

HOUSE BILL 973

Unofficial Copy  
II  
SB 90/98 - FIN

1999 Regular Session  
9lr2370  
CF SB 347

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By: **Delegates Benson and Dobson**

Introduced and read first time: February 12, 1999

Assigned to: Economic Matters

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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; 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 under certain  
11 circumstances; providing for the termination of this Act; and generally relating  
12 to the collection of a finder's fee by a mortgage broker who acts also as an  
13 insurance agent.

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 1998 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 1998 Supplement)

24 BY repealing and reenacting, without amendments,  
25 Article - Financial Institutions  
26 Section 11-501(j)(1)  
27 Annotated Code of Maryland  
28 (1998 Replacement Volume and 1998 Supplement)

29 BY adding to

1 Article - Insurance  
2 Section 27-912  
3 Annotated Code of Maryland  
4 (1997 Volume and 1998 Supplement)

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

7 **Article - Commercial Law**

8 12-801.

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

13 (e) "Mortgage broker" means a person defined as a mortgage lender under §  
14 11-501(j)(1)(i) of the Financial Institutions Article.

15 12-805.

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

21 12-808.

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

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

33 (2) THE WRITTEN DISCLOSURE TO THE BORROWER SHALL:

34 (I) STATE THAT THE MORTGAGE BROKER MAY COLLECT A  
35 FINDER'S FEE IN ADDITION TO ANY COMPENSATION THAT THE MORTGAGE BROKER  
36 MAY RECEIVE AS AN INSURANCE AGENT FOR ARRANGING OR PROCURING  
37 INSURANCE IN CONNECTION WITH THE SUBJECT PROPERTY OR TRANSACTION;

1 (II) STATE THAT THE BORROWER IS NOT REQUIRED TO HIRE OR  
2 UTILIZE THE SERVICES OF THE MORTGAGE BROKER AS A CONDITION TO OBTAINING  
3 INSURANCE;

4 (III) BE MADE BEFORE THE MORTGAGE BROKER UNDERTAKES TO  
5 ASSIST THE BORROWER IN OBTAINING A MORTGAGE; AND

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

8 (3) A VIOLATION OF THIS SUBSECTION SHALL BE DEEMED TO BE A  
9 VIOLATION OF A LAW THAT RELATES TO INSURANCE UNDER § 10-126 OF THE  
10 INSURANCE ARTICLE CONCERNING THE AUTHORITY OF THE MARYLAND INSURANCE  
11 COMMISSIONER TO DENY, SUSPEND, REVOKE, OR REFUSE TO RENEW A  
12 CERTIFICATION OF QUALIFICATION OF AN INSURANCE AGENT.

### 13 Article - Financial Institutions

14 11-501.

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

16 (i) Is a mortgage broker;

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

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

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

### 22 Article - Insurance

23 27-912.

24 AN INSURANCE AGENT IN ARRANGING OR PROCURING INSURANCE FOR A  
25 SUBJECT PROPERTY OR TRANSACTION MAY COLLECT A FINDER'S FEE FOR ACTING  
26 AS A MORTGAGE BROKER AS AUTHORIZED UNDER § 12-808 OF THE COMMERCIAL LAW  
27 ARTICLE.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 1999. It shall remain effective for a period of 3 years and, at the end of  
30 September 30, 2002, with no further action required by the General Assembly, this  
31 Act shall be abrogated and of no further force and effect.