

SENATE BILL 882

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12

2001 Regular Session
(11r2458)

ENROLLED BILL
-- Finance/Commerce and Government Matters --

Introduced by **Senators Della, Astle, Bromwell, DeGrange, Dorman, Exum, Hafer, Hooper, Kelley, and Teitelbaum**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 630

1 AN ACT concerning

2 **Unsecured Closed End Credit Regulation - Credit Services Businesses -**
3 **Assistance to Consumers in Obtaining Extensions of Credit**
4 **Study Commission**

5 FOR the purpose of prohibiting a credit services business, its employees, and certain
6 independent contractors from assisting a consumer to obtain ~~an~~ a certain
7 extension of credit at a rate of interest which, except for federal preemption of
8 State law, would be prohibited under certain provisions of law governing
9 interest and usury, consumer loans, ~~open end credit~~, and closed end credit;
10 creating a Short-Term Small Consumer Loan Study Commission; providing for
11 the membership and co-chairmen of and staff for the Study Commission;
12 requiring the Study Commission to perform certain duties, including reporting
13 to the General Assembly on or before a certain date; providing for the
14 termination of certain provisions of this Act; defining a certain term; and
15 generally relating to unsecured closed end credit services-businesses regulation.

16 BY repealing and reenacting, with amendments,

1 Article - Commercial Law
2 Section 14-1902
3 Annotated Code of Maryland
4 (2000 Replacement Volume and 2000 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Commercial Law**

8 14-1902.

9 (A) A credit services business, its employees, and independent contractors who
10 sell or attempt to sell the services of a credit services business shall not:

11 (1) Receive any money or other valuable consideration from the
12 consumer, unless the credit services business has secured from the Commissioner a
13 license under Title 11, Subtitle 3 of the Financial Institutions Article;

14 (2) Receive any money or other valuable consideration solely for referral
15 of the consumer to a retail seller or to any other credit grantor who will or may extend
16 credit to the consumer, if the credit extended to the consumer is substantially the
17 same terms as those available to the general public;

18 (3) Make, or assist or advise any consumer to make, any statement or
19 other representation that is false or misleading, or which by the exercise of reasonable
20 care should be known to be false or misleading, to a consumer reporting agency,
21 government agency, or person to whom the consumer applies or intends to apply for
22 an extension of credit, regarding a consumer's creditworthiness, credit standing,
23 credit capacity, or true identity;

24 (4) Make or use any false or misleading representations in the offer or
25 sale of the services of a credit services business;

26 (5) Engage, directly or indirectly, in any act, practice, or course of
27 business which operates as a fraud or deception on any person in connection with the
28 offer or sale of the services of a credit services business;

29 (6) Charge or receive any money or other valuable consideration prior to
30 full and complete performance of the services that the credit services business has
31 agreed to perform for or on behalf of the consumer; [or]

32 (7) Create, assist a consumer to create, or provide a consumer with
33 information on how to create, a new consumer report, credit file, or credit record by
34 obtaining and using a different name, address, telephone number, Social Security
35 number, or employer tax identification number; OR

36 (8) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION,
37 ASSIST A CONSUMER TO OBTAIN AN EXTENSION OF UNSECURED CLOSED END

1 CREDIT AT A RATE OF INTEREST WHICH, EXCEPT FOR FEDERAL PREEMPTION OF
 2 STATE LAW, WOULD BE PROHIBITED UNDER TITLE 12, SUBTITLE 1, 3, 9, OR 10 OF THIS
 3 ARTICLE.

4 (B) (1) (I) IN THIS SUBSECTION, "PAYMENT INSTRUMENT" MEANS A
 5 CHECK OR A DRAFT ORDERING A PERSON TO PAY MONEY.

6 (II) "PAYMENT INSTRUMENT" INCLUDES A MONEY ORDER.

7 (2) UNDER SUBSECTION (A)(8) OF THIS SECTION, AN EXTENSION OF
 8 UNSECURED CLOSED END CREDIT INCLUDES AN EXTENSION OF CREDIT FOR WHICH
 9 A PAYMENT INSTRUMENT IS HELD TO ENSURE PAYMENT.

10 SECTION 2. AND BE IT FURTHER ENACTED, That:

11 (1) There is a Short-Term Small Consumer Loan Study Commission.

12 (2) The Study Commission shall consist of the following ~~13~~ 14 members:

13 (a) ~~Two~~ Three members of the House Commerce and Government
 14 Matters Committee, appointed by the Speaker of the House of Delegates;

15 (b) One member of the Senate Finance Committee, appointed by
 16 the President of the Senate;

17 (c) The Commissioner of Financial Regulation;

18 (d) One representative from the Office of the Attorney General,
 19 appointed jointly by the Speaker and the President from a list of nominees submitted
 20 by the Attorney General;

21 (e) One representative of State chartered banks, appointed jointly
 22 by the Speaker and the President from a list of nominees submitted by the Maryland
 23 Bankers Association;

24 (f) One representative of State chartered credit unions, appointed
 25 jointly by the Speaker and the President from a list of nominees submitted by the
 26 Maryland Credit Union League;

27 (g) Two representatives of persons licensed under Title 11, Subtitle
 28 2 of the Financial Institutions Article (Maryland Consumer Loan Law - Licensing
 29 Provisions), Title 11, Subtitle 3 of the Financial Institutions Article (Installment
 30 Loans - Licensing Provisions), or Title 12, Subtitle 1 of the Financial Institutions
 31 Article (Check Cashing Services), appointed jointly by the Speaker and the President;

32 (h) One representative of persons licensed as pawnbrokers under
 33 Title 12 of the Business Regulation Article (Secondhand Precious Metal Object
 34 Dealers and Pawnbrokers), appointed jointly by the Speaker and the President;

35 (i) Two representatives of consumer advocacy or community
 36 development organizations, appointed jointly by the Speaker and the President; and

1 (j) One representative of nonprofit charitable foundations,
2 appointed jointly by the Speaker and the President.

3 (3) (a) The Speaker of the House of Delegates shall designate one of
4 the members from the Commerce and Government Matters Committee as
5 co-chairman of the Study Commission.

6 (b) The President of the Senate shall designate the member from
7 the Finance Committee as co-chairman of the Study Commission.

8 (4) The Department of Legislative Services shall provide staff for the
9 Study Commission.

10 (5) The Study Commission shall:

11 (a) Determine the need for short-term, small consumer loans in the
12 State;

13 (b) Identify reasons why traditional lenders may not be fully
14 meeting the need for short-term, small consumer loans in the State, particularly in
15 low and moderate income areas;

16 (c) Evaluate alternatives to help meet the need for short-term,
17 small consumer loans in the State; and

18 (d) Report to the General Assembly, in accordance with § 2-1246 of
19 the State Government Article, on or before December 1, 2001 on recommendations,
20 including proposed legislation, if any, to help meet the need for short-term, small
21 consumer loans in the State and to address any other issues identified by the Study
22 Commission.

23 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
24 effect ~~October~~ June 1, 2001. Section 2 of this Act shall remain effective for a period of
25 7 months and, at the end of December 31, 2001, with no further action required by the
26 General Assembly, Section 2 of this Act shall be abrogated and of no further force and
27 effect.