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February 26, 2021

To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Kira Wilpone-Welborn
Consumer Protection Division

Re: Senate Bill 781 – Real Property – Residential Contract of Sale – Buyer Identification
(Letter of Concern)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) is concerned about unintended consequences of Senator Hayes’ Senate Bill 781, despite its admirable goals of preventing discrimination in the sale of single-family residential properties. As introduced, Senate Bill 781 would permit buyers seeking to purchase single-family homes to elect to be identified as “Client A” in a residential contract of sale when using the services of a real estate broker.

Maryland law currently has protections in place to ensure sellers do not discriminate against buyers in residential real estate transactions based upon race, color, sex, religion, handicap, familial status, or national origin.¹ However, passage of this bill authorizing buyers of residential real property to hide their identities could unintentionally facilitate unfair, abusive, or deceptive trade practices. For example, developers could seek to abuse this provision to drive down sale prices and obscure larger development plans without appropriate public oversight by entering into multiple residential contracts of sale anonymously. Likewise, this provision could be used to facilitate illegal flipping schemes or equity stripping that would cause substantial harm to consumer sellers.

The fact that the buyer in a residential real estate transaction involving single-family real property is not purchasing the house for the buyer’s own personal use, or is a shell corporation, could be a material fact that a reasonable seller would consider in deciding whether to proceed with the transaction. As written, this bill would make legal the omission of an important material

¹ Maryland Code, State Government §§ 20-704-705; and Maryland Real Estate Broker’s Act, Bus. Occ. & Prof. Art. §§ 17-525, 17-526, and 17-608.

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fact in such transactions impeding consumer sellers' ability to make informed decisions as to whether to ratify a residential contract of sale. Moreover, the legal and financial challenge of voiding a fully executed contract of sale in a transaction involving an anonymous buyer who entered the contract with malicious or fraudulent intent could be significant. Finally, although the bill would apply to only those buyers who chose to engage the services of a real estate broker, that fact does not negate or outweigh the potential harm to consumer sellers.

The Consumer Protection Division of the Office of the Attorney General recommends that if the Judicial Proceedings Committee were to give this bill a favorable report that it would limit the ability of a purchaser to remain anonymous in a contract of sale to individual, rather than corporate or business entity, purchasers who intend to make the single-family property their personal and primary residence.

For these reasons, the Division expresses its concerns of Senate Bill 781 to the Environment and Transportation Committee.

cc: The Honorable Antonio Hayes
Members, Judicial Proceedings Committee