

**Department of Legislative Services**  
Maryland General Assembly  
2012 Session

**FISCAL AND POLICY NOTE**

Senate Bill 451

(Senator Middleton, *et al.*)

Finance

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**Credit Regulation - Finder's Fees - Table-Funded Loans**

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This bill defines “table-funded transaction” and alters the definitions of “finder’s fee,” “lender,” and “mortgage broker.” By doing so, the bill clarifies that, in a table-funded mortgage loan transaction, fees charged by the person named as the lender in specified documents evidencing the loan indebtedness are not considered finder’s fees. The bill prohibits the bringing of an action for a violation relating to finder’s fees for loans more than three years after the violation occurs.

The bill takes effect June 1, 2012, and applies to all table-funded transactions. However, the bill may not be applied to any court action for which a final judgment has been rendered and for which all judicial appeals have been exhausted before June 1, 2012.

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**Fiscal Summary**

**State Effect:** Any changes in examination procedures due to the bill can be handled with existing budgeted resources. No impact on revenues.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** The bill defines “table-funded transaction” as a mortgage loan transaction in which (1) the loan proceeds are not funded by the person named as the lender in the loan agreement, note, mortgage, deed of trust, or other evidence of indebtedness and are funded by a person to whom the loan is assigned

contemporaneously; and (2) the person funding the loan or any owner, part owner, officer, director, or employee of the person funding the loan is not an owner, part owner, partner, officer, director, or employee of a mortgage broker charging a finder's fee in connection with the loan transaction.

The bill alters the definition of "finder's fee" to specifically exclude any compensation or commission directly or indirectly paid in a table-funded transaction to the person named as the lender in a loan agreement, note, mortgage, deed of trust, or other evidence of indebtedness. Additionally, the bill alters the definitions of "lender" to exclude a mortgage broker and "mortgage broker" to exclude a person in a table-funded transaction who is named as the lender in the loan agreement, note, mortgage, deed of trust, or other evidence of indebtedness.

### **Current Law:**

*Definitions:* "Finder's fee" means any compensation or commission directly or indirectly imposed by a broker and paid by or on behalf of the borrower for the broker's services in procuring, arranging, or otherwise assisting a borrower in obtaining a loan or advance of money.

"Lender" means any person who makes a mortgage loan to any person.

*Finder's Fee:* A mortgage broker may not charge a finder's fee in any transaction in which the mortgage broker or an owner, part owner, partner, director, officer, or employee of the mortgage broker is the lender or an owner, part owner, partner, director, officer, or employee of the lender. A mortgage broker may charge a finder's fee of up to 8% of the loan or advance amount.

In addition to a finder's fee, a mortgage broker may charge a borrower for the actual cost of (1) any appraisal, credit report, condominium document, or subordination agreement document obtained by the mortgage broker at the written request of the borrower; and (2) any other good or service, as specified in regulations adopted by the Commissioner of Financial Regulation, that is required to complete a loan application process and that, at the written request of the borrower, is paid by the mortgage broker to a third-party provider of the good or service.

Any mortgage broker who violates provisions related to finder's fees forfeits to the borrower the greater of three times the amount of the finder's fee collected or \$500.

**Background:** The U.S. Department of Housing and Urban Development describes table funding as when mortgage brokers process and close loans in their own names then, at or about the time of settlement, transfer these loans to the lender at which point the lender simultaneously advances the monies to fund the loan.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 674 (Delegate Davis, *et al.*) - Economic Matters.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; U.S. Department of Housing and Urban Development; Department of Legislative Services

**Fiscal Note History:** First Reader - February 17, 2012  
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