

HOUSE BILL 97

Unofficial Copy
D3
HB 48/02 - JUD

2003 Regular Session
3r1043

By: **Delegates Amedori and Hogan**

Introduced and read first time: January 23, 2003

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: February 11, 2003

CHAPTER 275

1 AN ACT concerning

2 **District Court - Civil Jurisdiction - Dishonored Checks and Other**
3 **Instruments**

4 FOR the purpose of clarifying that the District Court of Maryland has exclusive
5 original civil jurisdiction in an action for certain damages for a dishonored check
6 or other instrument regardless of the amount in controversy; making stylistic
7 changes; providing that in an action for certain damages for a dishonored check
8 or instrument a defendant is entitled to demand a transfer of the action from the
9 District Court to an appropriate circuit court under certain circumstances; and
10 generally relating to the exclusive original civil jurisdiction of the District Court
11 of Maryland.

12 BY repealing and reenacting, with amendments,
13 Article - Commercial Law
14 Section 15-802
15 Annotated Code of Maryland
16 (2000 Replacement Volume and 2002 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Courts and Judicial Proceedings
19 Section 4-401
20 Annotated Code of Maryland
21 (2002 Replacement Volume)

22 BY adding to
23 Article - Courts and Judicial Proceedings

1 Section 4-402(f)
2 Annotated Code of Maryland
3 (2002 Replacement Volume)

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

6 **Article - Commercial Law**

7 15-802.

8 (a) When a check or other instrument has been dishonored by nonacceptance
9 or nonpayment and has not been paid within 10 days, the holder to whom the check
10 or other instrument was issued or negotiated may send a notice of dishonor to the
11 maker or drawer as provided under this section.

12 (b) If a check or other instrument has not been paid within 30 days after the
13 holder has sent a notice of dishonor to the maker or drawer, the maker or drawer of a
14 check or other instrument that has been dishonored shall be liable for:

- 15 (1) The amount of the check or instrument;
- 16 (2) A collection fee of up to \$35; and
- 17 (3) An amount up to 2 times the amount of the check, but not more than
18 \$1,000.

19 (c) (1) (i) The holder of a check or other instrument that has been
20 dishonored may seek the damages provided under this section in [any] THE District
21 Court of [the State] MARYLAND 30 days after a notice of dishonor has been sent by
22 mail to the last known address of the maker or drawer.

23 (ii) For each notice sent by the holder under subparagraph (i) of
24 this paragraph, the holder shall:

- 25 1. Obtain a certificate of mailing from the U.S. Postal
26 Service; or
- 27 2. Execute an affidavit that attests to the mailing of the
28 notice in compliance with subparagraph (i) of this paragraph.

29 (2) A notice of dishonor sent by a holder under this section to a maker or
30 drawer of a dishonored check or other instrument shall substantially comply with the
31 form prescribed in § 15-803 of this subtitle.

32 (d) A holder may not recover any damages under subsection (b)(3) of this
33 section if:

- 34 (1) The holder has demanded of, and received from, the maker or
35 drawer:

1 (i) Collection costs in excess of the collection fee provided under
2 subsection (b)(2) of this section; or

3 (ii) Collection costs within 30 days after the mailing of the notice of
4 dishonor, under subsection (c) of this section; or

5 (2) The dishonored check or other instrument provides for the payment
6 of collection costs in the event of dishonor.

7 (e) (1) It shall be a complete defense to any action brought under this
8 section by any holder of a dishonored check or other instrument that, within 30 days
9 from the mailing of the notice of dishonor, the maker or drawer has paid to the holder
10 the full amount of the check or other instrument and collection costs of not more than
11 \$35.

12 (2) It shall be a complete defense to any action brought under this
13 section by a holder to whom a dishonored check or other instrument was issued that
14 the dishonor of the check or other instrument was due to a justifiable stop payment
15 order or to the attachment of the account.

16 (3) In any action brought under this section by a holder or holder in due
17 course to whom a dishonored check or other instrument was negotiated, the action is
18 subject to all valid defenses that may be raised by the maker or drawer against the
19 holder or holder in due course under Title 3 of this article.

20 **Article - Courts and Judicial Proceedings**

21 4-401.

22 Except as provided in § 4-402 of this subtitle, and subject to the venue
23 provisions of Title 6 of this article, the District Court has exclusive original civil
24 jurisdiction in:

25 (1) An action in contract or tort, if the debt or damages claimed do not
26 exceed \$25,000, exclusive of prejudgment or postjudgment interest, costs, and
27 attorney's fees if attorney's fees are recoverable by law or contract;

28 (2) An action of replevin, regardless of the value of the thing in
29 controversy;

30 (3) A matter of attachment before judgment, if the sum claimed does not
31 exceed \$25,000, exclusive of prejudgment or postjudgment interest, costs, and
32 attorney's fees if attorney's fees are recoverable by law or contract;

33 (4) An action involving landlord and tenant, distraint, or wrongful
34 detainer, regardless of the amount involved;

35 (5) A grantee suit brought under § 14-109 of the Real Property Article;

- 1 (6) A petition for injunction relating to the use, disposition,
2 encumbrances, or preservation of property that is:
- 3 (i) Claimed in a replevin action, until seizure under the writ; or
- 4 (ii) Sought to be levied upon in an action of distress, until levy and
5 any removal;
- 6 (7) A petition of injunction filed by:
- 7 (i) A tenant in an action under § 8-211 of the Real Property Article
8 or a local rent escrow law; or
- 9 (ii) A person who brings an action under § 14-120 or § 14-125.1 of
10 the Real Property Article;
- 11 (8) A petition filed by a county or municipality, including Baltimore City,
12 for enforcement of local health, housing, fire, building, electric, licenses and permits,
13 plumbing, animal control, consumer protection, and zoning codes for which equitable
14 relief is provided;
- 15 (9) Proceedings under Title 12 or Title 13 of the Criminal Procedure
16 Article for the forfeiture or return of moneys involved in a gambling or controlled
17 dangerous substances seizure where the amount involved, excluding any interest and
18 attorney's fees, if attorney's fees are recoverable by law or contract, does not exceed
19 \$20,000;
- 20 (10) A proceeding for adjudication of:
- 21 (i) A municipal infraction as defined in Article 23A, § 3(b)(1) of the
22 Code;
- 23 (ii) A Commission infraction as defined in Article 28, § 5-113 of the
24 Code;
- 25 (iii) A WSSC infraction as defined in Article 29, § 18-104.1 of the
26 Code, concerning rules and regulations governing publicly owned watershed property;
- 27 (iv) A WSSC infraction as defined in Article 29, § 18-104.2 of the
28 Code, concerning WSSC regulations governing:
- 29 1. Erosion and sediment control for utility construction;
- 30 2. Plumbing, gas fitting, and sewer cleaning;
- 31 3. Required permits for utility construction; and
- 32 4. The WSSC Pretreatment Program;
- 33 (v) A zoning violation for which a civil penalty has been provided
34 pursuant to Article 66B, § 7.02 or Article 28, § 8-120(c) of the Code;

- 1 (vi) A violation of an ordinance enacted:
- 2 1. By a charter county for which a civil penalty is provided
3 under Article 25A, § 5(A) of the Code;
- 4 2. By the Mayor and City Council of Baltimore for which a
5 civil penalty is provided by ordinance; or
- 6 3. By a code county for which a civil citation is issued under
7 Article 25B, § 13C-1 of the Code;
- 8 (vii) A citation for a Code violation issued under § 10-119 of the
9 Criminal Law Article;
- 10 (viii) A civil infraction relating to a violation of the campaign finance
11 laws under § 13-604 of the Election Law Article;
- 12 (ix) A violation of an ordinance or regulation enacted by a county
13 without home rule, under authority granted under Article 25 of the Code, or any
14 provision of the Code of Public Local Laws for that county, for which a civil penalty is
15 provided;
- 16 (x) A civil infraction that is authorized by law to be prosecuted by a
17 sanitary commission;
- 18 (xi) A subdivision violation for which a civil penalty has been
19 provided in accordance with Article 66B, § 14.07(f) of the Code; or
- 20 (xii) A violation under Title 10, Subtitle 1, Part III of the Criminal
21 Law Article;
- 22 (11) A proceeding for adjudication of a civil penalty for any violation under
23 § 5-1001 of the Environment Article, § 15-113, § 15-113.1, § 21-1122, or § 21-1414 of
24 the Transportation Article, or Article 41, § 2-101(c-1) of the Code or any rule or
25 regulation issued pursuant to those sections;
- 26 (12) A proceeding to enforce a civil penalty assessed by the Maryland
27 Division of Labor and Industry under Title 5 of the Labor and Employment Article
28 where the amount involved does not exceed \$20,000;
- 29 (13) A proceeding for a civil infraction under § 21-202.1 of the
30 Transportation Article;
- 31 (14) A proceeding for a temporary peace order or a final peace order under
32 Title 3, Subtitle 15 of this article;
- 33 (15) A proceeding for condemnation and immediate possession of and title
34 to abandoned, blighted, and deteriorated property under authority granted in the
35 Code of Public Local Laws of a county, including Baltimore City, where the estimated
36 value of the property does not exceed \$25,000; [and]

1 (16) A proceeding for a replacement motor vehicle under § 14-1502(c)(1)(i)
2 of the Commercial Law Article; AND

3 (17) AN ACTION FOR DAMAGES FOR A DISHONORED CHECK OR OTHER
4 INSTRUMENT UNDER TITLE 15, SUBTITLE 8 OF THE COMMERCIAL LAW ARTICLE,
5 REGARDLESS OF THE AMOUNT IN CONTROVERSY.

6 4-402.

7 (F) IF THE AMOUNT IN CONTROVERSY IN AN ACTION FOR DAMAGES FOR A
8 DISHONORED CHECK OR OTHER INSTRUMENT UNDER § 4-401(17) OF THIS SUBTITLE
9 EXCEEDS \$25,000, THE DEFENDANT IS ENTITLED TO TRANSFER THE ACTION FROM
10 THE DISTRICT COURT TO AN APPROPRIATE CIRCUIT COURT BY FILING A TIMELY
11 DEMAND AS PRESCRIBED UNDER THE MARYLAND RULES.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
13 effect October 1, 2003.