

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL NO. 1025

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, after “Brokers -” insert “Compensation and”; strike beginning with “altering” in line 3 down through “Act” in line 9 and substitute “providing that a mortgage broker is not considered a lender for purposes of the prohibition on receiving a certain finder’s fee under certain circumstances; defining certain terms; stating the intent of the General Assembly”; strike beginning with “applying” in line 9 down through “broker” in line 10 and substitute “relating to mortgage fees and disclosures”; and in line 13, after “12-801” insert “and 12-804”.

AMENDMENT NO. 2

On page 1, in line 22, strike “(1)”.

On pages 1 and 2, strike in their entirety the lines beginning with line 26 on page 1 through line 2 on page 2, inclusive.

On page 2, in line 5, after “(e)” insert “(1)”; after line 6, insert:

“(2) “MORTGAGE BROKER”, WITH RESPECT TO A TABLE FUNDED TRANSACTION, INCLUDES A MORTGAGE BROKER WHO CLOSES A MORTGAGE LOAN IN THE MORTGAGE BROKER’S OWN NAME AND CONTEMPORANEOUSLY ASSIGNS THE LOAN TO THE ACTUAL LENDER.”;

and after line 9 insert:

“(G) “TABLE FUNDED TRANSACTION” MEANS A MORTGAGE LOAN TRANSACTION IN WHICH A LOAN IS FUNDED AT SETTLEMENT BY A CONTEMPORANEOUS ADVANCE OF LOAN FUNDS AND ASSIGNMENT OF THE LOAN TO THE PERSON ADVANCING THE FUNDS.

(Over)

12-804.

(a) A mortgage broker may charge a finder's fee not in excess of 8 percent of the amount of the loan or advance.

(b) In addition to a finder's fee, a mortgage broker may charge a borrower for the actual cost of any appraisal or credit report obtained by the mortgage broker.

(c) A mortgage broker obtaining a mortgage loan with respect to the same property more than once within a 24-month period may charge a finder's fee only on so much of the loan as is in excess of the initial loan.

(d) The provisions of this section do not apply to:

(1) The charging of fees and charges otherwise permitted under this title; or

(2) Attorney's fees unless the attorney is functioning as a mortgage broker.

(e) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A mortgage broker may not charge a finder's fee in any transaction in which the mortgage broker or an owner, part owner, partner, director, officer, or employee of the mortgage broker is the lender or an owner, part owner, partner, director, officer, or employee of the lender.

(2) A MORTGAGE BROKER WHO CLOSSES A MORTGAGE LOAN IN THE MORTGAGE BROKER'S OWN NAME IN A TABLE FUNDED TRANSACTION IS NOT CONSIDERED A LENDER FOR THE PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION IF THE MORTGAGE BROKER AT OR BEFORE THE CLOSING:

(I) ADVISES THE BORROWER IN WRITING THAT THE MORTGAGE BROKER IS NOT THE ACTUAL LENDER IN THE TRANSACTION; AND

(II) DISCLOSES THE NAME AND ADDRESS OF THE ACTUAL LENDER WHO IS ADVANCING THE FUNDS FOR THE LOAN AND TO WHOM THE LOAN WILL INITIALLY BE ASSIGNED AT OR AFTER THE SETTLEMENT."

AMENDMENT NO. 3

On page 2, in line 10, after "That" insert ", in enacting"; strike beginning with "shall" in line

10 down through the second “to” in line 11 and substitute “, it is not the intent of the General Assembly to regulate”; and in line 11, after “fees” insert a comma.