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February 17, 2023

To: The Honorable Kumar P. Barve  
Chair, Environment and Transportation Committee

From: Kira Wilpone-Welborn, Assistant Attorney General  
Consumer Protection Division

Re: House Bill 425 – Real Property - Land Installment Contracts - Requirements and Vendor Duties and Limitations (SUPPORT WITH AMENDMENT)

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The Consumer Protection Division of the Office of the Attorney General (the "Division") supports with amendment House Bill 425 sponsored by Delegates Taylor, Charles, Grossman, Harris, Henson, Holmes, Ivey, Taveras, and Toles. The Division receives and investigates complaints of unfair, abusive, and deceptive trade practices related to land installment contracts that misrepresent or omit material facts about the transaction. House Bill 425 would provide additional protections for consumers entering into land installment contracts in several ways. However, as drafted, House Bill 425 removes important obligations of a vendor to disclose recent ownership transfers and any cost of improvements to the property that protect consumers from overpaying for a flipped property. To ensure consumers are fully protected when entering into land installment contracts, the disclosure requirement of Real Property Article § 10-103(a)(4) requiring recent transfers and costs of improvements should remain in the statute.

First, House Bill 425 would require written land installment contracts to be duly signed *and* acknowledged by all parties *and* to include the date on which each party signed the contract. Moreover, at or before the time the purchaser signs the written land installment contract, the vendor would be required to provide the prospective purchaser of the property subject to the land installment contract the results of a title search performed by a qualified, disinterested party at the vendor's expense. House Bill 425 would also require the land installment contract to include the physical address of the subject property and, if the title search reveals that title to the subject property is not free and clear of all encumbrances, a separate notice by the vendor that the purchaser has been informed that liens exist on the subject property that may negatively impact the purchaser's rights to the property. The fact that a subject property may be encumbered is a material fact the omission of which denies a consumer the opportunity to fully evaluate the transaction before entering into it. Should a vendor fail to provide the title search results to a

prospective purchaser, House Bill 425 protects consumers by enabling the consumer to cancel the land installment contract and recoup any payments and deposits that have been made.

Second, House Bill 425 would require the land installment contract to recite, among other required information, the due date of each installment payment broken out by (1) the amount of principal owed for the installment payment and (2) the amount of interest owed for the installment payment. Additionally, House Bill 425 would require the land installment contract to recite the total number of periodic installment payments that are due and disclose any balloon payments. Land installment contracts that do not precisely identify how consumer payments apply to principal and interest obligations, or fail to disclose balloon payments, have the capacity to mislead and harm consumers entering into such contracts. Without this information, consumers may believe they are making payments on a property that will result in their eventual ownership of the property not understanding that at the end of the contract term they must also pay a balloon payment, which they may not be able to afford, to complete the purchase. House Bill 425 would protect consumers by ensuring they understand when and how their payments will be applied toward the principal and whether the proposed land installment contract is financially feasible.

Third, if a land installment contract fixes no earlier period, House Bill 425 would permit consumers to complete the purchase once they have paid 20% of the original cash value, rather than 40% as is currently required. This change would allow consumers to purchase properties subject to land installment contracts earlier, thereby decreasing the overall cost of the land installment contract and increasing the equity the consumer would realize by owning the property.

While House Bill 425 provides important additional protections to consumers entering into land installment contracts, House Bill 425 supplants the obligation of a vendor to disclose “every transfer of title to the property, the sale price of each transfer, and the substantiated cost to the vendor of repairs or improvements” in the six months preceding the sale with the new obligation to disclose the results of an independent title search. *See* Real Property Article § 10-103(a)(4). The Division is concerned that removing the obligation of the vendor to disclose any previous transfers and costs of improvements could deceive consumers as to the value of the property and cause consumers to overpay for a flipped property. As such, the Division recommends that House Bill 425 retain Real Property Article § 10-103(a)(4).

For these reasons, the Division requests the Environment and Transportation Committee issue a favorable report with amendment on House Bill 425.

cc: The Honorable Kym Taylor  
The Honorable Nick Charles  
The Honorable Brooke Grossman  
The Honorable Kevin M. Harris  
The Honorable Shaneka Henson  
The Honorable Marvin E. Holmes

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The Honorable Julian Ivey  
The Honorable Deni Taveras  
The Honorable Karen Toles  
Members, Environment and Transportation Committee