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February 21, 2022

To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Kira Wilpone-Welborn, Assistant Attorney General
Consumer Protection Division

Re: Senate Bill 678 – Real Property – Residential Contract of Sale – Buyer Identification
(Letter of Concern)

The Consumer Protection Division of the Office of the Attorney General (the “Division”) is concerned about unintended consequences of Senate Bill 678 sponsored by Senator Antonio Hayes. Despite its admirable goals of preventing discrimination in the sale of single-family residential properties, as introduced, Senate Bill 678 would require that residential contracts of sale not contain the name of the individual buyer using the services of a real estate broker but rather identify only the buyer’s real estate broker. The identity of an individual buyer may be a material fact the omission of which could affect consumers selling residential real property and the community at large.

Maryland law currently has protections in place to ensure sellers do not discriminate against buyers in residential real estate transactions based upon race, color, sex, religion, disability, familial status, sexual orientation, gender identity, or national origin,¹ and the Division recognizes the goal of Senate Bill 678 to further strengthen those protections. However, passage of this bill requiring brokerages to conceal the identity of individual buyers of residential real property could unintentionally facilitate unfair, abusive, or deceptive trade practices. For example, this provision could be used by individual buyers to facilitate illegal flipping schemes or equity stripping that would cause substantial harm to consumer sellers.

Additionally, as written, this bill would make legal and mandatory the omission of an important material fact in these transactions impeding consumer sellers’ ability to make informed decisions as to whether to ratify a residential contract of sale. Moreover, the legal and financial

¹ Maryland Code, State Government §§ 20–704-705; and Maryland Real Estate Broker’s Act, Bus. Occ. & Prof. Art. §§ 17-525, 17-526, and 17-608.

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challenge of voiding a fully executed contract of sale in a transaction involving an anonymous buyer who entered the contract with malicious or fraudulent intent could be quite significant. Finally, although the bill would only apply to those buyers who chose to engage the services of a real estate broker, that fact does not negate or outweigh the potential harm to consumer sellers.

For these reasons, the Division expresses its concerns with Senate Bill 678 to the Judicial Proceedings Committee.

cc: The Honorable Antonio Hayes
Members, Judicial Proceedings Committee