

Passive Trusts in Maryland — Progress Regarding the Emergency Regulations

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As we reported previously (click [here](#)), the Maryland Office of Financial Regulation (“OFR”) issued emergency regulations this past January which indicated that passive trusts holding residential mortgage loans, even those used as part of securitizations, needed to hold Maryland mortgage lender licenses. On April 22, the Governor of Maryland signed the [Maryland Secondary Market Stability Act of 2025](#), which took effect that same day and clearly **excludes** passive trusts from Maryland mortgage licensing requirements.

In particular, the legislation defines a passive trust as meaning a trust established under any state’s law that meets all four of these requirements – a trust that: 1) acquires or is assigned mortgage loans, in whole or in part; 2) does not originate mortgage loans itself; 3) does not engage in mortgage brokering activities; and 4) is not engaged in mortgage servicing activities (except that it is permissible for the trust to accept and transmit payments upon instruction from the mortgage servicer).

This legislation was sorely needed to ensure that Maryland residential mortgages can continue to be included in secondary market transactions. And, the case which generated the case law that gave rise to the emergency regulations in the first place has not been appealed within the permitted timeframe, which means that there should not be additional case law that could conflict with the new legislation. Meanwhile, passive trusts that hold residential mortgage loans and are engaged in either mortgage servicing or mortgage brokering activities, **must still obtain a mortgage lender license in Maryland by July 6, 2025**, to avoid enforcement actions by the OFR.