

SENATE BILL 392

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7lr1819

By: **Senator Hershey**

Introduced and read first time: January 26, 2017

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Credit Regulation – Revolving and Closed End Credit Loans – Elimination of**
3 **Duplicative Disclosures**

4 FOR the purpose of providing that a certain disclosure provided by a lender to a borrower
5 in compliance with a certain federal law shall satisfy certain disclosure requirements
6 under certain provisions of law governing certain revolving credit and closed end
7 credit loans secured by a first mortgage or first deed of trust on residential real
8 property; and generally relating to mortgage lending disclosure requirements for
9 revolving credit and closed end credit loans.

10 BY repealing and reenacting, with amendments,
11 Article – Commercial Law
12 Section 12–125, 12–922, and 12–1022
13 Annotated Code of Maryland
14 (2013 Replacement Volume and 2016 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Commercial Law**

18 12–125.

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Borrower” means a person who makes an application for a loan secured
21 by a first mortgage or first deed of trust on a 1– to 4–family home to be occupied by the
22 borrower as the borrower’s primary residence.

23 (3) “Commitment” means a written, specific, binding agreement between a
24 borrower and a lender which sets forth the terms of a loan being extended to the borrower.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(4) “Financing agreement” means a written agreement between a borrower and a lender which sets forth the terms of a purchase money loan or a refinancing of an existing loan that:

(i) Results in or is secured by a first mortgage or a first deed of trust on a 1- to 4-family home to be occupied by the borrower; and

(ii) Is offered or extended to the borrower.

(5) (i) “Lender” means a person subject to the licensing requirements of Title 11, Subtitle 5 of the Financial Institutions Article.

(ii) “Lender” does not include a person exempt from licensure under § 11-502 of the Financial Institutions Article.

(6) (i) “Loan application” means any oral or written request for an extension of credit that is made in accordance with procedures established by a lender for the purpose of inducing the lender to seek to procure or make a mortgage loan.

(ii) “Loan application” does not include the use of an account or line of credit to obtain a loan within a previously established credit limit.

(b) (1) A lender who offers to make or procure a loan secured by a first mortgage or first deed of trust on a 1- to 4-family home to be occupied by the borrower shall provide the borrower with a financing agreement executed by the lender within 10 business days after the date the loan application is completed.

(2) The financing agreement shall provide:

(i) The term and principal amount of the loan;

(ii) An explanation of the type of mortgage loan being offered;

(iii) The rate of interest that will apply to the loan and, if the rate is subject to change or is a variable rate or is subject to final determination at a future date based on some objective standard, a specific statement of those facts;

(iv) The points, if any, to be paid by the borrower or the seller, or both; and

(v) The term during which the financing agreement remains in effect.

(3) If all the provisions of the financing agreement are not subject to future determination, change, or alteration during its term, the financing agreement shall

1 constitute the final binding agreement between the parties as to the items covered by the
2 financing agreement.

3 **(4) A DISCLOSURE PROVIDED BY A LENDER TO A BORROWER IN**
4 **COMPLIANCE WITH 12 C.F.R. § 1026.37 SHALL SATISFY THE REQUIREMENTS OF**
5 **THIS SUBSECTION.**

6 (c) (1) If any of the provisions of the financing agreement are subject to change
7 or determination after its execution, the lender shall provide the borrower with a
8 commitment, executed by the lender, at least 72 hours before the time of settlement agreed
9 to by the parties, providing:

10 (i) The effective fixed interest rate or initial interest rate that will
11 be applied to the loan; and

12 (ii) A restatement of all the remaining unchanged provisions of the
13 financing agreement.

14 (2) Subsequent to execution of the financing agreement, the borrower may
15 waive in writing the 72-hour advance presentation requirement and accept the
16 commitment at settlement only if compliance with the 72-hour requirement is shown by
17 the lender to be infeasible.

18 **(3) A DISCLOSURE PROVIDED BY A LENDER TO A BORROWER IN**
19 **COMPLIANCE WITH 12 C.F.R. § 1026.38 SHALL SATISFY THE REQUIREMENTS OF**
20 **THIS SUBSECTION.**

21 (d) If a lender fails to comply with the requirements of this section, the lender
22 shall be subject to the penalties set forth in § 11-523 of the Financial Institutions Article.

23 (e) A borrower aggrieved by any violation of this section shall be entitled to bring
24 a civil suit for damages, including reasonable attorney's fees, against the lender.

25 (f) This section may not be construed to exempt a lender from the provisions of
26 §§ 12-119 through 12-122 of this subtitle.

27 12-922.

28 (a) (1) In this section the following words have the meanings indicated.

29 (2) "Borrower" means a consumer borrower who makes an application for
30 a loan secured by a first mortgage or first deed of trust on residential real property to be
31 occupied by the borrower as the borrower's primary residence.

32 (3) "Commitment" means a written, specific, binding agreement between a
33 borrower and a lender which sets forth the terms of a loan being extended to the borrower.

(4) “Financing agreement” means a written agreement between a borrower and a lender which sets forth the terms of a purchase money loan or a refinancing of an existing loan that:

(i) Results in or is secured by a first mortgage or a first deed of trust on residential real property to be occupied by the borrower; and

(ii) Is offered or extended to the borrower.

(5) (i) “Lender” means a credit grantor subject to the licensing requirements of Title 11, Subtitle 5 of the Financial Institutions Article.

(ii) “Lender” does not include a credit grantor exempt from licensing under § 11–502 of the Financial Institutions Article.

(6) (i) “Loan application” means any oral or written request for an extension of credit that is made in accordance with procedures established by a lender for the purpose of inducing the lender to seek to procure or make a mortgage loan.

(ii) “Loan application” does not include the use of an account or line of credit to obtain a loan within a previously established credit limit.

(b) (1) A lender who offers to make or procure a loan secured by a first mortgage or first deed of trust on residential real property to be occupied by the borrower shall provide the borrower with a financing agreement executed by the lender within 10 business days after the date the loan application is completed.

(2) The financing agreement shall provide:

(i) The term and principal amount of the loan;

(ii) An explanation of the type of mortgage loan being offered;

(iii) The rate of interest that will apply to the loan and, if the rate is subject to change or is a variable rate or is subject to final determination at a future date based on some objective standard, a specific statement of those facts;

(iv) The points, if any, to be paid by the borrower or the seller, or both; and

(v) The term during which the financing agreement remains in effect.

(3) If all the provisions of the financing agreement are not subject to future determination, change, or alteration during its term, the financing agreement shall

1 constitute the final binding agreement between the parties as to the items covered by the
2 financing agreement.

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7 or determination after its execution, the lender shall provide the borrower with a
8 commitment, executed by the lender, at least 72 hours before the time of settlement agreed
9 to by the parties, providing:

10 (i) The effective fixed interest rate or initial interest rate that will
11 be applied to the loan; and

12 (ii) A restatement of all the remaining unchanged provisions of the
13 financing agreement.

14 (2) Subsequent to execution of the financing agreement, the borrower may
15 waive in writing the 72-hour advance presentation requirement and accept the
16 commitment at settlement only if compliance with the 72-hour requirement is shown by
17 the lender to be infeasible.

18 **(3) A DISCLOSURE PROVIDED BY A LENDER TO A BORROWER IN**
19 **COMPLIANCE WITH 12 C.F.R. § 1026.38 SHALL SATISFY THE REQUIREMENTS OF**
20 **THIS SUBSECTION.**

21 (d) (1) A borrower aggrieved by any violation of this section shall be entitled
22 to bring a civil suit for damages, including reasonable attorney's fees, against the lender.

23 (2) The penalties set out under § 12-918 of this subtitle do not apply to any
24 violation of this section.

25 12-1022.

26 (a) (1) In this section the following words have the meanings indicated.

27 (2) "Borrower" means a consumer borrower who makes an application for
28 a loan secured by a first mortgage or first deed of trust on residential real property to be
29 occupied by the borrower as the borrower's primary residence.

30 (3) "Commitment" means a written, specific, binding agreement between a
31 borrower and a lender which sets forth the terms of a loan being extended to the borrower.

(4) “Financing agreement” means a written agreement between a borrower and a lender which sets forth the terms of a purchase money loan or a refinancing of an existing loan that:

(i) Results in or is secured by a first mortgage or a first deed of trust on residential real property to be occupied by the borrower; and

(ii) Is offered or extended to the borrower.

(5) (i) “Lender” means a credit grantor subject to the licensing requirements of Title 11, Subtitle 5 of the Financial Institutions Article.

(ii) “Lender” does not include a credit grantor exempt from licensing under § 11–502 of the Financial Institutions Article.

(6) (i) “Loan application” means any oral or written request for an extension of credit that is made in accordance with procedures established by a lender for the purpose of inducing the lender to seek to procure or make a mortgage loan.

(ii) “Loan application” does not include the use of an account or line of credit to obtain a loan within a previously established credit limit.

(b) (1) A lender who offers to make or procure a loan secured by a first mortgage or first deed of trust on residential real property to be occupied by the borrower shall provide the borrower with a financing agreement executed by the lender within 10 business days after the date the loan application is completed.

(2) The financing agreement shall provide:

(i) The term and principal amount of the loan;

(ii) An explanation of the type of mortgage loan being offered;

(iii) The rate of interest that will apply to the loan and, if the rate is subject to change or is a variable rate or is subject to final determination at a future date based on some objective standard, a specific statement of those facts;

(iv) The points, if any, to be paid by the borrower or the seller, or both; and

(v) The term during which the financing agreement remains in effect.

(3) If all the provisions of the financing agreement are not subject to future determination, change, or alteration during its term, the financing agreement shall constitute the final binding agreement between the parties as to the items covered by the financing agreement.

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5 or determination after its execution, the lender shall provide the borrower with a
6 commitment, executed by the lender, at least 72 hours before the time of settlement agreed
7 to by the parties, providing:

8 (i) The effective fixed interest rate or initial interest rate that will
9 be applied to the loan; and

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11 financing agreement.

12 (2) Subsequent to execution of the financing agreement, the borrower may
13 waive in writing the 72-hour advance presentation requirement and accept the
14 commitment at settlement only if compliance with the 72-hour requirement is shown by
15 the lender to be infeasible.

16 **(3) A DISCLOSURE PROVIDED BY A LENDER TO A BORROWER IN**
17 **COMPLIANCE WITH 12 C.F.R. § 1026.38 SHALL SATISFY THE REQUIREMENTS OF**
18 **THIS SUBSECTION.**

19 (d) If a lender fails to comply with the requirements of this section, the lender
20 shall be subject to the penalties set forth in § 11–523 of the Financial Institutions Article.

21 (e) (1) A borrower aggrieved by any violation of this section shall be entitled
22 to bring a civil suit for damages, including reasonable attorney’s fees, against the lender.

23 (2) The penalties set out under § 12–1018 of this subtitle do not apply to
24 any violation of this section.

25 (f) This section may not be construed to exempt a lender from the provisions of
26 §§ 12–1027 and 12–1028 of this subtitle.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
28 1, 2017.