
By: **Delegates Franchot and Hixson**

Introduced and read first time: February 8, 2002

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Residential Real Property - Right of Purchaser to Renew Existing Title**
3 **Insurance Policy**

4 FOR the purpose of requiring that certain lenders provide certain prospective
5 borrowers with certain notice of the borrower's ability to renew the existing title
6 insurance policy under certain conditions; prohibiting certain lenders from
7 requiring under certain circumstances that certain borrowers employ a
8 particular title insurance company if the borrower notifies the lender of certain
9 information in a certain manner; authorizing certain lenders to collect from
10 certain borrowers certain title insurance premiums for certain title insurance
11 policies; prohibiting certain credit grantors from requiring under certain
12 circumstances that certain consumer borrowers employ a particular title
13 insurance company if the consumer borrower notifies the lender of certain
14 information in a certain manner; requiring certain vendors of single family
15 residential real property to complete and deliver to each purchaser a certain
16 written statement of the right of the purchaser to renew the existing title
17 insurance policy subject to certain approval or to choose the purchaser's own
18 title insurance company and have a new policy issued; requiring the State Real
19 Estate Commission to develop by regulation a certain standardized form;
20 providing that a purchaser who does not receive a certain title insurance options
21 statement at a certain time does not have certain rights to rescind the contract
22 of sale; providing for the application of this Act; and generally relating to the
23 right of a purchaser of residential real property to renew an existing policy of
24 title insurance and notification to the purchaser of that right.

25 BY repealing and reenacting, without amendments,
26 Article - Commercial Law
27 Section 12-119(a), 12-120(a), and 12-1028(a)
28 Annotated Code of Maryland
29 (2000 Replacement Volume and 2001 Supplement)

30 BY repealing and reenacting, with amendments,
31 Article - Commercial Law
32 Section 12-119(b), 12-120(c)(1), 12-307(a), and 12-1028(c)(1)

1 Annotated Code of Maryland
2 (2000 Replacement Volume and 2001 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article - Real Property
5 Section 10-702(a)
6 Annotated Code of Maryland
7 (1996 Replacement Volume and 2001 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article - Real Property
10 Section 10-702(b) and (g)
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 2001 Supplement)

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

15 **Article - Commercial Law**

16 12-119.

17 (a) This section applies to any application for a loan, other than a commercial
18 loan, to be secured by a first mortgage or first deed of trust on a borrower's primary
19 residence.

20 (b) Any lender that imposes fees on borrowers for settlement services, or
21 document review services, performed by a lender-designated attorney, or who
22 conditions settlement on the employment of a particular attorney or title insurance
23 company under § 12-120(c) of this subtitle, shall provide a prospective borrower with
24 a written notice stating:

25 (1) The lender's requirements concerning selection of an attorney, title
26 insurance company, or other person to perform settlement services relating to the
27 purchase of the real property;

28 (2) The borrower's ability to choose an attorney or title insurance
29 company under § 12-120(c) of this subtitle; [and]

30 (3) THE BORROWER'S ABILITY TO RENEW THE EXISTING TITLE
31 INSURANCE POLICY, SUBJECT TO APPROVAL OF THE SELLER'S TITLE INSURANCE
32 COMPANY; AND

33 (4) A good faith estimate of the fee or fees to be charged to the borrower.

1 12-120.

2 (a) This section applies to any loan, other than a commercial loan, to be
3 secured by a mortgage or deed of trust on a borrower's primary residence.

4 (c) (1) A lender may not require as a condition of settlement that a borrower
5 employ a particular attorney or title insurance company to perform a title search,
6 examination of title, or closing if:

7 (i) The borrower notifies the lender, within 7 days after application
8 for the loan, of:

9 1. [the] THE name and business address of the borrower's
10 choice of attorney or title insurance company to perform the title search, examination
11 of title, or closing; OR

12 2. THE NAME AND BUSINESS ADDRESS OF THE SELLER'S
13 TITLE INSURANCE COMPANY TO HAVE THE TITLE INSURANCE POLICY RENEWED;
14 and

15 (ii) The lender does not reject the borrower's choice of attorney or
16 title insurance company for good cause within 7 days after the receipt of the notice
17 under item (i) of this paragraph.

18 12-307.

19 (a) At the time a loan is made, a lender may collect from the borrower:

20 (1) As to any item of the total property that secures a loan:

21 (i) The fees paid to a public official or governmental agency for
22 recording or satisfying a mortgage, encumbrance, or lien on any property securing the
23 loan; or

24 (ii) An equal or lesser amount for nonfiling insurance premium on
25 any property, or portion of the property, that is not recorded if:

26 1. The Insurance Commissioner approves the rates; and

27 2. A commission is not paid on the policy; and

28 (2) [The] FOR THE RENEWED OR NEWLY ISSUED TITLE INSURANCE
29 POLICY, THE title insurance premiums or reasonable attorney's fees paid for searching
30 and insuring the title to any real property securing the loan.

31 12-1028.

32 (a) This section applies only to a loan to a consumer borrower secured by a
33 first mortgage or first deed of trust on residential real property used as the consumer
34 borrower's primary residence.

1 (c) (1) A credit grantor may not require as a condition of settlement that a
2 consumer borrower employ a particular attorney or title insurance company to
3 perform a title search, examination of title, or closing if:

4 (i) The consumer borrower notifies the credit grantor, within 7
5 days after application for the loan, of:

6 1. [the] THE name and business address of the borrower's
7 choice of attorney or title insurance company to perform the title search, examination
8 of title, or closing; OR

9 2. THE NAME AND BUSINESS ADDRESS OF THE SELLER'S
10 TITLE INSURANCE COMPANY TO HAVE THE EXISTING TITLE INSURANCE POLICY
11 RENEWED; and

12 (ii) The credit grantor does not reject the consumer borrower's
13 choice of attorney or title insurance company for good cause within 7 days after the
14 receipt of the notice under item (i) of this paragraph.

15 **Article - Real Property**

16 10-702.

17 (a) (1) This section applies only to single family residential real property
18 improved by four or fewer single family units.

19 (2) This section does not apply to:

20 (i) The initial sale of single family residential real property:

21 1. That has never been occupied; or

22 2. For which a certificate of occupancy has been issued
23 within 1 year before the vendor and purchaser enter into a contract of sale;

24 (ii) A transfer that is exempt from the transfer tax under § 13-207
25 of the Tax - Property Article, except land installment contracts of sale under §
26 13-207(a)(11) of the Tax - Property Article and options to purchase real property
27 under § 13-207(a)(12) of the Tax - Property Article;

28 (iii) A sale by a lender or an affiliate or subsidiary of a lender that
29 acquired the real property by foreclosure or deed in lieu of foreclosure;

30 (iv) A sheriff's sale, tax sale, or sale by foreclosure, partition, or by
31 court appointed trustee;

32 (v) A transfer by a fiduciary in the course of the administration of a
33 decedent's estate, guardianship, conservatorship, or trust;

1 (vi) A transfer of single family residential real property to be
2 converted by the buyer into a use other than residential use or to be demolished; or

3 (vii) A sale of unimproved real property.

4 (b) (1) A vendor of single family residential real property shall complete and
5 deliver to each purchaser:

6 (i) 1. A written residential property condition disclosure
7 statement on a form provided by the State Real Estate Commission; or

8 [(ii)] 2. A written residential property disclaimer statement on a
9 form provided by the State Real Estate Commission; AND

10 (II) A WRITTEN STATEMENT ON A FORM PROVIDED BY THE STATE
11 REAL ESTATE COMMISSION THAT:

12 1. STATES THAT THE PURCHASER HAS THE RIGHT TO:

13 A. RENEW THE EXISTING TITLE INSURANCE POLICY
14 SUBJECT TO APPROVAL OF THE SELLER'S TITLE INSURANCE COMPANY; OR

15 B. CHOOSE THE PURCHASER'S OWN TITLE INSURANCE
16 COMPANY AND HAVE A NEW TITLE INSURANCE POLICY ISSUED; AND

17 2. EXPLAINS THE PROCEDURES TO FOLLOW CONCERNING
18 EITHER OPTION.

19 (2) The State Real Estate Commission shall develop by regulation a
20 single standardized form that includes the residential property condition disclosure
21 and disclaimer statements AND THE TITLE INSURANCE POLICY OPTIONS STATEMENT
22 required by this subsection.

23 (g) (1) A purchaser who does not receive the disclosure or disclaimer
24 statement DESCRIBED IN SUBSECTION (B)(1)(I) OF THIS SECTION on or before entering
25 into the contract of sale has the unconditional right, upon written notice to the vendor
26 or vendor's agent:

27 (i) To rescind the contract of sale at any time before the receipt of
28 the disclosure or disclaimer statement or within 5 days following receipt of the
29 disclosure or disclaimer statement; and

30 (ii) To the immediate return of any deposits made on account of the
31 contract.

32 (2) A purchaser's right to rescind the contract of sale under this
33 subsection terminates if not exercised:

34 (i) Before making a written application to a lender for a mortgage
35 loan, if the lender discloses in writing at or before the time application is made that
36 the right to rescind terminates on submission of the application; or

1 (ii) Within 5 days following receipt of a written disclosure from a
2 lender who has received the purchaser's application for a mortgage loan, if the
3 lender's disclosure states that the purchaser's right to rescind terminates at the end
4 of that 5-day period.

5 (3) A PURCHASER WHO DOES NOT RECEIVE THE TITLE INSURANCE
6 POLICY OPTION STATEMENT DESCRIBED IN SUBSECTION (B)(1)(II) OF THIS SECTION
7 ON OR BEFORE ENTERING INTO THE CONTRACT OF SALE DOES NOT HAVE THE
8 RIGHTS DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
10 construed to apply only prospectively and may not be applied or interpreted to have
11 any effect on the language contained in real estate contracts or other written
12 statements required in the sale of single family dwellings before the effective date of
13 this Act.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect October 1, 2002.