

Manufactured Housing Working Group
Recommendation to the Maryland Financial Consumer Protection Commission
September 12, 2018

Background: Consistent with the recommendations contained in the Maryland Financial Consumer Protection Commission's 2017 Interim Report, legislation was introduced in 2018 to include a retail seller of a manufactured home as a mortgage loan originator in order to make sure that Maryland buyers of manufactured homes are protected during their home buying process. That piece of SB 1068/ HB 1634 did not pass, enabling the Commission to take a deeper look at the issues surrounding the manufactured housing industry. In June of 2018, Commissioner Gary Gensler authorized a working group to prepare a proposal on the subject for consideration by the full Commission.

The working group solicited and received comments on proposals from consumer and industry groups and the Maryland Office of the Attorney General, Consumer Protection Division. Below are the recommendations from the working group.

Manufactured home retailers who do not originate loans:

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 home retailer provide information regarding financing for the purchase of the home, (i) they must do so in a fair and honest manner so as to not provide misinformation or, deceptive information, (ii) and they may not otherwise steer consumers to products offering less favorable terms in order to increase their compensation [use Reg. Z language 226.36(e)(1)], (applying to both individual and company compensation), and (iii) they must provide a statement, in plain English, describing any financial relationship and/or affiliation between the retailer and the lender about whose products the retailer provides information.

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.

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 disclosure requirement may be met by either providing the consumer with the disclosure at the time the information is provided, through a posting in a prominent location, and/or on the retailer's website. The new requirement should provide that failure to provide the disclosure either in writing, by posting or on the retailer's website does not give rise to a private right of action or impact the validity of otherwise valid loan transactions but will subject the retailer to the Commissioner's enforcement provisions as discussed below.

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.

Foreclosure/Replevin:

Current Maryland credit laws provide certain protections for notification before repossession action is taken. For example, MD Code Ann., Com. Law § 12-1021(c)(1), provides in pertinent part, “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 to repossess the tangible personal property.” The workgroup recommends increasing that 10-day notice period for applicable provisions under the credit laws in the case of the repossession or action to repossess manufactured homes (home-only actions), from the current 10 days to 30 days’ written notice with exemptions for vacancies and surrender (similar to provisions provided for under federal law). Actions involving manufactured homes that are covered by existing real property foreclosure laws are not intended to be affected by this new provision.

Limit changes to provisions directly related to the loan origination process. The original intent of the Commission’s inquiry into the rules regarding manufactured housing loan originations was to ensure that changes to federal law brought about by S.2155 - Economic Growth, Regulatory Relief, and Consumer Protection Act, which became Public Law No. 115-74, did not result in loss of consumer protections. The Working Group acknowledges that there may be other issues associated with the ownership of manufactured housing that could be reviewed by the Legislature; however, since those issues involve questions of real property, community association, and other laws, the Working Group recommends that the Commission’s recommendation be limited to the topic of financing manufactured homes as was originally intended.