

SENATE BILL 155

I3, I1

0lr1886
CF HB 93

By: ~~Senators Augustine, Elfreth, Reilly, and Rosapepe~~ Senators Augustine, Elfreth, Reilly, Rosapepe, Benson, and Klausmeier

Introduced and read first time: January 10, 2020

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 11, 2020

CHAPTER _____

1 AN ACT concerning

2 **Consumer Protection – Mobile Home Purchasers**

3 FOR the purpose of requiring, except under certain circumstances, certain lenders to serve
4 on the borrower within a certain time period a written notice of the lender's intention
5 to repossess a certain mobile home; providing that a mobile home retailer has a duty
6 of good faith and fair dealing in providing financial information to a prospective
7 consumer borrower; prohibiting a mobile home retailer from steering a prospective
8 consumer borrower to certain financing products; requiring a mobile home retailer
9 to provide a certain written statement to a prospective consumer borrower at a
10 certain time and by posting the statement in certain locations and on the mobile
11 home retailer's website, if any; requiring that the statement be on a certain form and
12 include certain information; providing that the failure of a mobile home retailer to
13 comply with certain provisions of this Act does not affect the validity of an otherwise
14 valid financing transaction; authorizing the Commissioner of Financial Regulation
15 to enforce certain provisions of this Act by exercising certain powers; defining certain
16 terms; altering certain definitions; altering the purpose of the Nondepository Special
17 Fund to include covering the direct and indirect costs of fulfilling the statutory and
18 regulatory duties of the Commissioner related to certain provisions of this Act;
19 making stylistic changes; making a technical correction; and generally relating to
20 consumer protection for mobile home purchasers.

21 BY repealing and reenacting, without amendments,
22 Article – Commercial Law
23 Section 12–101(a), 12–901(a), and 12–1001(a) and (f)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2013 Replacement Volume and 2019 Supplement)

3 BY adding to
4 Article – Commercial Law
5 Section 12–101(h–1), 12–901(g–1), and 12–1001(k–1); and 14–4201 through 14–4205
6 to be under the new subtitle “Subtitle 42. Mobile Home Retail Sales”
7 Annotated Code of Maryland
8 (2013 Replacement Volume and 2019 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article – Commercial Law
11 Section 12–115(c) and (d), 12–921(c) and (d), and 12–1021(c) and (d)
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2019 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Financial Institutions
16 Section 11–501(a), 11–601(a), and 11–610(a)
17 Annotated Code of Maryland
18 (2011 Replacement Volume and 2019 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Financial Institutions
21 Section 11–501(c), (p), (q), and (r), 11–601(q) and (t) through (y), and 11–610(c)(13)
22 Annotated Code of Maryland
23 (2011 Replacement Volume and 2019 Supplement)

24 BY adding to
25 Article – Financial Institutions
26 Section 11–501(h–1) and 11–601(m–1)
27 Annotated Code of Maryland
28 (2011 Replacement Volume and 2019 Supplement)

29 BY repealing
30 Article – Financial Institutions
31 Section 11–501(o) and 11–601(s)
32 Annotated Code of Maryland
33 (2011 Replacement Volume and 2019 Supplement)

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

36 **Article – Commercial Law**

37 12–101.

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

2 (H-1) "MOBILE HOME" HAS THE MEANING STATED IN § 11-501 OF THE
3 FINANCIAL INSTITUTIONS ARTICLE.

4 12-115.

5 (c) (1) [At] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
6 SUBSECTION, AT least 10 days before [he] A LENDER repossesses any goods, a lender may
7 serve a written notice on the borrower of [his] THE LENDER'S intention to repossess the
8 goods.

9 (2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
10 PARAGRAPH, AT LEAST 30 DAYS BEFORE A LENDER REPOSSESSES A MOBILE HOME
11 THAT IS PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD USE, THE LENDER
12 SHALL SERVE ON THE BORROWER A WRITTEN NOTICE OF THE LENDER'S INTENTION
13 TO REPOSSESS THE MOBILE HOME.

14 (II) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS
15 PARAGRAPH MAY BE SERVED BY THE LENDER LESS THAN 30 DAYS BEFORE
16 REPOSSESSION IF:

17 1. THE MOBILE HOME:

18 A. IS VACANT AND ABANDONED, BASED ON A
19 DETERMINATION BY THE LENDER THAT AT LEAST THREE OF THE CIRCUMSTANCES
20 LISTED IN § 7-105.18(D) OF THE REAL PROPERTY ARTICLE HAVE BEEN MET; OR

21 B. HAS BEEN VOLUNTARILY SURRENDERED BY THE
22 BORROWER TO THE LENDER; AND

23 2. THE NOTICE IS ACCOMPANIED BY A CERTIFICATION
24 FROM THE LENDER IDENTIFYING THE CIRCUMSTANCES DEMONSTRATING THAT THE
25 MOBILE HOME IS VACANT AND ABANDONED OR THAT THE MOBILE HOME HAS BEEN
26 SURRENDERED.

27 [(2)] (3) The notice shall:

28 (i) State the default and any period at the end of which the goods
29 will be repossessed; and

30 (ii) Briefly state the rights of the borrower in case the goods are
31 repossessed.

(d) The notice may be delivered to the borrower personally or sent to [him at his] THE BORROWER'S last known address by registered or certified mail.

12-901.

(a) In this subtitle the following words have the meanings indicated.

(G-1) "MOBILE HOME" HAS THE MEANING STATED IN § 11-501 OF THE FINANCIAL INSTITUTIONS ARTICLE.

12-921.

(c) (1) [At] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AT least 10 days before a credit grantor repossesses any tangible personal property, the credit grantor may serve a written notice on the consumer borrower of the intention OF THE CREDIT GRANTOR to repossess the tangible personal property.

(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AT LEAST 30 DAYS BEFORE A CREDIT GRANTOR REPOSSESSES A MOBILE HOME THAT IS PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD USE, THE CREDIT GRANTOR SHALL SERVE ON THE BORROWER A WRITTEN NOTICE OF THE CREDIT GRANTOR'S INTENTION TO REPOSSESS THE MOBILE HOME.

(II) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE SERVED BY THE CREDIT GRANTOR LESS THAN 30 DAYS BEFORE REPOSSESSION IF:

1. THE MOBILE HOME:

A. IS VACANT AND ABANDONED, BASED ON A DETERMINATION BY THE CREDIT GRANTOR THAT AT LEAST THREE OF THE CIRCUMSTANCES LISTED IN § 7-105.18(D) OF THE REAL PROPERTY ARTICLE HAVE BEEN MET; OR

B. HAS BEEN VOLUNTARILY SURRENDERED BY THE BORROWER TO THE CREDIT GRANTOR; AND

2. THE NOTICE IS ACCOMPANIED BY A CERTIFICATION FROM THE CREDIT GRANTOR IDENTIFYING THE CIRCUMSTANCES DEMONSTRATING THAT THE MOBILE HOME IS VACANT AND ABANDONED OR THAT THE MOBILE HOME HAS BEEN SURRENDERED.

[(2)] (3) The notice shall:

1 (i) State the default and any period at the end of which the tangible
2 personal property will be repossessed; and

3 (ii) Briefly state the rights of the consumer borrower in case the
4 tangible personal property is repossessed.

5 (d) The notice may be delivered to the consumer borrower personally or sent to
6 [him at his] **THE BORROWER'S** last known address by registered or certified mail.

7 12-1001.

8 (a) In this subtitle the following words have the meanings indicated.

9 (f) "Consumer borrower" means an individual receiving a loan or other extension
10 of credit under this subtitle for personal, household, or family purposes or an individual
11 receiving a commercial loan or other extension of credit for any commercial purpose not in
12 excess of \$75,000, secured by residential real property.

13 **(K-1) "MOBILE HOME" HAS THE MEANING STATED IN § 11-501 OF THE**
14 **FINANCIAL INSTITUTIONS ARTICLE.**

15 12-1021.

16 (c) (1) **[At] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
17 **SUBSECTION, AT** least 10 days before a credit grantor repossesses any tangible personal
18 property, the credit grantor may serve a written notice on the consumer borrower of the
19 intention **OF THE CREDIT GRANTOR** to repossess the tangible personal property.

20 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
21 **PARAGRAPH, AT LEAST 30 DAYS BEFORE A CREDIT GRANTOR REPOSSESSES A**
22 **MOBILE HOME THAT IS PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD USE,**
23 **THE CREDIT GRANTOR SHALL SERVE ON THE BORROWER A WRITTEN NOTICE OF THE**
24 **CREDIT GRANTOR'S INTENTION TO REPOSSESS THE MOBILE HOME.**

25 **(II) THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS**
26 **PARAGRAPH MAY BE SERVED BY THE CREDIT GRANTOR LESS THAN 30 DAYS BEFORE**
27 **REPOSSESSION IF:**

28 **1. THE MOBILE HOME:**

29 **A. IS VACANT AND ABANDONED, BASED ON A**
30 **DETERMINATION BY THE CREDIT GRANTOR THAT AT LEAST THREE OF THE**
31 **CIRCUMSTANCES LISTED IN § 7-105.18(D) OF THE REAL PROPERTY ARTICLE HAVE**
32 **BEEN MET; OR**

1 **B. HAS BEEN VOLUNTARILY SURRENDERED BY THE**
2 **BORROWER TO THE CREDIT GRANTOR; AND**

3 **2. THE NOTICE IS ACCOMPANIED BY A CERTIFICATION**
4 **FROM THE CREDIT GRANTOR IDENTIFYING THE CIRCUMSTANCES DEMONSTRATING**
5 **THAT THE MOBILE HOME IS VACANT AND ABANDONED OR THAT THE MOBILE HOME**
6 **HAS BEEN SURRENDERED.**

7 [(2)] (3) The notice shall:

8 (i) State the default and any period at the end of which the tangible
9 personal property will be repossessed; and

10 (ii) Briefly state the rights of the consumer borrower in case the
11 tangible personal property is repossessed.

12 (d) The notice may be delivered to the consumer borrower personally or sent to
13 [him at his] **THE CONSUMER BORROWER'S** last known address by registered or certified
14 mail.

15 **SUBTITLE 42. MOBILE HOME RETAIL SALES.**

16 **14-4201.**

17 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
18 **INDICATED.**

19 **(B) "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCIAL**
20 **REGULATION IN THE MARYLAND DEPARTMENT OF LABOR.**

21 **(C) "CONSUMER BORROWER" MEANS AN INDIVIDUAL RECEIVING A LOAN OR**
22 **OTHER EXTENSION OF CREDIT FOR PERSONAL, HOUSEHOLD, OR FAMILY PURPOSES.**

23 **(D) "MOBILE HOME" HAS THE MEANING STATED IN § 11-501 OF THE**
24 **FINANCIAL INSTITUTIONS ARTICLE.**

25 **(E) "MOBILE HOME RETAILER" MEANS A PERSON THAT:**

26 **(1) SELLS MOBILE HOMES AT RETAIL;**

27 **(2) PROVIDES INFORMATION REGARDING FINANCING PRODUCTS TO**
28 **A BORROWER FOR THE PURCHASE OF A MOBILE HOME; AND**

29 **(3) IS NOT:**

1 (I) A MORTGAGE LENDER, AS DEFINED IN § 11-501 OF THE
2 FINANCIAL INSTITUTIONS ARTICLE; OR

3 (II) A MORTGAGE ORIGINATOR, AS DEFINED IN § 11-601 OF THE
4 FINANCIAL INSTITUTIONS ARTICLE.

5 14-4202.

6 (A) IN THIS SECTION, "STEER" MEANS, IN CONNECTION WITH A CONSUMER
7 CREDIT TRANSACTION SECURED BY A MOBILE HOME, TO DIRECT A PROSPECTIVE
8 CONSUMER BORROWER TO COMPLETE A TRANSACTION IN ANY WAY BASED ON THE
9 FACT THAT A MOBILE HOME RETAILER WILL RECEIVE COMPENSATION, DIRECTLY
10 OR INDIRECTLY, FROM A LENDER OR CREDIT GRANTOR THAT IS IN EXCESS OF ANY
11 COMPENSATION OR GAIN RECEIVED IN A COMPARABLE CASH TRANSACTION.

12 (B) A MOBILE HOME RETAILER:

13 (1) HAS A DUTY OF GOOD FAITH AND FAIR DEALING IN PROVIDING
14 FINANCIAL INFORMATION TO A PROSPECTIVE CONSUMER BORROWER, INCLUDING
15 PROVIDING FINANCIAL INFORMATION IN A MANNER THAT IS NOT MISLEADING OR
16 DECEPTIVE AND THAT DISCLOSES ALL MATERIAL FACTS;

17 (2) MAY NOT STEER A PROSPECTIVE CONSUMER BORROWER TO
18 FINANCING PRODUCTS THAT OFFER LESS FAVORABLE TERMS ~~THAT ARE LESS~~
19 ~~FAVORABLE THAN A COMPARABLE CASH TRANSACTION;~~ AND

20 (3) SHALL PROVIDE A WRITTEN STATEMENT TO A PROSPECTIVE
21 CONSUMER BORROWER IN ACCORDANCE WITH § 14-4203 OF THIS SUBTITLE.

22 14-4203.

23 (A) (1) THE STATEMENT REQUIRED UNDER § 14-4202(B)(3) OF THIS
24 SUBTITLE SHALL BE ON A FORM PRESCRIBED BY THE COMMISSIONER BY
25 REGULATION.

26 (2) IF THE FORM PRESCRIBED BY THE COMMISSIONER IS INCLUDED
27 IN OTHER DOCUMENTS PROVIDED BY THE MOBILE HOME RETAILER TO A
28 PROSPECTIVE CONSUMER BORROWER, THE FORM SHALL BE CONSPICUOUS, SUCH AS
29 THROUGH THE USE OF A DIFFERENT FONT OR SEPARATED WITH A BOX AROUND IT.

30 (B) THE STATEMENT REQUIRED UNDER § 14-4202(B)(3) OF THIS SUBTITLE
31 SHALL INCLUDE:

1 (c) (1) “Dwelling” [has the meaning stated in 15 U.S.C. § 1602(w)] MEANS A
2 RESIDENTIAL STRUCTURE OR MOBILE HOME THAT CONTAINS ONE TO FOUR FAMILY
3 HOUSING UNITS OR INDIVIDUAL UNITS OF CONDOMINIUMS OR COOPERATIVES.

4 (2) “Dwelling” does not include a residential structure or mobile home
5 unless the residential structure or mobile home, or at least one unit contained in the
6 residential structure or mobile home, is owner-occupied.

7 ~~(H-1) “MOBILE HOME” MEANS A TRAILER, HOUSE TRAILER, TRAILER COACH,
8 OR ANY OTHER STRUCTURE THAT IS TRANSPORTABLE IN ONE OR MORE SECTIONS
9 THAT IS:~~

10 ~~(1) USED OR CAN BE USED FOR RESIDENTIAL PURPOSES; AND~~

11 ~~(2) PERMANENTLY ATTACHED TO LAND OR CONNECTED TO UTILITY,
12 WATER, OR SEWAGE FACILITIES.~~

13 (H-1) “MOBILE HOME” MEANS A STRUCTURE, INCLUDING THE PLUMBING,
14 HEATING, AIR CONDITIONING, AND ELECTRICAL SYSTEMS CONTAINED IN THE
15 STRUCTURE, THAT IS:

16 (1) TRANSPORTABLE IN ONE OR MORE SECTIONS;

17 (2) EIGHT OR MORE BODY FEET IN WIDTH AND 30 OR MORE BODY
18 FEET IN LENGTH;

19 (3) BUILT ON A PERMANENT CHASSIS; AND

20 (4) PERMANENTLY ATTACHED TO LAND OR CONNECTED TO UTILITY,
21 WATER, OR SEWAGE FACILITIES.

22 [(o) “Nationwide Mortgage Licensing System and Registry” or “NMLS” has the
23 meaning stated in § 1-101 of this article.]

24 [(p) (O) “Person” means a natural person, corporation, limited liability
25 company, partnership, business trust, statutory trust, or association.

26 [(q) (P) “Residential real estate” means any owner-occupied real property
27 located in Maryland on which a dwelling is constructed or intended to be constructed.

28 [(r) (Q) “State” means the State of Maryland.

29 11-601.

30 (a) In this subtitle the following words have the meanings indicated.

1 (M-1) “MOBILE HOME” HAS THE MEANING STATED IN § 11-501 OF THIS TITLE.

2 (q) (1) “Mortgage loan originator” means an individual who for compensation
3 or gain, or in the expectation of compensation or gain:

4 (i) Takes a loan application; or

5 (ii) Offers or negotiates terms of a mortgage loan.

6 (2) “Mortgage loan originator” does not include an individual who:

7 (i) Acts solely as a mortgage loan processor or underwriter;

8 (ii) Performs only real estate brokerage activities and is licensed in
9 accordance with Title 17 of the Business Occupations and Professions Article, unless the
10 individual is compensated by a mortgage lender, mortgage broker, or other mortgage loan
11 originator or by any agent of a mortgage lender, mortgage broker, or other mortgage loan
12 originator; [or]

13 (iii) Is involved solely in extensions of credit relating to timeshare
14 plans, as that term is defined in 11 U.S.C. § [101(53d)] **101(53D); OR**

15 (IV) IS A RETAILER OF MOBILE HOMES OR AN EMPLOYEE OF THE
16 RETAILER IF THE RETAILER OR EMPLOYEE, AS APPLICABLE, DOES NOT RECEIVE,
17 DIRECTLY OR INDIRECTLY, COMPENSATION OR GAIN FOR ENGAGING IN ACTIVITIES
18 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION THAT IS IN EXCESS OF
19 COMPENSATION OR GAIN RECEIVED IN A COMPARABLE CASH TRANSACTION.

20 [(s) “Nationwide Mortgage Licensing System and Registry” or “NMLS” has the
21 meaning stated in § 1-101 of this article.]

22 [(t)] (S) “Nontraditional mortgage product” means any mortgage product other
23 than a 30-year fixed rate mortgage loan.

24 [(u)] (T) “Person” has the meaning stated in § 11-501 of this title.

25 [(v)] (U) “Real estate brokerage activity” means any activity for which a license
26 is required under Title 17 of the Business Occupations and Professions Article.

27 [(w)] (V) “Registered mortgage loan originator” means any individual who:

28 (1) Is a mortgage loan originator;

29 (2) Is an employee of:

- 1 (i) A depository institution;
- 2 (ii) A subsidiary that is:
- 3 1. Owned and controlled by a depository institution; and
- 4 2. Regulated by a federal banking agency; or
- 5 (iii) An institution regulated by the Farm Credit Administration; and
- 6 (3) Is registered with, and maintains a unique identifier through, [the
7 Nationwide Mortgage Licensing System and Registry] **NMLS**.
- 8 [(x)] (w) “Residential real estate” has the meaning stated in § 11–501 of this
9 title.
- 10 [(y)] (x) “Unique identifier” means a number or other identifier assigned by [the
11 Nationwide Mortgage Licensing System and Registry] **NMLS**.
- 12 11–610.
- 13 (a) There is a Nondepository Special Fund that consists of:
- 14 (1) Revenue received for the licensing of individuals under this subtitle;
- 15 (2) Revenue received for the licensing of persons under Subtitle 2 of this
16 title;
- 17 (3) Revenue received for the licensing of persons under Subtitle 3 of this
18 title;
- 19 (4) Revenue received for the licensing of persons under Subtitle 4 of this
20 title;
- 21 (5) Revenue received for the licensing of persons under Subtitle 5 of this
22 title;
- 23 (6) Revenue received for the licensing of persons under Title 12, Subtitle 1
24 of this article;
- 25 (7) Revenue received for the licensing of persons under Title 12, Subtitle 4
26 of this article;
- 27 (8) Revenue received for the licensing of persons under Title 12, Subtitle 9
28 of this article;

1 (9) Revenue received for the registration of persons under Title 12, Subtitle
2 10 of this article;

3 (10) Revenue received for the licensing of persons under Title 7 of the
4 Business Regulation Article;

5 (11) Revenue received for the licensing of persons under Title 14, Subtitle
6 19 of the Commercial Law Article;

7 (12) Income from the investments that the State Treasurer makes for the
8 Fund; and

9 (13) (i) Any other fee, examination or investigation fee or assessment, or
10 revenue received by the Commissioner under this subtitle, Subtitles 2, 3, 4, and 5 of this
11 title, Title 12, Subtitles 1, 4, 9, and 10 of this article, and Title 14, Subtitles 12 and 19 of
12 the Commercial Law Article; and

13 (ii) Any other fee or revenue received by the State Collection Agency
14 Licensing Board under Title 7 of the Business Regulation Article.

15 (c) The purpose of the Fund is to cover the direct and indirect costs of fulfilling
16 the statutory and regulatory duties of the Commissioner and the State Collection Agency
17 Licensing Board related to:

18 (13) Title 14, Subtitles 12 [and], 19, AND 42 of the Commercial Law Article;

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2020.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.