
By: **Delegates Vaughn, Anderson, Benson, Carter, Gaines, Healey, Kirk,
Nathan-Pulliam, Oaks, Paige, Patterson, Rosenberg, and Taylor**

Introduced and read first time: March 1, 2004

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Mortgage Lending - Prohibited Practices**

3 FOR the purpose of prohibiting the financing of certain forms of insurance and
4 payments for certain cancellations in certain home loans; prohibiting a
5 mortgage broker or affiliate from receiving certain payments except in a certain
6 manner; prohibiting steering in connection with certain home loans; prohibiting
7 the making of certain loans with certain rates in excess of certain percentages
8 determined in a certain manner; establishing certain duties for certain
9 mortgage brokers; establishing certain relationships concerning the provision of
10 an appraisal for certain home loans; establishing certain presumptions
11 regarding fraud in connection with certain appraisals and certain home loans;
12 establishing certain defenses to certain presumptions; providing for the
13 calculation of certain points and fees; prohibiting the financing of points and
14 fees in excess of certain amounts in connection with certain home loans;
15 providing for the application of certain claims and defenses; establishing certain
16 claims available to certain borrowers for certain violations; requiring the
17 opportunity to cure certain defaults in certain manners; requiring certain
18 notification of default before commencing certain actions for foreclosure or other
19 seizure or transfer of interest in certain property; providing for the payment of
20 certain sums to a court and to certain parties in a certain manner; providing for
21 the retention of certain sums until certain claims are resolved; authorizing
22 certain borrowers to seek, and a court to provide, certain forms of relief for
23 certain persons; providing that a violation of this Act is a misdemeanor subject
24 to certain penalties; providing that certain remedies are cumulative and not
25 exclusive; providing for the construction of this Act; defining certain terms;
26 stating certain findings of the General Assembly; providing that a violation of
27 this Act is an unfair or deceptive trade practice subject to certain provisions;
28 repealing certain provisions relating to the financing of certain insurance in a
29 certain manner, the making of certain loans to certain persons in certain
30 manners, the taking of certain security for certain loans, the collection of certain
31 sums, requirements for certain insurance coverage, certain presumptions, and
32 certain notifications; making the provisions of this Act severable; providing that
33 existing obligations or contract rights may not be impaired by this Act; and
34 generally relating to mortgage lending and prohibited practices.

1 BY repealing
2 Article - Commercial Law
3 Section 12-124.1, 12-127, 12-311, 12-312, 12-409.1, 12-410, 12-1007, and
4 12-1029
5 Annotated Code of Maryland
6 (2000 Replacement Volume and 2003 Supplement)

7 BY adding to
8 Article - Commercial Law
9 Section 12-124.1
10 Annotated Code of Maryland
11 (2000 Replacement Volume and 2003 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article - Commercial Law
14 Section 13-301(14)
15 Annotated Code of Maryland
16 (2000 Replacement Volume and 2003 Supplement)

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

19 **Article - Commercial Law**

20 [12-124.1.

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

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

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

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

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

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

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

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

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

16 (i) Credit health insurance;

17 (ii) Credit involuntary unemployment benefit insurance; or

18 (iii) Credit life insurance.

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

22 (c) (1) In this subsection, "loan application" has the meaning stated in §
23 12-125 of this subtitle.

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

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

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

31 12-124.1.

32 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
33 INDICATED.

34 (2) "AFFILIATE" MEANS ANY COMPANY THAT CONTROLS, IS
35 CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER COMPANY, AS

1 PROVIDED IN THE FEDERAL BANK HOLDING COMPANY ACT, 12 U.S.C. §§ 1841
2 THROUGH 1850.

3 (3) "ANNUAL PERCENTAGE RATE" MEANS THE ANNUAL PERCENTAGE
4 RATE FOR THE LOAN CALCULATED UNDER 12 C.F.R. PART 226.

5 (4) "APPRAISAL" MEANS A WRITTEN ANALYSIS, OPINION, OR
6 CONCLUSION AS TO THE NATURE, QUALITY, VALUE, OR UTILITY OF INTERESTS IN OR
7 ASPECTS OF REAL ESTATE OR DWELLINGS LOCATED OR TO BE LOCATED ON REAL
8 PROPERTY.

9 (5) "BORROWER" MEANS ANY NATURAL PERSON OBLIGATED TO REPAY
10 THE LOAN, INCLUDING A COBORROWER, COSIGNER, OR GUARANTOR.

11 (6) (I) "CREDITOR" MEANS A LENDER AS DEFINED IN 24 C.F.R. 3500.2.

12 (II) "CREDITOR" INCLUDES A MORTGAGE BROKER.

13 (7) "HOME LOAN" MEANS AN EXTENSION OF CREDIT, INCLUDING AN
14 OPEN-END CREDIT PLAN, IN WHICH THE LOAN:

15 (I) DOES NOT EXCEED THE MAXIMUM ORIGINAL PRINCIPAL
16 OBLIGATION ALLOWED UNDER 12 U.S.C. § 1454(A)(2);

17 (II) IS A FEDERALLY RELATED MORTGAGE LOAN UNDER 24 C.F.R.
18 3500.2; AND

19 (III) IS NOT:

20 1. A REVERSE MORTGAGE TRANSACTION; OR

21 2. PRIMARILY FOR BUSINESS, AGRICULTURAL, OR
22 COMMERCIAL PURPOSES.

23 (8) "MORTGAGE BROKER" HAS THE MEANING INDICATED IN 24 C.F.R.
24 3500.2.

25 (9) "PRIME MORTGAGE RATE" MEANS THE MOST RECENTLY PUBLISHED
26 ANNUAL YIELD ON CONVENTIONAL MORTGAGES PUBLISHED BY THE BOARD OF
27 GOVERNORS OF THE FEDERAL RESERVE SYSTEM, AS PUBLISHED IN STATISTICAL
28 RELEASE H.15 OR ANY PUBLICATION THAT MAY SUPERSEDE IT, AS OF THE
29 APPLICABLE TIME STATED IN 12 C.F.R. 226.32(A)(1)(I), PLUS 2%.

30 (10) "STEERING" MEANS FAILING TO PROVIDE A BORROWER WITH
31 ACCESS TO ALL TYPES OF HOME LOANS THAT ARE OFFERED BY THE CREDITOR OR
32 AN AFFILIATE OF THE CREDITOR FOR WHICH THE BORROWER QUALIFIES.

33 (11) "TOTAL LOAN AMOUNT" HAS THE SAME MEANING AS THE IDENTICAL
34 TERM USED IN 12 C.F.R. 226.32.

35 (B) THE GENERAL ASSEMBLY FINDS THAT:

1 (1) PREDATORY LENDING HAS BECOME A PROBLEM IN THIS STATE,
2 EXACERBATING THE LOSS OF EQUITY IN HOMES AND CAUSING FORECLOSURES TO
3 INCREASE;

4 (2) ONE OF THE MOST COMMON FORMS OF PREDATORY LENDING IS THE
5 MAKING OF LOANS THAT ARE EQUITY-BASED, RATHER THAN INCOME-BASED;

6 (3) A HALLMARK OF THESE LOANS IS THE FINANCING OF EXCESSIVE
7 POINTS AND FEES WHICH PROVIDES IMMEDIATE INCOME TO THE ORIGINATOR OF
8 THE LOAN, ENCOURAGES CREDITORS TO REFINANCE, AND REDUCES THE
9 CREDITOR'S INCENTIVE TO ENSURE THAT THE HOMEOWNER CAN AFFORD THE
10 SUBSEQUENT MONTHLY PAYMENTS;

11 (4) AS LONG AS THERE IS SUFFICIENT EQUITY IN THE HOME, A
12 CREDITOR BENEFITS IF THE CONSUMER IS UNABLE TO MAKE THE PAYMENTS AND IS
13 FORCED TO REFINANCE;

14 (5) THE REPEATED FINANCING OF POINTS AND FEES PRIMARILY FOR
15 THE BENEFIT OF THE CREDITOR IN REFINANCE TRANSACTIONS IS CALLED
16 FLIPPING;

17 (6) FLIPPING IS NOT IN THE BEST INTEREST OF BORROWERS BECAUSE
18 EACH REPEATED REFINANCING TRANSACTION STRIPS PRECIOUS EQUITY, CREATING
19 A PATH THAT CAN LEAD TO FORECLOSURE;

20 (7) PREDATORY LENDING HAS THREATENED THE VIABILITY OF MANY
21 COMMUNITIES AND CAUSED DECREASES IN HOME OWNERSHIP;

22 (8) WHILE THE MARKETPLACE APPEARS TO OPERATE EFFECTIVELY FOR
23 MOST HOME LOANS, MANY HOMEOWNERS ARE VICTIMS OF OVERREACHING
24 CREDITORS WHO PROVIDE LOANS AT EXORBITANT COSTS AND INCLUDE TERMS
25 WHICH ARE UNNECESSARY TO SECURE REPAYMENT OF THE LOAN; AND

26 (9) AS COMPETITION AND SELF-REGULATION HAVE NOT ELIMINATED
27 THE PREDATORY TERMS FROM HOME-SECURED LOANS, THE CONSUMER
28 PROTECTION PROVISIONS OF THIS ACT ARE NECESSARY TO ENCOURAGE
29 RESPONSIBLE LENDING.

30 (C) (1) (I) FOR PURPOSES OF THIS PARAGRAPH, AN INSURANCE PREMIUM
31 OR A DEBT CANCELLATION OR SUSPENSION FEE THAT IS CALCULATED AND PAID IN
32 FULL ON A MONTHLY BASIS IS NOT CONSIDERED TO BE FINANCED BY THE
33 CREDITOR.

34 (II) A CREDITOR MAKING A HOME LOAN MAY NOT FINANCE,
35 DIRECTLY OR INDIRECTLY, ANY CREDIT LIFE, CREDIT DISABILITY, CREDIT
36 UNEMPLOYMENT OR CREDIT PROPERTY INSURANCE, OR ANY OTHER LIFE OR
37 HEALTH INSURANCE, OR ANY PAYMENTS DIRECTLY OR INDIRECTLY FOR ANY DEBT
38 CANCELLATION OR SUSPENSION AGREEMENT OR CONTRACT.

1 (2) A PREPAYMENT FEE OR PENALTY MAY NOT BE INCLUDED IN THE
2 LOAN DOCUMENTS FOR A HOME LOAN IF THE ANNUAL PERCENTAGE RATE
3 APPLICABLE TO THE HOME LOAN EXCEEDS THE PRIME MORTGAGE RATE.

4 (3) A MORTGAGE BROKER OR AFFILIATE OF A MORTGAGE BROKER MAY
5 NOT RECEIVE ANY DIRECT OR INDIRECT PAYMENT FROM A CREDITOR OR AN
6 AFFILIATE OF A CREDITOR IN CONNECTION WITH A HOME LOAN UNLESS THE
7 PAYMENT IS MADE ON BEHALF OF THE BORROWER.

8 (4) WITHOUT REGARD TO WHETHER A BORROWER IS ACTING
9 INDIVIDUALLY OR ON BEHALF OF ANOTHER IN A SIMILAR SITUATION, ANY
10 PROVISION OF A HOME LOAN AGREEMENT THAT ALLOWS A PARTY TO REQUIRE A
11 BORROWER TO ASSERT ANY CLAIM OR DEFENSE IN A FORUM THAT IS LESS
12 CONVENIENT, MORE COSTLY, OR MORE DILATORY FOR THE RESOLUTION OF A
13 DISPUTE THAN A JUDICIAL FORUM IN THIS STATE WHERE THE BORROWER MAY
14 OTHERWISE PROPERLY BRING A CLAIM OR DEFENSE, OR LIMITS IN ANY WAY ANY
15 CLAIM OR DEFENSE THE BORROWER MAY HAVE, IS UNCONSCIONABLE AND VOID.

16 (5) (I) A CREDITOR MAY NOT ENGAGE IN STEERING IN CONNECTION
17 WITH A HOME LOAN.

18 (II) STEERING IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE
19 SUBJECT TO ENFORCEMENT UNDER TITLE 13 OF THIS ARTICLE.

20 (6) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
21 PARAGRAPH, A CREDITOR MAY NOT MAKE A LOAN WITH AN ANNUAL PERCENTAGE
22 RATE THAT EXCEEDS THE WEEKLY AVERAGE YIELD ON COMPARABLE UNITED
23 STATES TREASURY SECURITIES ON THE 15TH DAY OF THE MONTH IMMEDIATELY
24 PRECEDING THE MONTH IN WHICH THE LOAN IS MADE:

25 1. FOR A FIRST LIEN MORTGAGE HOME LOAN, BY 7%; OR

26 2. FOR A SUBORDINATE MORTGAGE LOAN, BY 9%.

27 (II) A CREDITOR MAY MAKE A LOAN WITH AN ANNUAL
28 PERCENTAGE RATE EXCEEDING THE APPLICABLE RATE STATED IN SUBPARAGRAPH
29 (I) OF THIS PARAGRAPH IF THE CREDITOR FIRST RECEIVES CERTIFICATION FROM A
30 THIRD-PARTY, NONPROFIT COUNSELOR APPROVED BY THE UNITED STATES
31 DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR THE COMMISSIONER OF
32 FINANCIAL REGULATION STATING THAT THE BORROWER HAS RECEIVED
33 COUNSELING ON THE ADVISABILITY OF THE LOAN TRANSACTION.

34 (D) IN ADDITION TO ANY OTHER DUTY IMPOSED BY STATUTE OR AT COMMON
35 LAW, IN CONNECTION WITH A HOME LOAN, A MORTGAGE BROKER SHALL:

36 (1) SAFEGUARD AND ACCOUNT FOR ANY MONEY HANDLED FOR THE
37 BORROWER;

38 (2) FOLLOW REASONABLE AND LAWFUL INSTRUCTIONS FROM THE
39 BORROWER;

1 (3) ACT WITH REASONABLE SKILL, CARE, AND DILIGENCE; AND

2 (4) MAKE REASONABLE EFFORTS TO SECURE A HOME LOAN THAT BEST
3 MEETS THE NEEDS AND SERVES THE INTERESTS OF THE BORROWER CONSIDERING
4 ALL THE CIRCUMSTANCES, INCLUDING THE RATES, CHARGES, AND REPAYMENT
5 TERMS OF THE LOAN AND THE HOME LOAN OPTIONS FOR WHICH THE BORROWER
6 QUALIFIES.

7 (E) (1) IF AN APPRAISAL IS REQUIRED IN CONNECTION WITH A HOME LOAN
8 BY A CREDITOR, THE PERSON PROVIDING THE APPRAISAL SHALL BE AN AGENT OF
9 THE CREDITOR AND THE CREDITOR SHALL BE THE APPRAISER'S PRINCIPAL.

10 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A HOME LOAN IS
11 CONSIDERED TO HAVE BEEN OBTAINED BY FRAUD THAT INDUCED THE BORROWER
12 TO SIGN THE INSTRUMENT WITH NEITHER KNOWLEDGE NOR REASONABLE
13 OPPORTUNITY TO LEARN OF ITS CHARACTER OR ITS ESSENTIAL TERMS, IF:

14 (I) THE AMOUNT OF A HOME LOAN IS BASED ON THE RESULT OF
15 AN APPRAISAL PROVIDED BY AN APPRAISER CHOSEN BY THE CREDITOR; AND

16 (II) THE APPRAISAL SHOWS A VALUE FOR THE HOME IN EXCESS OF
17 ITS TRUE MARKET VALUE IF:

18 1. AT THE TIME OF THE APPRAISAL, LOCAL TAX VALUES
19 WERE WITHIN 90% OF THE FAIR MARKET VALUE FOR COMPARABLE LOCAL
20 PROPERTIES, AND THE APPRAISAL EXCEEDS THE LOCAL TAX VALUE FOR THE HOME
21 BY MORE THAN 30%;

22 2. A. THE HOME LOAN WAS FOR THE PURPOSE OF
23 PURCHASING THE HOME;

24 B. THE HOME HAD BEEN PURCHASED WITHIN THE
25 PREVIOUS 18 MONTHS; AND

26 C. THE APPRAISAL EXCEEDED THE PREVIOUS PURCHASE
27 PRICE BY 20%, UNLESS SIMILARLY SITUATED PROPERTIES SOLD BY PARTIES OTHER
28 THAN THE SELLER ALSO EXPERIENCED A SIMILAR INCREASE IN VALUE; OR

29 3. OTHER REASONABLE MEANS ESTABLISH THAT THE
30 APPRAISAL EXCEEDED THE ACTUAL FAIR MARKET VALUE OF THE HOME BY AT
31 LEAST 40% AND THE EXCESS WAS FOR THE PURPOSES OF INFLATING THE LOAN
32 AMOUNT.

33 (3) IT IS A DEFENSE TO A CLAIM UNDER THIS SUBSECTION THAT
34 SPECIFIC, WRITTEN DOCUMENTATION IS PROVIDED TO ESTABLISH THAT THE
35 INCREASED VALUE RESULTS FROM THE REHABILITATION OR MAINTENANCE OF THE
36 PROPERTY.

37 (F) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
38 MEANINGS INDICATED.

1 (II) "CONVENTIONAL MORTGAGE RATE" MEANS THE MOST
2 RECENTLY PUBLISHED ANNUAL YIELD ON CONVENTIONAL MORTGAGES PUBLISHED
3 BY THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, AS PUBLISHED
4 IN STATISTICAL RELEASE H.15 OR ANY PUBLICATION THAT MAY SUPERSEDE IT, AS
5 OF THE APPLICABLE TIME STATED IN 12 C.F.R. 226.32(A)(1)(I).

6 (III) 1. "POINTS AND FEES" HAS THE MEANING INDICATED IN 12
7 C.F.R. 226.32(B)(1).

8 2. "POINTS AND FEES" INCLUDES:

9 A. ALL COMPENSATION PAID DIRECTLY OR INDIRECTLY TO A
10 MORTGAGE BROKER FROM ANY SOURCE, INCLUDING A MORTGAGE BROKER THAT
11 ORIGINATES A LOAN IN ITS OWN NAME IN A TABLE-FUNDED TRANSACTION;

12 B. THE COST OF ALL PREMIUMS FINANCED BY THE
13 CREDITOR, DIRECTLY OR INDIRECTLY FOR ANY CREDIT LIFE, CREDIT DISABILITY,
14 CREDIT UNEMPLOYMENT OR CREDIT PROPERTY INSURANCE, OR ANY OTHER LIFE OR
15 HEALTH INSURANCE, OR ANY PAYMENTS FINANCED BY THE CREDITOR DIRECTLY OR
16 INDIRECTLY FOR ANY DEBT CANCELLATION OR SUSPENSION AGREEMENT OR
17 CONTRACT, EXCEPT THAT INSURANCE PREMIUMS OR DEBT CANCELLATION OR
18 SUSPENSION FEES CALCULATED AND PAID ON A MONTHLY BASIS SHALL NOT BE
19 CONSIDERED FINANCED BY THE CREDITOR;

20 C. THE MAXIMUM PREPAYMENT FEES AND PENALTIES THAT
21 MAY BE CHARGED OR COLLECTED UNDER THE TERMS OF THE LOAN DOCUMENTS;
22 AND

23 D. ALL PREPAYMENT FEES OR PENALTIES THAT ARE
24 INCURRED BY THE BORROWER IF THE LOAN REFINANCES A PREVIOUS LOAN
25 ORIGINATED OR CURRENTLY HELD BY THE SAME CREDITOR OR AN AFFILIATE OF
26 THE CREDITOR.

27 3. "POINTS AND FEES" DOES NOT INCLUDE:

28 A. IF THE UNREDUCED INTEREST RATE FOR THE HOME
29 LOAN DOES NOT EXCEED THE CONVENTIONAL MORTGAGE RATE BY 2% FOR A HOME
30 LOAN SECURED BY A FIRST LIEN, OR BY 3.5% FOR A HOME LOAN SECURED BY A
31 SUBORDINATED LIEN, AN AMOUNT KNOWINGLY PAID BY THE BORROWER TO
32 REDUCE, AND WHICH IN FACT DOES RESULT IN A BONA FIDE REDUCTION OF, THE
33 INTEREST RATE APPLICABLE TO THE HOME LOAN; OR

34 B. A PREPAYMENT PENALTY OR FEE THAT MAY BE
35 COLLECTED OR CHARGED ON A NEW HOME LOAN, AND THAT IS AUTHORIZED BY LAW
36 OTHER THAN THIS SECTION, IF THE HOME LOAN DOES NOT HAVE AN ANNUAL
37 PERCENTAGE RATE THAT EXCEEDS THE CONVENTIONAL MORTGAGE RATE BY MORE
38 THAN 2% AND DOES NOT ALLOW ANY PREPAYMENT FEES OR PENALTIES THAT
39 EXCEED 2% OF THE AMOUNT PREPAID.

1 (2) FOR AN OPEN-END LOAN, THE POINTS AND FEES UNDER THIS
2 SUBSECTION ARE CALCULATED BY ADDING THE TOTAL POINTS AND FEES KNOWN AT
3 OR BEFORE CLOSING, INCLUDING THE MAXIMUM PREPAYMENT PENALTIES WHICH
4 MAY BE CHARGED OR COLLECTED UNDER THE TERMS OF THE LOAN DOCUMENTS,
5 PLUS THE MINIMUM ADDITIONAL FEES THE BORROWER WOULD BE REQUIRED TO
6 PAY TO DRAW DOWN AN AMOUNT EQUAL TO THE TOTAL CREDIT LINE.

7 (3) A HOME LOAN DOCUMENT MAY NOT PROVIDE FOR THE FINANCING
8 OF POINTS AND FEES PAYABLE IN CONNECTION WITH A HOME LOAN IN EXCESS OF:

9 (I) IF THE TOTAL LOAN AMOUNT EXCEEDS \$30,000, 4% OF THE
10 TOTAL LOAN AMOUNT; OR

11 (II) IF THE TOTAL LOAN AMOUNT DOES NOT EXCEED \$30,000, THE
12 LESSER OF \$1,200 AND 8% OF THE TOTAL LOAN AMOUNT.

13 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF THIS
14 PARAGRAPH, A PERSON WHO PURCHASES OR IS OTHERWISE ASSIGNED A HOME LOAN
15 MADE IN VIOLATION OF THIS SUBSECTION IS SUBJECT TO ALL AFFIRMATIVE CLAIMS
16 AND ANY DEFENSES WITH RESPECT TO THE LOAN THAT THE BORROWER COULD
17 ASSERT AGAINST THE ORIGINAL CREDITOR OF THE LOAN.

18 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT APPLY TO A
19 PURCHASER OR ASSIGNEE WHO DEMONSTRATES BY A PREPONDERANCE OF THE
20 EVIDENCE THAT:

21 1. AT THE TIME OF THE PURCHASE OR ASSIGNMENT OF THE
22 LOANS, THE PURCHASER OR ASSIGNEE HAS IN PLACE POLICIES THAT EXPRESSLY
23 PROHIBIT THE PURCHASE OR ACCEPTANCE OF ASSIGNMENT OF ANY HIGH-COST
24 HOME LOANS;

25 2. THE PURCHASER OR ASSIGNEE REQUIRES BY CONTRACT
26 THAT A SELLER OR ASSIGNOR OF HOME LOANS REPRESENTS AND WARRANTS THAT:

27 A. THE SELLER OR ASSIGNOR WILL NOT SELL OR ASSIGN
28 ANY HIGH-COST HOME LOANS TO THE PURCHASER OR ASSIGNEE; OR

29 B. THE SELLER OR ASSIGNOR IS A BENEFICIARY OF A
30 REPRESENTATION AND WARRANTY FROM A PREVIOUS SELLER OR ASSIGNOR TO
31 THAT EFFECT; AND

32 3. THE PURCHASER OR ASSIGNEE EXERCISES REASONABLE
33 DUE DILIGENCE AT THE TIME OF PURCHASE OR ASSIGNMENT OF HOME LOANS OR
34 WITHIN A REASONABLE PERIOD OF TIME AFTER THE PURCHASE OR ASSIGNMENT OF
35 HOME LOANS.

36 (III) THE REASONABLE DUE DILIGENCE REQUIRED UNDER
37 SUBPARAGRAPH (II)3 OF THIS PARAGRAPH:

1 1. MUST BE INTENDED BY THE PURCHASER OR ASSIGNEE TO
2 PREVENT THE PURCHASER OR ASSIGNEE FROM PURCHASING OR TAKING
3 ASSIGNMENT OF ANY HIGH-COST HOME LOAN;

4 2. MAY PROVIDE FOR SAMPLING; AND

5 3. NEED NOT REQUIRE LOAN-BY-LOAN REVIEW.

6 (5) (I) A BORROWER ACTING ONLY IN AN INDIVIDUAL CAPACITY MAY
7 ASSERT A CLAIM THAT THE BORROWER COULD ASSERT AGAINST A CREDITOR OF THE
8 HOME LOAN AGAINST ANY SUBSEQUENT HOLDER OR ASSIGNEE OF THE HOME LOAN:

9 1. AS AN ORIGINAL ACTION, WITHIN 5 YEARS AFTER THE
10 CLOSING OF A HOME LOAN MADE IN VIOLATION OF THIS SUBSECTION; AND

11 2. AS A DEFENSE, CLAIM, COUNTERCLAIM, OR ACTION TO
12 ENJOIN FORECLOSURE OR TO PRESERVE OR OBTAIN POSSESSION OF THE HOME
13 THAT SECURES A HOME LOAN, AT ANY TIME DURING THE TERM OF THE HOME LOAN
14 MADE IN VIOLATION OF THIS SUBSECTION, AFTER:

15 A. AN ACTION TO COLLECT ON THE HOME LOAN OR
16 FORECLOSE ON THE COLLATERAL SECURING THE HOME LOAN HAS BEEN INITIATED;

17 B. THE DEBT ARISING FROM THE HOME LOAN HAS BEEN
18 ACCELERATED; OR

19 C. THE HOME LOAN HAS BEEN IN DEFAULT FOR AT LEAST 60
20 DAYS.

21 (II) AN ACTION OR OTHER CLAIM UNDER THIS PARAGRAPH IS
22 LIMITED TO THE AMOUNT REQUIRED TO REDUCE OR EXTINGUISH THE BORROWER'S
23 LIABILITY UNDER THE HOME LOAN PLUS COSTS AND REASONABLE ATTORNEYS'
24 FEES.

25 (6) (I) PARAGRAPHS (4) AND (5) OF THIS SUBSECTION ARE EFFECTIVE
26 NOTWITHSTANDING ANY OTHER PROVISION OF LAW.

27 (II) THE RIGHTS CONFERRED ON BORROWERS BY PARAGRAPHS (4)
28 AND (5) OF THIS SUBSECTION ARE INDEPENDENT AND DO NOT LIMIT EACH OTHER.

29 (III) NOTHING IN THIS SUBSECTION MAY BE CONSTRUED TO LIMIT
30 THE SUBSTANTIVE RIGHTS, REMEDIES, OR PROCEDURAL RIGHTS AVAILABLE TO A
31 BORROWER AGAINST ANY CREDITOR, ASSIGNEE, OR HOLDER UNDER ANY OTHER
32 LAW.

33 (G) (1) (I) IF A CREDITOR ASSERTS THAT GROUNDS FOR ACCELERATION
34 EXIST AND REQUIRES THE PAYMENT IN FULL OF ALL SUMS SECURED BY THE
35 SECURITY INSTRUMENT, THE BORROWER, OR THE BORROWER'S AUTHORIZED
36 REPRESENTATIVE, SHALL HAVE THE RIGHT AT ANY TIME, UP TO THE TIME THAT
37 TITLE IS TRANSFERRED BY MEANS OF FORECLOSURE, BY JUDICIAL PROCEEDING

1 AND SALE, OR OTHERWISE, TO CURE THE DEFAULT AND REINSTATE THE HOME LOAN
2 BY TENDERING THE AMOUNT OR PERFORMANCE AS SPECIFIED IN THIS SUBSECTION.

3 (II) CURE OF DEFAULT UNDER THIS SUBSECTION SHALL:

4 1. REINSTATE THE BORROWER TO THE SAME POSITION AS IF
5 THE DEFAULT HAD NOT OCCURRED; AND

6 2. NULLIFY, AS OF THE DATE OF THE CURE, ANY
7 ACCELERATION OF ANY OBLIGATION UNDER THE SECURITY INSTRUMENT OR NOTE
8 ARISING FROM THE DEFAULT.

9 (2) (I) BEFORE FILING ANY ACTION TO FORECLOSE ON THE HOME OR
10 TAKING ANY OTHER ACTION TO SEIZE OR TRANSFER OWNERSHIP OF THE HOME, THE
11 CREDITOR MUST DELIVER A NOTICE OF THE RIGHT TO CURE THE DEFAULT TO THE
12 BORROWER INFORMING THE BORROWER OF:

13 1. THE NATURE OF THE DEFAULT CLAIMED ON THE HOME
14 LOAN AND OF THE BORROWER'S RIGHT TO CURE THE DEFAULT BY PAYING A
15 SPECIFIED SUM OF MONEY REQUIRED TO CURE THE DEFAULT;

16 2. IF THE AMOUNT NECESSARY TO CURE THE DEFAULT WILL
17 CHANGE DURING THE 30-DAY PERIOD AFTER THE EFFECTIVE DATE OF THE NOTICE
18 BECAUSE OF THE APPLICATION OF A DAILY INTEREST RATE OR THE ADDITION OF
19 LATE FEES, SUFFICIENT INFORMATION TO ENABLE THE BORROWER TO CALCULATE
20 THE AMOUNT AT ANY POINT DURING THE 30-DAY PERIOD;

21 3. A DATE, AT LEAST 30 DAYS AFTER THE EFFECTIVE DATE
22 OF THE NOTICE, BY WHICH THE BORROWER MUST CURE THE DEFAULT TO AVOID
23 ACCELERATION AND COMMENCEMENT OF FORECLOSURE, OR OTHER ACTION TO
24 SEIZE THE HOME;

25 4. THE NAME, ADDRESS, AND PHONE NUMBER OF A PERSON
26 TO WHOM THE PAYMENT OR TENDER MUST BE MADE;

27 5. A STATEMENT THAT IF THE BORROWER DOES NOT CURE
28 THE DEFAULT BY THE DATE SPECIFIED, THE CREDITOR MAY TAKE STEPS TO
29 TERMINATE THE BORROWER'S OWNERSHIP IN THE PROPERTY BY REQUIRING
30 PAYMENT IN FULL OF THE HOME LOAN AND COMMENCING A FORECLOSURE
31 PROCEEDING OR OTHER ACTION TO SEIZE THE HOME; AND

32 6. THE NAME AND ADDRESS OF THE CREDITOR AND THE
33 TELEPHONE NUMBER OF A REPRESENTATIVE OF THE CREDITOR WHOM THE
34 BORROWER MAY CONTACT IF THE BORROWER DISAGREES WITH THE CREDITOR'S
35 ASSERTION THAT A DEFAULT HAS OCCURRED OR THE CORRECTNESS OF THE
36 CREDITOR'S CALCULATION OF THE AMOUNT REQUIRED TO CURE THE DEFAULT.

37 (II) THE CREDITOR MUST ACCEPT A PARTIAL PAYMENT MADE OR
38 TENDERED IN RESPONSE TO A NOTICE UNDER SUBPARAGRAPH (I) OF THIS
39 PARAGRAPH.

1 (3) (I) TO CURE A DEFAULT UNDER THIS SUBSECTION, A BORROWER
2 MAY NOT BE REQUIRED TO PAY ANY CHARGE, FEE, OR PENALTY ATTRIBUTABLE TO
3 THE EXERCISE OF THE RIGHT TO CURE A DEFAULT AS PROVIDED FOR IN THIS
4 SUBSECTION OTHER THAN THE FEES SPECIFICALLY ALLOWED BY THIS SUBSECTION.

5 (II) THE BORROWER MAY NOT BE LIABLE FOR ANY ATTORNEYS'
6 FEES RELATING TO THE BORROWER'S DEFAULT THAT ARE INCURRED BY THE
7 CREDITOR BEFORE OR DURING THE 30-DAY PERIOD SET FORTH IN PARAGRAPH (2)(I)
8 OF THIS SUBSECTION.

9 (III) AFTER THE CREDITOR FILES A FORECLOSURE ACTION OR
10 TAKES OTHER ACTION TO SEIZE OR TRANSFER OWNERSHIP OF THE HOME, THE
11 BORROWER MAY BE LIABLE ONLY FOR ATTORNEYS' FEES THAT ARE REASONABLE
12 AND ARE ACTUALLY INCURRED BY THE CREDITOR, BASED ON A REASONABLE
13 HOURLY RATE AND A REASONABLE NUMBER OF HOURS.

14 (4) IF A DEFAULT IS CURED AFTER AN ACTION TO FORECLOSE BEGINS,
15 THE CREDITOR SHALL TAKE ALL NECESSARY STEPS TO TERMINATE THE
16 FORECLOSURE PROCEEDING OR ANY OTHER ACTION.

17 (H) (1) THE ORIGATION OR BROKERAGE OF A HOME LOAN THAT VIOLATES
18 A PROVISION OF THIS SECTION IS A VIOLATION OF THIS SECTION.

19 (2) (I) ANY PERSON FOUND BY A PREPONDERANCE OF THE EVIDENCE
20 TO HAVE VIOLATED THIS SECTION IS LIABLE TO THE BORROWER FOR:

21 1. ACTUAL DAMAGES, INCLUDING CONSEQUENTIAL AND
22 INCIDENTAL DAMAGES;

23 2. FOR A VIOLATION OF SUBSECTION (C), (D), (E), OR (F) OF
24 THIS SECTION, STATUTORY DAMAGES EQUAL TO TWICE THE FINANCE CHARGE PAID
25 UNDER THE LOAN AND FORFEITURE OF THE REMAINING INTEREST UNDER THE
26 LOAN;

27 3. PUNITIVE DAMAGES, IF THE VIOLATION WAS MALICIOUS
28 OR RECKLESS; AND

29 4. COSTS INCLUDING REASONABLE ATTORNEYS' FEES.

30 (II) A BORROWER NEED NOT DEMONSTRATE RELIANCE IN ORDER
31 TO RECOVER ACTUAL DAMAGES UNDER THIS PARAGRAPH.

32 (3) (I) A BORROWER MAY BE GRANTED INJUNCTIVE, DECLARATORY,
33 AND OTHER EQUITABLE RELIEF UNDER THIS PARAGRAPH.

34 (II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COURT
35 MAY ALLOW A BORROWER OF A HOME LOAN WHO SEEKS INJUNCTIVE OR OTHER
36 EQUITABLE RELIEF UNDER THIS PARAGRAPH NOT TO MAKE A TENDER IF THE
37 BORROWER SHOWS THAT THE BORROWER HAS A REASONABLE LIKELIHOOD OF
38 SUCCEEDING ON THE MERITS.

1 (III) 1. IF THE COURT DOES NOT REQUIRE A TENDER, ON
2 APPLICATION TO THE COURT BY THE CREDITOR, THE COURT SHALL REQUIRE THE
3 BORROWER TO PAY INTO THE COURT ALL REGULARLY SCHEDULED HOME LOAN
4 PAYMENTS AS THEY BECOME DUE.

5 2. REGULARLY SCHEDULED HOME LOAN PAYMENTS UNDER
6 THIS SUBPARAGRAPH INCLUDE PROPERTY TAXES AND HOMEOWNERS HAZARD
7 INSURANCE PREMIUMS, IF REQUIRED BY AN ESCROW AGREEMENT, WHICH ARE THE
8 RESPONSIBILITY OF THE BORROWER AND PAYABLE TO THE CREDITOR OR SERVICER
9 UNDER THE TERMS OF THE HOME LOAN AGREEMENT AND WHICH BECOME DUE
10 AFTER THE FILING OF THE LEGAL ACTION, AND OTHER EXPENSES PROVIDED UNDER
11 THE HOME LOAN AGREEMENT THAT THE COURT CONSIDERS JUST, EXCLUDING ANY
12 PAYMENTS ALLEGEDLY DUE UNDER ANY ACCELERATION PROVISION OF THE HOME
13 LOAN.

14 3. IF THE CREDITOR OR SERVICER AND THE BORROWER
15 DISAGREE AS TO THE AMOUNT OF THE HOME LOAN PAYMENTS DUE, EITHER OR
16 BOTH OF THEM MAY SUBMIT TO THE COURT ANY WRITTEN HOME LOAN AGREEMENT
17 FOR THE PURPOSE OF ESTABLISHING THE AMOUNT OF HOME LOAN PAYMENTS TO
18 BE PAID INTO THE COURT.

19 (IV) IF THE BORROWER FAILS TO MAKE ANY REGULARLY
20 SCHEDULED PAYMENT UNDER A HOME LOAN AS IT BECOMES DUE AFTER THE
21 FILING OF THIS ACTION, ON APPLICATION TO THE COURT BY THE CREDITOR OR
22 SERVICER, THE COURT MAY ISSUE AN ORDER DENYING THE BORROWER'S PETITION
23 FOR INJUNCTIVE OR OTHER EQUITABLE RELIEF AND VACATING ANY DECREE FOR
24 INJUNCTIVE OR EQUITABLE RELIEF PREVIOUSLY ENTERED BY THE COURT.

25 (V) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2 OF THIS
26 SUBPARAGRAPH, THE COURT SHALL ORDER THE REGULARLY SCHEDULED HOME
27 LOAN PAYMENTS THAT ARE PAID INTO THE COURT TO BE PAID TO THE CREDITOR OR
28 TO ANY PERSON THE CREDITOR MAY DESIGNATE AS THE PAYMENTS ARE MADE.

29 2. IF THE BORROWER CLAIMS TO BE ENTITLED TO ALL OR
30 ANY PART OF THE FUNDS PAID AND THE CLAIM IS AN ISSUE OF CONTROVERSY IN
31 THE LITIGATION, THE COURT SHALL ORDER THE PAYMENT ONLY OF THAT PORTION
32 OF THE FUNDS TO WHICH THE BORROWER HAS MADE NO CLAIM IN THE
33 PROCEEDINGS OR MAY OTHERWISE ORDER AS MAY BE APPROPRIATE UNDER THE
34 CIRCUMSTANCES.

35 3. THE PORTION OF THE FUNDS WHICH IS A MATTER OF
36 CONTROVERSY IN THE LITIGATION SHALL REMAIN IN THE CUSTODY OF THE COURT
37 UNTIL A DETERMINATION OF THE ISSUES BY THE TRIAL COURT.

38 4. IF EITHER PARTY APPEALS THE DECISION OF THE TRIAL
39 COURT, THAT PORTION OF THE FUNDS EQUAL TO ANY SUMS FOUND BY THE TRIAL
40 COURT TO BE DUE FROM THE CREDITOR OR SERVICER TO THE BORROWER SHALL
41 REMAIN IN THE CUSTODY OF THE COURT UNTIL A FINAL DETERMINATION OF THE
42 ISSUES.

1 5. THE COURT SHALL ORDER PAYMENT TO THE CREDITOR,
2 OR ANY PERSON THE CREDITOR MAY DESIGNATE, OF THE FUNDS REMAINING IN THE
3 CUSTODY OF THE COURT AND ALL PAYMENTS OF FUTURE HOME LOAN PAYMENTS
4 MADE INTO THE COURT UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH, UNLESS
5 THE BORROWER CAN SHOW GOOD CAUSE THAT SOME OR ALL OF THE PAYMENTS
6 SHOULD REMAIN IN THE CUSTODY OF THE COURT UNTIL THE ISSUES ARE FINALLY
7 DETERMINED.

8 (4) (I) THE RIGHT OF RESCISSION GRANTED UNDER TITLE 15,
9 CHAPTER 41, SUBCHAPTER I OF THE UNITED STATES CODE FOR A VIOLATION OF
10 THAT LAW SHALL BE AVAILABLE TO A BORROWER BY WAY OF RECOUPMENT
11 AGAINST A PARTY FORECLOSING ON THE HOME LOAN OR COLLECTING ON THE LOAN
12 AT ANY TIME DURING THE TERM OF THE LOAN.

13 (II) NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO LIMIT A
14 RIGHT TO RECOUPMENT AVAILABLE TO THE BORROWER UNDER ANY OTHER LAW.

15 (5) (I) THE REMEDIES PROVIDED IN THIS SUBSECTION ARE NOT
16 INTENDED TO BE THE EXCLUSIVE REMEDIES AVAILABLE TO A BORROWER.

17 (II) A BORROWER NEED NOT EXHAUST ANY ADMINISTRATIVE
18 REMEDIES PROVIDED UNDER THIS SECTION OR ANY OTHER APPLICABLE LAW
19 BEFORE PROCEEDING UNDER THIS SUBSECTION.

20 (6) A PERSON WHO KNOWINGLY VIOLATES THIS SECTION, INCLUDING A
21 MEMBER, OFFICER, OR DIRECTOR OF A CREDITOR, IS GUILTY OF A MISDEMEANOR
22 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 6 MONTHS OR
23 A FINE NOT EXCEEDING \$1,000 OR BOTH.

24 (7) (I) A CREDITOR OF A HOME LOAN WHO, WHEN ACTING IN GOOD
25 FAITH, FAILS TO COMPLY WITH THE PROVISIONS OF THIS SECTION, IS NOT DEEMED
26 TO HAVE VIOLATED THIS SECTION IF THE CREDITOR ESTABLISHES THAT EITHER:

27 1. WITHIN 30 DAYS AFTER THE LOAN CLOSING, AND BEFORE
28 RECEIVING ANY NOTICE OF THE FAILURE TO COMPLY, THE CREDITOR MAKES
29 APPROPRIATE RESTITUTION TO THE BORROWER AND APPROPRIATE ADJUSTMENTS
30 ARE MADE TO THE LOAN; OR

31 2. WITHIN 60 DAYS AFTER THE LOAN CLOSING AND BEFORE
32 RECEIVING ANY NOTICE OF THE FAILURE TO COMPLY, THE CREDITOR MAKES
33 APPROPRIATE RESTITUTION TO THE BORROWER AND APPROPRIATE ADJUSTMENTS
34 ARE MADE TO THE LOAN, ONLY IF THE FAILURE TO COMPLY:

35 A. IS NOT INTENTIONAL; AND

36 B. RESULTED FROM A BONA FIDE ERROR
37 NOTWITHSTANDING THE MAINTENANCE OF PROCEDURES REASONABLY ADAPTED
38 TO AVOIDING SIMILAR ERRORS.

1 (II) FOR PURPOSES OF SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, A
2 BONA FIDE ERROR:

3 1. INCLUDES CLERICAL, CALCULATION, PROGRAMMING,
4 AND PRINTING ERRORS AND COMPUTER MALFUNCTIONS; BUT

5 2. DOES NOT INCLUDE AN ERROR OF LEGAL JUDGMENT
6 WITH RESPECT TO A PERSON'S OBLIGATIONS UNDER THIS SECTION.

7 (8) THE REMEDIES PROVIDED IN THIS SUBSECTION ARE CUMULATIVE.

8 (9) IT IS A VIOLATION OF THIS SECTION FOR ANY PERSON TO ATTEMPT
9 IN BAD FAITH TO AVOID THE APPLICATION OF THIS SECTION BY:

10 (I) DIVIDING ANY LOAN TRANSACTION INTO SEPARATE PARTS OR
11 STRUCTURING A HOME LOAN TRANSACTION AS AN OPEN-END LOAN FOR THE
12 PURPOSE OF EVADING THE PROVISIONS OF THIS SECTION; OR

13 (II) ENGAGING IN ANY OTHER SUBTERFUGE WITH THE INTENT OF
14 EVADING ANY PROVISION OF THIS SECTION.

15 (I) THIS SECTION SHALL BE:

16 (1) LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSE OF
17 PROTECTING THE HOMES AND THE EQUITY OF INDIVIDUAL BORROWERS; AND

18 (2) CONSTRUED AS A CONSUMER PROTECTION STATUTE FOR ALL
19 PURPOSES.

20 (J) THIS SECTION MAY BE CITED AS THE HOME LOAN PROTECTION ACT.

21 [12-127.

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

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

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

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 section 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 [12-311.

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

11 (2) "Covered loan" means a mortgage loan made under this subtitle that
12 meets the criteria for a loan subject to the federal Home Ownership Equity Protection
13 Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z,
14 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan
15 shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as
16 modified from time to time by Regulation Z, 12 C.F.R. Part 226.

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

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

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

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

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

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

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

29 (i) The principal amount of the loan;

30 (ii) A schedule of payments or a description of the schedule; and

31 (iii) The agreed amount and rate of interest, charges, and fees.

32 (c) (1) A lender may not take any security interest in:

33 (i) Real property for any loan under \$2,000 in value or amount; or

34 (ii) Personal property for any loan under \$700 in value or amount.

1 (2) Any lien taken in violation of this subsection is void.

2 (3) This subsection does not apply to or affect a lien on an interest in real
3 property which results from a judgment obtained by the lender based on a loan
4 otherwise secured or unsecured.

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

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

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

15 (e) (1) In this subsection, "loan application" has the meaning stated in §
16 12-125 of this title.

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

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

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

24 [12-312.

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

26 (2) "Covered loan" means a mortgage loan made under this subtitle that
27 meets the criteria for a loan subject to the federal Home Ownership Equity Protection
28 Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z,
29 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan
30 shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as
31 modified from time to time by Regulation Z, 12 C.F.R. Part 226.

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

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

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

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

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

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

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

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

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

17 (2) Credit health insurance covering any one or more borrowers, if the
18 insurance does not provide for benefits exceeding the actual period of disability;

19 (3) Credit life insurance:

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

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

24 (4) Credit involuntary unemployment benefit insurance covering any
25 one borrower, if the insurance:

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

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

30 (c) (1) A lender may not require that the insurance be purchased through a
31 particular insurance producer or insurance company.

32 (2) The lender may:

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

1 (ii) Receive and transmit premiums or other identifiable charges
2 for the insurance.

3 (3) Subject to subsection (e) of this section, at the option of the borrower,
4 a lender may be coinsured or protected to the extent of his interest by a mortgagee
5 clause.

6 (d) (1) (i) Subject to subsection (e) of this section, the amount of property
7 insurance may not exceed either the reasonable value of the property insured or the
8 originally scheduled total of payments under the loan contract.

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

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

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

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

24 (2) Credit health insurance shall provide for:

25 (i) Benefits not exceeding the then scheduled unpaid total of
26 payments of the loan;

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

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

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

33 (4) Credit involuntary unemployment benefit insurance shall provide
34 that, in the event of involuntary loss of employment, the aggregate amount of periodic
35 benefits payable in the event of involuntary loss of employment, as defined in the
36 policy, may not exceed the then scheduled unpaid total of payments of the loan.

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

- 4 1. Credit health insurance;
- 5 2. Credit involuntary unemployment benefit insurance; or
- 6 3. Credit life insurance.

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

10 (e) (1) In this subsection, "property insurance coverage" means property
11 insurance against losses caused by perils that commonly are covered in insurance
12 policies described with terms similar to "standard fire" or "standard fire with
13 extended coverage".

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

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

- 21 1. Accept the value placed on the improvements by the
22 insurer; or
- 23 2. Use the value placed on the improvements that is
24 determined by the lender's appraisal of the real property.

25 (3) A violation of this subsection or of subsection (c)(1) of this section
26 shall entitle the borrower to seek:

- 27 (i) An injunction to prohibit the lender who has engaged or is
28 engaging in the violation from continuing or engaging in the violation;
- 29 (ii) Reasonable attorney's fees; and
- 30 (iii) Damages directly resulting from the violation.

31 (4) A violation of this subsection or of subsection (c)(1) of this section does
32 not affect the validity of the first mortgage or first deed of trust securing the loan.

33 (f) Under this subtitle, insurance may be obtained only:

- 34 (1) From an insurance company qualified to do business in the State;
- 35 and

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

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

6 [12-409.1.

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

8 (2) "Covered loan" means a mortgage loan made under this subtitle that
9 meets the criteria for a loan subject to the federal Home Ownership Equity Protection
10 Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z,
11 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan
12 shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as
13 modified from time to time by Regulation Z, 12 C.F.R. Part 226.

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

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

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

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

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

30 (c) (1) In this subsection, "loan application" has the meaning stated in §
31 12-125 of this title.

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

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

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

4 [12-410.

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

6 (2) "Covered loan" means a mortgage loan made under this subtitle that
7 meets the criteria for a loan subject to the federal Home Ownership and Equity
8 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by
9 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the
10 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §
11 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

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

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

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

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

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

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

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

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

30 (1) Any real property securing the loan;

31 (2) The life of any person obligated on the loan; and

32 (3) The title of any real property securing the loan.

33 (c) Subject to the provisions of this section, the licensee may collect from the
34 borrower, at the borrower's option, the premiums paid for credit health insurance
35 covering any one borrower obligated on the loan. The insurance may not provide
36 benefits exceeding the actual period of disability.

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

5 (2) The availability of credit involuntary unemployment benefit
6 insurance to a borrower may not be made contingent on the purchase of any other
7 type of insurance permitted under this section.

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

11 (i) Credit health insurance;

12 (ii) Credit involuntary unemployment benefit insurance; or

13 (iii) Credit life insurance.

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

17 (f) (1) (i) In this paragraph, "property insurance coverage" means
18 property insurance against losses caused by perils that commonly are covered in
19 insurance policies described with terms similar to "standard fire" or "standard fire
20 with extended coverage".

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

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

27 1. Accept the value placed on the improvements by the
28 insurer; or

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

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

33 (v) A violation of this paragraph or of subsection (h) of this section
34 shall entitle the borrower to:

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

1 2. Reasonable attorney's fees; and

2 3. Damages directly resulting from the violation.

3 (vi) A violation of this paragraph or of subsection (h) of this section
 4 does not affect the validity of the mortgage or deed of trust securing the secondary
 5 mortgage loan.

6 (2) The amount of credit life insurance may not exceed the total original
 7 amount payable under the loan contract.

8 (3) The credit health insurance shall provide:

9 (i) Benefits not exceeding the then scheduled unpaid total of
 10 payments of the loan;

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

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

16 (4) The credit involuntary unemployment benefit insurance may not
 17 provide that:

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

20 (ii) The aggregate amount of periodic benefits payable in the event
 21 of a borrower's involuntary loss of employment shall exceed the scheduled unpaid
 22 total of payments remaining on the loan on the date of the borrower's involuntary loss
 23 of employment.

24 (5) A lender may not require a borrower to purchase credit involuntary
 25 unemployment benefit insurance as a condition of obtaining a loan.

26 (g) Under this subtitle, insurance may be obtained only:

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

29 (2) At rates not exceeding those approved by the Insurance
 30 Administration.

31 (h) A lender may not require the borrower to purchase any insurance:

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

33 (2) From the lender.]

1 [12-1007.

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

3 (2) "Covered loan" means a mortgage loan made under this subtitle that
4 meets the criteria for a loan subject to the federal Home Ownership Equity Protection
5 Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by Regulation Z,
6 12 C.F.R. Part 226, except that the comparison percentages for the mortgage loan
7 shall be one percentage point less than those specified in 15 U.S.C. § 1602(aa), as
8 modified from time to time by Regulation Z, 12 C.F.R. Part 226.

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

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

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

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

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

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

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

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

26 (1) The purchase of credit life insurance, credit health insurance, credit
27 involuntary unemployment benefit insurance, and similar insurance coverages is
28 optional with the consumer borrower; and

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

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

35 1. Credit health insurance;

36 2. Credit involuntary unemployment benefit insurance; or

1 (2) "Covered loan" means a mortgage loan made under this subtitle that
2 meets the criteria for a loan subject to the federal Home Ownership and Equity
3 Protection Act set forth in 15 U.S.C. § 1602(aa), as modified from time to time by
4 Regulation Z, 12 C.F.R. Part 226, except that the comparison percentages for the
5 mortgage loan shall be one percentage point less than those specified in 15 U.S.C. §
6 1602(aa), as modified from time to time by Regulation Z, 12 C.F.R. Part 226.

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

10 (b) (1) A credit grantor may not make a covered loan without giving due
11 regard to 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 loan to a borrower whose monthly
17 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 (c) (1) In this subsection, "loan application" has the meaning stated in §
21 12-1022 of this subtitle.

22 (2) At the time a borrower completes a loan application for a covered
23 loan, the credit grantor 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 13-301.

30 Unfair or deceptive trade practices include any:

31 (14) Violation of a provision of:

32 (i) This title;

33 (ii) An order of the Attorney General or agreement of a party
34 relating to unit pricing under Title 14, Subtitle 1 of this article;

35 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt
36 Collection Act;

- 1 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door
2 Sales Act;
- 3 (v) Title 14, Subtitle 9 of this article, Kosher Products;
- 4 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;
- 5 (vii) Section 14-1302 of this article;
- 6 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales
7 Act;
- 8 (ix) Section 22-415 of the Transportation Article;
- 9 (x) Title 14, Subtitle 20 of this article;
- 10 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
11 Enforcement Act;
- 12 (xii) Title 14, Subtitle 21 of this article;
- 13 (xiii) Section 18-107 of the Transportation Article;
- 14 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
15 Solicitations Act;
- 16 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts
17 Act;
- 18 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 19 (xvii) Title 10, Subtitle 8 of the Real Property Article;
- 20 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;
- 21 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door
22 Solicitations Act;
- 23 (xx) Title 14, Subtitle 31 of this article, the Maryland Household
24 Goods Movers Act; or
- 25 (XXI) SECTION 12-124.1 OF THIS ARTICLE, THE HOME LOAN
26 PROTECTION ACT; OR

27 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
28 Act or the application thereof to any person or circumstance is held invalid for any
29 reason in a court of competent jurisdiction, the invalidity does not affect other
30 provisions or any other application of this Act which can be given effect without the
31 invalid provision or application, and for this purpose the provisions of this Act are
32 declared severable.

1 SECTION 3. AND BE IT FURTHER ENACTED, That a presently existing
2 obligation or contract right may not be impaired in any way by this Act.

3 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2004.