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To: Members of the Senate Budget & Taxation Committee
From: MLTA Legislative Committee
Date: March 10, 2025 [Hearing date: March 12, 2025]
Subject: **SB 1045** – Sales and Use Tax – Taxable Business Services - Alterations
Position: **Unfavorable**

The Maryland Land Title Association (MLTA) is a professional organization working on behalf of title industry service providers and consumers and is comprised of agents, abstractors, attorneys, and underwriters. **MLTA is opposed to Senate Bill 1045 – Sales and Use Tax – Taxable Business Services - Alterations.**

Initially, we note that “business entity” is an undefined term in the statute, so it is unclear exactly to whom these taxes may apply. For example, will non-profits such as this organization be required to pay sales tax on the business services it uses? In Maryland, legislative ambiguity can lead to legal challenges, particularly when statutes lack clear definitions or specific applications. Courts may interpret such ambiguity as a violation of due process, as individuals and entities must have adequate notice of what the law requires or prohibits. If a law is deemed unconstitutionally vague, it can be invalidated or its enforcement limited.

The outcome of the imposition of a tax such as this is that Maryland’s real estate closing costs, already among the highest in the nation, will rise, even for individual consumers. A real estate closing involves multiple parties providing numerous distinct services. The settlement agent, which is rarely a sole proprietor, and thus, would presumably be a “business entity” under the statute, obtains services from abstractors, surveyors, inspectors and others for the purpose of closing the transaction. Seemingly, these services are subject to the taxes contemplated by HB 1554/SB 1045, even when the purchaser of the real property in question is an individual consumer. As such, the 2.5% tax on these services will be passed along to the consumer, further increasing the cost of housing in the State.

Maryland is already viewed as having an unfriendly business environment. Increasing the costs of doing business in the State by imposing taxes on the services businesses use, such as legal services, accounting, advertising, etc. will only harden that view. And taxes such as these are not imposed in our adjoining states of Pennsylvania, Delaware, Virginia, West Virginia and the District of Columbia.

With digitized land records, settlement software available through the cloud, the wiring of funds and remote online notarization, a settlement transaction does not have to physically take place in Maryland even if the sellers and buyers never leave the State. Title insurance producers, abstractors, surveyors, and others located in states other than Maryland will not be subject to this tax, encouraging both residential and commercial customers to use out-of-state providers. This means that Maryland may not only lose the 2.5% tax, but the resulting income tax revenue currently generated by the in-state title industry.

Most real estate closings involve the purchase of Title Insurance. It is not at all clear whether these taxes would be extended to Title Insurance, which is already subject to a premium tax. Double taxation of title insurance premiums would likely cause insurers to flee the Maryland market as the sale of such insurance would not longer be profitable. In the best case, title insurance premiums would be raised to cover the additional taxation, once again, negatively impacting the Maryland consumer.

For the forgoing reasons, MLTA asks for an unfavorable report on SB 1045.