
By: **Delegates Carter, Anderson, and Paige**
Introduced and read first time: February 7, 2003
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Credit Regulation - Home Mortgage Loans**

3 FOR the purpose of prohibiting certain home loan lenders from financing certain
4 credit insurance policies under certain circumstances; prohibiting certain home
5 loan lenders from charging certain fees under certain circumstances; prohibiting
6 certain home loan lenders from making high-cost home loans under certain
7 circumstances; prohibiting certain home loan lenders from paying certain home
8 improvement contractors from loan proceeds under certain circumstances;
9 prohibiting certain home loan lenders and brokers of high-cost home loans from
10 steering certain borrowers into certain loans under certain circumstances;
11 prohibiting high-cost home loans from containing certain provisions under
12 certain circumstances; providing that a violation of certain laws is an unfair and
13 deceptive trade practice; authorizing a civil action and the awarding of certain
14 damages for a violation of this Act under certain circumstances; authorizing the
15 assertion of certain violations as a defense, bar, or counter-claim to certain
16 actions under certain circumstances; providing that certain actions in good faith
17 are not violations of certain laws under certain circumstances; repealing certain
18 provisions of law regarding the financing of certain single premium insurance as
19 part of certain mortgage loans; repealing certain provisions of law prohibiting
20 certain lenders and credit grantors from making certain loans under certain
21 circumstances; repealing certain provisions of law requiring certain borrowers
22 to be provided with certain home buyer education or housing counseling under
23 certain circumstances; repealing certain provisions of law that authorize only
24 the State to regulate extensions of credit; defining certain terms; and generally
25 relating to home mortgage loans.

26 BY repealing
27 Article - Commercial Law
28 Section 12-124.1, 12-127, 12-409.1, and 12-1029
29 Annotated Code of Maryland
30 (2000 Replacement Volume and 2002 Supplement)

31 BY repealing and reenacting, with amendments,
32 Article - Commercial Law

1 Section 12-311, 12-312, 12-410, 12-1007, and 13-301(14)
2 Annotated Code of Maryland
3 (2000 Replacement Volume and 2002 Supplement)

4 BY adding to
5 Article - Commercial Law
6 Section 12-1201 through 12-1208, inclusive, to be under the new subtitle
7 "Subtitle 12. Consumer Loans - Home Mortgage Loans"
8 Annotated Code of Maryland
9 (2000 Replacement Volume and 2002 Supplement)

10 BY repealing
11 Article - Financial Institutions
12 Section 1-209
13 Annotated Code of Maryland
14 (1998 Replacement Volume and 2002 Supplement)

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

17 **Article - Commercial Law**

18 [12-124.1.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) "Covered loan" means a mortgage loan made under this subtitle that
21 meets the criteria for a loan subject to the federal Home Ownership Equity Protection
22 Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z,
23 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan
24 shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as
25 modified from time to time by Regulation Z, 12 C.F.R. Part 226.

26 (3) "Credit health insurance" has the meaning stated in § 13-101 of the
27 Insurance Article.

28 (4) "Credit involuntary unemployment benefit insurance" has the
29 meaning stated in § 13-101 of the Insurance Article.

30 (5) (i) "Credit life insurance" means insurance on the life of a borrower
31 that provides indemnity for repayment of a specific loan or credit transaction on the
32 death of the borrower.

33 (ii) "Credit life insurance" does not include life insurance payable to
34 a beneficiary designated by the borrower other than the obligee of a specific loan or
35 credit transaction.

1 (6) "Home buyer education or housing counseling" means instruction on
2 preparing for home ownership, shopping for a home, obtaining a mortgage, loan
3 closing, and life as a homeowner.

4 (7) "Mortgage loan" has the meaning stated in § 11-501 of the Financial
5 Institutions Article.

6 (8) "Premium" has the meaning stated in § 1-101 of the Insurance
7 Article.

8 (9) "Single premium coverage" means insurance for which the total
9 premium is payable in one lump sum at or before the time coverage commences.

10 (b) (1) Except as provided in this subsection, a lender making a covered loan
11 may not finance as a part of the covered loan transaction single premium coverage
12 for:

13 (i) Credit health insurance;

14 (ii) Credit involuntary unemployment benefit insurance; or

15 (iii) Credit life insurance.

16 (2) Nothing in this subsection shall prohibit the financing of any
17 insurance coverage in connection with a mobile home or its premises, as those terms
18 are defined in § 8A-101 of the Real Property Article.

19 (c) (1) In this subsection, "loan application" has the meaning stated in §
20 12-125 of this subtitle.

21 (2) At the time a borrower completes a loan application for a covered
22 loan, the lender shall provide the borrower with:

23 (i) A written recommendation that the borrower seek home buyer
24 education or housing counseling; and

25 (ii) A list of agencies and organizations approved by the county in
26 which the residential real property securing the covered loan is located to provide
27 home buyer education or housing counseling.]

28 [12-127.

29 (a) (1) In this section the following words have the meanings indicated.

30 (2) "Covered loan" means a mortgage loan made under this subtitle that
31 meets the criteria for a loan subject to the federal Home Ownership Equity Protection
32 Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z,
33 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan
34 shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as
35 modified from time to time by Regulation Z, 12 C.F.R. Part 226.

1 (3) "Mortgage loan" has the meaning stated in § 11-501 of the Financial
2 Institutions Article.

3 (4) "Residential real property" means owner-occupied real property
4 having a dwelling on it designed principally as a residence with accommodations for
5 not more than four families.

6 (b) (1) A lender may not make a covered loan without giving due regard to
7 the borrower's ability to repay the loan in accordance with its terms.

8 (2) A borrower is presumed to be able to repay a loan if at the time the
9 loan is made the borrower's total scheduled monthly payment obligations, including
10 the required loan payment, do not exceed 45 percent of the borrower's monthly gross
11 income.

12 (3) This section does not apply to a covered loan to a borrower whose
13 monthly gross income is greater than 120 percent of the median family income for the
14 metropolitan statistical area in which the residential real property securing the loan
15 is located.]

16 12-311.

17 (a) [(1) In this section the following words have the meanings indicated.

18 (2) "Covered loan" means a mortgage loan made under this subtitle that
19 meets the criteria for a loan subject to the federal Home Ownership Equity Protection
20 Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z,
21 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan
22 shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as
23 modified from time to time by Regulation Z, 12 C.F.R. Part 226.

24 (3) "Home buyer education or housing counseling" means instruction on
25 preparing for home ownership, shopping for a home, obtaining a mortgage, loan
26 closing, and life as a homeowner.

27 (4) "Residential real property" means owner-occupied real property
28 having a dwelling on it designed principally as a residence with accommodations for
29 not more than four families.

30 (b)] A lender may not take as security for a loan any:

31 (1) Confession of judgment or power of attorney to him or to a third
32 person to confess judgment or appear for the borrower in a judicial proceeding;

33 (2) Assignment or order for payment of wages;

34 (3) Instrument in which blanks are left to be filled after execution; or

35 (4) Note, promise to pay, or security instrument which does not state:

36 (i) The principal amount of the loan;

- 1 (ii) A schedule of payments or a description of the schedule; and
- 2 (iii) The agreed amount and rate of interest, charges, and fees.
- 3 [(c)] (B) (1) A lender may not take any security interest in:
- 4 (i) Real property for any loan under \$2,000 in value or amount; or
- 5 (ii) Personal property for any loan under \$700 in value or amount.
- 6 (2) Any lien taken in violation of this subsection is void.
- 7 (3) This subsection does not apply to or affect a lien on an interest in real
- 8 property which results from a judgment obtained by the lender based on a loan
- 9 otherwise secured or unsecured.
- 10 [(d)] (1) A lender may not make a covered loan without giving due regard to
- 11 the borrower's ability to repay the loan in accordance with its terms.
- 12 (2) A borrower is presumed to be able to repay a loan if at the time the
- 13 loan is made the borrower's total scheduled monthly payment obligations, including
- 14 the required loan payment, do not exceed 45 percent of the borrower's monthly gross
- 15 income.
- 16 (3) This subsection does not apply to a covered loan to a borrower whose
- 17 monthly gross income is greater than 120 percent of the median family income for the
- 18 metropolitan statistical area in which the residential real property securing the loan
- 19 is located.
- 20 (e) (1) In this subsection, "loan application" has the meaning stated in §
- 21 12-125 of this title.
- 22 (2) At the time a borrower completes a loan application for a covered
- 23 loan, the lender shall provide the borrower with:
- 24 (i) A written recommendation that the borrower seek home buyer
- 25 education or housing counseling; and
- 26 (ii) A list of agencies and organizations approved by the county in
- 27 which the residential real property securing the covered loan is located to provide
- 28 home buyer education or housing counseling.]
- 29 12-312.
- 30 (a) [(1)] In this section the following words have the meanings indicated.
- 31 (2) "Covered loan" means a mortgage loan made under this subtitle that
- 32 meets the criteria for a loan subject to the federal Home Ownership Equity Protection
- 33 Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z,
- 34 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan

1 shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as
2 modified from time to time by Regulation Z, 12 C.F.R. Part 226.

3 (3) "Credit health insurance" has the meaning stated in § 13-101 of the
4 Insurance Article.

5 (4) "Credit involuntary unemployment benefit insurance" has the
6 meaning stated in § 13-101 of the Insurance Article.

7 (5) (i) "Credit life insurance" means insurance on the life of a borrower
8 that provides indemnity for repayment of a specific loan or credit transaction on the
9 death of the borrower.

10 (ii) "Credit life insurance" does not include life insurance payable to
11 a beneficiary designated by the borrower other than the obligee of a specific loan or
12 credit transaction.

13 (6) "Mortgage loan" has the meaning stated in § 11-501 of the Financial
14 Institutions Article.

15 (7) "Premium" has the meaning stated in § 1-101 of the Insurance
16 Article.

17 (8) "Single premium coverage" means insurance for which the total
18 premium is payable in one lump sum at or before the time coverage commences.

19 (b)] Subject to the provisions of this section, a lender may collect from the
20 borrower, at the option of the borrower, the premiums paid for:

21 (1) Insurance covering any real or personal property pledged as security
22 for the loan;

23 (2) [Credit] ACCIDENT AND health insurance covering any one or more
24 borrowers, if the insurance does not provide for benefits exceeding the actual period of
25 disability;

26 (3) Credit life insurance:

27 (i) Covering any one borrower for any loan under \$700 in value or
28 amount; or

29 (ii) Covering any one or more borrowers for any loan of \$700 or
30 more in value or amount; and

31 (4) [Credit involuntary] INVOLUNTARY unemployment benefit
32 insurance covering any one borrower, if the insurance:

33 (i) Does not provide for benefits exceeding the actual period of
34 unemployment; and

1 (ii) Is not contingent upon the purchase of any other type of
2 insurance permitted under this subtitle.

3 [(c)] (B) (1) A lender may not require that the insurance be purchased
4 through a particular insurance producer or insurance company.

5 (2) The lender may:

6 (i) Assist an applicant or act with the applicant in forwarding an
7 application to an insurance producer; and

8 (ii) Receive and transmit premiums or other identifiable charges
9 for the insurance.

10 (3) Subject to subsection [(e)] (D) of this section, at the option of the
11 borrower, a lender may be coinsured or protected to the extent of his interest by a
12 mortgagee clause.

13 [(d)] (C) (1) (i) Subject to subsection [(e)] (D) of this section, the amount of
14 property insurance may not exceed either the reasonable value of the property
15 insured or the originally scheduled total of payments under the loan contract.

16 (ii) The terms and conditions of the property insurance policy shall
17 be filed with and approved by the Insurance Commissioner.

18 (iii) Property insurance may be provided by the lender if the
19 borrower, at the time the loan is made, fails to furnish a loss payable endorsement for
20 the protection of the lender in an amount sufficient to cover the amount of the loan or
21 the value of the property securing the loan, whichever is less.

22 (iv) If, however, within 30 days of the inception date of the loan, the
23 borrower does provide a loss payable endorsement for the protection of the lender, and
24 no claim has been filed under the coverage purchased, the lender shall cancel the
25 property insurance on the loan and shall refund the entire original property
26 insurance premium to the borrower.

27 (v) A lender providing property insurance under this section shall
28 give the borrower, at the time the loan is made, a written notice of the borrower's
29 right to provide a loss payable endorsement for the protection of the lender and the
30 borrower's right to a refund of the entire property insurance premium.

31 (2) [Credit] ACCIDENT AND health insurance shall provide for:

32 (i) Benefits not exceeding the then scheduled unpaid total of
33 payments of the loan;

34 (ii) A waiting period of at least 14 days; and

1 (iii) Periodic benefits, the amount of each of which may not exceed
2 the originally scheduled total of payments under the loan contract, divided by the
3 number of installments.

4 (3) The amount of credit life insurance in force may not exceed the
5 unpaid principal but shall include all accrued interest under the loan contract.

6 (4) (I) IN THIS PARAGRAPH, "INVOLUNTARY UNEMPLOYMENT
7 BENEFIT INSURANCE" MEANS ANY INSURANCE DESIGNED TO PAY THE CREDITOR
8 THE MONTHLY PAYMENT OBLIGATION OF THE DEBTOR DUE TO THE DEBTOR'S
9 INVOLUNTARY LOSS OF EMPLOYMENT.

10 (II) [Credit involuntary] INVOLUNTARY unemployment benefit
11 insurance shall provide that, in the event of involuntary loss of employment, the
12 aggregate amount of periodic benefits payable in the event of involuntary loss of
13 employment, as defined in the policy, may not exceed the then scheduled unpaid total
14 of payments of the loan.

15 [(5) (i) Except as provided in this paragraph, a person making a
16 covered loan may not finance as a part of the covered loan transaction single premium
17 coverage for:

- 18 1. Credit health insurance;
- 19 2. Credit involuntary unemployment benefit insurance; or
- 20 3. Credit life insurance.

21 (ii) Nothing in this paragraph shall prohibit the financing of any
22 insurance coverage in connection with a mobile home or its premises, as those terms
23 are defined in § 8A-101 of the Real Property Article.]

24 [(e) (D) (1) In this subsection, "property insurance coverage" means
25 property insurance against losses caused by perils that commonly are covered in
26 insurance policies described with terms similar to "standard fire" or "standard fire
27 with extended coverage".

28 (2) (i) A lender may not require a borrower, as a condition to receiving
29 or maintaining a loan secured by a first mortgage or first deed of trust, to provide or
30 purchase property insurance coverage against risks to any improvements on any real
31 property in an amount exceeding the replacement value of improvements on the real
32 property.

33 (ii) In determining the replacement value of the improvements on
34 any real property, the lender may:

- 35 1. Accept the value placed on the improvements by the
36 insurer; or

1 2. Use the value placed on the improvements that is
2 determined by the lender's appraisal of the real property.

3 (3) A violation of this subsection or of subsection [(c)(1)] (B) of this
4 section shall entitle the borrower to:

5 (i) Seek an injunction to prohibit the lender who has engaged or is
6 engaging in the violation from continuing or engaging in the violation;

7 (ii) Reasonable attorney's fees; and

8 (iii) Damages directly resulting from the violation.

9 (4) A violation of this subsection or of subsection [(c)(1)] (B) of this
10 section does not affect the validity of the first mortgage or first deed of trust securing
11 the loan.

12 [(f)] (E) Under this subtitle, insurance may be obtained only:

13 (1) From an insurance company qualified to do business in the State;
14 and

15 (2) At rates not exceeding those approved by the Insurance
16 Administration.

17 [(g)] (F) Within 25 days after a lender has charged for any insurance in
18 connection with a loan, he shall deliver a copy of the appropriate policy or certificate
19 to the borrower.

20 [12-409.1.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) "Covered loan" means a mortgage loan made under this subtitle that
23 meets the criteria for a loan subject to the federal Home Ownership Equity Protection
24 Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z,
25 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan
26 shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as
27 modified from time to time by Regulation Z, 12 C.F.R. Part 226.

28 (3) "Home buyer education or housing counseling" means instruction on
29 preparing for home ownership, shopping for a home, obtaining a mortgage, loan
30 closing, and life as a homeowner.

31 (4) "Residential real property" means owner-occupied real property
32 having a dwelling on it designed principally as a residence with accommodations for
33 not more than four families.

34 (b) (1) A lender may not make a covered loan without giving due regard to
35 the borrower's ability to repay the loan in accordance with its terms.

1 (2) A borrower is presumed to be able to repay a loan if at the time the
2 loan is made the borrower's total scheduled monthly payment obligations, including
3 the required loan payment, do not exceed 45 percent of the borrower's monthly gross
4 income.

5 (3) This subsection does not apply to a covered loan to a borrower whose
6 monthly gross income is greater than 120 percent of the median family income for the
7 metropolitan statistical area in which the residential real property securing the loan
8 is located.

9 (c) (1) In this subsection, "loan application" has the meaning stated in §
10 12-125 of this title.

11 (2) At the time a borrower completes a loan application for a covered
12 loan, the lender shall provide the borrower with:

13 (i) A written recommendation that the borrower seek home buyer
14 education or housing counseling; and

15 (ii) A list of agencies and organizations approved by the county in
16 which the residential real property securing the covered loan is located to provide
17 home buyer education or housing counseling.]

18 12-410.

19 [(a) (1) In this section the following words have the meanings indicated.

20 (2) "Covered loan" means a mortgage loan made under this subtitle that
21 meets the criteria for a loan subject to the federal Home Ownership Equity Protection
22 Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z,
23 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan
24 shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as
25 modified from time to time by Regulation Z, 12 C.F.R. Part 226.

26 (3) "Credit health insurance" has the meaning stated in § 13-101 of the
27 Insurance Article.

28 (4) "Credit involuntary unemployment benefit insurance" has the
29 meaning stated in § 13-101 of the Insurance Article.

30 (5) (i) "Credit life insurance" means insurance on the life of a borrower
31 that provides indemnity for repayment of a specific loan or credit transaction on the
32 death of the borrower; and

33 (ii) "Credit life insurance" does not include life insurance payable to
34 a beneficiary designated by the borrower other than the obligee of a specific loan or
35 credit transaction.

36 (6) "Mortgage loan" has the meaning stated in § 11-501 of the Financial
37 Institutions Article.

1 (7) "Premium" has the meaning stated in § 1-101 of the Insurance
2 Article.

3 (8) "Single premium coverage" means insurance for which the total
4 premium is payable in one lump sum at or before the time coverage commences.]

5 (A) IN THIS SECTION, "INVOLUNTARY UNEMPLOYMENT BENEFIT INSURANCE"
6 MEANS ANY INSURANCE DESIGNED TO PAY A LENDER THE MONTHLY PAYMENT
7 OBLIGATION OF A BORROWER WHO HAS SUFFERED AN INVOLUNTARY LOSS OF
8 EMPLOYMENT.

9 (b) Subject to the provisions of this section, a lender may require a borrower to
10 insure and may collect from the borrower the premiums paid for insurance on:

- 11 (1) Any real property securing the loan;
- 12 (2) The life of any person obligated on the loan; and
- 13 (3) The title of any real property securing the loan.

14 (c) Subject to the provisions of this section, the licensee may collect from the
15 borrower, at the borrower's option, the premiums paid for [credit] ACCIDENT AND
16 health insurance covering any one borrower obligated on the loan. The insurance may
17 not provide benefits exceeding the actual period of disability.

18 (d) (1) Subject to the provisions of subsections (e), (f), [(g),] and (h) of this
19 section, a lender may collect from a borrower, at the option of the borrower, the
20 premiums paid for [credit] involuntary unemployment benefit insurance covering
21 the borrower.

22 (2) The availability of [credit] involuntary unemployment benefit
23 insurance to a borrower may not be made contingent on the purchase of any other
24 type of insurance permitted under this section.

25 [(e) (1) Except as provided in this subsection, a lender making a covered loan
26 may not finance as a part of the covered loan transaction single premium coverage
27 for:

- 28 (i) Credit health insurance;
- 29 (ii) Credit involuntary unemployment benefit insurance; or
- 30 (iii) Credit life insurance.

31 (2) Nothing in this subsection shall prohibit the financing of any
32 insurance coverage in connection with a mobile home or its premises, as those terms
33 are defined in § 8A-101 of the Real Property Article.]

34 [(f) (E) (1) (i) In this paragraph, "property insurance coverage" means
35 property insurance against losses caused by perils that commonly are covered in

1 insurance policies described with terms similar to "standard fire" or "standard fire
2 with extended coverage".

3 (ii) A lender may not require a borrower, as a condition to receiving
4 or maintaining a secondary mortgage loan, to provide or purchase property insurance
5 coverage against risks to any improvements on any real property in an amount
6 exceeding the replacement value of the improvements on the real property.

7 (iii) In determining the replacement value of the improvements on
8 any real property, the lender may:

9 1. Accept the value placed on the improvements by the
10 insurer; or

11 2. Use the value placed on the improvements that is
12 determined by the lender's appraisal of the real property.

13 (iv) Any property insurance coverage required by a lender shall bear
14 a reasonable relation to the existing risk of loss.

15 (v) A violation of this paragraph or of subsection [(h)] (G) of this
16 section shall entitle the borrower to:

17 1. Seek an injunction to prohibit the lender who has engaged
18 or is engaging in the violation from continuing or engaging in the violation;

19 2. Reasonable attorney's fees; and

20 3. Damages directly resulting from the violation.

21 (vi) A violation of this paragraph or of subsection [(h)] (G) of this
22 section does not affect the validity of the mortgage or deed of trust securing the
23 secondary mortgage loan.

24 (2) The amount of [credit] life insurance may not exceed the total
25 original amount payable under the loan contract.

26 (3) The [credit] ACCIDENT AND health insurance shall provide:

27 (i) Benefits not exceeding the then scheduled unpaid total of
28 payments of the loan;

29 (ii) A waiting period for the collection of benefits of at least 14 days;
30 and

31 (iii) Periodic benefits, the amount of each of which may not exceed
32 the originally scheduled total of payments under the loan contract, divided by the
33 number of installments.

34 (4) The [credit] involuntary unemployment benefit insurance may not
35 provide that:

1 (i) The periodic benefits shall continue for a period exceeding the
2 actual period of the borrower's involuntary unemployment; or

3 (ii) The aggregate amount of periodic benefits payable in the event
4 of a borrower's involuntary loss of employment shall exceed the scheduled unpaid
5 total of payments remaining on the loan on the date of the borrower's involuntary loss
6 of employment.

7 (5) A lender may not require a borrower to purchase [credit] involuntary
8 unemployment benefit insurance as a condition of obtaining a loan.

9 [(g)] (F) Under this subtitle, insurance may be obtained only:

10 (1) From an insurance company qualified to do business in the State;
11 and

12 (2) At rates not exceeding those approved by the Insurance
13 Administration.

14 [(h)] (G) A lender may not require the borrower to purchase any insurance:

15 (1) Through a particular insurance producer or insurance company; or

16 (2) From the lender.

17 12-1007.

18 (a) [(1)] In this section the following words have the meanings indicated.

19 (2) "Covered loan" means a mortgage loan made under this subtitle that
20 meets the criteria for a loan subject to the federal Home Ownership Equity Protection
21 Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z,
22 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan
23 shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as
24 modified from time to time by Regulation Z, 12 C.F.R. Part 226.

25 (3) "Credit health insurance" has the meaning stated in § 13-101 of the
26 Insurance Article.

27 (4) "Credit involuntary unemployment benefit insurance" has the
28 meaning stated in § 13-101 of the Insurance Article.

29 (5) (i) "Credit life insurance" means insurance on the life of a borrower
30 that provides indemnity for repayment of a specific loan or credit transaction on the
31 death of the borrower.

32 (ii) "Credit life insurance" does not include life insurance payable to
33 a beneficiary designated by the borrower other than the obligee of a specific loan or
34 credit transaction.

1 (6) "Mortgage loan" has the meaning stated in § 11-501 of the Financial
2 Institutions Article.

3 (7) "Premium" has the meaning stated in § 1-101 of the Insurance
4 Article.

5 (8) "Single premium coverage" means insurance for which the total
6 premium is payable in one lump sum at or before the time coverage commences.

7 (b)] In connection with a loan to a consumer borrower:

8 (1) The purchase of credit life insurance, [credit] ACCIDENT AND health
9 insurance, CREDIT DISABILITY, [credit] involuntary unemployment benefit
10 insurance, and similar insurance coverages is optional with the consumer borrower;
11 and

12 (2) Subject to § 12-1007.1 of this subtitle, the purchase of property
13 insurance, title insurance, and credit loss insurance from an insurer of the borrower's
14 choice may be required if the loan is secured.

15 [(3) (i) Except as provided in this subsection, a credit grantor making a
16 covered loan may not finance as a part of the covered loan transaction single premium
17 coverage for:

- 18 1. Credit health insurance;
- 19 2. Credit involuntary unemployment benefit insurance; or
- 20 3. Credit life insurance.

21 (ii) Nothing in this subsection shall prohibit the financing of any
22 insurance coverage in connection with a mobile home or its premises, as those terms
23 are defined in § 8A-101 of the Real Property Article.]

24 [(c)] (B) The provisions of this section do not alter or modify rights, privileges,
25 or restrictions heretofore existing between the credit grantor and a borrower other
26 than a consumer borrower.

27 [(d)] (C) Premiums for any insurance coverage permitted by this section are
28 not interest with respect to a loan.

29 [(e)] (D) The offer and placement of insurance under this section shall be
30 subject to the provisions of the Insurance Article.

31 [(f)] (E) (1) In this subsection, "property insurance coverage" means
32 property insurance against losses caused by perils that commonly are covered in
33 insurance policies described with terms similar to "standard fire" or "standard fire
34 with extended coverage".

35 (2) (i) A credit grantor may not require a borrower, as a condition to
36 receiving or maintaining a loan secured by a first lien, to provide or purchase

1 property insurance coverage against risks to any improvements on any real property
2 in an amount exceeding the replacement value of the improvements on the real
3 property.

4 (ii) In determining the replacement value of the improvements on
5 any property, the lender may:

6 1. Accept the value placed on the improvements by the
7 insurer; or

8 2. Use the value placed on the improvements that is
9 determined by the lender's appraisal of the real property.

10 (3) A violation of this subsection shall entitle the borrower to:

11 (i) Seek an injunction to prohibit the credit grantor who has
12 engaged or is engaging in the violation from continuing or engaging in the violation;

13 (ii) Reasonable attorney's fees; and

14 (iii) Damages directly resulting from the violation.

15 (4) A violation of this subsection does not affect the validity of the first
16 lien securing the loan.

17 [12-1029.

18 (a) (1) In this section the following words have the meanings indicated.

19 (2) "Covered loan" means a mortgage loan made under this subtitle that
20 meets the criteria for a loan subject to the federal Home Ownership Equity Protection
21 Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z,
22 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan
23 shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as
24 modified from time to time by Regulation Z, 12 C.F.R. Part 226.

25 (3) "Home buyer education or housing counseling" means instruction on
26 preparing for home ownership, shopping for a home, obtaining a mortgage, loan
27 closing, and life as a homeowner.

28 (b) (1) A credit grantor may not make a covered loan without giving due
29 regard to the borrower's ability to repay the loan in accordance with its terms.

30 (2) A borrower is presumed to be able to repay a loan if at the time the
31 loan is made the borrower's total scheduled monthly payment obligations, including
32 the required loan payment, do not exceed 45 percent of the borrower's monthly gross
33 income.

34 (3) This subsection does not apply to a loan to a borrower whose monthly
35 gross income is greater than 120 percent of the median family income for the

1 metropolitan statistical area in which the residential real property securing the plan
2 is located.

3 (c) (1) In this subsection, "loan application" has the meaning stated in §
4 12-1022 of this subtitle.

5 (2) At the time a borrower completes a loan application for a covered
6 loan, the credit grantor shall provide the borrower with:

7 (i) A written recommendation that the borrower seek home buyer
8 education or housing counseling; and

9 (ii) A list of agencies and organizations approved by the county in
10 which the residential real property securing the covered loan is located to provide
11 home buyer education or housing counseling.]

12 SUBTITLE 12. CONSUMER LOANS - HOME MORTGAGE LOANS.

13 12-1201.

14 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16 (B) "AFFILIATE" MEANS ANY COMPANY THAT CONTROLS, IS CONTROLLED BY,
17 OR IS UNDER COMMON CONTROL WITH ANOTHER COMPANY, AS SET FORTH IN THE
18 FEDERAL BANK HOLDING COMPANY ACT OF 1956.

19 (C) "ANNUAL PERCENTAGE RATE" MEANS THE ANNUAL PERCENTAGE RATE
20 FOR A LOAN CALCULATED ACCORDING TO THE PROVISIONS OF THE FEDERAL TRUTH
21 IN LENDING ACT, AND THE REGULATIONS PROMULGATED UNDER THE ACT BY THE
22 FEDERAL RESERVE BOARD.

23 (D) "BONA FIDE LOAN DISCOUNT POINTS" MEANS LOAN DISCOUNT POINTS
24 THAT ARE KNOWINGLY PAID BY THE BORROWER FOR THE PURPOSE OF REDUCING,
25 AND WHICH IN FACT RESULT IN A BONA FIDE REDUCTION WITHIN THE FIRST 4
26 YEARS OF SCHEDULED LOAN PAYMENTS, THE INTEREST RATE OR TIME-PRICE
27 DIFFERENTIAL APPLICABLE TO A LOAN, PROVIDED THE AMOUNT OF THE INTEREST
28 RATE REDUCTION PURCHASED BY THE DISCOUNT POINTS IS EQUAL TO OR EXCEEDS
29 THE DOLLAR AMOUNT OF LOAN DISCOUNT POINTS PAID BY THE BORROWER.

30 (E) "EXCLUDED DISCOUNT POINTS" MEANS DISCOUNT POINTS UP TO AND
31 INCLUDING TWO BONA FIDE DISCOUNT POINTS PAYABLE BY THE BORROWER IN
32 CONNECTION WITH A LOAN TRANSACTION, BUT ONLY IF THE INTEREST RATE FROM
33 WHICH THE LOAN'S INTEREST RATE WILL BE DISCOUNTED DOES NOT EXCEED BY
34 MORE THAN FOUR PERCENTAGE POINTS THE WEEKLY AVERAGE YIELD ON U.S.
35 TREASURY SECURITIES ADJUSTED TO A CONSTANT MATURITY OF 1 YEAR, AS MADE
36 AVAILABLE BY THE FEDERAL RESERVE BOARD, AS OF THE WEEK IMMEDIATELY
37 PRECEDING THE WEEK IN WHICH THE INTEREST RATE FOR THE LOAN IS
38 ESTABLISHED.

1 (F) "HIGH-COST HOME LOAN" MEANS A HOME LOAN IN WHICH THE TERMS OF
2 THE LOAN MEET ONE OR MORE OF THE FOLLOWING CRITERIA:

3 (1) FOR A FIRST LIEN MORTGAGE, THE TRIGGER RATE IS EQUAL TO OR
4 EXCEEDS BY SIX OR MORE PERCENTAGE POINTS THE WEEKLY AVERAGE YIELD ON
5 U.S. TREASURY SECURITIES ADJUSTED TO A CONSTANT MATURITY OF 1 YEAR, AS
6 MADE AVAILABLE BY THE FEDERAL RESERVE BOARD, AS OF THE WEEK
7 IMMEDIATELY PRECEDING THE WEEK IN WHICH THE INTEREST RATE FOR THE LOAN
8 IS ESTABLISHED;

9 (2) FOR A SUBORDINATE MORTGAGE LIEN OR A MORTGAGE SECURED
10 SOLELY BY A SECURITY INTEREST IN A MANUFACTURED HOME, THE TRIGGER RATE
11 IS EQUAL TO OR EXCEEDS BY EIGHT OR MORE PERCENTAGE POINTS THE WEEKLY
12 AVERAGE YIELD ON U.S. TREASURY SECURITIES ADJUSTED TO A CONSTANT
13 MATURITY OF 1 YEAR, AS MADE AVAILABLE BY THE FEDERAL RESERVE BOARD, AS OF
14 THE WEEK IMMEDIATELY PRECEDING THE WEEK IN WHICH THE INTEREST RATE
15 FOR THE LOAN IS ESTABLISHED; OR

16 (3) THE TOTAL POINTS AND FEES ON THE LOAN, LESS ANY EXCLUDED
17 DISCOUNT POINTS, EXCEED:

18 (I) 3% OF THE TOTAL LOAN AMOUNT IF THE TOTAL LOAN AMOUNT
19 IS \$30,000 OR MORE; OR

20 (II) THE LESSER OF 6% OF THE TOTAL LOAN AMOUNT OR \$900 IF
21 THE TOTAL LOAN AMOUNT IS LESS THAN \$30,000.

22 (G) "HOME LOAN" MEANS A LOAN, INCLUDING AN OPEN-END CREDIT PLAN
23 OTHER THAN A REVERSE MORTGAGE TRANSACTION, WHERE:

24 (1) THE PRINCIPAL AMOUNT OF THE LOAN DOES NOT EXCEED THE
25 CONFORMING LOAN SIZE LIMIT FOR A SINGLE-FAMILY DWELLING, AS ESTABLISHED
26 FROM TIME TO TIME BY THE FEDERAL NATIONAL MORTGAGE ASSOCIATION; AND

27 (2) THE LOAN IS SECURED BY A MORTGAGE OR DEED OF TRUST ON REAL
28 PROPERTY ON WHICH THERE IS LOCATED OR THERE IS TO BE LOCATED A
29 STRUCTURE OR STRUCTURES DESIGNED PRINCIPALLY FOR OCCUPANCY BY ONE TO
30 FOUR FAMILIES THAT IS OR WILL BE OCCUPIED BY THE BORROWER AS THE
31 BORROWER'S PRINCIPAL DWELLING.

32 (H) "LENDER" MEANS A PERSON:

33 (1) WHO EXTENDS CONSUMER CREDIT THAT IS SUBJECT TO A FINANCE
34 CHARGE OR THAT IS PAYABLE IN MORE THAN FOUR INSTALLMENTS; AND

35 (2) TO WHOM THE OBLIGATION IS PAYABLE.

36 (I) (1) "POINTS AND FEES" MEANS:

1 (I) ALL ITEMS REQUIRED TO BE DISCLOSED UNDER 12 C.F.R. PART
2 226.4(A) AND (B), EXCEPT INTEREST OR THE TIME-PRICE DIFFERENTIAL;

3 (II) ALL CHARGES FOR ITEMS LISTED UNDER 12 C.F.R. PART
4 226.4(C)(7), BUT ONLY IF THE LENDER RECEIVES DIRECT OR INDIRECT
5 COMPENSATION IN CONNECTION WITH THE CHARGE, OR THE CHARGE IS PAID TO AN
6 AFFILIATE LENDER;

7 (III) ALL COMPENSATION PAID, DIRECTLY OR INDIRECTLY, TO A
8 MORTGAGE BROKER, INCLUDING A BROKER THAT ORIGINATES A HOME LOAN IN ITS
9 OWN NAME THROUGH AN ADVANCE OF FUNDS AND SUBSEQUENTLY ASSIGNS THE
10 HOME LOAN TO THE PERSON ADVANCING THE FUNDS;

11 (IV) THE COST OF ALL PREMIUMS PAID FOR ANY CREDIT LIFE,
12 CREDIT DISABILITY, CREDIT UNEMPLOYMENT, CREDIT PROPERTY, OR OTHER CREDIT
13 LIFE OR HEALTH INSURANCE POLICY, DEBT CANCELLATION, OR DEBT SUSPENSION
14 AGREEMENT; AND

15 (V) THE MAXIMUM PREPAYMENT FEES OR PENALTIES THAT MAY
16 BE CHARGED OR COLLECTED UNDER THE TERMS OF THE LOAN; AND

17 (VI) FOR OPEN-END LOANS, THE SUM OF THE TOTAL FEES
18 CHARGED AT CLOSING PLUS THE MAXIMUM ADDITIONAL FEES THAT MAY BE
19 CHARGED IN ACCORDANCE WITH THE TERMS OF THE LOAN.

20 (2) "POINTS AND FEES" DO NOT INCLUDE:

21 (I) TAXES, FILING FEES, RECORDING FEES, AND OTHER CHARGES
22 AND FEES PAID OR TO BE PAID TO PUBLIC OFFICIALS FOR DETERMINING THE
23 EXISTENCE OF OR FOR PERFECTING, RELEASING, OR SATISFYING A SECURITY
24 INTEREST;

25 (II) FEES AND CHARGES PAID TO A PERSON OTHER THAN A
26 LENDER, AN AFFILIATE OF THE LENDER, A MORTGAGE BROKER, OR AN AFFILIATE OF
27 THE MORTGAGE BROKER, FOR:

- 28 1. A FLOOD CERTIFICATION;
- 29 2. AN INSPECTION FOR PEST INFESTATION;
- 30 3. A FLOOD DETERMINATION STUDY;
- 31 4. AN APPRAISAL;
- 32 5. AN INSPECTION PRIOR TO CLOSING;
- 33 6. A CREDIT REPORT;
- 34 7. A SURVEY;

1 8. AN ATTORNEY, IF THE BORROWER HAS THE RIGHT TO
2 SELECT THE ATTORNEY FROM AN APPROVED LIST OR OTHERWISE;

3 9. A NOTARY;

4 10. ESCROW CHARGES, IF NOT OTHERWISE INCLUDED UNDER
5 PARAGRAPH (1)(I) OF THIS SUBSECTION;

6 11. TITLE INSURANCE PREMIUMS; AND

7 12. FIRE INSURANCE AND FLOOD INSURANCE PREMIUMS,
8 PROVIDED THAT THE CONDITIONS SET FORTH IN 12 C.F.R. PART 226.4(D) ARE MET.

9 (J) "RATE" MEANS THE INTEREST CHARGED ON A HOME LOAN, BASED ON AN
10 ANNUAL SIMPLE INTEREST YIELD.

11 (K) "TOTAL LOAN AMOUNT" MEANS:

12 (1) THE PRINCIPAL OF A LOAN LESS THE ALLOWABLE POINTS AND FEES;
13 AND

14 (2) FOR OPEN END LOANS, THE TOTAL LINE OF CREDIT ALLOWED
15 UNDER THE LOAN.

16 (L) "TRIGGER RATE" MEANS:

17 (1) FOR A FIXED RATE LOAN, THE RATE AS OF THE CLOSING DATE;

18 (2) FOR A VARIABLE RATE LOAN BASED ON AN INDEX, THE SUM OF THE
19 INDEX RATE AS OF THE CLOSING DATE PLUS THE MAXIMUM MARGIN PERMITTED AT
20 ANY TIME UNDER THE LOAN; AND

21 (3) FOR A LOAN WHERE THE RATE MAY VARY AT ANY TIME DURING THE
22 TERM OF THE LOAN, THE MAXIMUM RATE THAT MAY BE CHARGED.

23 12-1202.

24 (A) (1) A LENDER MAY NOT FINANCE, DIRECTLY OR INDIRECTLY, ANY
25 CREDIT LIFE, CREDIT DISABILITY, CREDIT PROPERTY, CREDIT UNEMPLOYMENT, OR
26 OTHER CREDIT LIFE OR HEALTH INSURANCE POLICY, DEBT CANCELLATION, OR DEBT
27 SUSPENSION AGREEMENT THROUGH A HOME LOAN.

28 (2) INSURANCE PREMIUMS THAT ARE NOT INCLUDED IN THE HOME
29 LOAN PRINCIPAL BUT ARE CALCULATED AND PAID ON A MONTHLY BASIS WILL NOT
30 BE CONSIDERED FINANCED BY THE LENDER FOR PURPOSES OF THIS SUBSECTION.

31 (B) (1) A LENDER MAY CHARGE A LATE PAYMENT FEE WITH RESPECT TO A
32 HOME LOAN ONLY IF:

33 (I) THE LATE PAYMENT FEE FOR A PAST DUE PAYMENT IS NOT IN
34 EXCESS OF 4% OF THE AMOUNT OF THE PAST DUE PAYMENT;

1 (II) THE PAST DUE PAYMENT IS PAST DUE FOR 15 DAYS OR MORE;
2 AND

3 (III) THE LENDER NOTIFIES THE BORROWER WITHIN 45 DAYS
4 FOLLOWING THE PAYMENT DUE DATE THAT A LATE PAYMENT CHARGE HAS BEEN
5 IMPOSED.

6 (2) A LATE PAYMENT FEE MAY NOT BE CHARGED MORE THAN ONCE FOR
7 A SINGLE PAST DUE PAYMENT.

8 (3) IF A LATE PAYMENT FEE IS DEDUCTED FROM A SUBSEQUENT
9 PAYMENT ON A LOAN, THE DEDUCTION FROM THE SUBSEQUENT PAYMENT MAY NOT
10 CAUSE A DEFAULT ON THAT SUBSEQUENT PAYMENT.

11 (4) IF A LATE PAYMENT FEE HAS BEEN CHARGED FOR A PAST DUE
12 PAYMENT, ANY SUBSEQUENT PAYMENT THAT WOULD HAVE BEEN TIMELY AND
13 SUFFICIENT BUT FOR THE PREVIOUS PAST DUE PAYMENT MAY NOT BE SUBJECT TO
14 A LATE PAYMENT FEE.

15 (5) A LATE PAYMENT FEE MAY NOT BE COLLECTED IF THE BORROWER
16 INFORMS THE LENDER THAT NONPAYMENT OF AN INSTALLMENT IS IN DISPUTE AND
17 PRESENTS PROOF OF PAYMENT WITHIN 45 DAYS OF RECEIPT OF NOTICE OF THE
18 IMPOSITION OF A LATE PAYMENT FEE.

19 (C) (1) IF A BORROWER REQUESTS A PAYOFF BALANCE FROM A LENDER,
20 THE LENDER SHALL PROVIDE THE PAYOFF BALANCE TO THE BORROWER WITHIN
21 SEVEN BUSINESS DAYS OF THE REQUEST.

22 (2) A LENDER MAY NOT CHARGE A FEE FOR:

23 (I) PROVIDING THE PAYOFF BALANCE FOR A HOME LOAN; OR

24 (II) PROVIDING A RELEASE ON PREPAYMENT OF THE LOAN.

25 (D) A LENDER MAY NOT MAKE A HIGH-COST HOME LOAN:

26 (1) IF THE HIGH-COST HOME LOAN PAYS OFF ALL OR PART OF AN
27 EXISTING HOME LOAN; AND

28 (2) THE BORROWER DOES NOT RECEIVE A REASONABLE AND TANGIBLE
29 NET BENEFIT FROM THE NEW HOME LOAN CONSIDERING ALL THE CIRCUMSTANCES,
30 INCLUDING THE TERMS OF THE HIGH-COST HOME LOAN, THE REFINANCED DEBT,
31 THE COST OF THE NEW HOME LOAN, AND THE BORROWER'S CIRCUMSTANCES.

32 (E) A LENDER MAY NOT RECOMMEND OR ENCOURAGE DEFAULT OF AN
33 EXISTING LOAN OR OTHER DEBT PRIOR TO OR IN CONNECTION WITH THE CLOSING
34 OR PLANNED CLOSING OF A HOME LOAN THAT REFINANCES ALL OR ANY PORTION OF
35 THE EXISTING LOAN OR DEBT.

1 (F) A LENDER MAY NOT MAKE A HIGH-COST HOME LOAN IF THE HIGH-COST
2 HOME LOAN REFINANCES AN EXISTING HOME LOAN THAT IS A SPECIAL MORTGAGE
3 ORIGINATED, SUBSIDIZED, OR GUARANTEED BY OR THROUGH A STATE, TRIBAL, OR
4 LOCAL GOVERNMENT, OR NOT-FOR-PROFIT ORGANIZATION, WHICH BEARS
5 NONSTANDARD PAYMENT TERMS BENEFICIAL TO THE BORROWER OR WHEREIN NO
6 PAYMENTS ARE REQUIRED UNDER SPECIFIED CONDITIONS, AND AS A RESULT OF
7 THE REFINANCING, THE BORROWER WILL LOSE ONE OR MORE OF THE BENEFITS OF
8 THE SPECIAL MORTGAGE.

9 (G) (1) A LENDER MAY NOT MAKE A HIGH-COST HOME LOAN UNLESS THE
10 LENDER REASONABLY BELIEVES AT THE TIME THE LOAN IS CONSUMMATED THAT
11 ONE OR MORE OF THE BORROWERS, WHEN CONSIDERED INDIVIDUALLY OR
12 COLLECTIVELY, WILL BE ABLE TO MAKE THE SCHEDULED PAYMENTS TO REPAY THE
13 OBLIGATION BASED ON A CONSIDERATION OF THE BORROWERS' CURRENT AND
14 EXPECTED INCOME, CURRENT OBLIGATIONS, EMPLOYMENT STATUS, AND OTHER
15 FINANCIAL RESOURCES, OTHER THAN THE OBLIGOR'S EQUITY IN THE DWELLING
16 WHICH SECURES REPAYMENT OF THE LOAN.

17 (2) A BORROWER SHALL BE PRESUMED TO BE ABLE TO MAKE
18 SCHEDULED PAYMENTS IF, AT THE TIME THE LOAN IS MADE, OR AT THE TIME OF
19 THE FIRST RATE ADJUSTMENT IN THE CASE OF A LOWER INTRODUCTORY INTEREST
20 RATE, THE BORROWER'S SCHEDULED MONTHLY PAYMENTS ON THE HIGH-COST
21 HOME LOAN, INCLUDING PRINCIPAL, INTEREST, TAXES, INSURANCE, AND
22 ASSESSMENTS, COMBINED WITH THE SCHEDULED PAYMENTS FOR ALL OTHER DEBT,
23 DO NOT EXCEED 50% OF THE BORROWER'S DOCUMENTED AND VERIFIED MONTHLY
24 GROSS INCOME, PROVIDED THAT THE BORROWER HAS SUFFICIENT RESIDUAL
25 INCOME AS DEFINED IN THE GUIDELINES ESTABLISHED IN 38 C.F.R. PART 36.4337(E)
26 AND VA FORM 26-6393 TO PAY ESSENTIAL MONTHLY EXPENSES AFTER PAYING THE
27 SCHEDULED MONTHLY PAYMENTS AND ANY ADDITIONAL DEBT.

28 (H) A LENDER MAY NOT MAKE A HIGH-COST HOME LOAN WITHOUT FIRST
29 RECEIVING CERTIFICATION FROM AN INDEPENDENT HOUSING OR CREDIT
30 COUNSELOR APPROVED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN
31 DEVELOPMENT OR THE MARYLAND DEPARTMENT OF HOUSING AND COMMUNITY
32 DEVELOPMENT THAT THE BORROWER HAS RECEIVED COUNSELING ON THE
33 ADVISABILITY OF THE LOAN TRANSACTION.

34 (I) A LENDER MAY NOT CHARGE A BORROWER A FEE TO MODIFY, RENEW,
35 EXTEND, OR AMEND A HIGH-COST HOME LOAN OR TO DEFER ANY PAYMENT DUE
36 UNDER THE TERMS OF THE LOAN.

37 (J) A LENDER MAY NOT PAY A CONTRACTOR UNDER A HOME IMPROVEMENT
38 CONTRACT FROM THE PROCEEDS OF A HIGH-COST HOME LOAN OTHER THAN:

39 (1) BY AN INSTRUMENT PAYABLE SOLELY TO THE BORROWER OR
40 BORROWERS; OR

41 (2) AT THE ELECTION OF THE BORROWER OR BORROWERS, THROUGH A
42 THIRD-PARTY ESCROW AGENT IN ACCORDANCE WITH TERMS ESTABLISHED IN

1 WRITTEN AGREEMENT SIGNED BY THE BORROWER AND THE CONTRACTOR PRIOR TO
2 THE DISBURSEMENT.

3 (K) (1) A LENDER FINANCING A HIGH-COST HOME LOAN MAY NOT STEER A
4 BORROWER INTO A LOAN WITH A HIGHER COST THAN THE LOWEST COST CATEGORY
5 OF LOAN FOR WHICH THE BORROWER COULD QUALIFY WITH THAT LENDER OR ANY
6 OF THE LENDER'S AFFILIATES.

7 (2) A BROKER ARRANGING A HIGH-COST HOME LOAN MAY NOT STEER A
8 BORROWER INTO A LOAN WITH A HIGHER COST THAN THE LOWEST COST CATEGORY
9 OF LOAN AVAILABLE TO THAT BORROWER FROM THE LENDERS WITH WHOM THE
10 BROKER REGULARLY DOES BUSINESS.

11 12-1203.

12 (A) (1) A HIGH-COST HOME LOAN MAY NOT CONTAIN A PROVISION THAT
13 INCREASES THE INTEREST RATE AFTER DEFAULT.

14 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY TO INTEREST
15 RATE CHANGES IN A VARIABLE RATE LOAN OTHERWISE CONSISTENT WITH THE
16 PROVISIONS OF THE LOAN TERMS, PROVIDED THE CHANGE IN THE INTEREST RATE
17 IS NOT TRIGGERED BY THE EVENT OF DEFAULT OR THE ACCELERATION OF THE
18 INDEBTEDNESS.

19 (B) (1) THE TERMS OF A HOME LOAN MAY NOT CONTAIN A PROVISION THAT
20 PERMITS THE LENDER, IN ITS SOLE DISCRETION, TO ACCELERATE THE
21 INDEBTEDNESS.

22 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY WHEN
23 REPAYMENT OF THE LOAN HAS BEEN ACCELERATED IN GOOD FAITH DUE TO THE
24 BORROWER'S FAILURE TO ABIDE BY THE MATERIAL TERMS OF THE LOAN.

25 (C) THE TERMS OF A HIGH-COST HOME LOAN MAY NOT INCLUDE FINANCING
26 FOR POINTS AND FEES IN EXCESS OF 3% OF THE TOTAL LOAN AMOUNT.

27 (D) A HIGH-COST HOME LOAN MAY NOT BE SUBJECT TO A PREPAYMENT FEE
28 OR PENALTY.

29 (E) (1) A HIGH-COST HOME LOAN MAY NOT HAVE A SCHEDULED PAYMENT
30 THAT IS MORE THAN TWICE THE AVERAGE OF EARLIER SCHEDULED PAYMENTS.

31 (2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY WHEN THE
32 PAYMENT SCHEDULE IS ADJUSTED TO THE SEASONAL OR IRREGULAR INCOME OF
33 THE BORROWER.

34 (F) A HIGH-COST HOME LOAN MAY NOT INCLUDE TERMS WHEREIN THE
35 OUTSTANDING PRINCIPAL BALANCE MAY BE INCREASED AT ANY TIME BECAUSE THE
36 REGULAR PERIODIC PAYMENTS DO NOT COVER THE FULL AMOUNT OF THE LOAN
37 AND THE INTEREST DUE.

1 (G) A HIGH-COST HOME LOAN MAY NOT INCLUDE TERMS WHERE MORE THAN
2 TWO PERIODIC PAYMENTS REQUIRED UNDER THE LOAN ARE CONSOLIDATED AND
3 PAID IN ADVANCE FROM THE LOAN PROCEEDS PROVIDED TO THE BORROWER.

4 (H) A HIGH-COST HOME LOAN MAY NOT INCLUDE TERMS THAT AUTHORIZE A
5 LENDER TO REQUIRE A BORROWER TO ASSERT ANY CLAIM OR DEFENSE IN A FORUM
6 THAT IS LESS CONVENIENT, MORE COSTLY, OR MORE DILATORY FOR THE
7 RESOLUTION OF A DISPUTE THAN IN A COURT OF COMPETENT JURISDICTION.

8 (I) A HIGH-COST HOME LOAN MAY NOT INCLUDE TERMS THAT LIMIT ANY
9 CLAIM OR DEFENSE A BORROWER MAY HAVE.

10 12-1204.

11 A VIOLATION OF THIS SUBTITLE IS AN UNFAIR AND DECEPTIVE TRADE
12 PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE.

13 12-1205.

14 (A) A PERSON WHO HAS SUFFERED DAMAGES FOR A VIOLATION OF ANY
15 PROVISION OF THIS SUBTITLE MAY BRING A CIVIL ACTION AGAINST THE PERSON IN
16 A COURT OF COMPETENT JURISDICTION.

17 (B) THE COURT MAY AWARD:

18 (1) ACTUAL DAMAGES TO THE AGGRIEVED PARTY;

19 (2) STATUTORY DAMAGES EQUAL TO THE FINANCE CHARGES AGREED
20 TO IN THE HOME LOAN AGREEMENT PLUS 10% OF THE AMOUNT FINANCED;

21 (3) PUNITIVE DAMAGES FOR WILLFUL VIOLATION OF THIS SUBTITLE;
22 AND

23 (4) IF A JUDGMENT IS ENTERED IN FAVOR OF A COMPLAINING PARTY,
24 ATTORNEY'S FEES TO THE COMPLAINING PARTY.

25 12-1206.

26 (A) A LENDER THAT INTENTIONALLY MAKES A HOME LOAN IN VIOLATION OF
27 ANY PROVISION OF THIS SUBTITLE IS SUBJECT TO FORFEITURE OF ALL PRINCIPAL
28 AND INTEREST ON THE LOAN.

29 (B) LOAN TERMS WHICH VIOLATE THIS SUBTITLE ARE UNENFORCEABLE AND
30 A COURT OF COMPETENT JURISDICTION MAY ISSUE AN ORDER TO ALTER THE TERMS
31 OF THE LOAN AGREEMENT TO BRING THE LOAN IN COMPLIANCE WITH THIS
32 SUBTITLE.

33 (C) THE RIGHTS OF RESCISSION GRANTED UNDER 15 U.S.C. 1601, ET. SEQ., FOR
34 VIOLATIONS OF THAT LAW AND ALL OTHER REMEDIES PROVIDED IN THIS ARTICLE
35 SHALL BE AVAILABLE TO A BORROWER BY WAY OF RECOUPMENT AGAINST A PARTY

1 FORECLOSING ON THE HOME LOAN OR COLLECTING ON THE LOAN AT ANY TIME
2 DURING THE TERM OF THE LOAN.

3 12-1207.

4 (A) A BORROWER MAY ASSERT A VIOLATION OF THIS SUBTITLE AS A DEFENSE,
5 BAR, OR COUNTER-CLAIM TO ANY DEFAULT ACTION, COLLECTION ACTION, OR
6 JUDICIAL OR NONJUDICIAL FORECLOSURE ACTION IN CONNECTION WITH A HOME
7 LOAN.

8 (B) ALL AFFIRMATIVE CLAIMS AND DEFENSES THAT A BORROWER MAY
9 ASSERT AGAINST A LENDER OR BROKER OF A HOME LOAN SHALL BE AVAILABLE TO
10 A PERSON WHO PURCHASES OR IS OTHERWISE ASSIGNED THE HOME LOAN.

11 12-1208.

12 (A) (1) IN THIS SECTION, "BONA FIDE ERROR" INCLUDES A CLERICAL,
13 CALCULATION, COMPUTER MALFUNCTION, PROGRAMMING, OR PRINTING ERROR.

14 (2) "BONA FIDE ERROR" DOES NOT INCLUDE AN ERROR OF LEGAL
15 JUDGMENT WITH RESPECT TO A PERSON'S OBLIGATIONS SET FORTH UNDER THIS
16 SUBTITLE.

17 (B) A LENDER WHO MAKES A HOME LOAN AND WHO, ACTING IN GOOD FAITH,
18 FAILS TO COMPLY WITH THE PROVISIONS OF § 12-1202 OR § 12-1203 OF THIS
19 SUBTITLE, WILL NOT BE DEEMED TO HAVE VIOLATED THIS SUBTITLE IF THE LENDER
20 ESTABLISHES THAT:

21 (1) WITHIN 30 DAYS OF THE LOAN CLOSING AND PRIOR TO RECEIVING
22 ANY NOTICE FROM THE BORROWER OF THE LENDER'S FAILURE TO COMPLY WITH
23 THIS SUBTITLE, THE LENDER HAS MADE APPROPRIATE RESTITUTION TO THE
24 BORROWER AND ADJUSTMENTS ARE MADE TO THE TERMS OF THE LOAN TO BRING
25 THE LOAN IN COMPLIANCE WITH THIS SUBTITLE; OR

26 (2) WITHIN 60 DAYS OF THE LOAN CLOSING, PRIOR TO RECEIVING ANY
27 NOTICE FROM THE BORROWER OF THE LENDER'S FAILURE TO COMPLY WITH THIS
28 SUBTITLE, AND THE LENDER'S FAILURE WAS NOT INTENTIONAL AND RESULTED
29 FROM A BONA FIDE ERROR NOTWITHSTANDING THE MAINTENANCE OF
30 PROCEDURES REASONABLY ADAPTED TO AVOID SUCH ERRORS, THE LENDER HAS
31 MADE APPROPRIATE RESTITUTION TO THE BORROWER, AND ADJUSTMENTS ARE
32 MADE TO THE TERMS OF THE LOAN TO BRING THE LOAN IN COMPLIANCE WITH THIS
33 SUBTITLE.

34 13-301.

35 Unfair or deceptive trade practices include any:

36 (14) Violation of a provision of:

37 (i) This title;

- 1 (ii) An order of the Attorney General or agreement of a party
2 relating to unit pricing under Title 14, Subtitle 1 of this article;
- 3 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt
4 Collection Act;
- 5 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door
6 Sales Act;
- 7 (v) Title 14, Subtitle 9 of this article, Kosher Products;
- 8 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;
- 9 (vii) Section 14-1302 of this article;
- 10 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales
11 Act;
- 12 (ix) Section 22-415 of the Transportation Article;
- 13 (x) Title 14, Subtitle 20 of this article;
- 14 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
15 Enforcement Act;
- 16 (xii) Title 14, Subtitle 21 of this article;
- 17 (xiii) Section 18-107 of the Transportation Article;
- 18 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
19 Solicitations Act;
- 20 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts
21 Act;
- 22 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 23 (xvii) Title 10, Subtitle 8 of the Real Property Article;
- 24 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;
- 25 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door
26 Solicitations Act;
- 27 (xx) Title 14, Subtitle 31 of this article, the Maryland Household
28 Goods Movers Act; or
- 29 (XXI) TITLE 12, SUBTITLE 12 OF THIS ARTICLE; OR

1

Article - Financial Institutions

2 [1-209.

3 (a) Only the State may enact a law which purports to regulate extensions of
4 credit made by a financial institution.

5 (b) This section does not:

6 (1) Affect federal law preemption of State law;

7 (2) Restrict or otherwise affect local laws that establish property
8 ownership or the rights and obligations of property owners;

9 (3) Restrict or otherwise affect a local government's ability to regulate its
10 fiscal, economic, or community development policy;

11 (4) Restrict or otherwise affect a local government's ability to enact laws
12 or adopt regulations relating to fair housing or other civil rights; or

13 (5) Restrict or otherwise affect a local government's ability to establish or
14 administer loan programs to assist residents with financial needs.]

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2003.