first seek the advice of the Banking Board. However, the board has no statutory authority to approve or deny any applications or proposed transactions. Five of the board's nine seats are currently vacant.

The depository corporate applications unit handles all official correspondence sent to members of the board. During the past 10 years, the unit has mailed approximately 270 bank-related applications to Banking Board members for their review and comment; the

depository corporate applications unit received 16 responses. Fifteen of the 16 responses received stated that the members simply had no comment. One response stated that the member was not familiar with the subject in the application; therefore, if the commissioner wanted to approve the application, the board member would agree.

The Banking Board last met on February 27, 2007, six months prior to the appointment of the current commissioner on August 28, 2007. According to the meeting minutes, eight members attended along with five representatives from the Office of the Commissioner of Financial Regulation. Issues discussed included OCC preemption of State law, major depository corporate application activity during the past year, and problems associated with the retention of qualified bank examiners. At the 2007 meeting, the board also supported a resolution to petition the U.S. Congress to protect consumers from abusive credit practices. Prior to 2007, the last meeting of the Banking Board was held in 2005.

During the past two years, the Banking Board has not convened and has experienced considerable attrition. Given the constantly evolving regulatory environment, it is likely more efficient for the Commissioner of Financial Regulation to consult with banking experts on an as needed basis, rather than to convene a meeting of the board. Therefore, its purpose and function going forward should be further examined.

## **Recommendation**

The Office of the Commissioner of Financial Regulation oversees a highly complex and constantly evolving industry involving billions of dollars and thousands of institutions. In the past year alone, the residential foreclosure crisis has swept the nation, Fannie Mae and Freddie Mac were placed in federal conservatorship, the Troubled Asset Relief Program (TARP) became a household name, and the nation's financial system reached the brink of collapse. All of these events directly or indirectly affected the State financial regulatory environment. However, the overall financial soundness of State depository charters and nondepository licensees – especially when compared to their federal and other-state counterparts – can be directly attributed to the efforts of the Office of the Commissioner of Financial Regulation.

This evaluation has identified issues that should be studied further to ensure that effective regulation continues into the future. **As a result, the Department of Legislative Services recommends that the Office of the Commissioner of Financial Regulation and the Banking Board undergo full evaluation.** The full evaluation should evaluate the ability of the office to effectively regulate the mortgage industry as well as State-chartered depository institutions. In particular, the full evaluation should examine:

- the structural integrity of the Mortgage Lender-Originator Fund;
- the impact of proposed federal banking reforms on the depository corporate applications unit and the depository supervision unit;

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- the ability of the complaint unit to close mortgage-related complaints in a timely fashion, given the increased workload and complexity of the complaints;
- the needs of the enforcement unit to effectively respond to constantly evolving threats to State consumers, as predatory lending activities shift to loan modification and other schemes;
- DLLR procedures to ensure consistent reporting of general and special fund revenues and expenditures among internal records, annual reports, State budget documents, and StateStat reports; and
- the role of the Banking Board going forward, and whether its purpose meets the identified needs of the Office of the Commissioner of Financial Regulation.

## Appendix 1. Organizational Structure of the Office of the Commissioner of Financial Regulation

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**Commissioner of  
Financial Regulation**

**Deputy  
Commissioner**

<b>Depository Corporate Activities</b>	<b>Depository Supervision</b>	<b>Nondepository Licensing</b>	<b>Nondepository Supervision / Compliance</b>	<b>Enforcement &amp; Consumer Services</b>	<b>Internal Policy</b>
Assistant Commissioner	Assistant Commissioner	Director	Director	Assistant Commissioner	Director



## **Appendix 2. Banking Board Membership**

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### **Ex Officio: The State Comptroller**

The Honorable Peter V. R. Franchot  
Comptroller of the Treasury

### **Three Representatives from the Maryland Bankers Association**

John R. Lane, President and CEO  
Congressional Bank

Vacant Position

Vacant Position

### **One Economist**

Kamran A. Khan

### **One Certified Public Accountant**

Vacant Position

### **One Consumer Interest Representative**

Helen Won

### **Two Public Members**

Vacant Position

Vacant Position

Note: Section 2-202 of the Financial Institutions Article designates the membership of the Banking Board as follows: (1) the State Comptroller and (2-9) appointed by the Governor with the advice of the Secretary of Labor, Licensing, and Regulation. Of the appointed members: three shall represent the Maryland Bankers Association; one shall be an economist; one shall be a certified public accountant; one shall represent consumer interests; and two shall be public members. Chapter 136 of 1997 increased the board to nine members and added the representative of consumer interests.





### Appendix 3. Major Legislative Changes Since the 2000 Session

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<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2001	226	Extends the termination date for the office of the Commissioner of Financial Regulation and the Banking Board by 10 years to July 1, 2012, in accordance with the provisions of the Maryland Program Evaluation Act (Sunset Law); requires the office to submit annual reports to the Governor and the General Assembly.
2001	147, 148	Makes substantial changes to State credit union law by revising: the membership, powers, and duties of boards of directors; the default and mandatory rules for credit union officers; the powers and duties of supervisory committees; the criteria for merger of more than one credit union; deposit insurance criteria; the tax-exempt status of credit unions; and the requirements and formalities of dissolution and liquidation.
2002	540	Requires credit union share guaranty corporations to be certified by the Office of the Commissioner of Financial Regulation; arranges for the dissolution of the Credit Union Insurance Corporation.
2002	539	Requires the licensure of persons engaged in the money transmission business by the Office of the Commissioner of Financial Regulation and establishes the Money Transmission Special Fund.
2003	374, 375	Requires the licensure of debt management service providers by the Office of the Commissioner of Financial Regulation; establishes the Debt Management Services Special Fund.
2004	473	Authorizes the commissioner to issue a mortgage lender license to a sole proprietor who lacks the required three years' experience under specified conditions.
2004	342	Authorizes a savings bank to have any State banking institution, other bank in the State, or a federal or State savings and loan association merge into the savings bank with the written consent of the Commissioner of Financial Regulation.
2005	590	Requires mortgage originators to become licensed by the Office of the Commissioner of Financial Regulation effective January 1, 2007; creates the Mortgage Lender-Originator Fund; and allows persons aggrieved by the conduct of a licensed mortgage originator to file a complaint with the Office of the Commissioner of Financial Regulation.

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2005	574	Establishes fees for a debt management service license based on annual gross revenue; requires debt management service providers to be licensed regardless of whether the provider maintained an office in the State; and modifies the application requirements and surety bond requirements for licensure.
2005	132	Repeals an exemption from State licensing for mortgage lenders that are federally approved seller-servicers.
2006	84	Authorizes the Office of the Commissioner of Financial Regulation to determine whether a consumer credit licensee may produce certain documents at a location within the State rather than submit to an on-site examination.
2007	307, 308	Authorizes an individual to place a security freeze on the individual's consumer credit report.
2008	605, 606	Repeals the requirement that a licensed debt management service provider be a nonprofit entity; modifies the licensing requirements for debt management service applicants and alters the requirements for consumer education programs.
2008	499	Authorizes the Commissioner of Financial Regulation to enter into cooperative and information-sharing agreements with any federal or state regulatory agency that has authority over financial institutions, provided the agreements prohibit the agency from disclosing certain information without the prior written consent of the commissioner.
2008	293	Creates the Banking Institution and Credit Union Regulation Fund to receive all bank and credit union assessments and pay all associated regulatory expenses incurred by the Office of the Commissioner of Financial Regulation; establishes new assessments and fees for State-chartered depository institutions.
2008	89	Eases requirements for banks to install ATMs; institutes new requirements regarding fingerprinting, criminal background checks, capital requirements, and bank affiliate formation in order to conform State law with existing federal law.

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2008	7, 8	Prohibits lenders from charging prepayment penalties for mortgages and requires lenders to verify a borrower's ability to repay a mortgage loan; authorizes the commissioner to set mortgage lender licensing fees, examination requirements, and participate in the implementation of a multistate licensing system for mortgage lenders and loan originators; expands the licensing requirements for mortgage lenders and loan originators.
2008	5, 6	Extends legal protections for homeowners in foreclosure or mortgage default; prohibits foreclosure rescue transactions and grants the commissioner concurrent jurisdiction with the Attorney General to investigate, enforce, and enjoin action in cases involving violations of the bill.
2008	3, 4	Creates a comprehensive mortgage fraud statute with criminal penalties and authorizes the Commissioner of Financial Regulation, among others, to take action to enforce the statute.
2008	1, 2	Modifies laws governing the recordation and foreclosure of mortgages and deeds of trust; alters the requirements for recordation, notice, service of process, court filings, and cure of defaults; requires a secured party to send a copy of a notice of intent to foreclose to the Office of the Commissioner of Financial Regulation.
2009	741	Allows an out-of-state bank to open a <i>de novo</i> branch in Maryland only if that bank's home state has reciprocal laws and creates an expedited application process for the establishment of bank branches; authorizes the commissioner to issue civil penalties against banks and credit unions under specified circumstances.
2009	4	Revises the State's mortgage lender and mortgage loan originator laws to conform to the requirements of the federal Secure and Fair Enforcement (SAFE) Mortgage Licensing Act; alters the licensing requirements, initial license terms, and renewal license terms for mortgage lenders and mortgage loan originators; requires licensees to submit certain information to the Nationwide Mortgage Licensing System and Registry (NMLSR); increases civil penalties; and permits the commissioner to issue interim mortgage loan originator licenses.

Source: Laws of Maryland



## **Appendix 4. Application and Licensing Fee Schedule**

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### **Affiliated Insurance Producers – Mortgage Loan Originators**

Initial license fee: \$700.00

Investigation fee (nonrefundable/not applicable to renewals): \$100.00

NMLS processing fee: \$30.00

Amendments:

Change of employer: \$75.00

Change of name: \$75.00

Request for placement on nonactive status: \$0

Request for return to active status (without change of employer): \$0

### **Banks & Credit Unions**

Affiliate: \$750.00

Articles of amendment: \$20.00

Bank holding Company: \$1,500.00

Branch: \$600.00

Certified copies of documents: \$50.00

Conversion to State charter: \$7,000.00

Credit union branch: \$100.00

Foreign bank representative office permit: \$500.00

Mergers/acquisitions –

among 2 banks: \$3,000.00

among 3 or more banks: \$5,000.00

New bank charters: \$15,000.00

New credit union charters: \$500.00

New nondepository trust company: \$15,000.00

*Miscellaneous Fees*

Certificate of valid charter requested by bank or on behalf of: \$25.00

Certificate of valid charter requested by a person other than a bank: \$50.00

### **Check Cashers**

Initial License – Original Office: \$1,000.00

Initial License – Branch Office: \$1,000.00

Investigation Fee: \$100.00

License Renewal: \$1,000.00

### **Collection Agencies**

Initial License – Original Office: \$400.00

Initial License – Branch Office: \$400.00

License Renewal: \$400.00

Surety Bonding Requirement: \$5,000.00

### **Consumer Lenders**

Initial License – Original Office: \$1,700.00  
Initial License – Branch Office: \$1,700.00  
Investigation Fee: \$100.00  
License Renewal: \$1,700.00  
Surety Bonding Requirement: \$12,000.00

### **Credit Services Businesses**

Initial License – Original Office: \$1,700.00  
Initial License – Branch Office: \$1,700.00  
Investigation Fee: \$100.00  
License Renewal: \$1,700.00  
Surety Bonding Requirement: \$12,000.00

### **Debt Management Companies**

Initial License – Original Office: Ranges from \$1,000.00 to \$8,000.00 (if license is issued in an odd-numbered-year, license fee is half of stated amount).  
Initial License – Branch Office: \$100.00  
Investigation Fee: \$100.00  
License Renewal: Ranges from \$1,000.00 to \$8,000.00  
Surety Bonding Requirement: \$10,000.00 to \$1,000,000.00 depending on annual volume of State transactions.

### **Installment Lenders**

Initial License – Original Office: \$1,700.00  
Initial License – Branch Office: \$1,700.00  
Investigation Fee: \$100.00  
License Renewal: \$1,700.00  
Surety Bonding Requirement: \$12,000.00

### **Money Transmitters**

Initial License (application submitted in even-numbered year): \$4,000.00  
Initial License (application submitted in odd-numbered year): \$2,000.00  
Investigation Fee: \$1,000.00  
License Renewal: \$4,000.00  
Surety Bonding Requirement: \$150,000.00 to \$1,000,000.00, determined by the commissioner

### **Mortgage Lenders/Brokers/Services**

Initial License – Principal Office or Individual: \$1,000.00

Initial License – Branch Office: \$1,000.00

Investigation Fee: \$100.00

License Renewal: \$1,000.00

NMLS Processing Fee (Company): \$100.00

NMLS Processing Fee (Branch): \$20.00

Surety Bonding Requirement: \$50,000.00 to \$750,000.00, depending upon aggregate lending activity

### **Mortgage Loan Originators**

Initial License: \$225.00

Investigation Fee: \$100.00

License Renewal: \$225.00

NMLS Processing Fee: \$30.00

Amendments:

Change of Employer: \$75.00

Change of Name: \$75.00

Request for placement on nonactive status: \$0

Request for return to active status (without change of employer): \$0

Request for return to active status (with change of employer): \$75.00

### **Sales Finance Companies (Two-year License)**

Initial License – Original Office: \$250.00

Initial License – Branch Office: \$250.00

Investigation Fee: \$100.00

Three or more applications submitted at once: \$300.00

License Renewal: \$250.00 (There is no statutory provision for a renewal license. Consequently, every application for a license must be accompanied by the \$100.00 investigation fee.)





**Appendix 5. Written Comments of the Office of the  
Commissioner of Financial Regulation and the Banking Board**

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December 2, 2009

Department of Legislative Services  
Office of Policy Analysis  
Attn: Michael C. Rubenstein, Principal Policy Analyst  
90 State Circle  
Annapolis, Maryland 21401-1991

Re.: Sunset Review—Preliminary Evaluation of the Office of Commissioner of Financial Regulation and the Banking Board

Dear Mr. Rubenstein:

This will acknowledge our receipt of your letter dated November 17, 2009 and the draft Preliminary Evaluation of the Office of the Commissioner of Financial Regulation and the Banking Board. We have reviewed the draft and my staff has provided policy analyst Jason Weintraub with factual corrections and clarifications under separate cover.

As the draft Preliminary Evaluation aptly notes, the Office of the Commissioner of Financial Regulation (the "Office of Financial Regulation") "oversees a highly complex and constantly evolving industry involving billions of dollars and thousands of institutions." This industry is currently in the throes of a massive crisis, with significant consequences to both the safety and soundness of financial institutions and to the consumers who interact with them. The financial crisis is national—in fact global—in scope, and Maryland has not escaped its brutal effects.

In response to and in preparation for the duration and depth of the nation's current economic crisis—triggered in part by weak oversight of a securitized and complex mortgage market—the Office of Financial Regulation, in conjunction with Governor O'Malley and the Secretaries of DLLR and DHCD, prepared and directed a monumental legislative reform of Maryland's regulatory oversight of the mortgage market and the state's foreclosure laws. As the crisis has unfolded, the Office of Financial Regulation has, among other actions:

- completed more bank and non-bank examinations than ever before;
- generated record levels of fines and recoveries,



- 
- investigated a growing caseload and referred high profile cases for criminal prosecution;
  - implemented a variety of new tools such as a data reporting system for mortgage servicers;
  - substantially increased outreach to consumers including mailing over 165,000 information packages to borrowers facing foreclosure; and
  - strengthened its licensing process through conversion to the Nationwide Mortgage Licensing System (“NMLS”).

While demands for the services of the Office of Financial Regulation have increased with the financial crisis, funding streams are limited and have been declining. In general, the Office of Financial Regulation has jurisdiction over only part of the industry, yet is impacted by all. For example, most mortgages are serviced by national banks (e.g., Wells Fargo, Bank of America) which are not under the jurisdiction of the Commissioner and pay no licensing fees. Desperate and vulnerable Marylanders facing foreclosure, however, continue to reach out for assistance which the Office of Financial Regulation has sought to provide. At the same time, revenues from licensing have fallen with a decline in the number of licensees under the jurisdiction of the Commissioner and the shift to a one-year license term required as part of the NMLS conversion.

The Office of Financial Regulation has achieved significant results despite dramatic reductions in personnel, excluding bank examiners, from approximately 82 as of July 2008 to 66 today. However, the reality is that the effectiveness of the Office cannot be sustained in the future without adequate staffing levels. Moreover, the level of expertise required only increases as the complexity of financial services and regulation grows, thus creating a need for a larger number of better qualified and trained employees. We therefore suggest that the Office’s budget constraints and serious staffing situation be highlighted in the evaluation.

The Preliminary Evaluation also notes that the full evaluation should examine “the impact of proposed federal banking reforms on the depository corporate applications unit.” While wholeheartedly agreeing, we should clarify that any federal banking reforms require the passage of controversial federal legislation. While several proposals are being considered in Congress as noted, the scope and ultimately the enactment of such legislation may not be certain until the end of the Congressional session in late 2010. Moreover the significant turmoil in the financial markets generally, and the mortgage market most particularly, may limit the ability to make meaningful assessment in the immediate term. Given these factors, we respectfully suggest that your office give consideration to commencing the full evaluation after the issue of federal legislation has been resolved and the turmoil in the financial and mortgage markets has subsided.

December 2, 2009

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If you have any questions regarding this letter or the information we have sent to Mr. Weintraub, please feel free to contact Deputy Commissioner, Mark Kaufman, at (410) 230-6361 or me.

Very truly yours,



Sarah Bloom Raskin  
Commissioner of Financial Regulation

cc: Alexander M. Sanchez  
Secretary, Department of Labor, Licensing and Regulation

Karl S. Aro  
Executive Director, Department of Legislative Services