

SENATE BILL 594

I2, N1

8lr1855

By: **Senator Haines**

Introduced and read first time: February 1, 2008

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Credit Regulation – Mortgage Lending – Prepayment Penalties**

3 FOR the purpose of prohibiting a lender from requiring or authorizing the imposition
4 of a prepayment penalty, fee, premium, or other charge in connection with
5 certain subprime loans; defining certain terms; providing for the application of
6 this Act; and generally relating to mortgage lending.

7 BY repealing and reenacting, with amendments,

8 Article – Commercial Law

9 Section 12–105

10 Annotated Code of Maryland

11 (2005 Replacement Volume and 2007 Supplement)

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

14 **Article – Commercial Law**

15 12–105.

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
17 MEANINGS INDICATED.

18 (2) “ANNUAL PERCENTAGE RATE” HAS THE MEANING STATED IN
19 12 C.F.R. PART 226.

20 (3) “FULLY INDEXED RATE” MEANS THE INDEX RATE APPLICABLE
21 TO A MORTGAGE LOAN FOR A RESIDENTIAL REAL PROPERTY AT THE TIME IT IS
22 ORIGINATED, PLUS THE MARGIN THAT WILL APPLY AFTER THE EXPIRATION OF
23 AN INTRODUCTORY INTEREST RATE.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(4) "MORTGAGE LOAN" HAS THE MEANING STATED IN § 11-501
OF THE FINANCIAL INSTITUTIONS ARTICLE.

6 (6) "SUBPRIME LOAN" MEANS:

27 [(a)] (B) Fees and charges collected at the direction of and actually paid to a
28 government or governmental agency may be collected and are not interest under this
29 subtitle.

30 **[(b)] (c) [If] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS**
31 **SECTION, IF** the loan contract provides for them, the following fees and charges also
32 may be collected and are not interest under this subtitle:

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

3 (2) A service charge made by a broker or dealer dealing in investment
4 securities if:

5 (i) Money is advanced on the security of pledged investment
6 securities; and

10 (3) A delinquent or late charge of the greater of \$2 or 5 percent of the
11 total amount of any delinquent or late periodic installment of principal and interest, if:

12 (i) The delinquency has continued for at least 15 calendar days;
13 and

14 (ii) A delinquent or late charge has not already been charged for
15 the same delinquency; and

20 (i) May be imposed only on prepayments made within three
21 years from the date the loan is made; and

22 (ii) May not exceed an amount equal to two months' advance
23 interest on the aggregate amount of all prepayments made in any 12-month period in
24 excess of one third of the amount of the original loan.

25 (D) (1) IN CONNECTION WITH A SUBPRIME LOAN, A LENDER MAY NOT
26 REQUIRE OR AUTHORIZE THE IMPOSITION OF A PENALTY, FEE, PREMIUM, OR
27 OTHER CHARGE IF THE SUBPRIME LOAN IS PREPAID IN WHOLE OR IN PART.

33 [(c)] (E) The following charges, if actual expenses of the lender, also may be
34 collected and, if not retained by him, are not interest under this subtitle:

5 (3) Charges for the payment of any premium and cost for insuring;

6 (i) The lender against loss or liability on or in connection with
7 the loan; or

8 (ii) The life or health of the borrower.

9 [(d)] (F) Fees and charges otherwise includable as interest under this
10 subtitle paid by a developer to the lender for the purpose of making permanent loans
11 available to home purchasers are not interest under this subtitle. These fees and
12 charges may not be charged to the home purchaser unless they are charged as interest
13 and do not violate § 12-108 of this subtitle.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
15 construed to apply only prospectively and may not be applied or interpreted to have
16 any effect on or application to any mortgage loan entered into before the effective date
17 of this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2008.