

BY: Finance Committee

AMENDMENTS TO HOUSE BILL NO. 19

(Third Reading File Bill)

AMENDMENT NO. 1

On page 2, in line 29, after "Act;" insert "establishing a Joint Oversight Committee on Technology; providing for the membership and duties of the Joint Committee; providing for the effective dates of this Act; providing for the termination of a portion of this Act;".

AMENDMENT NO. 2

On page 15, in line 18, after "IN" insert "SUBSECTION (D) OF THIS SECTION AND"; and in lines 20 and 21, strike "OR SUBJECT MATTER EXCLUDED UNDER SUBSECTION (D) OF THIS SECTION".

On page 16, in line 1, strike "(D)(2)(A)" and substitute "(D)(3)(A)"; and in line 8, strike "(D)(2)" and substitute "(D)(3)".

On page 18, in line 1, strike "(2) OR (3)" and substitute "(1), (2), OR (3)"; and in line 32, after "LAW" insert ", INCLUDING PROVISIONS OF THE FEDERAL COPYRIGHT LAW RELATED TO FAIR USE".

AMENDMENT NO. 3

On page 20, strike beginning with "THE" in line 32 down through "AGREEMENT" in line 36 and substitute "A CONSUMER CONTRACT SHALL BE GOVERNED BY THE LAW OF THE JURISDICTION THAT IS THE PRINCIPAL RESIDENCE OF THE CONSUMER".

On page 21, in line 8, strike "OR A MASS MARKET LICENSE"; in line 11, strike "OR A MASS MARKET LICENSEE"; in line 27, after "(A)" insert "(1) EXCEPT FOR A CONSUMER CONTRACT,"; after line 28, insert:

"(2) IN A CONSUMER CONTRACT, THE JUDICIAL FORUM SHALL BE THE

(Over)

JURISDICTION OF THE PRINCIPAL RESIDENCE OF THE CONSUMER, EXCEPT THAT A CONSUMER MAY FILE AN ACTION IN ANY JUDICIAL FORUM HAVING JURISDICTION.”;

and after line 30, insert:

“(C) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION OR A CONTRARY TERM IN AN AGREEMENT, A PARTY TO A COMPUTER INFORMATION TRANSACTION THAT IS FOR THE CREATION OF COMPUTER INFORMATION MAY CHOOSE AN ALTERNATIVE DISPUTE RESOLUTION MECHANISM, INCLUDING MEDIATION, ARBITRATION, OR OTHER NON-JUDICIAL DISPUTE RESOLUTION PROCESS, AS THE MEANS FOR RESOLVING A DISPUTE UNDER THE AGREEMENT.”.

AMENDMENT NO. 4

On page 30, in line 27, strike “OR” and substitute “;

(2) THE TERM”;

in the same line, after “UNENFORCEABLE” insert “, AFTER WEIGHING FUNDAMENTAL PUBLIC POLICIES, INCLUDING FUNDAMENTAL PUBLIC POLICIES CONCERNING COMPETITION OR INNOVATION,”; in line 28, strike the second “OR”; in line 29, strike “(2)” and substitute “(3)”; and in line 30, after “AGREED” insert “; OR

(4) THE TERM IS NOT AVAILABLE FOR VIEWING BEFORE AND AFTER ASSENT IN A PRINTED LICENSE OR IN ELECTRONIC FORM THAT CAN BE PRINTED OR STORED FOR ARCHIVAL AND REVIEW PURPOSES BY THE LICENSEE”.

On page 77, in line 15, strike “CONSUMER CONTRACT” and substitute “MASS-MARKET TRANSACTION”.

AMENDMENT NO. 5

On page 45, in lines 11, 13, and 25, in each instance, strike “FOR A COMPUTER PROGRAM”; in lines 24 and 25, strike “BY A MERCHANT, LICENSOR, OR MANUFACTURER”; in line 26, after the second “A” insert “MERCHANT’S, LICENSOR’S, OR”; in line 27, after “THE” insert “MERCHANT, LICENSOR, OR”; and in line 32, after “FEE” insert “,

UNLESS THE INFORMATION/COMPUTER PROGRAM IS PROVIDED IN CONJUNCTION WITH THE SALE OR LEASE OF GOODS, SERVICES, OR ANOTHER INFORMATION/PROGRAM”.

AMENDMENT NO. 6

On page 82, in line 25, strike “THE PROVISIONS OF”; and on pages 82 and 83, strike in their entirety the lines beginning with line 30 on page 82 through line 12 on page 83, inclusive, and substitute:

“(B) IN AN ACCESS CONTRACT THAT REQUIRES PERIODIC PAYMENTS OVER TIME, BEFORE OR AT THE TIME OF DISCONTINUATION OF ALL CONTRACTUAL RIGHTS OF ACCESS, A PARTY SHALL NOTIFY THE PARTY IN BREACH IN A RECORD OF:

(1) THE DISCONTINUATION OF ALL CONTRACTUAL RIGHTS OF ACCESS IN THE ACCESS CONTRACT;

(2) THE NATURE OF THE CLAIMED BREACH THAT ENTITLES THE PARTY TO DISCONTINUE ALL CONTRACTUAL RIGHTS OF ACCESS IN THE ACCESS CONTRACT;

(3) THE OPPORTUNITY TO CURE AS PROVIDED UNDER § 21-703 OF THIS TITLE; AND

(4) INFORMATION TO ALLOW FOR COMMUNICATION CONCERNING THE CLAIMED BREACH, INCLUDING THE PARTY’S:

(I) ADDRESS AND TELEPHONE NUMBER; AND

(II) 1. FACSIMILE NUMBER; OR

2. E-MAIL ADDRESS.”.

(Over)

On page 86, after line 16, insert:

“(L) THIRD PERSONS HARMED BY THE WRONGFUL USE OF ELECTRONIC SELF-HELP UNDER THIS SECTION MAY RECOVER DAMAGES FROM THE LICENSOR TO THE SAME EXTENT AS RECOVERABLE BY THE LICENSEE.”;

after line 31, insert:

“SECTION 6. AND BE IT FURTHER ENACTED, That:

- (a) There is a Joint Technology Oversight Committee.
- (b) The Committee consists of the following ten members:
  - (1) five members of the Senate of Maryland, appointed by the President of the Senate; and
  - (2) five members of the House of Delegates, appointed by the Speaker.
- (c) The members of the Committee serve at the pleasure of the presiding officer who appointed them.
- (d) The President and the Speaker shall jointly appoint a Senator and a Delegate to serve as co-chairmen who shall alternate in serving as the presiding chairman of the Committee each year.
- (e) (1) The Committee shall:
  - (i) review the implementation of the Maryland Uniform Computer Information Transactions Act in this State; and
  - (ii) recommend to the Governor and the General Assembly any appropriate changes in State law based on the findings of the Committee.
- (2) The Committee may examine and evaluate additional technology related issues as designated by the co-chairmen of the Committee.

(f) The Committee shall report its findings and recommendations to the Governor, the Legislative Policy Committee, the Senate Finance Committee, and the House Economic Matters Committee on or before December 1 of each year.

SECTION 7. AND BE IT FURTHER ENACTED, That Section 6 of this Act shall take effect July 1, 2000. It shall remain effective for a period of 5 years and, at the end of June 30, 2005, with no further action required by the General Assembly, Section 6 of this Act shall be abrogated and of no further force and effect.”;

and in line 32, strike “6.” and substitute “8.”.