

BY: Commerce and Government Matters Committee

AMENDMENTS TO HOUSE BILL NO. 1439

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “Delegate Curran” and substitute “Delegates Curran and Faulkner”.

AMENDMENT NO. 2

On page 1, in line 7, strike “Consumer Credit” and substitute “Financial Regulation”; strike beginning with “permitting” in line 13 down through “property” in line 18 and substitute “increasing the ceiling on the points and other fees that certain lenders in the State may charge when offering credit to certain consumers in the State; clarifying that under certain circumstances a mortgage broker is not an agent or fiduciary of the borrower; requiring certain disclosures to consumer borrowers explaining a mortgage broker’s responsibilities; clarifying that mortgage brokers may not enter into exclusive dealing contracts with borrowers; establishing a Task Force to Examine the Mortgage Lending Business; specifying the purpose and responsibilities of the Task Force; requiring the Task Force to report to certain committees and certain persons by a certain date; providing for the composition of the Task Force”; and in line 34, after “11-506.1” insert “and 11-521.1”.

On page 2, in line 5, after “12-903(a)” insert “, 12-905(e),”.

AMENDMENT NO. 3

On page 4, in line 6, strike “1. Engages” and substitute “ENGAGES”.

On page 5, in line 15, strike “(B)(11)(II)” and substitute “(C)”.

On page 6, in line 19, strike “SUBPARAGRAPH (II) OF THIS PARAGRAPH” and substitute “SUBSECTION (C) OF THIS SECTION”.

On page 7, in line 4, strike “SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT” and

(Over)

substitute “SUBSECTION (B)(11) OF THIS SECTION”.

On page 14, after line 1, insert:

“(e) For purposes of this section, the additional charges listed in subsections (a), (b), [(f), and (g)] AND (F) of this section are not interest or finance charges with respect to a plan.”.

AMENDMENT NO. 4

On page 11, after line 37, insert:

“(G) THE COMMISSIONER MAY ADOPT REGULATIONS REASONABLY NECESSARY TO ASSURE THAT THE PROPER SURETY BOND AMOUNT ESTABLISHED BY THIS SECTION IS MAINTAINED BY EACH LICENSEE THROUGHOUT EACH LICENSING TERM. THE REGULATIONS MAY PROVIDE FOR PERIODIC REPORTING, RECALCULATION, AND ENFORCEMENT OF REQUIRED BOND AMOUNTS.”.

AMENDMENT NO. 5

On page 12, after line 34, insert:

“11-521.1.

(A) A PERSON ACTING AS A MORTGAGE BROKER SHALL INCLUDE A DISCLOSURE STATEMENT, SUBSTANTIALLY SIMILAR TO THE FOLLOWING, IN THE WRITTEN BROKER AGREEMENT REQUIRED BY § 12-805 OF THE COMMERCIAL LAW ARTICLE:

THIS AGREEMENT SETS FORTH THE SERVICES TO BE PROVIDED BY (LICENSEE NAME) TO YOU AS ITS CUSTOMER. (LICENSEE NAME) CAN OFFER YOU ACCESS TO ONE OR MORE MORTGAGE PROGRAMS AVAILABLE TO (LICENSEE NAME) FROM THIRD PARTY LENDING SOURCES. (LICENSEE NAME) CAN ASSIST YOU IN CHOOSING FROM THESE OPTIONS A LOAN PRODUCT SUITABLE FOR YOUR INDIVIDUAL REQUIREMENTS. (LICENSEE NAME) IS NOT CONSIDERED YOUR AGENT UNDER MARYLAND LAW. FEDERAL AND STATE LAWS AND REGULATIONS GOVERN THE CONDUCT OF MORTGAGE BROKERS. (LICENSEE NAME) WILL MAKE A DILIGENT EFFORT TO SECURE THE LOAN TERMS, INCLUDING, BUT NOT LIMITED TO, INTEREST RATE, THAT YOU HAVE APPLIED FOR. HOWEVER, (LICENSEE NAME) CANNOT GUARANTEE

YOUR ACCEPTANCE INTO ANY PARTICULAR LOAN PROGRAM. MORTGAGE BROKERS ARE REQUIRED BY LAW TO REFUND THE ENTIRE BROKER OR FINDER'S FEE CHARGED IF FOR ANY REASON THE BORROWER DOES NOT CLOSE THE LOAN OR IF THE BORROWER RESCINDS THE LOAN TRANSACTION UNDER THE FEDERAL TRUTH-IN-LENDING ACT. IT IS LEGAL FOR YOU TO CONSULT WITH MORE THAN ONE MORTGAGE BROKER. IF YOU ARE NOT SATISFIED WITH THE TERMS OFFERED, YOU DO NOT HAVE TO ACCEPT THE LOAN AND YOU WILL NOT OWE (LICENSEE NAME) ANY BROKER OR FINDERS FEE WHATSOEVER. THE ANNUAL PERCENTAGE RATE SET FORTH IN YOUR TRUTH-IN-LENDING ACT DISCLOSURE STATEMENT INCLUDES THE BROKER OR FINDERS FEE. CONSUMERS ARE ADVISED TO COMPARE SERVICES AND COSTS BEFORE MAKING A SELECTION.

(B) THE DISCLOSURE REQUIRED UNDER THIS SECTION SHALL BE AT LEAST AS CONSPICUOUS AS OTHER PROVISIONS IN THE BROKER AGREEMENT, BUT NOT LESS THAN 10-POINT TYPE.

(C) A LICENSEE WHO MAKES THE DISCLOSURE REQUIRED UNDER THIS SECTION IS NOT DEEMED TO BE THE AGENT OR A FIDUCIARY OF THE BORROWER.

(D) A PROVISION IN ANY AGREEMENT BETWEEN A MORTGAGE BROKER AND A BORROWER THAT PURPORTS TO RESTRICT THE BORROWER FROM APPLYING FOR A LOAN WITH ANOTHER LENDER OR MORTGAGE BROKER IS VOID.

(E) NOTHING IN THIS SECTION SHALL BE INTERPRETED TO PREVENT AN INDIVIDUAL FROM PURSUING AN ACTION AGAINST A MORTGAGE BROKER FOR:

(1) BREACH OF CONTRACT;

(2) VIOLATION OF ANY FEDERAL OR STATE LAW GOVERNING MORTGAGE BROKERS; OR

(3) VIOLATION OF THE MARYLAND CONSUMER PROTECTION ACT.”.

(Over)

AMENDMENT NO. 6

On page 14, after line 24, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) There is a Task Force to Examine the Mortgage Lending Business.

(b) The Task Force consists of the following 15 members:

(1) Two members of the Senate of Maryland, appointed by the President of the Senate;

(2) Two members of the House of Delegates, appointed by the Speaker of the House;

(3) The Commissioner of Financial Regulation in the Department of Labor, Licensing, and Regulation, or the Commissioner’s designee;

(4) One representative of the Attorney General’s Office, designated by the Attorney General; and

(5) Nine members appointed jointly by the President of the Senate and the Speaker of the House of Delegates as follows:

(i) Two representatives of the mortgage loan industry who are actively engaged in the business of making mortgage loans, who may be selected from a list of names submitted by the Maryland Mortgage Bankers Association;

(ii) Two representatives of the mortgage loan industry who are actively engaged in the business of mortgage brokering, who may be selected from a list of names submitted by the Maryland Association of Mortgage Brokers;

(iii) One representative of the banking industry who is actively engaged in the

banking, savings banking, or savings association business, who may be selected from a list of names submitted by the Maryland Bankers Association;

(iv) Two representatives of financial services companies who are actively engaged in the business of mortgage secured consumer loans, who may be selected from a list of names submitted by the Maryland Financial Services Association; and

(v) Two members at-large, including:

1. One member who is affiliated with a recognized consumer protection group or agency; and

2. One other consumer member.

(c) The President of the Senate and the Speaker of the House of Delegates shall each appoint a co-chairman of the Task Force.

(d) Staff support for the Task Force shall be provided by the Department of Fiscal Services and the Department of Legislative Reference.

(e) The purpose and responsibilities of the Task Force are to:

(1) Examine the incidence and scope of fraudulent practices by originators of loans which involve falsification of loan underwriting information and documents;

(2) Examine the effectiveness and enforcement of the laws of Maryland, in light of applicable federal laws and programs, to combat fraudulent practices in the mortgage origination industry, including practices undertaken solely for the benefit of the originator;

(3) Examine possible efforts to combat fraudulent practices, including the licensing of individual loan officers and additional disclosure requirements; and

(Over)

(4) Examine any other issue pertaining to the business of mortgage lending or brokering that the Task Force identifies as warranting examination.

(f) The Task Force shall develop recommendations and propose legislative, regulatory, and other changes required to implement the recommendations.

(g) On or before December 1, 1997, the Task Force shall submit a report on its findings and recommendations to:

(1) The Senate Finance Committee and the House Commerce and Government Matters Committee; and

(2) The Governor and, subject to the provisions of § 2-1312 of the State Government Article, the General Assembly.

(h) The members of the Task Force may not receive compensation but are entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(i) The Task Force shall terminate on January 31, 1998.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 1997.”.

AMENDMENT NO. 7

On page 14, in line 25, strike “2.” and substitute “4.”; and in the same line, after “That” insert “; except as provided in Section 2 of this Act.”.