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By: **Delegates Smigiel, Boteler, Boutin, Cryor, Donoghue, Dwyer, Elmore,  
Goldwater, Haddaway, Hubbard, James, Leopold, McDonough,  
Morhaim, Nathan-Pulliam, Oaks, Rudolph, Sossi, V. Turner, Walkup,  
and Weldon**

Introduced and read first time: February 6, 2004  
Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Credit Regulation - Residential Mortgages and Deeds of Trust - Prepayment**

3 FOR the purpose of repealing a provision that allows a loan contract to expressly  
4 prohibit a borrower from prepaying all or part of certain outstanding unpaid  
5 indebtedness at any time; authorizing a borrower to prepay all or part of certain  
6 outstanding unpaid indebtedness at any time without a penalty; providing for  
7 the application of this Act; and generally relating to prepayment of outstanding  
8 indebtedness under a loan secured by a mortgage or deed of trust on the  
9 borrower's primary residence.

10 BY repealing and reenacting, with amendments,  
11 Article - Commercial Law  
12 Section 12-126  
13 Annotated Code of Maryland  
14 (2000 Replacement Volume and 2003 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 12-126.

19 (a) This section applies only to a loan that:

20 (1) Is secured by a mortgage or deed of trust on the borrower's primary  
21 residence; and

22 (2) Is not a commercial loan.

23 (b) [Except to the extent expressly provided otherwise in the loan contract, a]  
24 A borrower may prepay all or part of outstanding unpaid indebtedness under a loan at  
25 any time WITHOUT A PENALTY.

1 (c) In the event of prepayment of the entire loan, the lender shall refund or  
2 credit to the borrower the unearned portion of the precomputed interest charge. This  
3 refund or credit shall be in an amount not less than the amount which would be  
4 refunded or credited if the unearned precomputed interest charge were calculated in  
5 accordance with the actuarial method, except that the borrower may not be entitled to  
6 a refund or credit of less than \$5. The unearned portion of the precomputed interest  
7 charge is, at the option of the lender, either:

8 (1) That portion of the precomputed interest charge which is allocable to  
9 all originally scheduled or, if deferred, all deferred payment periods, or portions of  
10 payment periods, ending subsequent to the date of prepayment. The unearned  
11 precomputed interest charge is the total of that which would have been earned for  
12 each period, or portion of a period, had the loan not been prepaid, by applying to the  
13 unpaid balances of principal, according to the actuarial method, an annual percentage  
14 rate based on the precomputed interest charges, assuming that all payments were  
15 made as scheduled, or as deferred, if deferred. The lender, at its option, may round  
16 this annual percentage rate to the nearest 1/4 of 1 percent; or

17 (2) The total precomputed interest charge less the earned precomputed  
18 interest charge. The earned precomputed interest charge shall be determined by  
19 applying an annual percentage rate based on the total precomputed interest charge,  
20 under the actuarial method, to the unpaid balances for the actual time those balances  
21 were unpaid up to the date of prepayment.

22 (d) As used in subsection (c) of this section, the following terms have the  
23 meanings indicated.

24 (1) "Actuarial method" means the method of allocating payments made  
25 on a loan between the outstanding principal balance of the loan and interest, by  
26 which a payment is applied first to the accumulated interest, and any remainder is  
27 subtracted from the outstanding principal balance of the loan.

28 (2) "Precomputed interest charge" means interest as computed by an add  
29 on, discount, or other similar method.

30 (3) "Payment period" means the time period within which scheduled  
31 payments on a loan are due as provided in the agreement, note, or other evidence of  
32 the loan.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
34 construed to apply only prospectively and may not be applied or interpreted to have  
35 any effect on or application to any loan contract executed before the effective date of  
36 this Act.

37 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
38 October 1, 2004.