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January 31, 2022

Senate Finance Committee

Chairman: Senator Delores G. Kelley

Senate Bill 217 - Commissioner of Financial Regulation - Consumer Loans - Fees

**Re: Letter of Support**

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The Maryland Office of the Commissioner of Financial Regulation believes that this legislation, with amendments, will protect Marylanders and enhance consumer protection by prohibiting lenders from requiring borrowers to pay fees and/or costs for certain forms of loan payment. It also requires that lenders must offer to accept loan payments made by or on behalf of borrowers, free of charge, in at least one commonly accepted payment form. This legislation codifies what the Maryland Office of the Commissioner of Financial Regulation believes to be applicable legal principles by delineating permitted fees and other requirements regarding the imposition of payment fee methods with which lenders must comply. It also enhances consumer protections by prohibiting lenders from "steering" or inducing borrowers to remit payments in a form for which a fee is charged.

Current law regarding permissible forms of payment is uncodified and is based on an unclear mix of common and statutory law. That situation has resulted in inconsistent practices by lenders, inadequate disclosures to consumers, and consumers paying a variety of so-called "convenience fees." That lack of clarity is the genesis of this legislation because the current state of uncodified law generates confusion for consumers and industry stakeholders alike, and results in certain consumers being charged illegal fees or paying more than others for the same service and has also led to lawsuits against lenders. The Maryland Office of the Commissioner of Financial Regulation proposes this legislation to codify its understanding of current law, to provide consumers protection from fee gouging, and to provide lenders with clarity as to the applicable rules regarding the charging of loan payment fees.

Due to a recent ruling by the United States 4th Circuit Court of Appeals (*Alexander v. Carrington Mortgage Services*) coming subsequently to the drafting of this legislation, the Maryland Office of the Commissioner of Financial Regulation engaged in discussions with stakeholders and the Office of the Attorney General, and as a result, have developed certain amendments to the bill that will, in part, clarify the bill's prospective applicability, include Automated Clearing House ("ACH") transactions as required free transactions, and change the effective date of the bill to January 1, 2023 to give industry stakeholders ample time to implement the documentation and procedural changes.