

By: **Delegate Minnick**

Introduced and read first time: February 25, 2004

Assigned to: Rules and Executive Nominations

Re-referred to: Economic Matters, March 8, 2004

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2004

CHAPTER _____

1 AN ACT concerning

2 **~~Real Property~~ - Mortgages and Deeds of Trust - Flood Insurance**

3 FOR the purpose of ~~requiring a lender, in evaluating the amount of flood insurance~~
4 ~~coverage that a borrower is required to purchase, to take into account a separate~~
5 ~~valuation of the improved real property excluding the value of the land;~~
6 ~~providing for the application of this Act; and generally relating to flood~~
7 ~~insurance in consumer loan transactions providing that a lender may not~~
8 ~~require a borrower to provide or purchase flood insurance in an amount~~
9 ~~exceeding the value of improvements on real property under certain~~
10 ~~circumstances; defining a certain term; making stylistic changes; and generally~~
11 ~~relating to flood insurance, mortgages, and deeds of trust.~~

12 ~~BY adding to~~
13 ~~Article - Real Property~~
14 ~~Section 10-704~~
15 ~~Annotated Code of Maryland~~
16 ~~(2003 Replacement Volume and 2003 Supplement)~~

17 ~~BY repealing and reenacting, with amendments,~~
18 ~~Article - Commercial Law~~
19 ~~Section 12-124~~
20 ~~Annotated Code of Maryland~~
21 ~~(2000 Replacement Volume and 2003 Supplement)~~

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

~~Article - Real Property~~

10-704.

~~(A) THIS SECTION APPLIES TO A LOAN TRANSACTION IN WHICH THE LOAN IS SECURED BY A MORTGAGE OR DEED OF TRUST ON REAL PROPERTY.~~

~~(B) IN EVALUATING THE AMOUNT OF FLOOD INSURANCE COVERAGE THAT A BORROWER IS REQUIRED TO PURCHASE, A LENDER SHALL TAKE INTO ACCOUNT A SEPARATE VALUATION OF THE IMPROVED REAL PROPERTY EXCLUDING THE VALUE OF THE LAND.~~

Article - Commercial Law

12-124.

(a) (1) (I) In this [section,] SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "[property] PROPERTY insurance coverage" means property insurance against losses caused by perils that commonly are covered in insurance policies described with terms similar to "standard fire" or "standard fire with extended coverage".

(III) "FLOOD INSURANCE COVERAGE" MEANS FLOOD INSURANCE AGAINST LOSSES CAUSED BY FLOODING THAT ARE COVERED UNDER A POLICY ISSUED UNDER THE NATIONAL FLOOD INSURANCE ACT BY:

1. THE FEDERAL GOVERNMENT; OR

2. AN INSURER.

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

(3) A LENDER MAY NOT REQUIRE A BORROWER, AS A CONDITION TO RECEIVING OR MAINTAINING A LOAN SECURED BY A FIRST MORTGAGE OR FIRST DEED OF TRUST, TO PROVIDE OR PURCHASE FLOOD INSURANCE COVERAGE IN AN AMOUNT EXCEEDING THE REPLACEMENT VALUE OF THE IMPROVEMENTS ON THE REAL PROPERTY.

[(3)] (4) In determining the replacement value of the improvements on any real property, the lender may:

(i) Accept the value placed on the improvements by the insurer; or

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

3 [~~(4)~~] (5) A lender may not require that the insurance be purchased
4 through a particular insurance producer or insurance company.

5 (b) (1) A violation of this section shall entitle the borrower to:

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

8 (ii) Reasonable attorney's fees; and

9 (iii) Damages directly resulting from the violation.

10 (2) A violation of this section does not affect the validity of the first
11 mortgage or first deed of trust securing the loan.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2004.