

HOUSE BILL 516

Unofficial Copy
II

2000 Regular Session
0lr0617
CF 0lr2212

By: **Delegates Bobo, R. Baker, Benson, Bronrott, DeCarlo, Dobson, Doory, Dypski, Grosfeld, A. Jones, V. Jones, Kopp, Mandel, McIntosh, Marriott, Menes, Moe, Montague, Paige, Pendergrass, Pitkin, Riley, Rosso, Stern, Swain, Valderrama, and Rawlings**

Introduced and read first time: February 7, 2000
Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Check Cashing Services - Licensing - Maximum Fees**

3 FOR the purpose of prohibiting a person from providing check cashing services unless
4 licensed by the Commissioner of Financial Regulation; exempting certain check
5 cashing services from the applicability of the Act; establishing certain
6 qualifications, procedures, fees, and surety bond requirements for certain
7 applicants for check cashing licenses; providing for the issuance, content,
8 expiration, and posting of check cashing licenses; imposing certain record
9 keeping, check endorsement, and compliance requirements on licensees;
10 authorizing the Commissioner to investigate a licensee under certain
11 circumstances; establishing maximum fees that a licensee may charge for check
12 cashing services under certain circumstances; authorizing the Commissioner to
13 issue a cease and desist order, suspend or revoke a license, or report an alleged
14 criminal violation under certain circumstances; imposing certain criminal and
15 civil penalties for certain violations; defining certain terms; and generally
16 relating to check cashing services.

17 BY repealing

18 Article - Financial Institutions

19 The subtitle designation "Subtitle 1. Bank Services and Bank Services

20 Corporations" immediately preceding the former Section 12-101

21 Annotated Code of Maryland

22 (1998 Replacement Volume and 1999 Supplement)

23 BY adding to

24 Article - Financial Institutions

25 Section 12-101 through 12-127, inclusive, to be under the new subtitle "Subtitle

26 1. Check Cashing Services"

27 Annotated Code of Maryland

28 (1998 Replacement Volume and 1999 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the subtitle designation "Subtitle 1. Bank Services and Bank
3 Services Corporations" immediately preceding the former Section 12-101 of Article -
4 Financial Institutions of the Annotated Code of Maryland be repealed.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
6 read as follows:

7 **Article - Financial Institutions**

8 **SUBTITLE 1. CHECK CASHING SERVICES.**

9 12-101.

10 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (B) "LICENSE" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A
13 LICENSE ISSUED BY THE COMMISSIONER UNDER THIS SUBTITLE TO PROVIDE CHECK
14 CASHING SERVICES.

15 (C) "MOBILE UNIT" MEANS A MOTOR VEHICLE OR OTHER MOVABLE MEANS
16 FROM WHICH CHECK CASHING SERVICES ARE PROVIDED.

17 (D) (1) "PAYMENT INSTRUMENT" MEANS A CHECK OR A DRAFT ORDERING A
18 PERSON TO PAY MONEY.

19 (2) "PAYMENT INSTRUMENT" INCLUDES A MONEY ORDER.

20 (E) "PROVIDE CHECK CASHING SERVICES" MEANS TO ACCEPT OR CASH, FOR
21 COMPENSATION, A PAYMENT INSTRUMENT.

22 12-102.

23 THIS SUBTITLE DOES NOT APPLY TO CHECK CASHING SERVICES:

24 (1) FOR WHICH A FEE OF \$2 OR LESS IS CHARGED PER PAYMENT
25 INSTRUMENT;

26 (2) IN WHICH A CUSTOMER PRESENTS A PAYMENT INSTRUMENT FOR
27 THE EXACT AMOUNT OF A PURCHASE; OR

28 (3) INVOLVING FOREIGN CURRENCY EXCHANGE SERVICES OR THE
29 CASHING OF A PAYMENT INSTRUMENT DRAWN ON A FINANCIAL INSTITUTION OTHER
30 THAN A FEDERAL, STATE, OR OTHER STATE FINANCIAL INSTITUTION.

31 12-103.

32 SECTIONS 12-106, 12-107, AND 12-108(C) AND (D)(2) OF THIS SUBTITLE DO NOT
33 APPLY TO:

- 1 (1) A BANKING INSTITUTION;
- 2 (2) A NATIONAL BANKING ASSOCIATION;
- 3 (3) A FEDERAL OR STATE SAVINGS AND LOAN ASSOCIATION;
- 4 (4) A FEDERAL OR STATE CREDIT UNION; OR
- 5 (5) AN OTHER-STATE BANK HAVING A BRANCH IN THIS STATE.

6 12-104.

7 THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE
8 PROVISIONS OF THIS SUBTITLE.

9 12-105.

10 (A) A PERSON MAY NOT PROVIDE CHECK CASHING SERVICES UNLESS THE
11 PERSON IS LICENSED UNDER THIS SUBTITLE.

12 (B) A SEPARATE LICENSE IS REQUIRED FOR EACH PLACE OF BUSINESS AT
13 WHICH, OR MOBILE UNIT FROM WHICH, A PERSON PROVIDES CHECK CASHING
14 SERVICES.

15 12-106.

16 TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL SATISFY THE
17 COMMISSIONER THAT:

18 (1) THE APPLICANT'S BUSINESS WILL PROMOTE THE CONVENIENCE
19 AND ADVANTAGE OF THE COMMUNITY IN WHICH THE APPLICANT'S PLACE OF
20 BUSINESS, OR MOBILE UNIT, WILL BE LOCATED; AND

21 (2) THE APPLICANT OR, IF THE APPLICANT IS NOT AN INDIVIDUAL, EACH
22 OF THE OWNERS, OFFICERS, DIRECTORS, OR PRINCIPALS OF THE ENTITY:

23 (I) HAS SUFFICIENT EXPERIENCE, CHARACTER, FINANCIAL
24 RESPONSIBILITY, AND GENERAL FITNESS TO:

25 1. COMMAND THE CONFIDENCE OF THE PUBLIC; AND

26 2. WARRANT THE BELIEF THAT THE BUSINESS WILL BE
27 OPERATED LAWFULLY, HONESTLY, FAIRLY, AND EFFICIENTLY; AND

28 (II) HAS NOT COMMITTED ANY ACT THAT WOULD BE A GROUND
29 FOR SUSPENSION OR REVOCATION OF A LICENSE UNDER THIS SUBTITLE.

1 12-107.

2 (A) WITH AN APPLICATION AND AT ANY OTHER TIME THE COMMISSIONER
3 REQUIRES, AN APPLICANT OR LICENSEE SHALL PROVIDE FINGERPRINTS FOR USE IN
4 CONDUCTING A CRIMINAL HISTORY RECORDS CHECK.

5 (B) AN APPLICANT OR LICENSEE REQUIRED UNDER THIS SECTION TO
6 PROVIDE FINGERPRINTS SHALL PAY ANY PROCESSING OR OTHER REQUIRED FEE.

7 (C) IF THE APPLICANT OR LICENSEE IS A CORPORATION, THE
8 FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS SHALL
9 APPLY TO THE PRESIDENT, AND ANY OTHER OFFICER, DIRECTOR, PRINCIPAL, OR
10 OWNER OF THE CORPORATION AS REQUIRED BY THE COMMISSIONER.

11 12-108.

12 (A) (1) TO APPLY FOR A LICENSE, AN APPLICANT SHALL SUBMIT TO THE
13 COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER
14 REQUIRES.

15 (2) THE APPLICATION SHALL INCLUDE:

16 (I) THE APPLICANT'S NAME AND ADDRESS AND, IF THE APPLICANT
17 IS NOT AN INDIVIDUAL, THE NAMES AND ADDRESSES OF EACH:

18 1. OWNER WHO OWNS 5% OR MORE OF THE ENTITY; AND

19 2. OFFICER, DIRECTOR, OR PRINCIPAL OF THE ENTITY;

20 (II) 1. THE ADDRESS AT WHICH CHECK CASHING SERVICES WILL
21 BE PROVIDED; OR

22 2. IF THE LICENSE IS FOR A MOBILE UNIT, THE VEHICLE
23 IDENTIFICATION NUMBER OF THE MOBILE UNIT AND THE GEOGRAPHIC AREA IN
24 WHICH THE MOBILE UNIT WILL BE OPERATING; AND

25 (III) ANY OTHER INFORMATION THAT THE COMMISSIONER
26 REQUIRES FOR AN INVESTIGATION AND FINDINGS UNDER § 12-109 OF THIS
27 SUBTITLE.

28 (B) WITH THE APPLICATION, THE APPLICANT SHALL PAY TO THE
29 COMMISSIONER:

30 (1) AN INVESTIGATION FEE OF \$100; AND

31 (2) A LICENSE FEE OF:

32 (I) \$1,000 IF THE APPLICANT APPLIES FOR A LICENSE TO BE
33 ISSUED ON OR AFTER JANUARY 1 AND ON OR BEFORE DECEMBER 31 OF AN
34 EVEN-NUMBERED YEAR; OR

1 (II) \$500 IF THE APPLICANT APPLIES FOR A LICENSE TO BE ISSUED
2 ON OR AFTER JANUARY 1 AND ON OR BEFORE DECEMBER 31 OF AN ODD-NUMBERED
3 YEAR.

4 (C) (1) WITH THE APPLICATION, THE APPLICANT SHALL FILE WITH THE
5 COMMISSIONER A SURETY BOND.

6 (2) THE SURETY BOND FILED UNDER THIS SUBSECTION SHALL RUN TO
7 THE STATE FOR THE BENEFIT OF INDIVIDUALS WHO HAVE BEEN DAMAGED BY A
8 VIOLATION OF ANY LAW OR REGULATION GOVERNING CHECK CASHING SERVICES
9 THAT IS COMMITTED BY A LICENSEE.

10 (3) THE SURETY BOND SHALL BE:

11 (I) IN THE AMOUNT OF AT LEAST \$50,000;

12 (II) ISSUED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS
13 IN THE STATE;

14 (III) CONDITIONED SO THAT THE APPLICANT SHALL COMPLY WITH
15 ALL LAWS REGULATING THE PROVISION OF CHECK CASHING SERVICES; AND

16 (IV) APPROVED BY THE COMMISSIONER.

17 (D) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS
18 SUBSECTION, IF AN APPLICANT APPLIES FOR MORE THAN ONE LICENSE, AS TO EACH
19 LICENSE THE APPLICANT SHALL:

20 (I) SUBMIT A SEPARATE APPLICATION; AND

21 (II) PAY A SEPARATE INVESTIGATION FEE AND LICENSE FEE.

22 (2) AN APPLICANT THAT APPLIES FOR MORE THAN ONE LICENSE IS NOT
23 REQUIRED TO PROVIDE FINGERPRINTS FOR A CRIMINAL HISTORY RECORDS CHECK
24 FOR MORE THAN ONE APPLICATION.

25 12-109.

26 (A) WHEN AN APPLICANT FOR A LICENSE FILES THE APPLICATION AND PAYS
27 THE FEES REQUIRED BY § 12-108 OF THIS SUBTITLE, THE COMMISSIONER SHALL
28 INVESTIGATE THE FACTS RELEVANT TO THE APPLICATION TO DETERMINE IF THE
29 APPLICANT MEETS THE REQUIREMENTS OF THIS SUBTITLE.

30 (B) UNLESS THE COMMISSIONER AND AN APPLICANT AGREE IN WRITING TO
31 EXTEND THE TIME, THE COMMISSIONER SHALL APPROVE OR DENY EACH
32 APPLICATION FOR A LICENSE WITHIN 60 DAYS AFTER THE DATE WHEN THE
33 COMPLETE APPLICATION IS FILED AND THE FEES ARE PAID.

34 (C) THE COMMISSIONER SHALL ISSUE A LICENSE TO ANY APPLICANT WHO
35 MEETS THE REQUIREMENTS OF THIS SUBTITLE.

1 (D) (1) IF AN APPLICANT DOES NOT MEET THE REQUIREMENTS OF THIS
2 SUBTITLE, THE COMMISSIONER SHALL:

3 (I) DENY THE APPLICATION;

4 (II) NOTIFY THE APPLICANT IMMEDIATELY OF THE DENIAL;

5 (III) IF A SURETY BOND HAS BEEN FILED, RETURN THE SURETY
6 BOND FILED UNDER § 12-108 OF THIS SUBTITLE;

7 (IV) REFUND THE LICENSE FEE; AND

8 (V) RETAIN THE INVESTIGATION FEE.

9 (2) WITHIN 10 DAYS AFTER THE COMMISSIONER DENIES AN
10 APPLICATION, THE COMMISSIONER SHALL:

11 (I) FILE IN THE COMMISSIONER'S OFFICE WRITTEN FINDINGS AND
12 A SUMMARY OF THE EVIDENCE SUPPORTING THEM; AND

13 (II) SEND A COPY OF THE FINDINGS AND SUMMARY TO THE
14 APPLICANT.

15 12-110.

16 (A) THE COMMISSIONER SHALL INCLUDE ON EACH LICENSE:

17 (1) THE NAME OF THE LICENSEE; AND

18 (2) (I) THE ADDRESS AT WHICH CHECK CASHING SERVICES WILL BE
19 PROVIDED; OR

20 (II) IF THE LICENSE IS FOR A MOBILE UNIT, THE VEHICLE
21 IDENTIFICATION NUMBER OF THE MOBILE UNIT AND THE GEOGRAPHIC AREA IN
22 WHICH CHECK CASHING SERVICES WILL BE PROVIDED.

23 (B) (1) A LICENSE AUTHORIZES THE LICENSEE TO PROVIDE CHECK
24 CASHING SERVICES UNDER THE NAME STATED ON THE LICENSE AND AT THE
25 ADDRESS AT WHICH, OR IF THE LICENSE IS FOR A MOBILE UNIT THE GEOGRAPHIC
26 AREA IN WHICH, CHECK CASHING SERVICES WILL BE PROVIDED.

27 (2) ONLY ONE PLACE OF BUSINESS, OR ONE MOBILE UNIT, MAY BE
28 MAINTAINED UNDER A LICENSE.

29 (C) THE COMMISSIONER MAY ISSUE MORE THAN ONE LICENSE TO AN
30 APPLICANT WHO:

31 (1) COMPLIES WITH § 12-108 OF THIS SUBTITLE; AND

32 (2) OTHERWISE MEETS THE REQUIREMENTS OF THIS SUBTITLE.

1 12-111.

2 (A) A LICENSE EXPIRES ON DECEMBER 31 IN EACH ODD-NUMBERED YEAR
3 UNLESS IT IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION.

4 (B) ON OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A LICENSE
5 MAY BE RENEWED FOR AN ADDITIONAL 2-YEAR TERM, IF THE LICENSEE:

6 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

7 (2) PAYS TO THE COMMISSIONER A RENEWAL FEE OF \$1,000;

8 (3) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE
9 FORM THAT THE COMMISSIONER REQUIRES; AND

10 (4) IF A SURETY BOND HAD BEEN FILED INITIALLY, FILES A SURETY
11 BOND OR SURETY BOND CONTINUATION CERTIFICATE FOR THE AMOUNT REQUIRED
12 UNDER § 12-108 OF THIS SUBTITLE.

13 (C) THE COMMISSIONER SHALL DETERMINE IF THE REQUIREMENTS OF §
14 12-106 OF THIS SUBTITLE TO QUALIFY FOR A LICENSE CONTINUE TO APPLY.

15 (D) THE COMMISSIONER MAY DETERMINE THAT LICENSES ISSUED UNDER
16 THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

17 12-112.

18 (A) A LICENSE IS NOT TRANSFERABLE.

19 (B) A LICENSEE SHALL DISPLAY THE LICENSE CONSPICUOUSLY AT THE
20 LICENSEE'S PLACE OF BUSINESS OR MOBILE UNIT.

21 12-113.

22 (A) A LICENSEE MAY NOT CHANGE THE PLACE OF BUSINESS FOR WHICH A
23 LICENSE IS ISSUED UNLESS THE LICENSEE:

24 (1) NOTIFIES THE COMMISSIONER IN WRITING OF THE PROPOSED
25 CHANGE; AND

26 (2) RECEIVES THE WRITTEN CONSENT OF THE COMMISSIONER PRIOR
27 TO THE CHANGE.

28 (B) IF THE COMMISSIONER CONSENTS TO A PROPOSED CHANGE OF PLACE OF
29 BUSINESS, THE LICENSEE SHALL ATTACH THE WRITTEN CONSENT TO THE LICENSE.

30 12-114.

31 (A) A LICENSEE SHALL KEEP THE BOOKS AND RECORDS THAT THE
32 COMMISSIONER REQUIRES TO DETERMINE COMPLIANCE WITH THIS SUBTITLE.

1 (B) UNLESS A LONGER PERIOD IS EXPRESSLY REQUIRED BY STATE OR
2 FEDERAL LAW, A LICENSEE SHALL RETAIN THE RECORDS REQUIRED UNDER THIS
3 SUBTITLE FOR A PERIOD OF AT LEAST 2 YEARS.

4 (C) A LICENSEE MAY RETAIN THE RECORDS REQUIRED UNDER THIS SUBTITLE
5 AT ANY LOCATION, PROVIDED THAT THE LICENSEE:

6 (1) NOTIFIES THE COMMISSIONER IN WRITING OF THE LOCATION OF
7 THE RECORDS; AND

8 (2) MAKES THE RECORDS AVAILABLE AT A PLACE OF BUSINESS FOR
9 WHICH A LICENSE HAS BEEN ISSUED OR AT THE LICENSEE'S PRINCIPAL PLACE OF
10 BUSINESS, AS AGREED BY THE COMMISSIONER AND THE LICENSEE, WITHIN 7 DAYS
11 OF A WRITTEN REQUEST FOR EXAMINATION BY THE COMMISSIONER.

12 12-115.

13 (A) AT ANY TIME AND AS OFTEN AS THE COMMISSIONER CONSIDERS
14 APPROPRIATE, THE COMMISSIONER MAY INVESTIGATE THE RECORDS AND BUSINESS
15 OPERATIONS OF A LICENSEE OR A PERSON WHO ACTS ON BEHALF OF A LICENSEE.

16 (B) FOR THE PURPOSES OF THIS SECTION, THE COMMISSIONER:

17 (1) SHALL BE GIVEN ACCESS TO ANY BOOKS, PAPERS, RECORDS, SAFES,
18 OR VAULTS OF THE PERSON UNDER INVESTIGATION; AND

19 (2) MAY EXAMINE UNDER OATH A PERSON WHOSE TESTIMONY THE
20 COMMISSIONER REQUIRES.

21 12-116.

22 BEFORE A LICENSEE DEPOSITS A PAYMENT INSTRUMENT IN OR PRESENTS A
23 PAYMENT INSTRUMENT TO A FINANCIAL INSTITUTION, THE LICENSEE SHALL
24 ENDORSE THE PAYMENT INSTRUMENT WITH THE NAME UNDER WHICH THE
25 LICENSEE IS LICENSED TO PROVIDE CHECK CASHING SERVICES.

26 12-117.

27 A LICENSEE SHALL COMPLY WITH:

28 (1) ALL FEDERAL AND STATE LAWS CONCERNING MONEY LAUNDERING;
29 AND

30 (2) THE TRUTH IN LENDING ACT (15 U. S. C. 1601 ET SEQ.).

31 12-118.

32 A LICENSEE SHALL CONSPICUOUSLY POST, IN 48 POINT OR LARGER TYPE, A
33 NOTICE OF THE FEES FOR CHECK CASHING SERVICES.

1 12-119.

2 A LICENSEE SHALL PAY A CUSTOMER, IN UNITED STATES CURRENCY, THE FACE
3 AMOUNT OF THE PAYMENT INSTRUMENT RECEIVED LESS THE FEE CHARGED.

4 12-120.

5 EXCEPT AS PROVIDED IN § 15-802(B) OF THE COMMERCIAL LAW ARTICLE, A
6 LICENSEE MAY NOT CHARGE ANY OTHER FEE, INCLUDING MEMBERSHIP FEES OR
7 OTHER SERVICE FEES, FOR ACCEPTING OR CASHING A PAYMENT INSTRUMENT IN
8 EXCESS OF THE GREATER OF:

9 (1) 2% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR \$5, IF
10 THE PAYMENT INSTRUMENT IS ISSUED BY THE FEDERAL GOVERNMENT OR A STATE
11 OR LOCAL GOVERNMENT;

12 (2) 3% OF THE FACE AMOUNT OF A PAYMENT INSTRUMENT OR \$5, IF THE
13 PAYMENT INSTRUMENT IS A PAYROLL CHECK; OR

14 (3) 4% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR \$5, FOR
15 ANY OTHER PAYMENT INSTRUMENT.

16 12-121.

17 SUBJECT TO THE HEARING PROVISIONS OF § 12-123 OF THIS SUBTITLE, THE
18 COMMISSIONER MAY ORDER A LICENSEE TO CEASE AND DESIST FROM A COURSE OF
19 CONDUCT IF THE COURSE OF CONDUCT RESULTS IN AN EVASION OR VIOLATION OF
20 THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE.

21 12-122.

22 SUBJECT TO THE HEARING PROVISIONS OF § 12-123 OF THIS SUBTITLE, THE
23 COMMISSIONER MAY SUSPEND OR REVOKE THE LICENSE OF ANY LICENSEE IF THE
24 LICENSEE OR ANY OWNER, OFFICER, DIRECTOR, PRINCIPAL, EMPLOYEE, OR AGENT
25 OF THE LICENSEE:

26 (1) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION FOR A
27 LICENSE;

28 (2) HAS BEEN CONVICTED OF ANY CRIME OF MORAL TURPITUDE;

29 (3) HAS BEEN CONVICTED OF A VIOLATION OF ANY FEDERAL OR STATE
30 CONSUMER PROTECTION LAWS;

31 (4) IN CONNECTION WITH PROVIDING CHECK CASHING SERVICES:

32 (I) COMMITS FRAUD; OR

33 (II) ENGAGES IN AN ILLEGAL OR DISHONEST ACTIVITY;

1 (5) VIOLATES A PROVISION OF THIS SUBTITLE, A REGULATION ADOPTED
2 UNDER THIS SUBTITLE, OR ANY OTHER LAW CONCERNING CHECK CASHING
3 SERVICES IN THE STATE; OR

4 (6) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH,
5 DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE
6 LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY, FAIRLY,
7 EQUITABLY, AND EFFICIENTLY.

8 12-123.

9 (A) BEFORE THE COMMISSIONER TAKES ANY ACTION UNDER § 12-121, §
10 12-122, OR § 12-124 OF THIS SUBTITLE, THE COMMISSIONER SHALL GIVE THE
11 LICENSEE AN OPPORTUNITY FOR A HEARING BEFORE THE COMMISSIONER.

12 (B) NOTICE OF THE HEARING SHALL BE GIVEN AND THE HEARING SHALL BE
13 HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
14 ARTICLE.

15 12-124.

16 THE COMMISSIONER SHALL REPORT TO THE APPROPRIATE STATE'S ATTORNEY
17 OR THE ATTORNEY GENERAL ANY ALLEGED CRIMINAL VIOLATION OF THIS
18 SUBTITLE.

19 12-125.

20 A PERSON WHO KNOWINGLY VIOLATES THIS SUBTITLE IS GUILTY OF A
21 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000
22 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

23 12-126.

24 (A) THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY AGAINST A PERSON
25 WHO VIOLATES THIS SUBTITLE IN AN AMOUNT NOT EXCEEDING:

26 (1) \$1,000 FOR A FIRST OFFENSE; AND

27 (2) \$5,000 FOR EACH SUBSEQUENT OFFENSE.

28 (B) IN DETERMINING THE AMOUNT OF CIVIL PENALTY TO BE IMPOSED
29 UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER
30 THE FOLLOWING:

31 (1) THE SERIOUSNESS OF THE VIOLATION;

32 (2) THE GOOD FAITH OF THE VIOLATOR;

33 (3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

34 (4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC;

1 (5) THE ASSETS OF THE VIOLATOR; AND

2 (6) ANY OTHER FACTOR RELEVANT TO THE DETERMINATION OF THE
3 CIVIL PENALTY.

4 12-127.

5 (A) A PERSON WHO IS INJURED BY A VIOLATION OF THIS SUBTITLE MAY FILE
6 AN ACTION TO RECOVER DAMAGES FROM INJUNCTIVE RELIEF.

7 (B) (1) A COURT MAY AWARD A PREVAILING PLAINTIFF UNDER THIS
8 SECTION:

9 (I) UP TO 3 TIMES THE AMOUNT OF DAMAGES ACTUALLY
10 INCURRED; AND

11 (II) AN AMOUNT AT LEAST EQUAL TO THE AMOUNT PAID BY THE
12 PLAINTIFF TO THE DEFENDANT, REASONABLE ATTORNEY'S FEES, AND COSTS.

13 (2) IN ADDITION TO THE AMOUNT AWARDED UNDER PARAGRAPH (1) OF
14 THIS SUBSECTION, IF A COURT DETERMINES BY CLEAR AND CONVINCING EVIDENCE
15 THAT A VIOLATION WAS WILLFUL, THE COURT MAY AWARD PUNITIVE DAMAGES TO
16 THE PLAINTIFF.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2000.