

SENATE BILL 90

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II

1998 Regular Session
8lr0732
CF 8lr2364

By: **Senator Astle**
Introduced and read first time: January 16, 1998
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 10, 1998

CHAPTER _____

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; providing that certain violations of this Act shall be deemed to be
9 violations of law relating to insurance for which the Maryland Insurance
10 Commissioner may take certain disciplinary actions; providing for the
11 termination of this Act; and generally relating to the collection of a finder's fee
12 by a mortgage broker who acts also as an insurance agent under certain
13 circumstances.

14 BY repealing and reenacting, without amendments,
15 Article - Commercial Law
16 Section 12-801(c) and (e) and 12-805(d)
17 Annotated Code of Maryland
18 (1990 Replacement Volume and 1997 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Commercial Law
21 Section 12-808
22 Annotated Code of Maryland
23 (1990 Replacement Volume and 1997 Supplement)

24 BY repealing and reenacting, without amendments,

1 Article - Financial Institutions
2 Section 11-501(j)(1)
3 Annotated Code of Maryland
4 (1992 Replacement Volume and 1997 Supplement)

5 BY adding to
6 Article - Insurance
7 Section 27-216(f)
8 Annotated Code of Maryland
9 (1997 Volume)

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

12 **Article - Commercial Law**

13 12-801.

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

18 (e) "Mortgage broker" means a person defined as a mortgage lender under §
19 11-501(j)(1)(i) of the Financial Institutions Article.

20 12-805.

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

26 12-808.

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

33 (B) (1) A MORTGAGE BROKER WHO ACTS ALSO AS AN INSURANCE AGENT IN
34 ARRANGING OR PROCURING INSURANCE FOR THE SUBJECT PROPERTY OR
35 TRANSACTION MAY COLLECT A FINDER'S FEE FOR SERVICES PERFORMED AS A
36 MORTGAGE BROKER IF THE MORTGAGE BROKER PROVIDES A WRITTEN DISCLOSURE
37 TO THE BORROWER AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION.

1 (2) THE WRITTEN DISCLOSURE TO THE BORROWER:

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

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

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

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

13 (3) A VIOLATION OF THIS SUBSECTION SHALL BE DEEMED TO BE A
14 VIOLATION OF A LAW THAT RELATES TO INSURANCE FOR PURPOSES OF § 10-126 OF
15 THE INSURANCE ARTICLE RELATING TO THE AUTHORITY OF THE MARYLAND
16 INSURANCE COMMISSIONER TO DENY, SUSPEND, REVOKE, OR REFUSE TO RENEW A
17 CERTIFICATION OF QUALIFICATION OF AN INSURANCE AGENT.

18 **Article - Financial Institutions**

19 11-501.

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

21 (i) Is a mortgage broker;

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

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

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

27 **Article - Insurance**

28 27-216.

29 (F) AN INSURANCE AGENT IN ARRANGING OR PROCURING INSURANCE FOR A
30 SUBJECT PROPERTY OR TRANSACTION MAY COLLECT A FINDER'S FEE FOR ACTING
31 AS A MORTGAGE BROKER AS AUTHORIZED UNDER § 12-808 OF THE COMMERCIAL LAW
32 ARTICLE.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1998. It shall remain effective for a period of 3 years and, at the end of

- 1 September 30, 2001, with no further action required by the General Assembly, this
- 2 Act shall be abrogated and of no further force and effect.