

Written Testimony for SB781 -Rodney Dotson.pdf

Uploaded by: Dotson, Rodney

Position: FAV

“Everyone deserves the Right to live a Fulfilled Life and the Privacy to do so”

Written Testimony for SB781, House Bill 1095

Rodney Dotson

Monument Sotheby's International Realtor

BUAD Morgan State University

Balto City Resident.

Today we introduce Bill SB781. The central premise of this Bill is to ensure discrimination, whether implied or implicit, be protected against in Real Estate transactions. It also will update current measures already in place by Fair Housing Laws that govern our duties as Realtors.

At first glance, it may appear that this Bill would seem to disrupt the current system on the acquiring of real property in the state of Maryland. Our intent is not to change the system. Our intent is to give a modern and much needed update on how we protect our buyers in Real Estate transactions. The removal of the buyer name in a Real Estate transaction is simply the right thing to do. A person's name can be a direct link to their culture, ethnic makeup, familial status, and financial status. The advent of numerous social platforms in today's society has thinned layers of personal privacy. With regard to context, in today's real estate climate, several offers may be given to a seller at one time from their Realtor. It is now up to the Seller to make a decision on an offer. This happens sometimes with the guidance of a Realtor and sometimes without. Here lies the issue of the Buyer's name being noted on the contract. The chance of bias is immanent.

Many believe Maryland laid the grounds for racial discrimination pertaining to real estate, with the Baltimore City Council's passing of the Residential Segregation bill of 1910. This was the first bill of its kind in the United States to apply “government legislation to achieve systematic, citywide race separation” (A. Pietila, 23). It can be further implied that many other states adopted redlining legislative measures based on practices which started in Maryland. What better place to enact a nation shifting ordinance, than in the great state of Maryland. Again, its simply the right thing to do.

Lastly, as a lifetime resident of Baltimore City and a licensed Realtor, it truly matters where you live. As a African American male growing up in Baltimore I realized the narrow margins I escaped merely by growing up in a neighborhood that my parents could afford or were allowed to live in. Generations are affected daily with a simple Real Estate transaction. These transactions should continue to be held in high regard for the individuals they protect and affect. As a real estate professional, my duty is to uphold the laws and guidelines of Fair Housing, give my buying clients the protection and competence to buy where they can afford, and provide my clients who choose to list their homes assurance that they choose an offer that is unbiased and financially beneficial.

I urge that you pass SB781 for the continued protection that the Fair Housing Act of 1968 sought to preserve.

SB 781_ Real Property- Buyer ID Testimony.pdf

Uploaded by: Hayes, Antonio

Position: FAV

ANTONIO HAYES
Legislative District 40
Baltimore City

Finance Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Testimony of Senator Hayes in Support of Senate Bill 781: Real Property- Buyer Identification

March 2nd, 2021

Dear Chairman Smith and Members of the Judicial Proceedings Committee,

As this Assembly seeks to continue to evaluate legislation with heightened scrutiny to ensure equality and inclusion, **SB 781** is an opportunity to correct Maryland's discriminatory history when it comes to real estate transactions.

Many believe Maryland laid the grounds for racial discrimination pertaining to real estate, with the Baltimore City Council's passing of the Residential Segregation bill in 1910. This was the first bill in our country that used government legislation in order to separate races through real estate. Other states then adopted similar redlining measures based on the bill that began in Maryland. We have an opportunity to take a step in the right direction and correct the laws that have negatively impacted our marginalized communities.

SB 781 allows a buyer to mask their identity when entering into a contract of sale for a single-family residential real property that is executed with the services of a real estate broker. During a sale, a client can be identified as "Client B" and will sign documents as "Client B". The purpose of this bill is to protect people from discrimination in real estate transactions. It will also modernize the Fair Housing Laws that are already in place and continue to expand the protections afforded to our citizens.

The removal of a buyer's name in a real estate transaction protects people against discrimination. A person's name can be representative of their culture, race, familial status or other ties to their background. This can lead to bias, either explicit or implicit, in our real estate system.

Housing is an important step to social mobility and all people deserve to be treated fairly during the process of real estate transactions. Housing has a tremendous impact on the quality of

life and wellbeing of our residents. **SB 781** is a step in the right direction for the continued protection that the Fair Housing Act of 1968 sought to preserve.

Thus, I request a favorable report on **SB 781**.

Respectfully,

A handwritten signature in blue ink, appearing to read "Antonio L. Hayes", with a stylized flourish at the end.

Senator Antonio L. Hayes
40th Legislative District - MD

Support Letter SB 781 (1).pdf

Uploaded by: Martin Frazier, Julia

Position: FAV

February 26, 2021

Senator Antonio Hayes
222 James Senate Office Building
11 Bladen Street
Annapolis, MD 21401

Reference: Senate Bill 781 (House Bill 1095)

Dear Senator Hayes,

I am writing to you today in reference to my support of SB 781 (HB1095), which proposes to remove the requirement for the buyer(s) name(s) to be included on a residential contract of sale in the State of Maryland.

As a licensed Realtor, and member of the National Association of Realtors, the Association of Maryland Realtors, and The Greater Board of Baltimore Realtors, I would like to affirm the Fair Housing tenets these organizations profess and demand of their members, through support of this bill before you.

Realtors and clients must also be given concrete tools, to assure them that Fair Housing laws are implemented, and enforced. The passing of this bill would provide a concrete and tangible step towards fostering a system that encourages inclusion, and innately prevents needless opportunity for bias.

The following, taken from the front page of GBBR's website is compelling, and on point, with regard to moving forward with the bill in review:

GBBR Earnestly Supports Racial Equality and Housing Equality

To be silent is to be complicit. We stand as one with our members and our community in rejecting racism. Our identity is rooted in empowering everyone in our community. We stand for inclusion.

As the first real estate association in the country and the first organization to sign the “*Equal Opportunity in Housing*” statement with HUD, GBBR is committed to working with our local, state and federal leaders to create policies that address systemic racism and racial injustice. We will speak up against racist comments and behaviors. We pledge to proactively move towards true change.

We use our leadership to implement change: We recognize that we cannot solve a systemic problem overnight, but we are committed to making progress and to working with our elected leaders to create legislation addressing the end of this abuse and solving this systemic racism.

– GBBR Leadership Team

PERSONAL EXPERIENCE

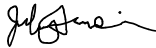
Recently, I represented clients who felt that their offer to purchase a home was not accepted due to possible discrimination. The nature and presentation of their names indicated certain race/ethnicity, familial status, or national origin. These, of course, are protected classes in the State of Maryland.

There was a competing offer on the property. Had both offers been presented without names included, the playing field would have been leveled, and the seller's decision would have had to have been made solely on criteria that did not present an opportunity for bias, implicit or otherwise.

By simply removing the necessity of including names of individuals on a contract which may, knowingly or unknowingly, sway a seller in their consideration of an offer to purchase their home, my future clients can be assured that their offer will be reviewed and evaluated fairly.

Thank you very much for taking time to consider the implications this important legislation will have for home buyers in Maryland, who run the risk of being marginalized, simply by the presentation of their very name.

Sincerely,



Julia Martin Frazier

Realtor

Monument Sotheby's International Realty

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SB781 Support Testimony.pdf

Uploaded by: Kepnes, Kimberly

Position: FWA

Testimony in Favor of SB781

Kimberly Kepnes, Monument Sotheby's International Realty

Dear Senator Hayes,

Please accept this letter of testimony in support of SB781 which proposes to remove the requirement the buyer (s) name (s) must be included in the residential contract of sale.

We have had many innovations in our real estate industry.

Technology is probably the most significantly impacting.

We started with 3-part NCR forms, moved into PDFs and now have cloud-based contract form libraries.

We have come from meeting with clients at midnight to review proposals and to collect signatures to sending documents electronically for remote review and digital authorization.

It has taken us from listing books of homes for sale available only inside individual real estate offices to multiple listing services with global syndication.

It has taken us from wondering when people will be ready to sell, to subscribing to sites which score and predict the action.

It has taken us from wondering who the buyer is, to being able to know nearly everything about them.

This is why we are here today; the knowing everything about the buyer and the buyer having no ability to protect their rights by maintaining their anonymity.

This didn't happen all at once; it has been happening gradually, with technology chipping away at our privacy.

Although this bill is the first of its kind for our real estate industry, it is not the first in the name of the protection of privacy and privacy rights.

SB781 states a buyer (s) name (s) can reveal information about their race and ethnicity which are included among federal protected classes.

And with a little digging, a name can reveal much more.

Recognizing this fact is the first step to understanding the importance of SB1095.

Our Maryland Annotated Code provides for the protection of federal and locally protected classes.

Our Realtor Code of Ethics and Maryland Real Estate Commission Standard of Practice require Realtors to promote and protect the interest of their clients and to hold confidential factors which may compromise their interests.

And if a name can reveal information which can compromise a buyer's interests in purchasing housing, should that name then not be protected and safe-guarded?

What is more precious than a name?

It is a roadmap to who we are, from where we have come, who we hold dear, what is important to us, what has happened in our lives, and what we value.

This information is not only irrelevant when it comes to decisions related to housing, it may encourage or support discriminatory decisions, implicit or otherwise.

And, given a Real Estate environment where more than one offer to purchase may be presented to a seller-client, factors other than price and term start to surface; and

Given Realtors are charged to protect the public,

Does it then not become increasingly important to hold in private a buyer (s) name (s) which can hold in it factors which might be used to compromise their interest or violate fair housing.

Interestingly, Maryland Realtors, in its December issue of the Maryland Realtor magazine made a statement to its members to explain the implications of a buyer "love letter" which is being used by consumer-buyers in an effort to make their offer stand out from other offers.

In the article, "Beware the Love Letter!", the Director of Legal Affairs for Maryland Realtors states, "Fair housing laws are intended to eliminate discrimination and ensure that anyone who is qualified can purchase real estate. A love letter can trigger implicit bias, putting a seller in the position of preferring a buyer based on a "feeling" or something that the seller "just likes" about the buyer. Accepting an offer based on anything other than the price, terms and merits of the offer might violate fair housing law. Realtors should discourage the use and consideration of buyer love letters to reduce the risk of discrimination."

SB781 to remove the requirement the buyer(s) name (s) must appear in the contract of sale will, similarly, reduce the risk of implicit bias and discrimination in housing decisions.

And if this bill cannot reach enough in the name of fair housing because of implicit bias, itself, we need only look to technology and data mining as the advances which serve to reveal compromising personal information about consumer buyers which necessitate action for their protection.

SB781 will protect and promote the privacy of our consumer buyers and will further the protection of fair housing.

Approval of this bill affirms our appreciation that buyer consumers need protection in housing and anonymity provides the path.

As technology and innovation continue to support our industry, so, too, should the innovation to protect our consumer buyers.

We will continue to conduct business as we have with SB781 approved.

Realtors will continue to represent buyers and prepare offers in their best interests.

Buyers will continue to provide pre-qualification and approval letters to verify their ability to purchase.

Sellers will continue to seek the advice of their Realtor representatives on price and terms.

What will change with SB781 approved, is the buyer (s) name (s) will be safe-guarded so the interests of our buying public can be protected.

Thank you,

Kimberly Kepnes

Kimberly Kepnes,
Senior Vice President, Monument Sotheby's International Realty
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SB 781.pdf

Uploaded by: Castelli, William

Position: UNF



Senate Bill 781 – Real Property – Residential Contract of Sale – Buyer Identification

Position: Oppose

The Maryland REALTORS® supports the intent and goal of this legislation to reduce discrimination in the homebuying process. However, the REALTORS® believe SB 781 will create unintended issues for buyers.

Specifically, SB 781 permits buyers to submit real estate offers anonymously so that a seller may not be able to discern the buyer's race, ethnicity or other protected class status. To achieve that, the bill will permit buyers to sign contract proposals as "Client A" and file with their own real estate broker a separate document that identifies them. Once a seller has reviewed the contract proposal and wants to accept it, the buyer's agent could then identify the buyer to the seller.

Our concerns with the bill follow:

- While this could prevent some sellers who would discriminate against a buyer from doing so because the seller cannot identify the buyer, there will likely be more sellers who reject the offer because they are uncomfortable signing a contract with an unidentified party. These sellers will have some offers with identified parties and some without.
- Unless, the industry can agree on a technology to obscure a signature which is then revealed upon seller acceptance, the process the bill lays out could run counter to the current process of offer and acceptance. Because the buyer does not actually sign the contract, the seller is not agreeing to a contract offer but to a proposal. The seller would then sign the proposal which then becomes the offer which the buyer may accept or reject. While some may ask what harm can result from flipping the offer and acceptance process, we believe that some buyers would use this process to make offers on multiples properties at the same time, potentially tying up properties and thus preventing sellers from accepting other bona fide offers. This would be particularly true in tight housing markets.

The state of New York recently passed a fair housing disclosure so that sellers are aware of fair housing laws as a way to address discrimination. The REALTORS® believe such a disclosure in listing agreements could help.

The REALTORS® welcome an opportunity to explore other alternatives to addressing discrimination in the homebuying process but believes this bill will result in some unintended consequences.

For more information contact bill.castelli@mdrealtor.org, susan.mitchell@mdrealtor.org, or lisa.may@mdrealtor.org

MBIA Testimony Sb 781.pdf

Uploaded by: Graf, Lori

Position: UNF

March 2, 2021

The Honorable William C. Smith Jr.
Senate Judicial Proceedings Committee
Miller Senate Office Building,
2 East Wing 11 Bladen St.,
Annapolis, MD, 21401

RE: SB 781 Real Property – Residential Contract of Sale – Buyer Identification. MBIA Opposes the Act in its current version.

Dear Chairman Smith:

The Maryland Building Industry Association, representing 1,100 member firms statewide, appreciates the opportunity to participate in the discussion surrounding SB 781 Real Property – Residential Contract of Sale – Buyer Identification. MBIA Opposes the Act in its current version.

This bill would authorize a buyer who executes a residential contract of sale for a single family residential real property with a real estate broker to be identified by a “client” designation rather than their name. MBIA respectfully opposes this measure. While we appreciate the intent of the bill is to prevent discrimination, we believe that this will have the opposite effect. In cases that there are multiple offers on a property, a buyer is more likely to select a buyer that can be identified. We support legislation that prevents discrimination but have serious concerns about this method. Additionally, we are not sure how this will logistically work considering the buyer and seller are entering in to a formal contract of sale.

For these reasons, MBIA respectfully requests the Committee give this measure an unfavorable report. Thank you for your consideration.

For more information about this position, please contact Lori Graf at 410-800-7327 or lgraf@marylandbuilders.org.

cc: Members of the Senate Judicial Proceedings Committee

SB781- MDDCCUA - Real Property – Residential Contr

Uploaded by: Murray, Rory

Position: UNF



Chairman William C. Smith
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

SB781: Real Property – Residential Contract of Sale – Buyer Identification
Testimony on Behalf of: MD|DC Credit Union Association
Position: Oppose

Chairman Smith, Vice-Chair Waldstreicher, and Members of the Committee:

The MD|DC Credit Union Association, on behalf of the 77 Credit Unions and their 2.2 million members that we represent in the State of Maryland, appreciates the opportunity to testify on this legislation. Credit Unions are member-owned, not-for-profit financial cooperatives whose mission is to educate and help members achieve financial well-being. **We respectfully oppose this bill.**

In conversations about this bill, the House sponsor told the MD|DC Credit Union Association that this bill's goal is to limit the demographic data provider to real estate sellers, from potential real estate buyers, **during the offer and bid process**. The problem being addressed is possible discrimination between a person selling real estate and a potential buyer. This all takes place well before the formal contract process begins. **As drafted, this bill does not accomplish the sponsor's goal and is very harmful to consumers.**

From a fundamental legal standpoint, a contract is an agreement between private parties creating **mutual obligations enforceable by law**. The basic elements required for the agreement to be a legally enforceable contract are mutual assent, expressed by a valid offer and acceptance; adequate consideration; capacity; and legality. **Contracts must identify a buyer against whom the contract can be enforced.** Writing "Client A" does not establish capacity of "Client A" or protect both parties in the agreement.

In the scenario contemplated in this bill, the seller and their lender would be potentially contracting with the broker, rather than the buyer. The buyer and broker would have a separate agreement establishing the identity of the buyer, but this agreement is not with the lender or seller. **In Maryland, real estate agents and brokers may generally provide "ministerial" acts, such as assisting a person (a client or a customer) to complete or fill out a contract. However, contracting on behalf of an anonymous buyer goes far beyond any reasonable interpretation of "ministerial act."**¹

¹ Md. Art. Bus. Occ. & Prof. §17-528(l)



There are various ways a party to a contract can remain anonymous (purchase through an LLC, purchase through a nominee). However, contracts entered into by these types of structures are still legally enforceable because there is an identified buyer against whom the contract can be enforced. In these scenarios, the LLC or nominee are assuming the liability of the contract. Even under these legal methods, due to the potential for litigation and risk involved, some credit unions hesitate to lend to parties who wish to purchase in a way that shields their personal identity. Consumer protection and safety and soundness issues are always the priority.

If the bill language were tailored more towards the sponsor's specific purpose we would likely be neutral.

As always, we appreciate the ability to have our voices heard and look forward to a continued partnership. Please reach out to me at jbratsakis@mddccua.org or our VP of Advocacy, Rory Murray, at rmurray@mddccua.org with comments or questions.

Thank you!

Sincerely,

A handwritten signature in blue ink, appearing to read "John Bratsakis", with a stylized flourish at the end.

John Bratsakis
President/CEO
MD|DC Credit Union Association

SB 781 Concern Letter (2021)(FINAL).pdf

Uploaded by: Wilpone-Welborn, Kira

Position: UNF

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



WILLIAM D. GRUHN
Chief
Consumer Protection Division

Writer's Fax No.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No.
410-576-6986
kwilponewelborn@oag.state.md.us

February 26, 2021

To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Kira Wilpone-Welborn
Consumer Protection Division

Re: Senate Bill 781 – Real Property – Residential Contract of Sale – Buyer Identification
(Letter of Concern)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) is concerned about unintended consequences of Senator Hayes’ Senate Bill 781, despite its admirable goals of preventing discrimination in the sale of single-family residential properties. As introduced, Senate Bill 781 would permit buyers seeking to purchase single-family homes to elect to be identified as “Client A” in a residential contract of sale when using the services of a real estate broker.

Maryland law currently has protections in place to ensure sellers do not discriminate against buyers in residential real estate transactions based upon race, color, sex, religion, handicap, familial status, or national origin.¹ However, passage of this bill authorizing buyers of residential real property to hide their identities could unintentionally facilitate unfair, abusive, or deceptive trade practices. For example, developers could seek to abuse this provision to drive down sale prices and obscure larger development plans without appropriate public oversight by entering into multiple residential contracts of sale anonymously. Likewise, this provision could be used to facilitate illegal flipping schemes or equity stripping that would cause substantial harm to consumer sellers.

The fact that the buyer in a residential real estate transaction involving single-family real property is not purchasing the house for the buyer’s own personal use, or is a shell corporation, could be a material fact that a reasonable seller would consider in deciding whether to proceed with the transaction. As written, this bill would make legal the omission of an important material

¹ Maryland Code, State Government §§ 20-704-705; and Maryland Real Estate Broker’s Act, Bus. Occ. & Prof. Art. §§ 17-525, 17-526, and 17-608.

The Honorable William C. Smith, Jr.
Senate Bill 781
February 26, 2021
Page Two

fact in such transactions impeding consumer sellers' ability to make informed decisions as to whether to ratify a residential contract of sale. Moreover, the legal and financial challenge of voiding a fully executed contract of sale in a transaction involving an anonymous buyer who entered the contract with malicious or fraudulent intent could be significant. Finally, although the bill would apply to only those buyers who chose to engage the services of a real estate broker, that fact does not negate or outweigh the potential harm to consumer sellers.

The Consumer Protection Division of the Office of the Attorney General recommends that if the Judicial Proceedings Committee were to give this bill a favorable report that it would limit the ability of a purchaser to remain anonymous in a contract of sale to individual, rather than corporate or business entity, purchasers who intend to make the single-family property their personal and primary residence.

For these reasons, the Division expresses its concerns of Senate Bill 781 to the Environment and Transportation Committee.

cc: The Honorable Antonio Hayes
Members, Judicial Proceedings Committee