

August 9, 2018

Nora Corasaniti  
State of Maryland  
Division of Labor, Licensing and Regulation  
OFFICE OF THE COMMISSIONER OF FINANCIAL REGULATION  
500 North Calvert Street, Suite 402  
Baltimore, MD 21201

Dear Ms. Corasaniti

On behalf of its Innovations in Manufactured Homes (I'M HOME) Network, Prosperity Now (formerly CFED) is pleased to submit comments to the State of Maryland as it considers changes related to the manufactured home retailers, lenders and purchasers under state law.

Prosperity Now is a national, nonpartisan nonprofit organization based in Washington, D.C. that works to expand economic opportunity for all Americans by promoting and advocating asset-building policies and programs. Since 2005, Prosperity Now has convened the I'M HOME Network, a nationwide coalition of service providers, lenders, intermediaries and advocates working together to improve access to high-quality and energy-efficient manufactured homes, access to mortgage financing for manufactured homes, ensure fair chattel financing, promote resident ownership of manufactured home communities and provide a voice for manufactured homeowners on policy issues.

The State of Maryland has over 36,000 manufactured homes, many of which are located in over 200 manufactured home communities across the state. The legislature has an opportunity to at once improve protections and options for future and existing manufactured homeowners as well as clearly underscore that manufactured housing, when sited, sold and financed through safe and transparent means, can be one tool for the state to address its growing affordable housing crisis.

I will address the issues raised in the Commission's document "Manufactured Housing Working Group: Recommendation to the Maryland Consumer Financial Commission," as well as others fundamental to manufactured homeowners in Maryland.

**Manufactured home retailers who do not originate loans:**

*The workgroup recommends confirming that manufactured home retailers and their employees who do not broker, lend, and/or originate with regard to manufactured home loans are not required to be licensed under the Mortgage Lender Law and the Mortgage Loan Originator Law respectively.*

*The workgroup proposes that a new provision be added to Maryland law providing that, short of brokering, lending, and/or originating a loan, should the manufactured*

**Prosperity Now**

1200 G Street NW  
Suite 400  
Washington, DC 20005

T 202.408.9788

E [hello@prosperitynow.org](mailto:hello@prosperitynow.org)

[prosperitynow.org](http://prosperitynow.org)

*home retailer provide information regarding financing for the purchase of the home, they must do so in a fair and honest manner so as to not provide misinformation, deceptive information, and may not otherwise steer consumers to products not beneficial to the consumer.*

Any proposed change to state law should be explicit about the retailer's obligation to notify the consumer of any affiliation, financial relationship or other connection to the lenders for whom the retailer provides information. Clayton Homes or related firms, for example, control about half of the home manufacturing, unit retailing and about 38% of the home loan market in the field. Any retailer should provide, along with any loan or lender information, explicit written disclosures, in plain English, of said relationships. These disclosures must include any financial benefits the retailer may receive from the lenders or its agents, including benefits not specifically tied to the specific home purchase transaction under discussion. Recent changes to federal law in this area weaken protections and open up consumers to potential abuse. For example, nothing in federal law or regulation prohibits lenders from providing retailers who direct borrowers to certain lenders or loan products through, for example, periodic cash awards or other items of value.

**Manufactured home brokers, lenders and retailers who originate loans:**

*The workgroup recommends amending the definition of dwelling under (FI 11-501) to ensure that manufactured home brokers, lenders, and originators are permanently subject to the mortgage lending laws in Maryland and clarifying that only appropriate provisions under the Maryland Mortgage Lender Law apply to manufactured home lending products.*

We agree that "manufactured home," as defined by the U.S. Department of Housing and Urban Development, as authorized by the National Manufactured Housing Construction and Safety Standards Act of 1974, should be added to the definition. "Mobile home" should also remain in the statutory language to ensure residents of pre-HUD Code homes have protections.

**Consumer Protection:**

*The workgroup recommends that manufactured home retailers who provide information to consumers regarding financing options must provide a disclosure to consumers, on a form prescribed by the Commissioner, that will provide information regarding borrower rights and the procedure for filing a complaint with the Commissioner should a borrower feel harmed or steered to an inappropriate product.*

*The Commissioner will be authorized to accept and investigate/process complaints, and manufactured home retailers will be subject to the investigatory and enforcement authority of the Commissioner for non-compliance with these new consumer protection standards and provisions.*

This is an important step. The legislature, however, should provide clear guidance on sanctions for violations of borrower rights, including findings of steering and other

malfeasance. Other states have authorized investigative and enforcement powers without any real impact. The legislature should also ensure that funding, from general revenues or elsewhere, is in place so the Commissioner can meaningfully enforce the law.

**Foreclosure/Replevin:**

*The workgroup recommends codifying a 30-day written notice requirement prior to ability to take self help or seek relief in court with exemptions for vacancies and surrender (similar to provisions provided for under federal law).*

Any notice requirement on foreclosures or replevin should be codified.

**Other issues not addressed above:**Maryland Mortgage Program

Since late 2012, the Maryland Mortgage Program has excluded, due to requirements by U.S. Bank, its master servicer, manufactured homes from all of its mortgage programs. This eliminates low-cost options, including conventional and government-insured loans, to low- and moderate-income buyers of said homes. Other state housing finance agencies have programs that meet this need. The legislature should instruct the Department of Housing and Community Development to explore revisiting these restrictions.

Manufactured Homes as Real Property

As per §8B-201, Maryland only allows a manufactured home to be treated as real property when it is affixed to a permanent foundation and the ownership interests of the manufactured home and the parcel of real property are identical. There multiple accepted descriptions of what is a “permanent foundation,” making the statutory reference meaningless and vague. Furthermore, as New Hampshire has demonstrated, where all homes regardless of the ownership status of the land, are titled as real estate, home-only loans perform well, and said homes can appreciate and build wealth for communities and owners. Maryland should adopt the Uniform Law Commission’s Uniform Manufactured Housing Act, as recommended by the Federal Housing Finance Board and multiple other housing experts.

Affirmative Protections for Fundamental Freedoms

Nearly half the states affirmatively guarantee fundamental freedoms – such as the right to canvass their neighbors, hold meetings, distribute flyers and invite public officials and candidates to speak – to residents of manufactured home communities. Maryland does not provide any affirmative protections for these fundamental

freedoms. The state legislature should explore best practices in other states to ensure these freedoms are guaranteed to Maryland residents.

#### Protections against Retaliation

Most states, even if they do not provide affirmative protections for fundamental freedoms, at least prohibit community owners from retaliating against residents for exercising their rights. Maryland prohibits retaliation against a resident for participating in a tenant's organization, reporting violations of manufactured housing community laws, regulations or rules, or filing a suite or complaint against a community owner for violations of such laws, but it does not specifically prohibit retaliation for canvassing, holding meetings, inviting public officials to speak or leafletting. The legislature should revise §8a-1301 to address these shortcomings.

#### Purchase Opportunity

The fundamental reason that homeowners in manufactured home communities are so vulnerable is that they do not own the land under their homes. At least 19 states – but not Maryland – have policies that require or encourage community owners to give residents the opportunity to purchase the land on which their homes sit. While Maryland law requires that community owners provide residents with a one-year notice prior to closure of the park, state law does not provide a reasonable option for the residents, or, on their behalf, a nonprofit organization or government instrumentality, to purchase the park if it is to be sold or closed by the owner. The state legislature should adopt a strong purchase opportunity law, such as is codified in Massachusetts law.

#### Relocation Expenses

About 15 states have programs, usually funded at least in part by community owners, for paying the costs of moving homes if a manufactured home community closes. Maryland's law at §8A-1201 requires the park owner to provide a relocation plan with its application for change of use. The law provides that for parks with more than 38 sites, the park owner includes a budget for the relocation and, for parks with more than 38 sites, and pays each household the rent for the premises for the 10 months immediately preceding the date the resident vacates the premises. However, the relocation payment does not include smaller parks. The state legislature should broaden the applicability of the relocation fund requirement to smaller parks and explicitly state that the fund includes the costs of moving the manufactured/mobile home for residents who own their homes.

#### Administrative Complaint Procedure

Some states – but not Maryland – offer a simple administrative procedure for resolving residents' complaints about their manufactured home community.

Washington State law includes a successful complaint procedure program funded through small fees. Maryland should consider modeling its law after this program.

Give Residents the Right to Enforce the Laws

Many states specifically give residents the right to enforce manufactured home community protections. Maryland's mobile home statute does not provide this right. For example, Massachusetts law and regulations permit manufactured housing residents the explicit right to withhold lot rent, sue for damages and other means to ensure community compliance with statutes and rules.

Thank you for the opportunity to address the above issues that directly impact manufactured housing residents in Maryland. As a career housing advocate, and as a Maryland resident, I look forward to seeing the legislature make significant progress in this important area. Feel free to contact me at [dryan@prosperitynow.org](mailto:dryan@prosperitynow.org) or at 202-207-0155.

Sincerely,

Doug Ryan  
Senior Director, Affordable Homeownership  
Prosperity Now