
By: **Senator Hooper**
Introduced and read first time: February 24, 2004
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Credit Regulation - Prepayment Charge or Penalty - Prohibition**

3 FOR the purpose of prohibiting a contract for a loan secured by a mortgage or deed of
4 trust on an interest in residential real property from requiring a borrower to pay
5 a prepayment charge or penalty on a partial or full prepayment of the unpaid
6 principal balance of the loan; prohibiting a presently existing obligation or
7 contract right from being impaired in any way by this Act; requiring this Act to
8 be construed to apply only prospectively; prohibiting this Act from being applied
9 or interpreted to have any effect on or application to any loan contract executed
10 before the effective date of this Act; and generally relating to a prepayment
11 charge or penalty in connection with a loan secured by residential real property.

12 BY repealing and reenacting, with amendments,
13 Article - Commercial Law
14 Section 12-105(b)
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 12-105.

21 (b) (1) If the loan contract provides for them, the following fees and charges
22 also may be collected and are not interest under this subtitle:

23 [(1)] (I) A service charge for investigation and the continued servicing
24 of collateral for a commercial loan secured by inventory or accounts receivable;

25 [(2)] (II) A service charge made by a broker or dealer dealing in
26 investment securities if:

27 [(i)] 1. Money is advanced on the security of pledged investment
28 securities; and

1 [(ii)] 2. Services are rendered in the collection, crediting, and
2 disbursement of income on the investment securities and in the furnishing of income
3 tax and other information in connection with that income;

4 [(3)] (III) A delinquent or late charge of the greater of \$2 or 5 percent of
5 the total amount of any delinquent or late periodic installment of principal and
6 interest, if:

7 [(i)] 1. The delinquency has continued for at least 15 calendar
8 days; and

9 [(ii)] 2. A delinquent or late charge has not already been charged
10 for the same delinquency; and

11 [(4)] (IV) A prepayment charge or penalty on a prepayment of the
12 unpaid principal balance of the loan, if the loan is secured by [a home, by a
13 combination of home and] business property[,] or by agricultural property, or if the
14 loan is a commercial loan not in excess of \$5,000, provided that the charge or penalty:

15 [(i)] 1. May be imposed only on prepayments made within three
16 years from the date the loan is made; and

17 [(ii)] 2. May not exceed an amount equal to two months' advance
18 interest on the aggregate amount of all prepayments made in any 12-month period in
19 excess of one third of the amount of the original loan.

20 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CONTRACT
21 FOR A LOAN SECURED BY A MORTGAGE OR DEED OF TRUST ON AN INTEREST IN
22 RESIDENTIAL REAL PROPERTY MAY NOT REQUIRE A BORROWER TO PAY A
23 PREPAYMENT CHARGE OR PENALTY ON A PARTIAL OR FULL PREPAYMENT OF THE
24 UNPAID PRINCIPAL BALANCE OF THE LOAN.

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

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be
28 construed to apply only prospectively and may not be applied or interpreted to have
29 any effect on or application to any loan contract executed before the effective date of
30 this Act.

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