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March 23, 2022

Economic Matters Committee

Chairman: Delegate C.T. Wilson

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

**Re: Letter of Support**

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The law on loan repayments has been confusing for both consumers and lenders and it was the subject of a recent U.S. Fourth Circuit Court of Appeals decision in a case involving Carrington Mortgage Services. In that case, the Court held that lenders may not charge consumers “convenience” fees for making loan payments unless the fee is (1) set out in the loan documents or (2) authorized by law. The decision did not prohibit the charging of convenience fees. Additionally, due to the Carrington decision, Maryland consumers are in the position of potentially losing the ability to make payments to avoid late fees. Meaning, that if they cannot or do not pay on time, and their loan documents do not authorize the charging of convenience fees, they may simply incur late fees because their lender may no longer accept their payments. Senate Bill 217 avoids that outcome and makes the Carrington convenience fees permanently illegal.

SB217, with amendments agreed upon by industry and the Consumer Protection Division of the Maryland Attorney General’s Office, is intended to clarify Maryland law and protect Marylanders from “convenience fees” charged by some lenders. The bill does so by prohibiting lenders from requiring borrowers to pay fees and/or costs for the most common forms of loan payment, including Automated Clearing House (“ACH”) payments, and requires that lenders must accept loan payments made by or on behalf of borrowers, free of charge, in the most commonly accepted forms of payment. The bill specifies that lenders may only charge consumer borrowers “pass-through” costs for making their loan payments and not any upcharges or so-called “convenience fees” that have previously been charged. SB217 also enhances consumer protections by prohibiting lenders from “steering” or inducing borrowers to remit payments in a form for which a fee is charged.

The amendments made in the Senate represent a consensus product and, in part, clarify the bill’s prospective applicability, include ACH transactions as required free transactions, and change the bill’s effective to January 1, 2023, to give industry stakeholders ample time to implement the documentation and procedural changes.

SB217 sets clear rules on fees and contains consumer rights and safeguards not currently found under Maryland law or the Carrington case. Overall, the Commissioner of Financial Regulation believes that these provisions are well calibrated, and needed, to protect consumers and prevent marketplace disruption.

**We respectfully request a favorable report by the Committee on SB 217.**