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By: **Delegates Kullen, Cryor, Donoghue, Kohl, Love, Stull, Trueschler, and  
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Introduced and read first time: February 10, 2006

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

4 FOR the purpose of ~~prohibiting~~ clarifying that certain lenders and credit grantors  
5 ~~from requiring~~ may not require a borrower, as a condition to receiving or  
6 maintaining certain loans, to provide or purchase certain insurance coverage in  
7 an amount exceeding the replacement cost of the improvements on real  
8 property; ~~altering~~ clarifying the manner in which certain lenders and credit  
9 grantors may determine the replacement cost of improvements on real property  
10 that secures certain loans made by the lenders and credit grantors; ~~requiring~~  
11 ~~property insurance coverage required by certain lenders and credit grantors to~~  
12 ~~bear a reasonable relation to the existing risk of loss;~~ defining certain terms;  
13 altering certain definitions; correcting certain erroneous references; and  
14 generally relating to loans secured by real property.

15 BY repealing and reenacting, with amendments,  
16 Article - Commercial Law  
17 Section 12-124, 12-410(f)(1), 12-909(e), and 12-1007(f)  
18 Annotated Code of Maryland  
19 (2005 Replacement Volume)

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

**Article - Commercial Law**

12-124.

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

(ii) "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) (II) "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.

(III) "IMPROVEMENTS" MEANS ~~FIXTURES ATTACHED BUILDINGS OR~~ STRUCTURES ERECTED UPON OR AFFIXED TO REAL PROPERTY THAT ENHANCE THE VALUE OF THE REAL PROPERTY.

(IV) "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".

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

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

(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] COST 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] COST of the improvements on the real property.

(4) In determining the replacement [value] COST 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] IMPROVEMENTS.

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

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

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

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

10 (ii) Reasonable attorney's fees; and

11 (iii) Damages directly resulting from the violation.

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

14 12-410.

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

17 2. "IMPROVEMENTS" MEANS ~~FIXTURES ATTACHED~~  
18 BUILDINGS OR STRUCTURES ERECTED UPON OR AFFIXED TO REAL PROPERTY THAT  
19 ENHANCE THE VALUE OF THE REAL PROPERTY.

20 3. ["property] "PROPERTY insurance coverage" means  
21 property insurance against losses caused by perils that commonly are covered in  
22 insurance policies described with terms similar to "standard fire" or "standard fire  
23 with extended coverage".

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

27 B. "REPLACEMENT COST" DOES NOT INCLUDE THE VALUE OF  
28 LAND.

29 (ii) A lender may not require a borrower, as a condition to receiving  
30 or maintaining a secondary mortgage loan, to provide or purchase property insurance  
31 coverage against risks to any improvements on any real property in an amount  
32 exceeding the replacement [value] COST of the improvements on the real property.

33 (iii) In determining the replacement [value] COST of the  
34 improvements on any real property, the lender may:

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

3 2. Use the value placed on the improvements [that is  
4 determined] by the lender's appraisal of the [real property] IMPROVEMENTS.

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

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

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

11 2. Reasonable attorney's fees; and

12 3. Damages directly resulting from the violation.

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

16 12-909.

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

19 (II) "IMPROVEMENTS" MEANS ~~FIXTURES ATTACHED BUILDINGS OR~~  
20 STRUCTURES ERECTED UPON OR AFFIXED TO REAL PROPERTY THAT ENHANCE THE  
21 VALUE OF THE REAL PROPERTY.

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

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

29 2. "REPLACEMENT COST" DOES NOT INCLUDE THE VALUE OF  
30 LAND.

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

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

3 1. Accept the value placed on the improvements by the  
4 insurer; or

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

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

10 ~~{3}~~ ~~(4)~~ A violation of this subsection shall entitle the borrower to:

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

13 (ii) Reasonable attorney's fees; and

14 (iii) Damages directly resulting from the violation.

15 ~~{4}~~ ~~(5)~~ A violation of this subsection does not affect the validity of the  
16 [first] lien securing the loan.

17 12-1007.

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

20 (II) "IMPROVEMENTS" MEANS ~~FIXTURES ATTACHED BUILDINGS OR~~  
21 STRUCTURES ERECTED UPON OR AFFIXED TO REAL PROPERTY THAT ENHANCE THE  
22 VALUE OF THE REAL PROPERTY.

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

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

30 2. "REPLACEMENT COST" DOES NOT INCLUDE THE VALUE OF  
31 LAND.

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

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

3 1. Accept the value placed on the improvements by the  
4 insurer; or

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

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

10 ~~{(3)}~~ ~~(4)~~ A violation of this subsection shall entitle the borrower to seek:

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

13 (ii) Reasonable attorney's fees; and

14 (iii) Damages directly resulting from the violation.

15 ~~{(4)}~~ ~~(5)~~ A violation of this subsection does not affect the validity of the  
16 [first] lien securing the loan.

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