

SENATE BILL 90

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II

1998 Regular Session  
8lr0732

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By: **Senator Astle**

Introduced and read first time: January 16, 1998

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Mortgage Brokers - Insurance Agents - Collection of a Finder's Fee**

3 FOR the purpose of authorizing a mortgage broker who acts also as an insurance  
4 agent in arranging or procuring insurance for the subject property or  
5 transaction to collect a finder's fee if the mortgage broker provides a certain  
6 written disclosure to the borrower under certain circumstances; requiring the  
7 written disclosure to contain certain statements and to be made before a certain  
8 time; and generally relating to the collection of a finder's fee by a mortgage  
9 broker who acts also as an insurance agent under certain circumstances.

10 BY repealing and reenacting, without amendments,  
11 Article - Commercial Law  
12 Section 12-801(c) and (e) and 12-805(d)  
13 Annotated Code of Maryland  
14 (1990 Replacement Volume and 1997 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article - Commercial Law  
17 Section 12-808  
18 Annotated Code of Maryland  
19 (1990 Replacement Volume and 1997 Supplement)

20 BY repealing and reenacting, without amendments,  
21 Article - Financial Institutions  
22 Section 11-501(j)(1)  
23 Annotated Code of Maryland  
24 (1992 Replacement Volume and 1997 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, That the Laws of Maryland read as follows:

1

**Article - Commercial Law**

2 12-801.

3 (c) "Finder's fee" means any compensation or commission directly or indirectly  
4 imposed by a broker and paid by or on behalf of the borrower for the broker's services  
5 in procuring, arranging, or otherwise assisting a borrower in obtaining a loan or  
6 advance of money.

7 (e) "Mortgage broker" means a person defined as a mortgage lender under §  
8 11-501(j)(1)(i) of the Financial Institutions Article.

9 12-805.

10 (d) A finder's fee may not be charged unless it is pursuant to a separate  
11 written agreement between the broker and borrower which is distinct from the loan  
12 agreement. The terms of the proposed agreement shall be disclosed to the borrower  
13 before the broker undertakes to assist the borrower in obtaining a loan or advance of  
14 money and shall specify the amount of the finder's fee.

15 12-808.

16 (A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A  
17 licensed real estate broker, insurer, salesman, attorney-at-law, or agent thereof who  
18 arranges or procures a mortgage may not collect a finder's fee if, in addition to acting  
19 as broker under this subtitle, he is also acting as a real estate broker, insurer,  
20 salesman, attorney-at-law, or agent thereof in connection with the subject property  
21 or transaction.

22 (B) (1) A MORTGAGE BROKER WHO ACTS ALSO AS AN INSURANCE AGENT IN  
23 ARRANGING OR PROCURING INSURANCE FOR THE SUBJECT PROPERTY OR  
24 TRANSACTION MAY COLLECT A FINDER'S FEE IF THE MORTGAGE BROKER PROVIDES  
25 A WRITTEN DISCLOSURE TO THE BORROWER AS PROVIDED IN PARAGRAPH (2) OF  
26 THIS SUBSECTION.

27 (2) THE WRITTEN DISCLOSURE TO THE BORROWER:

28 (I) SHALL STATE THAT THE MORTGAGE BROKER MAY COLLECT A  
29 FINDER'S FEE IN ADDITION TO ANY COMPENSATION THAT THE MORTGAGE BROKER  
30 MAY RECEIVE AS AN INSURANCE AGENT FOR ARRANGING OR PROCURING  
31 INSURANCE IN CONNECTION WITH THE SUBJECT PROPERTY OR TRANSACTION;

32 (II) SHALL STATE THAT THE BORROWER IS NOT REQUIRED TO HIRE  
33 OR UTILIZE THE SERVICES OF THE MORTGAGE BROKER AS A CONDITION TO  
34 OBTAINING INSURANCE;

35 (III) SHALL BE MADE BEFORE THE MORTGAGE BROKER  
36 UNDERTAKES TO ASSIST THE BORROWER IN OBTAINING A MORTGAGE; AND

1 (IV) MAY BE INCLUDED IN THE SEPARATE WRITTEN AGREEMENT  
2 PROVIDED UNDER § 12-805(D) OF THIS SUBTITLE.

3 **Article - Financial Institutions**

4 11-501.

5 (j) (1) "Mortgage lender" means any person who:

6 (i) Is a mortgage broker;

7 (ii) Makes a mortgage loan to any person; or

8 (iii) 1. Engages in whole or in part in the business of servicing  
9 mortgage loans for others; or

10 2. Collects or otherwise receives payments on mortgage loans  
11 directly from borrowers for distribution to any other person.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 1998.