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By: **Delegate Menes**

Introduced and read first time: February 8, 2006

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Real Estate - Residential Settlements - Prohibition and Disclosure**

3 FOR the purpose of prohibiting a real estate broker, an associate real estate broker, a  
4 real estate salesperson, or a lawyer acting as a real estate broker in certain  
5 residential real estate transactions from directly or indirectly indicating that  
6 the buyer should use a particular person in certain capacities for settlement  
7 under certain circumstances; requiring a real estate broker, an associate real  
8 estate broker, a real estate salesperson, or a lawyer acting as a real estate  
9 broker in certain transactions to disclose certain information to the buyer;  
10 providing certain penalties for a violation of this Act; and generally relating to  
11 residential real estate transactions and settlements.

12 BY repealing and reenacting, without amendments,  
13 Article - Business Occupations and Professions  
14 Section 17-524 and 17-613  
15 Annotated Code of Maryland  
16 (2004 Replacement Volume and 2005 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article - Business Occupations and Professions  
19 Section 17-607  
20 Annotated Code of Maryland  
21 (2004 Replacement Volume and 2005 Supplement)

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

24 **Article - Business Occupations and Professions**

25 17-524.

26 (a) Each real estate contract submitted to a party by a real estate broker, an  
27 associate real estate broker, or a real estate salesperson for use in the sale of a

1 single-family dwelling shall contain, in bold-faced type, a statement that the buyer  
2 has the right to select the buyer's own:

- 3 (1) title insurance company;
- 4 (2) settlement company;
- 5 (3) escrow company;
- 6 (4) mortgage lender, or financial institution as defined in the Financial  
7 Institutions Article; or
- 8 (5) title lawyer.

9 (b) The statement required under subsection (a) of this section shall also  
10 contain, in bold-faced type, a statement that a seller may not be prohibited from  
11 offering owner financing as a condition of settlement.

12 (c) A real estate contract is not rendered invalid by the omission of the  
13 statement to the buyer required under subsections (a) and (b) of this section.

14 17-607.

15 (a) Except as otherwise provided in subsection [(b)] (C) of this section, in a  
16 real estate transaction involving a single-family dwelling, a real estate broker, an  
17 associate real estate broker, a real estate salesperson, or a lawyer acting as a real  
18 estate broker may not require a buyer, as a condition of settlement, to employ a  
19 particular:

- 20 (1) title insurance company;
- 21 (2) settlement company;
- 22 (3) escrow company;
- 23 (4) mortgage lender, or financial institution as defined in the Financial  
24 Institutions Article; or
- 25 (5) title lawyer.

26 (B) IN A REAL ESTATE TRANSACTION INVOLVING A SINGLE-FAMILY  
27 DWELLING, A REAL ESTATE BROKER, AN ASSOCIATE REAL ESTATE BROKER, A REAL  
28 ESTATE SALESPERSON, OR A LAWYER ACTING AS A REAL ESTATE BROKER:

29 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS  
30 SECTION, MAY NOT DIRECTLY OR INDIRECTLY INDICATE TO THE BUYER THAT THE  
31 BUYER SHOULD USE A PARTICULAR PERSON LISTED IN SUBSECTION (A) OF THIS  
32 SECTION UNLESS THE BUYER SPECIFICALLY REQUESTS SUCH A RECOMMENDATION;  
33 AND

1 (2) MUST DISCLOSE TO THE BUYER ANY FINANCIAL OR OTHER  
2 MATERIAL RELATIONSHIP THAT THE DISCLOSING PERSON HAS WITH ANY PERSON  
3 LISTED IN SUBSECTION (A) OF THIS SECTION WHOM THE DISCLOSING PERSON  
4 RECOMMENDS TO THE BUYER.

5 [(b)] (C) A seller may not be prohibited from offering owner financing as a  
6 condition of settlement.

7 17-613.

8 (a) A person who violates any provision of the following sections of this title is  
9 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or  
10 imprisonment not exceeding 1 year or both:

11 (1) § 17-502;

12 (2) § 17-525;

13 (3) § 17-526;

14 (4) § 17-527;

15 (5) § 17-601;

16 (6) § 17-602;

17 (7) § 17-603;

18 (8) § 17-604;

19 (9) § 17-605;

20 (10) § 17-606;

21 (11) § 17-607;

22 (12) § 17-608;

23 (13) § 17-609;

24 (14) § 17-610; and

25 (15) § 17-611.

26 (b) A corporation, partnership, or other association that violates § 17-612 of  
27 this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not  
28 exceeding \$5,000.

29 (c) (1) The Commission may impose on a person who violates any provision  
30 of this title a penalty not exceeding \$5,000 for each violation.

- 1           (2)     In setting the amount of the penalty, the Board shall consider:
- 2                     (i)     the seriousness of the violation;
- 3                     (ii)    the harm caused by the violation;
- 4                     (iii)   the good faith of the violator;
- 5                     (iv)    any history of previous violations by the violator; and
- 6                     (v)     any other relevant factors.

7           (3)     The Board shall pay any penalty collected under this subsection into  
8 the General Fund of the State.

9     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2006.