

By: **Delegates Kullen, Cryor, Donoghue, Kohl, Love, Stull, Trueschler, and F. Turner**

Introduced and read first time: February 10, 2006

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Credit Regulation - Loans Secured by Real Property - Insurance Coverage**
3 **Requirements**

4 FOR the purpose of prohibiting certain lenders and credit grantors from requiring a
5 borrower, as a condition to receiving or maintaining certain loans, to provide or
6 purchase certain insurance coverage in an amount exceeding the replacement
7 cost of the improvements on real property; altering the manner in which certain
8 lenders and credit grantors may determine the replacement cost of
9 improvements on real property that secures certain loans made by the lenders
10 and credit grantors; requiring property insurance coverage required by certain
11 lenders and credit grantors to bear a reasonable relation to the existing risk of
12 loss; defining certain terms; altering certain definitions; correcting certain
13 erroneous references; and generally relating to loans secured by real property.

14 BY repealing and reenacting, with amendments,
15 Article - Commercial Law
16 Section 12-124, 12-410(f)(1), 12-909(e), and 12-1007(f)
17 Annotated Code of Maryland
18 (2005 Replacement Volume)

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

21 **Article - Commercial Law**

22 12-124.

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

24 [(ii) "Property insurance coverage" means property insurance
25 against losses caused by perils that commonly are covered in insurance policies
26 described with terms similar to "standard fire" or "standard fire with extended
27 coverage".

1 (iii)] (II) "Flood insurance coverage" means flood insurance against
2 losses caused by flooding that are covered under a policy issued [under the National
3 Flood Insurance Act] by:

4 1. The federal government; or

5 2. An insurer.

6 (III) "IMPROVEMENTS" MEANS FIXTURES ATTACHED TO REAL
7 PROPERTY THAT ENHANCE THE VALUE OF THE REAL PROPERTY.

8 (IV) "PROPERTY INSURANCE COVERAGE" MEANS PROPERTY
9 INSURANCE AGAINST LOSSES CAUSED BY PERILS THAT COMMONLY ARE COVERED IN
10 INSURANCE POLICIES DESCRIBED WITH TERMS SIMILAR TO "STANDARD FIRE" OR
11 "STANDARD FIRE WITH EXTENDED COVERAGE".

12 (V) 1. "REPLACEMENT COST" MEANS THE AMOUNT NEEDED TO
13 REPAIR DAMAGE TO OR REBUILD IMPROVEMENTS ON REAL PROPERTY TO RESTORE
14 THE IMPROVEMENTS TO THEIR PRE-LOSS CONDITION.

15 2. "REPLACEMENT COST" DOES NOT INCLUDE THE VALUE OF
16 LAND.

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

22 (3) A lender may not require a borrower, as a condition to receiving or
23 maintaining a loan secured by a first mortgage or first deed of trust, to provide or
24 purchase flood insurance coverage in an amount exceeding the replacement [value]
25 COST of the improvements on the real property.

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

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

29 (ii) Use the value placed on the improvements [that is determined]
30 by the lender's appraisal of the [real property] IMPROVEMENTS.

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

33 (6) ANY PROPERTY INSURANCE COVERAGE REQUIRED BY A LENDER
34 SHALL BEAR A REASONABLE RELATION TO THE EXISTING RISK OF LOSS.

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

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

3 (ii) Reasonable attorney's fees; and

4 (iii) Damages directly resulting from the violation.

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

7 12-410.

8 (f) (1) (i) 1. In this paragraph[,] THE FOLLOWING WORDS HAVE THE
9 MEANINGS INDICATED.

10 2. "IMPROVEMENTS" MEANS FIXTURES ATTACHED TO REAL
11 PROPERTY THAT ENHANCE THE VALUE OF THE REAL PROPERTY.

12 3. ["property] "PROPERTY insurance coverage" means
13 property insurance against losses caused by perils that commonly are covered in
14 insurance policies described with terms similar to "standard fire" or "standard fire
15 with extended coverage".

16 4. A. "REPLACEMENT COST" MEANS THE AMOUNT
17 NEEDED TO REPAIR DAMAGE TO OR REBUILD IMPROVEMENTS ON REAL PROPERTY
18 TO RESTORE THE IMPROVEMENTS TO THEIR PRE-LOSS CONDITION.

19 B. "REPLACEMENT COST" DOES NOT INCLUDE THE VALUE OF
20 LAND.

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] COST of the improvements on the real property.

25 (iii) In determining the replacement [value] COST of the
26 improvements on 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] IMPROVEMENTS.

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:

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

3 2. Reasonable attorney's fees; and

4 3. Damages directly resulting from the violation.

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

8 12-909.

9 (e) (1) (I) In this subsection[,] THE FOLLOWING WORDS HAVE THE
10 MEANINGS INDICATED.

11 (II) "IMPROVEMENTS" MEANS FIXTURES ATTACHED TO REAL
12 PROPERTY THAT ENHANCE THE VALUE OF THE REAL PROPERTY.

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

17 (IV) 1. "REPLACEMENT COST" MEANS THE AMOUNT NEEDED TO
18 REPAIR DAMAGE TO OR REBUILD IMPROVEMENTS ON REAL PROPERTY TO RESTORE
19 THE IMPROVEMENTS TO THEIR PRE-LOSS CONDITION.

20 2. "REPLACEMENT COST" DOES NOT INCLUDE THE VALUE OF
21 LAND.

22 (2) (i) A credit grantor may not require a borrower, as a condition to
23 receiving or maintaining a loan secured by a [first] lien, to provide or purchase
24 property insurance coverage against risks to any improvements on any real property
25 in an amount exceeding the replacement [value] COST of the improvements on the
26 real property.

27 (ii) In determining the replacement [value] COST of the
28 improvements on any real property, the [lender] CREDIT GRANTOR may:

29 1. Accept the value placed on the improvements by the
30 insurer; or

31 2. Use the value placed on the improvements [that is
32 determined] by the [lender's] CREDIT GRANTOR'S appraisal of the [real property]
33 IMPROVEMENTS.

34 (3) ANY PROPERTY INSURANCE COVERAGE REQUIRED BY A CREDIT
35 GRANTOR SHALL BEAR A REASONABLE RELATION TO THE EXISTING RISK OF LOSS.

36 [(3)] (4) A violation of this subsection shall entitle the borrower to:

1 (i) Seek an injunction to prohibit the credit grantor who has
2 engaged or is engaging in the violation from continuing or engaging in the violation;

3 (ii) Reasonable attorney's fees; and

4 (iii) Damages directly resulting from the violation.

5 [(4)] (5) A violation of this subsection does not affect the validity of the
6 [first] lien securing the loan.

7 12-1007.

8 (f) (1) (I) In this subsection[,] THE FOLLOWING WORDS HAVE THE
9 MEANINGS INDICATED.

10 (II) "IMPROVEMENTS" MEANS FIXTURES ATTACHED TO REAL
11 PROPERTY THAT ENHANCE THE VALUE OF THE REAL PROPERTY.

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

16 (IV) 1. "REPLACEMENT COST" MEANS THE AMOUNT NEEDED TO
17 REPAIR DAMAGE TO OR REBUILD IMPROVEMENTS ON REAL PROPERTY TO RESTORE
18 THE IMPROVEMENTS TO THEIR PRE-LOSS CONDITION.

19 2. "REPLACEMENT COST" DOES NOT INCLUDE THE VALUE OF
20 LAND.

21 (2) (i) A credit grantor may not require a borrower, as a condition to
22 receiving or maintaining a loan secured by a [first] lien, to provide or purchase
23 property insurance coverage against risks to any improvements on any real property
24 in an amount exceeding the replacement [value] COST of the improvements on the
25 real property.

26 (ii) In determining the replacement [value] COST of the
27 improvements on any REAL property, the [lender] CREDIT GRANTOR may:

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

30 2. Use the value placed on the improvements [that is
31 determined] by the [lender's] CREDIT GRANTOR'S appraisal of the [real property]
32 IMPROVEMENTS.

33 (3) ANY PROPERTY INSURANCE COVERAGE REQUIRED BY A CREDIT
34 GRANTOR SHALL BEAR A REASONABLE RELATION TO THE EXISTING RISK OF LOSS.

35 [(3)] (4) A violation of this subsection shall entitle the borrower to seek:

1 (i) An injunction to prohibit the credit grantor who has engaged or
2 is engaging in the violation from continuing or engaging in the violation;

3 (ii) Reasonable attorney's fees; and

4 (iii) Damages directly resulting from the violation.

5 [(4)] (5) A violation of this subsection does not affect the validity of the
6 [first] lien securing the loan.

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