



October 4, 2018

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

Dear Chairman Gensler and Commission Members,

Thanks for this opportunity to address issues being considered by the Maryland Financial Consumer Protection Commission relating to financing retail manufactured housing. Founded in 1896, MBA is the only Maryland-based trade group representing banks in the state. The approximately 95 banks operating in Maryland hold in excess of \$143 billion in FDIC-insured deposits in approximately 1,540 branches across the state. MBA's members include banks of all sizes and charter types including: Maryland state-chartered banks, national banks and thrifts, and state banks chartered outside of Maryland. Maryland banks employ 28,666 people in Maryland. We appreciate your consideration of our concerns and our member's concerns regarding this issue.

The Maryland Bankers Association sought input from its members and heard from a number of banks involved in manufactured home financing. Some members make loans directly to consumers purchasing manufactured homes. Some members offer financing to the manufactured home sellers (commercial loans). The majority of the banks responding to MBA's outreach are community banks in Maryland that lend locally. They assist both Maryland consumers and Maryland businesses with financing needs.

The Working Group Recommendations presented at the Commission's meeting on September 12 are generally acceptable in concept to the Maryland Bankers Association. However, these are complicated issues and, as you well know, legislative drafting is difficult. To get this right it is essential to have sufficient time to work collaboratively on any legislative language before bills are dropped.

Regarding the written Recommendations, we heard from MBA members:

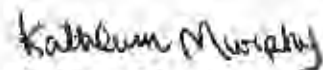
- The Recommendation's proposed new requirements for manufactured home retailers are too subjective (information must be provided "in a fair and honest manner so as not to provide misinformation or deceptive information") and will lead to claims that cannot be easily resolved (it will result in he said, she said disputes). Any new requirements imposed on manufactured home retailers who provide information regarding financing should be objective so that third-party lenders can determine compliance.

- There must be clarity that there is no private cause of action if a retailer fails to comply with all new requirements because both federal and State law allow consumers to bring claims against lenders that arise due to actions by sellers (see MD Code Ann., Com. Law §14-1302, sometimes referred to as the anti-holder in due course rule).
- It should be a high priority that any notice or disclosure before repossession or replevin be consistent with the federal disclosures in 12 CFR §190.4(h)(copy attached) to avoid confusion and complication for both consumers and businesses. Exceptions from the 30-day notice requirement should be allowed expressly for vacant or abandoned manufactured homes to avoid deterioration in value.
- Additional consumer protections must be balanced against the potential for making manufactured home financing too complicated or risky. Maryland needs to avoid causing a chilling effect on the availability of this financing.

There already are many consumer protections available to Maryland residents who finance manufactured housing. For example, claims for unfair, deceptive, and (now) abusive practices are available under the Consumer Protection Act. MD Code Ann., Com. Law ("CL") §13-101 et seq. Maryland's credit laws contain robust and protective repossession provisions. See, e.g., CL §12-1021. The Consumer Debt Collection Act protects consumers who are behind on payments. CL §14-201. As previously mentioned, the Preservation of Consumers' Claims and Defenses provision allow consumers to raise claims against lenders for actions of the seller. CL 14-§1302. There are many additional consumer protections as well.

We will continue to work with the Commission and all involved to ensure that if changes in law are deemed necessary, they are meaningful but appropriate. We cannot repeat too often that the "devil is in the details" and drafting cannot be performed in a vacuum.

With warm regards,

  
 Kathleen Murphy  
 President & CEO  
 Maryland Bankers Association

cc: Commission staff - Tameja D. Burr; Sally M. Gave; Eric R. Piers