



KATHLEEN M. MURPHY
PRESIDENT & CEO

November 14, 2018

Chairman Gary Gensler
Maryland Financial Consumer Protection Commission
3 East Senate Office Building
Annapolis, Maryland 21401

Re: Manufactured Housing Draft Bill

Dear Chairman Gensler and Commission Members:

This is the Maryland Bankers Association response to an email from Assistant Commissioner Jedd Bellman of November 7, 2018, which included draft bill language developed as a result of recommendations made to the Maryland Financial Consumer Protection Commission (Commission) concerning manufactured housing. Assistant Commissioner Bellman explained that Committee staff asked for feedback from the Manufactured Housing Working Group. We provided this response to Mr. Bellman yesterday.

The Maryland Bankers Association is the only Maryland based trade group representing banks in the State. The approximately 87 banks operating in Maryland hold in excess of \$143 billion dollars in FDIC insured deposits in approximately 1,540 branches across the State. The Association's members include banks of all sizes and charter types. Maryland banks employ nearly 29,000 people in Maryland.

The Maryland Bankers Association appreciates the opportunity to comment on the draft bill. We reviewed suggested changes circulated by the Office of the Attorney General (OAG) on November 9, 2018 and also have seen draft bill changes and a draft comment letter we expect will be provided by the Manufactured Housing Institute (MHI). We have taken those changes into account in providing the following comments.

We support the changes by the MHI. We have concern about some of the changes proposed by the OAG. We have not commented on all of the OAG changes but if they are not incorporated into or addressed by our changes in the draft bill (enclosed with this letter), then we do not believe those OAG suggested changes should be made.

In addition to the suggested changes in the enclosed version of the draft bill, MBA makes the following comments.

No Private Right of Action. The original draft reflects a conclusion that there should be no private right of action under the proposed new Subtitle 6 of Title 7 of the Real Property Article (Subtitle 6). We strongly support this conclusion. Consumers who believe there has been a violation of new requirements imposed on manufactured home retailers will have the full

enforcement authority of the Commissioner of Financial Regulation for protection. We are opposed to the change by the OAG to eliminate the prohibition on a private cause of action. If, as suggested by e OAG, the Commission believes consumers should have a private right of action, then at the very least that right should be clearly limited to apply only against the person who engaged in alleged violations and not against any third party. This is particularly true because the alleged harm would be based on subjective duties imposed exclusively on the retailer.

Retailer's Duties are Vague and Subjective. The duties imposed on the retailer under proposed Subtitle 6 (proposed RP §7-602) are vague and subjective and will lead to unnecessary uncertainty. They will be tested in hindsight and result in "he said, she said" claims that will be difficult, if not impossible, to verify. We strongly urge revisions so that all persons involved can understand what the law requires and compliance can be achieved without guessing.

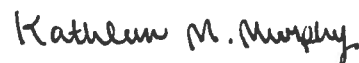
Clarify the Inapplicability to Manufactured Homes that are Real Property. Under Maryland law, manufactured homes can be converted into real property. The repossession provisions of the draft bill should be clear that they do not apply to manufactured homes that have been converted to and are real property under Maryland law. Real property is subject to Maryland's foreclosure process.

No Notice Required before Repossessing Vacant or Abandoned Manufactured Home. Lenders have significant concern about the deterioration of a vacant or abandoned manufactured home. We agree with the MHI reasoning as to why a 30-day notice (or any notice) is not required in connection with vacant or abandoned property. The ability to quickly sell vacant manufactured homes and avoid further deterioration of value is important not only to the secured party but also to the consumer borrower who has vacated and abandoned the property. We do not understand what the OAG is suggesting that the lender should do in this situation (i.e., reference to RP §7-105(d) is incorrect).

Suggested changes to the draft bill – some of which are addressed in the comments above and some of which are not addressed above but are of equal importance – are found in the enclosed document. In addition, changes have been suggested to make the bill language more precise. The suggested changes are not in bill drafting format.

Again, thank you for the opportunity to provide our view points. Please do not hesitate to contact me if you have any questions or comments.

Sincerely,



Kathleen M. Murphy
President and CEO
Maryland Bankers Association

Enclosure: MBA suggested changes to the draft bill proposed by Commission

cc: Members, Maryland Financial Consumer Protection Commission
Commissioner Anthony P. Salazar
Assistant Commissioner Jedd Bellman
Tamela D. Burt
Eric F. Pierce