

which enacted the Financial Institutions Article, also amended this section to incorporate, without substantive change, the provisions of present Art. 58A, § 15A.

As to subsection (b) (1) (ii) of this section and the phrase "clerical error or mistake" — also appearing in § 12-313(b) (2) of this subtitle — it is unclear whether the word "clerical" is meant to modify "mistake". If so, either "error" or "mistake" can be deleted as redundant of the other. If not, the phrase should be amended to read "mistake or clerical error".

The General Assembly may wish to consider a number of other problems that remain in this section and in § 12-313 of this subtitle. For example, § 12-313(b) provides that if an amount in excess of the permitted charges is directly or indirectly contracted for, charged, or received by a licensee or a person who is exempt from licensing, the "loan contract" is "void". On the other hand, subsection (b) of this section provides that certain overcharges result in a "loan" being "unenforceable". The Commission is unaware of any practical effect of these distinctions. Further, § 12-313(b) and subsection (b) of this section seem to overlap. To avoid any inadvertent substantive change, the Commission has not attempted to resolve these problems.

12-401.

(a) In general.

In this subtitle the following words have the meanings indicated.

[(b) Commissioner. —"Commissioner" means the Bank Commissioner or deputy bank commissioner of Maryland.]

(B) [(c)] Lender.

Lender means:

(1) A licensee; or

(2) A person who makes a secondary mortgage loan but is exempt expressly from the licensing requirements of the Maryland Secondary Mortgage Loan Law—Licensing Provisions.

(C) [(d)] Licensee.

"Licensee" means a person who is licensed under the Maryland Secondary Mortgage Loan Law—Licensing Provisions.