HB1150 XO Letter of Support.pdf

Uploaded by: Amy Hennen
Position: FAV

Maryland
DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER OF FINANCIAL REGULATION
1100 NORTH EUTAW STREET; SUITE 611
BALTIMORE, MARYLAND 21201
ANTONIO P. SALAZAR, COMMISSIONER

March 23, 2023

Senate Finance Committee

Chair: Senator Melony Griffith
House Bill 1150 - Commercial Law and Financial Institutions - Credit Regulation - Shared Appreciation Agreements

Re: Letter of Support

In a shared appreciation mortgage transaction, a consumer homeowner agrees to share a percentage of the appreciation in the home's value with the lender in exchange for an advance of funds. The homeowner will generally not incur a periodic payment requirement but must repay the advance upon occurrence of a future event. The amount repaid will depend, in part, on how the value of the home changed since the loan's inception. Maryland's mortgage law does not explicitly address these transactions and consumers are without guidance.

This bill adds a statutory definition of "shared appreciation agreements" to Maryland law, confirming that those agreements are residential mortgage loans and that they are subject to both applicable mortgage loan laws and the regulatory authority of the OCFR, including applicable licensure requirements. Under this bill, a "shared appreciation agreement" is a transaction in which money is advanced to a consumer in exchange for (1) an equity or other interest in their residential real estate or (2) a future obligation to repay under certain circumstances, including a transfer of ownership, maturity date, borrower's death, or another outlined and explicitly agreed circumstance. This bill also confirms the Commissioner of Financial Regulation can promulgate regulations to establish a regulatory framework for these agreements and clarify certain requirements pertaining to licensing, disclosures, and other consumer protections.

This bill is intended to protect consumers from the risks inherent in these complex transactions. This confirmation will protect and benefit consumers by establishing a clear licensing and regulatory framework for oversight of transactions that may otherwise be structured to avoid disclosure and other consumer protection requirements. Further, this change confirms persons offering shared appreciation transactions are subject to the OCFR's general examination, investigation, and enforcement authority and to certain penalties for violations of the law. Industry stakeholders will also benefit from this bill as they will enjoy clearer requirements for licensing and regulatory compliance.

With that, we request a favorable Committee Report.

Queen_2023_crossfile_sharedagreements_HB1150_FIN.p
Uploaded by: Pamela Queen
Position: FAV

Pamela E. Queen
Legislative District 14
Montgomery County

Economic Matters Committee

The Maryland House of Delegates
6 Bladen Street, Room 224
Annapolis, Maryland 21401
410-841-3380 · 301-858-3380
800-492-7122 *Ext.* 3380
Fax 410-841-3266 · 301-858-3266
Pam.Queen@house.state.md.us

THE MARYLAND HOUSE OF DELEGATES
Annapolis, Maryland 21401

TESTIMONY OF DELEGATE PAM QUEEN
HB 1150 – Commercial Law and Financial Institutions – Credit Regulation – Shared Appreciation Agreements
SUPPORT

Greetings Chair Melony Griffith, Vice-Chair Katherine Klausmeier, and members of the Senate Finance Committee:

HB 1150 - Commercial Law and Financial Institutions – Credit Regulation – Shared Appreciation Agreements clarifies for consumers the practice of "shared appreciation agreements" by establishing a clear licensing and regulatory framework for oversight of these agreements, including disclosures and other consumer protections inherent in these complex transactions.

A "shared appreciation agreement" is a mortgage transaction in which a consumer homeowner agrees to share a percentage of the appreciation in the home's value with the lender in exchange for an advance of funds. The homeowner must repay the advance and the repayment amount depends on the value that the home changed since the loan's inception.

HB 1150 adds a statutory definition of "shared appreciation agreements" to Maryland law, affirming that those agreements are residential mortgage loans and that they are subject to both applicable mortgage loan laws and the regulatory authority of the Office of the Commissioner of Financial Regulation ("OCFR").

This bill is supported by the OCFR and passed unanimously in the House Chambers. I seek a favorable Committee Report for HB 1150 from the Senate Finance Committee.

HB1150_Point_Digital_Finance_Windsor-1.pdf
Uploaded by: Matthew Windsor
Position: INFO

POINT

Presentation for Maryland General Assembly HB 1150

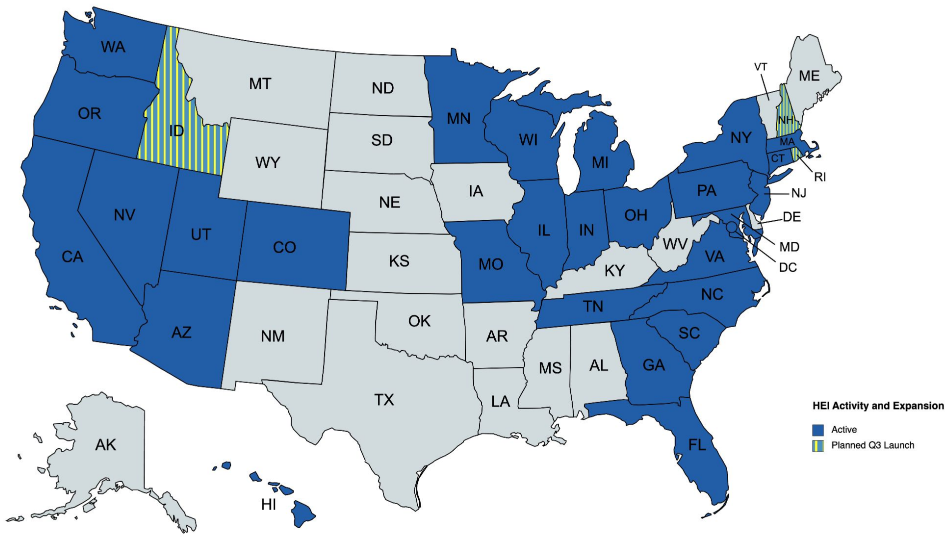
March 2023

Point Overview

- Point was founded in 2014 to help consumers who are locked out of traditional loan products due to rigid credit score and DTI requirements.

- **Home Equity Investments (HEIs)**: Point buys an option to purchase in the future a percentage of a home's equity as well as a right to a portion of the home's future appreciation over a 30-year term.

- Point offers HEIs in 26 states (with 3 more planned for Q3) and has helped more than 10,000 homeowners access the equity in their homes.



HEI Overview

HEI is a real estate option contract between a homeowner and Point. Point pays homeowner upfront for an option to purchase a share of equity in the home and a right to a portion of their home appreciation over the following 30 years.

Product features:

- Point's share of appreciation is capped.
- Point is not included on the homeowner's title and records a deed of trust to secure the homeowner's performance under the option contract.
- HEIs are non-recourse.
- No monthly payments or interest.
- Homeowners can buy back Point's option at any time with no lockout periods or early exit penalties (typical exits are refinance or voluntary sale of the home).

Customer use cases:

- Eliminate debt and reduce monthly payments
- Fund home improvement
- Fund small business

Homeowner Outcomes

- **Debt Reduction:** 17% is the median non-mortgage debt decrease for homeowners in the first month after origination, which is sustained after 3 years.[1]

- **FICO Score Improvement:** 65% of Point's homeowners see a FICO score increase post origination with a 22 point increase after 1 year, which increases to more than 30 points after 2 years.[2]

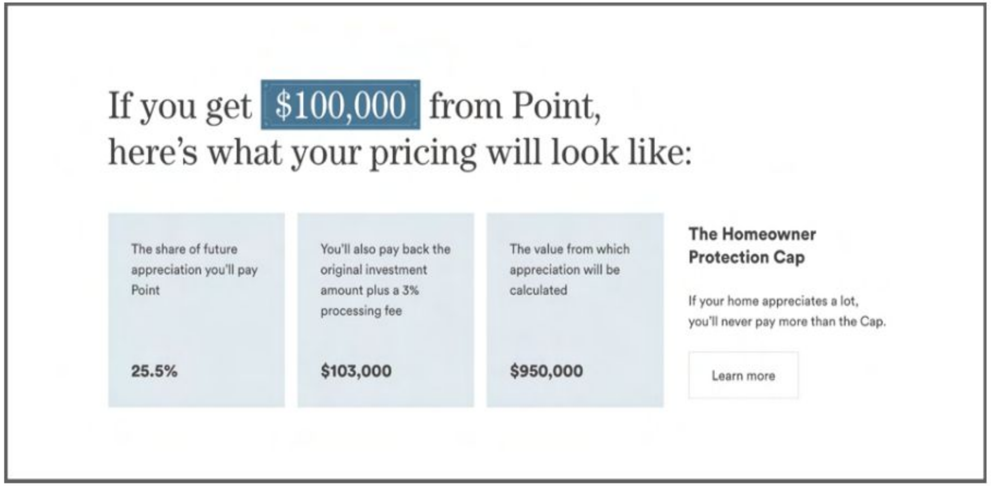
- **Access:** Point works with homeowners locked out of traditional debt financing products due to inflexible underwriting standards and rigid credit boxes.

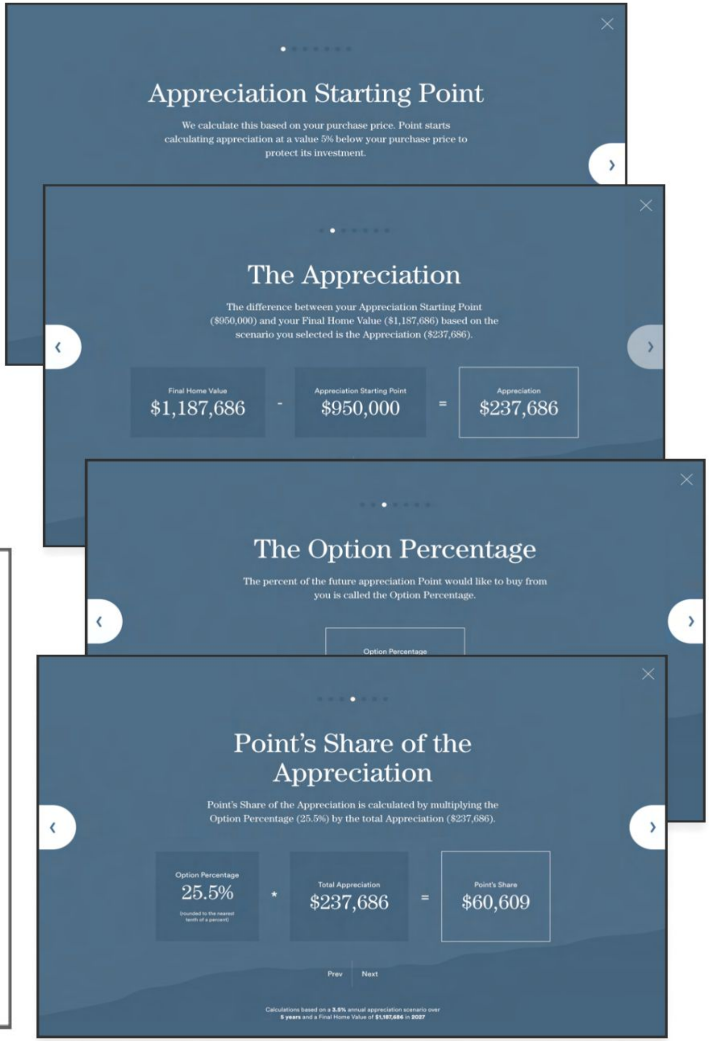
- **Alignment:** Point and its homeowners share in both the property value upside and downside. This alignment prevents the homeowner from ever being "underwater" on Point. Point has never foreclosed on a homeowner.

1. Based on all HEIs that Point originated from 8/5/15 - 1/16/23. Point aggregated the respective total non-mortgage debt figures by finding the sum of the remaining balance amounts across all accounts tagged as open, revolving, or installment from monthly credit pulls. These non-mortgage debt figures are organized for each HEI by number of months since origination. For each total non-mortgage debt balance figure, Point found the difference between that debt figure and the total non-mortgage debt figure at origination, which was used to determine the percent change in non-mortgage debt in each month as compared to at origination. Point then took the median of these percent differences for each number of months to find the median change in non-mortgage debt over time.
2. Based on all HEIs that Point originated from 8/5/15 - 1/16/23. At origination, Point takes the median credit score based on data from all 3 credit bureaus. Post-origination, Point pulls credit data from Equifax on a monthly basis. Point calculated the credit score change by comparing the applicable month's post-origination credit score with the score at origination.

Upfront Pricing for Customers

- Point's interactive calculator is presented to customers from the prequal stage through the closing stage.
- The calculator takes customers through the cost calculations step-by-step and allows them to view different appreciation scenarios and corresponding cost.

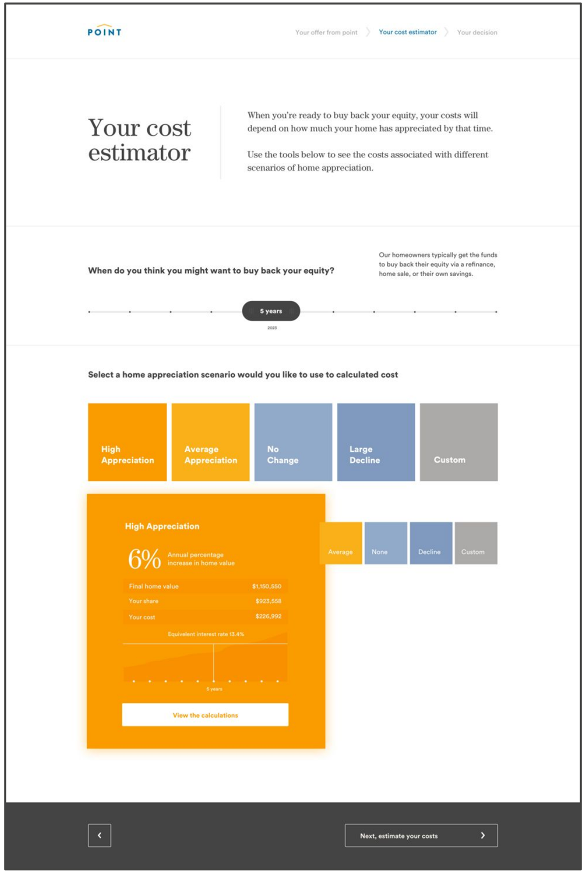




Point Educates Homeowners both Pre- and Post-Funding

Pre-funding processes

- **Homeowner communication**:
  - 20 minute Point overview
  - Signing and documents summary video w/ follow-up if requested
  - Plus ad-hoc calls as needed
- **Point Calculator** models various exit scenarios for homeowner, adjustable for home appreciation and time-to-exit assumptions
- **Closing Disclosures** provide clear and detailed information on pricing, payback structure, and opportunity for discussion



Point Educates Homeowners both Pre- and Post-Funding

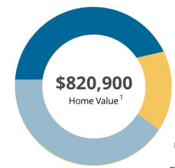
Post-funding resources

- **Partnership with Balance** provides free credit counseling and financial health programs to all our homeowners
- **Quarterly statements** provide update on effective cost of Point, under various scenarios of appreciation and expected exit term
- **Ongoing access to Point representatives** encourages communication on financial health, and fosters relationship of trust and alignment between Point and homeowner

POINT www.point.com
P.O. Box 192 , Palo Alto, CA 94302
Customer Service: 1-888-764-6823

MAILING ADDRESS	PROPERTY ADDRESS
1822 Eddy St, Unit 201 San Francisco, CA 94115	1822 Eddy St, Unit 201 San Francisco, CA 94115
OWNERS Jessie Brothers and Martin Brothers	**POINT ID** 2016546-ERTYU

Your Home Equity Update
QUARTER 4: OCTOBER 2017 - DECEMBER 2017



$355,633 Your Equity

$367,900 Mortgage Balance [2]

$97,367 Point's Equity as of 12/15/18 [3]

The above values are estimates only.

Estimated Home Value

ESTIMATING AGENCY		ESTIMATE	90 DAY CHANGE	CHANGE TO DATE
POINT	Point	$820,900	+ 0.2%	+ 0.6%
Zillow	Zillow (Zestimate®)	$873,500	+ 1.4%	+ 7.1%
REDFIN	Redfin	$902,000	+ 2.9%	+ 10.6%

Point Agreement Terms	
Effective Date	July 28, 2017
Expiration Date	July 27, 2027
Investment Payment	$65,000
Option Percentage	25.8556%
Cap Factor	16.0%
Risk Adjustment	14.8%
Original Agreed Value	$785,000

Past Appraisals	
June 14, 2017	$815,857

Based on these estimates, if you were to buy out Point on January 15, 2018, your cost would be between:

$92,367 - $102,367 [3]

If you're ready to buy out Point, call our servicer Roundpoint at **1-877-426-8805**. Your Roundpoint account # is 201234567.

This is not a bill. There is nothing due at this time.

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Consumer Protection Highlights

- **Transparent Application Flow:** Homeowners can view preliminary terms and repayment scenarios online and without cost.
- **Model Disclosures:** All required state and federal disclosures are provided during the application. If state or federal requirements are silent, Point relies on best practices and consumer protection law and regulation for guidance.
- **Right to Cancel:** Point offers a 3-day right to cancel in the event a homeowner changes their mind.
- **Point Proceeds Cap:** Point establishes a maximum amount a homeowner will owe no matter how much value the home may increase by.
- **Downside Sharing:** If a home decreases in value, a homeowner may end up paying Point less than the original investment amount.
- **Counseling Services:** Homeowners are offered counseling services free of charge.

Regulatory Overview

Product Classification

- HEI is an option agreement and a real estate instrument which is *excluded* from coverage under TILA - §1026.2(a)(14) Official Interpretations 1-vii & viii.

Federal Regulation

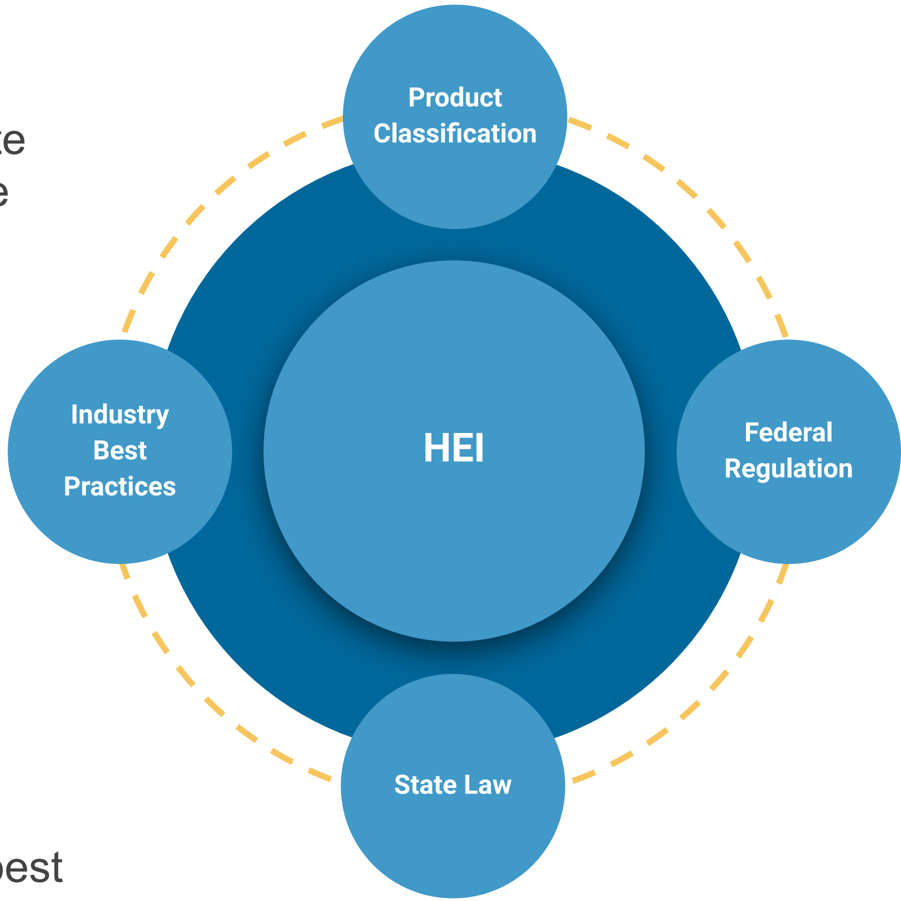
- ECOA, FCRA, eSign, BSA/AML, UDAAP, GLBA, TCPA

State Law*

- Real Estate Law, General Contract Law, Anti-Discrimination, UDAP, Privacy

Industry Best Practices

- Follow consumer protection guidance and best practices where law or regulation is silent



*In states where Point offers HEI as a licensed product (e.g. CT, GA, and MD), all applicable mortgage-related laws and regulations are also in scope.

Contact Information

Matthew Windsor
Associate General Counsel
mwindsor@point.com

Oral Testimony to MD Senate Finance Committee - 20
Uploaded by: Matthew Windsor
Position: INFO

Thank you Chair Griffith and Vice Chair Klausmeier and members of the Committee for the opportunity to comment on HB 1150 concerning the regulation of Shared Appreciation Agreements. My name is Matthew Windsor, and I am Associate General Counsel at Point Digital Finance. We are the nation's leading issuer of shared appreciation agreements, having helped over 10,000 homeowners access the equity in their homes nationwide.

As proposed, HB 1150 makes explicit that shared appreciation agreements are subject to regulation as a type of residential mortgage loan. This would require companies like Point to become licensed mortgage lenders, require compliance with Maryland lending laws and subject them to regulation by the Commissioner of Financial Regulation. I am proud to share that Point has already been in compliance with these requirements for quite some time. We believe that we are the first, and to date only, shared appreciation agreement company to be licensed by the Commissioner. We have worked closely with the Commissioner and his Office to ensure that our product complies with Maryland law and we expect that productive relationship to continue.

In general, Point is supportive of measures taken by state regulators and legislatures to enhance consumer protections and clarify the regulatory treatment of shared appreciation agreements. Point also believes it is important to acknowledge the differences in structure between shared appreciation agreements and classic mortgages. For example, our product does not have an interest rate or monthly payments, so regulations requiring rate or payment disclosures should be modified to accommodate these consumer friendly terms. Additionally, the industry participants in the shared appreciation agreement space are not a monolith and product features can vary significantly from company to company. For instance, we include a downside sharing provision that may allow for repayment for an amount less than the original investment amount.

This bill's inclusion of provisions allowing the CFR to promulgate regulations regarding enforcement and compliance should be exercised with that flexibility in mind. To that end, we remain committed to working with the Commissioner and providing him with industry insight to ensure that this important product remains available to Maryland consumers.

Thank you again for the opportunity to comment on HB 1150. Please let me know if I can be of further assistance to the Committee regarding this matter.

HB 1150 - Shared Appreciation Agreements - Letter
Uploaded by: Steven Sakamoto-Wengel
Position: INFO

ANTHONY G. BROWN
Attorney General

CANDACE MCLAREN LANHAM
Chief of Staff

CAROLYN QUATTROCCHI
Deputy Attorney General

WILLIAM D. GRUHN
Chief
Consumer Protection Division

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Fax No.

Writer's Direct Dial No.
(410) 576-6307

March 23, 2023

To: The Honorable Melony Griffith, Chair
Finance Committee

From: Steven M. Sakamoto-Wengel
Consumer Protection Counsel for Regulation, Legislation and Policy

Re: House Bill 1150 – Commercial Law and Financial Institutions – Credit Regulation - Shared Appreciation Agreements (LETTER OF INFORMATION)

The Consumer Protection Division of the Office of the Attorney General submits the following letter of information concerning House Bill 1150, sponsored by Delegate Queen, which would subject "shared appreciation agreements" to the Maryland Mortgage Lender Law and other laws governing the extension of credit to consumers. Shared appreciation agreements are mortgage loans in which the borrower agrees to pay the lender a percentage of the home's appreciation upon sale or other transfer of the home in exchange for either no interest or lower interest payments during the life of the loan.

Reports about shared appreciation mortgages indicate that they were often taken out by vulnerable homeowners facing foreclosure or in desperate need of cash and that the terms of the loan were often not fully explained to the borrower. Consequently, upon sale of the home or death of the homeowner, the owner or the owner's heirs were often surprised to learn that most or all of a home's appreciation was paid to the lender. *See, e.g.* "Protesters say new mortgages designed to prevent foreclosure trap them in debt." www.wgbh.org/news/local-news/2022/06/15 (June 15, 2022).

House Bill 1150 would expressly subject "shared appreciation agreement" mortgages to Maryland's lending laws and provide the Commissioner of Financial Regulation additional tools to regulate such loans. However, the Consumer Protection Division notes that these loans are currently subject to Maryland's laws governing lending, mortgages and predatory practices, whether or not they are expressly identified under Maryland law as set forth in House Bill 1150 and any predatory or deceptive practices by the lenders would currently be subject to enforcement by the Division and the Commissioner.

Accordingly, the Consumer Protection Division requests that the Finance Committee take the above information into consideration as it reviews House Bill 1150.

cc: The Honorable Pamela Queen
The Honorable Antonio P. Salazar
Members, Finance Committee