DATE: March 4, 2020

TO: House Economic Matters Committee

FROM: Peter Kitzmiller (President)
Travis Martz (General Counsel)

RE: House Bill 0655 (Delegate Pam Queen)

POSITION: OPPOSE

The Maryland Automobile Dealers Association (MADA) represents over 300 franchised new car and truck dealers and their 24,000 employees. We strongly oppose HB 0655.

This bill would require disclosures that are not only unnecessary but will actually confuse customers and in many cases lead them to choose a more expensive loan. Federal and State disclosure in credit transactions are designed to help customers evaluate credit offers and be able to shop for the lowest cost credit.

The issue of requiring disclosure of "dealer participation" has been studied in depth by the Federal Trade Commission and the Federal Reserve Board. The FTC produced an EXHAUSTIVE report based on consumer focus groups that definitively concluded disclosure of Mortgage Broker compensation/participation (this is exactly the same structure for auto dealers assisted financing) not only did not help consumers, it would cause confusion and lead to the selection of more expensive credit options. This is a quote from the study:

"This study of over 500 recent mortgage customers in an experimental setting finds that the mortgage broker compensation disclosure proposed by …HUD is likely to confuse consumers, cause a significant proportion to choose loans that are more expensive than the available alternatives and create a substantial consumer bias against broker loans, even when the broker loans cost the same or less than direct lender loans."

The Federal Reserve Board which regulates auto lending through REG Z did a rulemaking to determine if the exact disclosures set out in this bill should be required in auto financing transactions – they concluded that these disclosures were confusing and unnecessary. The general conclusion of these agencies is that the most relevant figure for comparing credit offers is the annual percentage rate (APR) efforts to require disclosure of elements of the APR and create confusion and cause consumers to select more expensive credit offers.

Proposals that dealers disclose the amount of dealer participation earned in a credit transaction generally are based on the erroneous belief that the buy rate from the bank is a retail rate that the consumer "qualifies" for and that dealer participation is simply a gratuitous add on. The buy rate is a wholesale rate that finance sources could not offer directly to consumers on a sustained basis if they had to erect (and assume the costs of) a retail distribution network to extend financing to consumers. Consequently, dealer participation is part of – and not an additional charge to – the retail rate.

The provision of the bill dealing with capping the rate of dealer participation is unnecessary – all dealer agreements with lenders contain a contractual rate cap – these have been a standard part of lender agreements for the past ten years.

Dealer assisted financing provides significant benefit to hundreds of thousands of Maryland consumers across the credit spectrum. Dealers access to captive and independent finance companies, banks and credit unions frequently result in dealers being able to offer more competitive credit terms to consumers than consumers can secure on their own. Even when dealer assisted financing is not selected by the consumer, its' mere presence helps to create a competitive market that significantly disciplines the rate that other financial services will offer consumers.

In conclusion, in-depth data driven studies on the effectiveness of the exact disclosures set out in the bill have concluded that not only are these disclosures not necessary – they in fact, confuse consumers and could lead them to choose more expensive credit options.

We would request an **unfavorable** report.