

HB 425 Crossover_Consumer Protection Division_Favo

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Position: FAV

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March 22, 2023

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

The Consumer Protection Division of the Office of the Attorney General (the "Division") supports 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 provides additional protections for consumers that could reduce unfair, deceptive, and abusive trade practices in land installment contracts.

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.

Finally, House Bill 425 maintains the obligation that a land installment contract include the sale price of any transfer and “the substantiated cost to the vendor of repairs or improvements” in the preceding six months. Requiring vendors to disclose any previous transfers and costs of improvements provides consumers with valuable information on the value of the property and can prevent consumers from overpaying for a flipped property.

For these reasons, the Division requests the Judicial Proceedings Committee issue a favorable report on House Bill 425.

cc: Members, Judicial Proceedings Committee

HB 425X_realtors_fav.pdf

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Position: FAV



House Bill 425 – Real Property – Land Installment Contracts – Requirements and Vendor Duties and Limitations

Position: Favorable

Maryland REALTORS® represents more than 30,000 real estate licensees in Maryland and supports HB 425 which seeks to provide greater disclosure and a quicker transition in land installment contracts. HB 425 was passed unanimously in by the House of Delegates.

Although not common in real estate, land installment contracts can be good tools for renters seeking to purchase a home but not yet in a position financially to afford it. Land installment contracts are agreements between a renter and owner of the property that will allow the renter to pay toward the purchase of the rental property while still a tenant of that property.

HB 425 would make some important changes to the law, including: providing a title search at the time the renter/purchaser enters into the land installment contract; separate notice of liens that may exist on the property; the amount of the principal and interest for each installment payment; as well as notice about any balloon payment.

Finally, under current law once a purchaser pays more than 40% of the original cash price of the property, the purchaser may demand grant of the premises as long as the purchaser obtains financing. That 40% trigger would be lowered to 20% under the bill.

Land installment contacts can be useful tools for renters seeking to be homeowners and HB 425 will create a more transparent and fair process. The REALTORS® encourage a favorable report.

**For more information contact lisa.may@mdrealtor.org or
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