

SENATE BILL 155

I3, I1

0lr1886

By: **Senators Augustine, Elfreth, Reilly, and Rosapepe**

Introduced and read first time: January 10, 2020

Assigned to: Finance

A BILL ENTITLED

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)
24 Annotated Code of Maryland
25 (2013 Replacement Volume and 2019 Supplement)

26 BY adding to
27 Article – Commercial Law
28 Section 12–101(h–1), 12–901(g–1), and 12–1001(k–1); and 14–4201 through 14–4205
29 to be under the new subtitle “Subtitle 42. Mobile Home Retail Sales”

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

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

Article – Commercial Law

12–101.

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

**(H–1) “MOBILE HOME” HAS THE MEANING STATED IN § 11–501 OF THE
FINANCIAL INSTITUTIONS ARTICLE.**

12–115.

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

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

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

1. THE MOBILE HOME:

A. IS VACANT AND ABANDONED, BASED ON A DETERMINATION BY THE LENDER 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 LENDER; AND

2. THE NOTICE IS ACCOMPANIED BY A CERTIFICATION FROM THE LENDER 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:

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

(ii) Briefly state the rights of the borrower in case the goods are 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:

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

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

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

12-1001.

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

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

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

12-1021.

(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

1 THAT THE MOBILE HOME IS VACANT AND ABANDONED OR THAT THE MOBILE HOME
2 HAS BEEN SURRENDERED.

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

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

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

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

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

12 **14-4201.**

13 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (B) "COMMISSIONER" MEANS THE COMMISSIONER OF FINANCIAL
16 REGULATION IN THE MARYLAND DEPARTMENT OF LABOR.

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

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

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

22 (1) SELLS MOBILE HOMES AT RETAIL;

23 (2) PROVIDES INFORMATION REGARDING FINANCING PRODUCTS TO
24 A BORROWER FOR THE PURCHASE OF A MOBILE HOME; AND

25 (3) IS NOT:

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

28 (II) A MORTGAGE ORIGINATOR, AS DEFINED IN § 11-601 OF THE

FINANCIAL INSTITUTIONS ARTICLE.

14-4202.

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

(B) A MOBILE HOME RETAILER:

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

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

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

14-4203.

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

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

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

(1) A DISCLOSURE THAT DESCRIBES ANY CORPORATE AFFILIATION BETWEEN THE MOBILE HOME RETAILER AND A FINANCING SOURCE ABOUT WHICH THE MOBILE HOME RETAILER PROVIDES INFORMATION TO THE PROSPECTIVE CONSUMER BORROWER;

(2) A DISCLOSURE THAT THE PROSPECTIVE CONSUMER BORROWER MAY OBTAIN FINANCING FROM ANY LENDER AND IS NOT REQUIRED TO OBTAIN FINANCING FROM A LENDER SUGGESTED BY THE MOBILE HOME RETAILER; AND

(3) INFORMATION REGARDING THE RIGHTS OF A PROSPECTIVE CONSUMER BORROWER UNDER THIS SUBTITLE AND THE PROCEDURE FOR FILING A COMPLAINT WITH THE COMMISSIONER.

(C) THE MOBILE HOME RETAILER SHALL PROVIDE THE STATEMENT REQUIRED UNDER § 14-4202(B)(3) OF THIS SUBTITLE:

(1) TO A PROSPECTIVE CONSUMER BORROWER AT THE TIME THE MOBILE HOME RETAILER PROVIDES INFORMATION TO THE PROSPECTIVE CONSUMER BORROWER REGARDING FINANCING OR POTENTIALLY AVAILABLE LENDERS; AND

(2) BY POSTING THE STATEMENT IN A PROMINENT LOCATION AT ALL OF THE MOBILE HOME RETAILER'S PLACES OF BUSINESS AND ON THE MOBILE HOME RETAILER'S WEBSITE, IF ANY.

14-4204.

FAILURE OF A MOBILE HOME RETAILER TO COMPLY WITH THIS SUBTITLE DOES NOT AFFECT THE VALIDITY OF AN OTHERWISE VALID FINANCING TRANSACTION.

14-4205.

THE COMMISSIONER MAY ENFORCE THIS SUBTITLE BY EXERCISING ANY OF THE POWERS AUTHORIZED UNDER §§ 2-113 THROUGH 2-116 OF THE FINANCIAL INSTITUTIONS ARTICLE.

Article – Financial Institutions

11-501.

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

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

(2) “Dwelling” does not include a residential structure or mobile home

1 unless the residential structure or mobile home, or at least one unit contained in the
2 residential structure or mobile home, is owner-occupied.

3 **(H-1) “MOBILE HOME” MEANS A TRAILER, HOUSE TRAILER, TRAILER**
4 **COACH, OR ANY OTHER STRUCTURE THAT IS TRANSPORTABLE IN ONE OR MORE**
5 **SECTIONS THAT IS:**

6 **(1) USED OR CAN BE USED FOR RESIDENTIAL PURPOSES; AND**

7 **(2) PERMANENTLY ATTACHED TO LAND OR CONNECTED TO UTILITY,**
8 **WATER, OR SEWAGE FACILITIES.**

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

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

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

15 **[(r)] (Q)** “State” means the State of Maryland.

16 11-601.

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

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

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

22 (i) Takes a loan application; or

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

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

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

26 (ii) Performs only real estate brokerage activities and is licensed in
27 accordance with Title 17 of the Business Occupations and Professions Article, unless the
28 individual is compensated by a mortgage lender, mortgage broker, or other mortgage loan
29 originator or by any agent of a mortgage lender, mortgage broker, or other mortgage loan

1 originator; [or]

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

4 **(IV) IS A RETAILER OF MOBILE HOMES OR AN EMPLOYEE OF THE**
5 **RETAILER IF THE RETAILER OR EMPLOYEE, AS APPLICABLE, DOES NOT RECEIVE,**
6 **DIRECTLY OR INDIRECTLY, COMPENSATION OR GAIN FOR ENGAGING IN ACTIVITIES**
7 **DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION THAT IS IN EXCESS OF**
8 **COMPENSATION OR GAIN RECEIVED IN A COMPARABLE CASH TRANSACTION.**

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

11 [(t)] (S) “Nontraditional mortgage product” means any mortgage product other
12 than a 30–year fixed rate mortgage loan.

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

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

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

17 (1) Is a mortgage loan originator;

18 (2) Is an employee of:

19 (i) A depository institution;

20 (ii) A subsidiary that is:

21 1. Owned and controlled by a depository institution; and

22 2. Regulated by a federal banking agency; or

23 (iii) An institution regulated by the Farm Credit Administration; and

24 (3) Is registered with, and maintains a unique identifier through, [the
25 Nationwide Mortgage Licensing System and Registry] **NMLS.**

26 [(x)] (W) “Residential real estate” has the meaning stated in § 11–501 of this
27 title.

28 [(y)] (X) “Unique identifier” means a number or other identifier assigned by [the

1 Nationwide Mortgage Licensing System and Registry] **NMLS.**

2 11–610.

3 (a) There is a Nondepository Special Fund that consists of:

4 (1) Revenue received for the licensing of individuals under this subtitle;

5 (2) Revenue received for the licensing of persons under Subtitle 2 of this
6 title;

7 (3) Revenue received for the licensing of persons under Subtitle 3 of this
8 title;

9 (4) Revenue received for the licensing of persons under Subtitle 4 of this
10 title;

11 (5) Revenue received for the licensing of persons under Subtitle 5 of this
12 title;

13 (6) Revenue received for the licensing of persons under Title 12, Subtitle 1
14 of this article;

15 (7) Revenue received for the licensing of persons under Title 12, Subtitle 4
16 of this article;

17 (8) Revenue received for the licensing of persons under Title 12, Subtitle 9
18 of this article;

19 (9) Revenue received for the registration of persons under Title 12, Subtitle
20 10 of this article;

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

23 (11) Revenue received for the licensing of persons under Title 14, Subtitle
24 19 of the Commercial Law Article;

25 (12) Income from the investments that the State Treasurer makes for the
26 Fund; and

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

31 (ii) Any other fee or revenue received by the State Collection Agency

1 Licensing Board under Title 7 of the Business Regulation Article.

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

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

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