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

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

Re: House Bill 425 – Real Property - Land Installment Contracts - Requirements and Vendor
Duties and Limitations (SUPPORT)

The Consumer Protection Division of the Office of the Attorney General (the "Division") supports House Bill 425 sponsored by Delegates Taylor, Charles, Grossman, Harris, Henson, Holmes, Ivey, Taveras, and Toles. The Division receives and investigates complaints of unfair, abusive, and deceptive trade practices related to land installment contracts that misrepresent or omit material facts about the transaction. House Bill 425 provides additional protections for consumers that could reduce unfair, deceptive, and abusive trade practices in land installment contracts.

First, House Bill 425 would require written land installment contracts to be duly signed *and* acknowledged by all parties *and* to include the date on which each party signed the contract. Moreover, at or before the time the purchaser signs the written land installment contract, the vendor would be required to provide the prospective purchaser of the property subject to the land installment contract the results of a title search performed by a qualified, disinterested party at the vendor's expense. House Bill 425 would also require the land installment contract to include the physical address of the subject property and, if the title search reveals that title to the subject property is not free and clear of all encumbrances, a separate notice by the vendor that the purchaser has been informed that liens exist on the subject property that may negatively impact the purchaser's rights to the property. The fact that a subject property may be encumbered is a material fact the omission of which denies a consumer the opportunity to fully evaluate the transaction before entering into it. Should a vendor fail to provide the title search results to a prospective purchaser, House Bill 425 protects consumers by enabling the consumer to cancel the land installment contract and recoup any payments and deposits that have been made.

Second, House Bill 425 would require the land installment contract to recite, among other required information, the due date of each installment payment broken out by (1) the amount of principal owed for the installment payment and (2) the amount of interest owed for the installment payment. Additionally, House Bill 425 would require the land installment contract to recite the total number of periodic installment payments that are due and disclose any balloon payments. Land installment contracts that do not precisely identify how consumer payments apply to principal and interest obligations, or fail to disclose balloon payments, have the capacity to mislead and harm consumers entering into such contracts. Without this information, consumers may believe they are making payments on a property that will result in their eventual ownership of the property not understanding that at the end of the contract term they must also pay a balloon payment, which they may not be able to afford, to complete the purchase. House Bill 425 would protect consumers by ensuring they understand when and how their payments will be applied toward the principal and whether the proposed land installment contract is financially feasible.

Third, if a land installment contract fixes no earlier period, House Bill 425 would permit consumers to complete the purchase once they have paid 20% of the original cash value, rather than 40% as is currently required. This change would allow consumers to purchase properties subject to land installment contracts earlier, thereby decreasing the overall cost of the land installment contract and increasing the equity the consumer would realize by owning the property.

Finally, House Bill 425 maintains the obligation that a land installment contract include the sale price of any transfer and “the substantiated cost to the vendor of repairs or improvements” in the preceding six months. Requiring vendors to disclose any previous transfers and costs of improvements provides consumers with valuable information on the value of the property and can prevent consumers from overpaying for a flipped property.

For these reasons, the Division requests the Judicial Proceedings Committee issue a favorable report on House Bill 425.

cc: Members, Judicial Proceedings Committee