
By: **Senators Dorman and Astle**
Introduced and read first time: February 5, 1999
Assigned to: Finance

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.