

# HOUSE BILL 1396

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By: **Delegates Conaway, Vallario, Anderson, Cluster, Dumais, Dwyer, Glass, Hough, K. Kelly, McDermott, Mitchell, Rosenberg, and Simmons**

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Assigned to: Rules and Executive Nominations

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Committee Report: Favorable

House action: Adopted

Read second time: March 19, 2013

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Law – Theft–Related Crimes – Penalties**

3 FOR the purpose of altering certain penalties for a conviction of extortion, malicious  
4 destruction of property, obtaining property or services by bad check, credit card  
5 fraud, identity fraud, State health plan fraud, and exploitation of a vulnerable  
6 adult involving a value at or over a certain amount; making conforming  
7 changes; and generally relating to theft–related crimes.

8 BY repealing and reenacting, with amendments,  
9 Article – Commercial Law  
10 Section 15–803(a)  
11 Annotated Code of Maryland  
12 (2005 Replacement Volume and 2012 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article – Criminal Law  
15 Section 3–404, 3–701, 3–702, 6–301, 8–106, 8–206, 8–207, 8–209, 8–301, 8–516,  
16 and 8–801  
17 Annotated Code of Maryland  
18 (2012 Replacement Volume and 2012 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Commercial Law**

2 15–803.

3 (a) A notice of dishonor sent by a holder to a maker or drawer under §  
4 15–802 of this subtitle shall substantially comply with the following form:

5 **“NOTICE OF DISHONORED CHECK**

6 Date \_\_\_\_\_  
7 Name of Issuer \_\_\_\_\_  
8 Street Address \_\_\_\_\_  
9 City and State \_\_\_\_\_

10 You are according to law hereby notified that a check or instrument numbered  
11 \_\_\_\_\_ and dated \_\_\_\_\_, drawn on the \_\_\_\_\_ bank of \_\_\_\_\_ in  
12 the amount of \_\_\_\_\_ has been returned unpaid with the notation the payment  
13 has been refused because of \_\_\_\_\_

14 Within 30 days from the mailing of this notice, you must pay or tender to \_\_\_\_\_

15 \_\_\_\_\_  
16 (Holder)

17 sufficient money to pay such check or instrument in full and a collection fee of  
18 \$\_\_\_\_\_ (not more than \$35). If payment of the above amounts is not made within 30  
19 days of the mailing of this notice of dishonor, you shall be liable under § 15–802 of the  
20 Commercial Law Article, in addition to the amount of the check or instrument and a  
21 collection fee of up to \$35, for an amount up to 2 times the amount of the check or  
22 instrument, but not more than \$1,000. In addition, you may be prosecuted under Title  
23 8, Subtitle 1 of the Criminal Law Article of Maryland and subject to the following  
24 penalties:

25 (1) If the property or services has a value of **[\$500 or more] AT LEAST \$1,000**  
26 **BUT LESS THAN \$10,000**, a fine not exceeding **[\$1,000] \$10,000** or imprisonment not  
27 exceeding **[15] 10** years, or both;

28 **(2) IF THE PROPERTY OR SERVICES HAS A VALUE OF AT LEAST \$10,000 BUT**  
29 **LESS THAN \$100,000, A FINE NOT EXCEEDING \$15,000 OR IMPRISONMENT NOT**  
30 **EXCEEDING 15 YEARS, OR BOTH;**

31 **(3) IF THE PROPERTY OR SERVICES HAS A VALUE OF \$100,000 OR MORE, A**  
32 **FINE NOT EXCEEDING \$25,000 OR IMPRISONMENT NOT EXCEEDING 25 YEARS,**  
33 **OR BOTH;**

34 **[(2)](4)** If the property or services has a value of less than **[\$500] \$1,000**, a fine  
35 not exceeding **[\$100] \$500** or imprisonment not exceeding 18 months, or both.

36 It shall be a complete defense to any action brought by any holder under § 15–802 of  
37 the Commercial Law Article that, within 30 days from the mailing of the “Notice of  
38 Dishonored Check”, the maker or drawer has paid the holder the full amount of the  
39 check or instrument and collection costs of not more than \$35. A holder may not

1 recover any damages if the holder has demanded of, and received from, the maker or  
2 drawer collection costs exceeding \$35.

3 It shall be a complete defense to any action brought under § 15–802 of the Commercial  
4 Law Article by a holder to whom a dishonored check or other instrument was issued  
5 that the dishonor of the check or other instrument was due to a justifiable stop  
6 payment order or to the attachment of the account.

7 In any action brought under § 15–802 of the Commercial Law Article by a holder or  
8 holder in due course to whom a dishonored check or other instrument was negotiated,  
9 the action is subject to all valid defenses that may be raised by the maker or drawer  
10 against the holder or holder in due course under Title 3 of the Commercial Law  
11 Article.”

## 12 Article – Criminal Law

13 3–404.

14 (a) An indictment, information, warrant, or other charging document for  
15 robbery is sufficient if it substantially states:

16 “(name of defendant) on (date) in (county) did feloniously rob (name of victim) of  
17 (property/service) (having a value of ~~[\$500]~~ **\$1,000** or more) (with a dangerous  
18 weapon) in violation of (section violated) against the peace, government, and dignity of  
19 the State.”.

20 (b) If a charging document alleges that the value of the property or service  
21 subject to this subtitle is ~~[\$500]~~ **\$1,000** or more, the court shall instruct the jury to  
22 determine whether the value of the property or service is less than ~~[\$500]~~ **\$1,000**, or  
23 ~~[\$500]~~ **\$1,000** or more.

24 (c) Unless a charging document alleges that the value of the property or  
25 service subject to this subtitle is ~~[\$500]~~ **\$1,000** or more, a felony violation of § 7–104  
26 of this article is not a lesser included crime of robbery.

27 3–701.

28 (a) This section does not apply to legitimate efforts by employees or their  
29 representatives to obtain certain wages, hours, or working conditions.

30 (b) A person may not obtain, attempt to obtain, or conspire to obtain money,  
31 property, labor, services, or anything of value from another person with the person’s  
32 consent, if the consent is induced by wrongful use of actual or threatened:

33 (1) force or violence;

34 (2) economic injury; or

1           (3) destruction, concealment, removal, confiscation, or possession of  
2 any immigration or government identification document with intent to harm the  
3 immigration status of another person.

4           (c)   **(1)** If the value of the property, labor, or services is [~~\$500 or more~~] **AT**  
5 **LEAST \$1,000 BUT LESS THAN \$10,000**, a person who violates this section is guilty  
6 of the felony of extortion and on conviction is subject to imprisonment not exceeding 10  
7 years or a fine not exceeding [~~\$5,000~~] **\$10,000** or both.

8                   **(2) IF THE VALUE OF THE PROPERTY, LABOR, OR SERVICES IS AT**  
9 **LEAST \$10,000 BUT LESS THAN \$100,000, A PERSON WHO VIOLATES THIS**  
10 **SECTION IS GUILTY OF THE FELONY OF EXTORTION AND ON CONVICTION IS**  
11 **SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT**  
12 **EXCEEDING \$15,000 OR BOTH.**

13                   **(3) IF THE VALUE OF THE PROPERTY, LABOR, OR SERVICES IS**  
14 **\$100,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE**  
15 **FELONY OF EXTORTION AND ON CONVICTION IS SUBJECT TO IMPRISONMENT**  
16 **NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.**

17           (d) If the value of the property, labor, or services is less than [~~\$500~~] **\$1,000**,  
18 a person who violates this section is guilty of the misdemeanor of extortion and on  
19 conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding  
20 [~~\$500~~] **\$1,000** or both.

21           (e) A prosecution for a felony under this section shall be instituted within 5  
22 years after the crime was committed.

23 3-702.

24           (a) In this section, "political subdivision" includes a:

25                   (1) county;

26                   (2) municipal corporation;

27                   (3) bicounty or multicounty agency;

28                   (4) county board of education;

29                   (5) public authority; or

30                   (6) special taxing district.

1 (b) An officer or employee of the State or of a political subdivision may not  
2 wrongfully obtain or attempt to obtain money, property, or anything of value from a  
3 person with the person's consent, if the consent is obtained under color or pretense of  
4 office, under color of official right, or by wrongful use of actual or threatened force or  
5 violence.

6 (c) If the value of the property is ~~[\$500 or more]~~ **AT LEAST \$1,000 BUT**  
7 **LESS THAN \$10,000**, a person who violates this section:

8 (1) is guilty of the felony of extortion and on conviction is subject to  
9 imprisonment not exceeding 10 years or a fine not exceeding ~~[\$5,000]~~ **\$10,000** or  
10 both; and

11 (2) notwithstanding any pardon, shall be barred permanently from  
12 employment by the State or by a political subdivision.

13 **(D) IF THE VALUE OF THE PROPERTY IS AT LEAST \$10,000 BUT LESS**  
14 **THAN \$100,000, A PERSON WHO VIOLATES THIS SECTION:**

15 **(1) IS GUILTY OF THE FELONY OF EXTORTION AND ON**  
16 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A**  
17 **FINE NOT EXCEEDING \$15,000 OR BOTH; AND**

18 **(2) NOTWITHSTANDING ANY PARDON, SHALL BE BARRED**  
19 **PERMANENTLY FROM EMPLOYMENT BY THE STATE OR BY A POLITICAL**  
20 **SUBDIVISION.**

21 **(E) IF THE VALUE OF THE PROPERTY IS \$100,000 OR MORE, A PERSON**  
22 **WHO VIOLATES THIS SECTION:**

23 **(1) IS GUILTY OF THE FELONY OF EXTORTION AND ON**  
24 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A**  
25 **FINE NOT EXCEEDING \$25,000 OR BOTH; AND**

26 **(2) NOTWITHSTANDING ANY PARDON, SHALL BE BARRED**  
27 **PERMANENTLY FROM EMPLOYMENT BY THE STATE OR BY A POLITICAL**  
28 **SUBDIVISION.**

29 ~~[(d)]~~**(F)** If the value of the property is less than ~~[\$500]~~ **\$1,000**, a person  
30 who violates this section is guilty of the misdemeanor of extortion and on conviction is  
31 subject to imprisonment not exceeding ~~[6]~~ **18** months or a fine not exceeding \$500 or  
32 both.

33 ~~[(e)]~~**(G)** A prosecution for a felony under this section shall be instituted  
34 within 5 years after the crime was committed.

1 6–301.

2 (a) A person may not willfully and maliciously destroy, injure, or deface the  
3 real or personal property of another.

4 (b) A person who, in violation of this section, causes damage of at least  
5 ~~[\$500]~~ **\$1,000** to the property is guilty of a misdemeanor and on conviction is subject  
6 to imprisonment not exceeding 3 years or a fine not exceeding \$2,500 or both.

7 (c) A person who, in violation of this section, causes damage of less than  
8 ~~[\$500]~~ **\$1,000** to the property is guilty of a misdemeanor and on conviction is subject  
9 to imprisonment not exceeding 60 days or a fine not exceeding \$500 or both.

10 (d) (1) For purposes of this subsection, an act of “graffiti” means a  
11 permanent drawing, permanent painting, or a permanent mark or inscription on the  
12 property of another without the permission of the owner of the property.

13 (2) In addition to the penalties set forth in subsections (b) and (c) of  
14 this section, the court shall order a person convicted of causing malicious destruction  
15 by an act of graffiti to pay restitution or perform community service or both.

16 (3) Title 11, Subtitle 6 of the Criminal Procedure Article applies to an  
17 order of restitution under this subsection.

18 (e) (1) Except as provided in paragraph (2) of this subsection, to  
19 determine a penalty, the court may consider as one crime the aggregate value of  
20 damage to each property resulting from one scheme or continuing course of conduct.

21 (2) If separate acts resulting in damage to the properties of one or  
22 more owners are set forth by separate counts in one or more charging documents, the  
23 separate counts may not be merged for sentencing.

24 (f) (1) The value of damage is not a substantive element of a crime under  
25 this section and need not be stated in the charging document.

26 (2) The value of damage shall be based on the evidence and that value  
27 shall be applied for the purpose of imposing the penalties established in this section.

28 (3) If it cannot be determined from the evidence whether the value of  
29 the damage to the property is more or less than ~~[\$500]~~ **\$1,000**, the value is deemed to  
30 be less than ~~[\$500]~~ **\$1,000**.

31 8–106.

1           (a)   **(1)**   A person who obtains property or services with a value of ~~[\$500 or~~  
2 ~~more]~~ **AT LEAST \$1,000 BUT LESS THAN \$10,000** by issuing or passing a check in  
3 violation of § 8–103 of this subtitle is guilty of a felony and on conviction is subject to  
4 imprisonment not exceeding ~~[15]~~ **10** years or a fine not exceeding ~~[\$1,000]~~ **\$10,000** or  
5 both.

6                   **(2)**   **A PERSON WHO OBTAINS PROPERTY OR SERVICES WITH A**  
7 **VALUE OF AT LEAST \$10,000 BUT LESS THAN \$100,000 BY ISSUING OR PASSING**  
8 **A CHECK IN VIOLATION OF § 8–103 OF THIS SUBTITLE IS GUILTY OF A FELONY**  
9 **AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS**  
10 **OR A FINE NOT EXCEEDING \$15,000 OR BOTH.**

11                   **(3)**   **A PERSON WHO OBTAINS PROPERTY OR SERVICES WITH A**  
12 **VALUE OF \$100,000 OR MORE BY ISSUING OR PASSING A CHECK IN VIOLATION**  
13 **OF § 8–103 OF THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS**  
14 **SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT**  
15 **EXCEEDING \$25,000 OR BOTH.**

16           (b)   A person who obtains property or services by issuing or passing more  
17 than one check in violation of § 8–103 of this subtitle is guilty of a felony and on  
18 conviction is subject to imprisonment not exceeding ~~[15]~~ **10** years or a fine not  
19 exceeding ~~[\$1,000]~~ **\$10,000** or both if:

20                   (1)   each check that is issued is for less than ~~[\$500]~~ **\$1,000** and is  
21 issued to the same person within a 30–day period; and

22                   (2)   the cumulative value of the property or services is ~~[\$500]~~ **\$1,000**  
23 or more.

24           (c)   Except as provided in subsections (b) and (d) of this section, a person who  
25 obtains property or services with a value of less than ~~[\$500]~~ **\$1,000** by issuing or  
26 passing a check in violation of § 8–103 of this subtitle is guilty of a misdemeanor and  
27 on conviction is subject to imprisonment not exceeding 18 months or a fine not  
28 exceeding ~~[\$100]~~ **\$500** or both.

29                   (d)   (1)   A person who obtains property or services with a value of less than  
30 \$100 by issuing or passing a check in violation of § 8–103 of this subtitle is guilty of a  
31 misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a  
32 fine not exceeding \$500 or both.

33                   (2)   It is not a defense to the crime of obtaining property or services  
34 with a value of less than \$100 by issuing or passing a check in violation of § 8–103 of  
35 this subtitle that the value of the property or services at issue is \$100 or more.

36 8–206.

1 (a) A person may not for the purpose of obtaining money, goods, services, or  
2 anything of value, and with the intent to defraud another, use:

3 (1) a credit card obtained or retained in violation of § 8–204 or § 8–205  
4 of this subtitle; or

5 (2) a credit card that the person knows is counterfeit.

6 (b) A person may not, with the intent to defraud another, obtain money,  
7 goods, services, or anything of value by representing:

8 (1) without the consent of the cardholder, that the person is the holder  
9 of a specified credit card; or

10 (2) that the person is the holder of a credit card when the credit card  
11 had not been issued.

12 (c) (1) **(I)** If the value of all money, goods, services, and other things of  
13 value obtained in violation of this section [exceeds \$500] **IS AT LEAST \$1,000 BUT**  
14 **LESS THAN \$10,000**, a person who violates this section is guilty of a felony and on  
15 conviction is subject to imprisonment not exceeding [15]**10** years or a fine not  
16 exceeding [\$1,000] **\$10,000** or both.

17 **(II) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND**  
18 **OTHER THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION IS AT**  
19 **LEAST \$10,000 BUT LESS THAN \$100,000, A PERSON WHO VIOLATES THIS**  
20 **SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO**  
21 **IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$15,000**  
22 **OR BOTH.**

23 **(III) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND**  
24 **OTHER THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION IS**  
25 **\$100,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**  
26 **FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING**  
27 **25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.**

28 (2) Except as provided in paragraph (3) of this subsection, if the value  
29 of all money, goods, services, and other things of value obtained in violation of this  
30 section [does not exceed \$500] **IS LESS THAN \$1,000**, a person who violates this  
31 section is guilty of a misdemeanor and on conviction is subject to imprisonment not  
32 exceeding 18 months or a fine not exceeding \$500 or both.

33 (3) If the value of all money, goods, services, and other things of value  
34 obtained in violation of this section does not exceed \$100, a person who violates this

1 section is guilty of a misdemeanor and on conviction is subject to imprisonment not  
2 exceeding 90 days or a fine not exceeding \$500 or both.

3 8–207.

4 (a) If a person is authorized by an issuer to furnish money, goods, services, or  
5 anything of value on presentation of a credit card by the cardholder, the person or an  
6 agent or employee of the person may not, with the intent to defraud the issuer or  
7 cardholder:

8 (1) furnish money, goods, services, or anything of value on  
9 presentation of:

10 (i) a credit card obtained or retained in violation of § 8–204 or §  
11 8–205 of this subtitle; or

12 (ii) a credit card that the person knows is counterfeit; or

13 (2) fail to furnish money, goods, services, or anything of value that the  
14 person represents in writing to the issuer that the person has furnished.

15 (b) (1) **(I)** If the value of all money, goods, services, and other things of  
16 value furnished or not furnished in violation of this section [exceeds \$500] **IS AT**  
17 **LEAST \$1,000 BUT LESS THAN \$10,000**, a person who violates this section is guilty  
18 of a felony and on conviction is subject to imprisonment not exceeding [15]**10** years or  
19 a fine not exceeding [\$1,000] **\$10,000** or both.

20 **(II) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND**  
21 **OTHER THINGS OF VALUE FURNISHED OR NOT FURNISHED IN VIOLATION OF**  
22 **THIS SECTION IS AT LEAST \$10,000 BUT LESS THAN \$100,000, A PERSON WHO**  
23 **VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS**  
24 **SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT**  
25 **EXCEEDING \$15,000 OR BOTH.**

26 **(III) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND**  
27 **OTHER THINGS OF VALUE FURNISHED OR NOT FURNISHED IN VIOLATION OF**  
28 **THIS SECTION IS \$100,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION IS**  
29 **GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**  
30 **EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.**

31 (2) Except as provided in paragraph (3) of this subsection, if the value  
32 of all money, goods, services, and other things of value furnished or not furnished in  
33 violation of this section [does not exceed \$500] **IS LESS THAN \$1,000**, a person who  
34 violates this section is guilty of a misdemeanor and on conviction is subject to  
35 imprisonment not exceeding 18 months or a fine not exceeding \$500 or both.

1 (3) If the value of all money, goods, services, and other things of value  
2 furnished or not furnished in violation of this section does not exceed \$100, a person  
3 who violates this section is guilty of a misdemeanor and on conviction is subject to  
4 imprisonment not exceeding 90 days or a fine not exceeding \$500 or both.

5 8–209.

6 (a) A person may not receive money, goods, services, or anything of value if  
7 the person knows or believes that the money, goods, services, or other thing of value  
8 was obtained in violation of § 8–206 of this subtitle.

9 (b) (1) (I) If the value of all money, goods, services, and other things of  
10 value obtained in violation of this section [exceeds \$500] **IS AT LEAST \$1,000 BUT**  
11 **LESS THAN \$10,000**, a person who violates this section is guilty of a felony and on  
12 conviction is subject to imprisonment not exceeding [15]**10** years or a fine not  
13 exceeding [\$1,000] **\$10,000** or both.

14 (II) **IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND**  
15 **OTHER THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION IS AT**  
16 **LEAST \$10,000 BUT LESS THAN \$100,000, A PERSON WHO VIOLATES THIS**  
17 **SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO**  
18 **IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$15,000**  
19 **OR BOTH.**

20 (III) **IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND**  
21 **OTHER THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION IS**  
22 **\$100,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**  
23 **FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING**  
24 **25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.**

25 (2) Except as provided in paragraph (3) of this subsection, if the value  
26 of all money, goods, services, and other things of value obtained in violation of this  
27 section [does not exceed \$500] **IS LESS THAN \$1,000**, a person who violates this  
28 section is guilty of a misdemeanor and on conviction is subject to imprisonment not  
29 exceeding 18 months or a fine not exceeding \$500 or both.

30 (3) If the value of all money, goods, services, and other things of value  
31 obtained in violation of this section does not exceed \$100, a person who violates this  
32 section is guilty of a misdemeanor and on conviction is subject to imprisonment not  
33 exceeding 90 days or a fine not exceeding \$500 or both.

34 8–301.

35 (a) (1) In this section the following words have the meanings indicated.

1           (2)   “Payment device number” has the meaning stated in § 8–213 of  
2 this title.

3           (3)   “Personal identifying information” includes a name, address,  
4 telephone number, driver’s license number, Social Security number, place of  
5 employment, employee identification number, mother’s maiden name, bank or other  
6 financial institution account number, date of birth, personal identification number,  
7 credit card number, or other payment device number.

8           (4)   “Re–encoder” means an electronic device that places encoded  
9 personal identifying information or a payment device number from the magnetic strip  
10 or stripe of a credit card onto the magnetic strip or stripe of a different credit card or  
11 any electronic medium that allows such a transaction to occur.

12           (5)   “Skimming device” means a scanner, skimmer, reader, or any other  
13 electronic device that is used to access, read, scan, obtain, memorize, or store,  
14 temporarily or permanently, personal identifying information or a payment device  
15 number encoded on the magnetic strip or stripe of a credit card.

16           (b)   A person may not knowingly, willfully, and with fraudulent intent  
17 possess, obtain, or help another to possess or obtain any personal identifying  
18 information of an individual, without the consent of the individual, in order to use,  
19 sell, or transfer the information to get a benefit, credit, good, service, or other thing of  
20 value in the name of the individual.

21           (c)   A person may not knowingly and willfully assume the identity of another,  
22 including a fictitious person:

23           (1)   to avoid identification, apprehension, or prosecution for a crime; or

24           (2)   with fraudulent intent to:

25                   (i)   get a benefit, credit, good, service, or other thing of value; or

26                   (ii)   avoid the payment of debt or other legal obligation.

27           (d)   A person may not knowingly, willfully, and with fraudulent intent to  
28 obtain a benefit, credit, good, service, or other thing of value, use:

29           (1)   a re–encoder to place information encoded on the magnetic strip or  
30 stripe of a credit card onto the magnetic strip or stripe of a different credit card or use  
31 any other electronic medium that allows such a transaction to occur without the  
32 consent of the individual authorized to use the credit card from which the personal  
33 identifying information or payment device number is being re–encoded; or



1 individual's consent is guilty of a felony and on conviction is subject to imprisonment  
2 not exceeding 15 years or a fine not exceeding \$25,000 or both.

3 (4) A person who violates subsection (c)(1), (e), or (f) of this section is  
4 guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18  
5 months or a fine not exceeding [~~\$5,000~~] **\$500** or both.

6 (5) When the violation of this section is pursuant to one scheme or  
7 continuing course of conduct, whether from the same or several sources, the conduct  
8 may be considered as one violation and the value of the benefit, credit, good, service, or  
9 other thing of value may be aggregated in determining whether the violation is a  
10 felony or misdemeanor.

11 (h) A person described in subsection (g)(2) or (4) of this section is subject to §  
12 5-106(b) of the Courts Article.

13 (i) In addition to restitution under Title 11, Subtitle 6 of the Criminal  
14 Procedure Article, a court may order a person who pleads guilty or nolo contendere or  
15 who is found guilty under this section to make restitution to the victim for reasonable  
16 costs, including reasonable attorney's fees, incurred:

17 (1) for clearing the victim's credit history or credit rating; and

18 (2) in connection with a civil or administrative proceeding to satisfy a  
19 debt, lien, judgment, or other obligation of the victim that arose because of the  
20 violation.

21 (j) A sentence under this section may be imposed separate from and  
22 consecutive to or concurrent with a sentence for any crime based on the act or acts  
23 establishing the violation of this section.

24 (k) Notwithstanding any other law, the Department of State Police may  
25 initiate investigations and enforce this section throughout the State without regard to  
26 any limitation otherwise applicable to the Department's activities in a municipal  
27 corporation or other political subdivision.

28 (l) (1) Notwithstanding any other law, a law enforcement officer of the  
29 Maryland Transportation Authority Police, the Maryland Port Administration Police,  
30 the Park Police of the Maryland-National Capital Park and Planning Commission, or  
31 a municipal corporation or county may investigate violations of this section throughout  
32 the State without any limitation as to jurisdiction and to the same extent as a law  
33 enforcement officer of the Department of State Police.

34 (2) The authority granted in paragraph (1) of this subsection may be  
35 exercised only in accordance with regulations that the Department of State Police  
36 adopts.

1           (3)    The regulations are not subject to Title 10, Subtitle 1 of the State  
2 Government Article.

3           (4)    The authority granted in paragraph (1) of this subsection may be  
4 exercised only if an act related to the crime was committed in the investigating law  
5 enforcement agency's jurisdiction or if the complaining witness resides in the  
6 investigating law enforcement agency's jurisdiction.

7           (m)    If action is taken under the authority granted in subsection (l) of this  
8 section, notification of an investigation:

9                (1)    in a municipal corporation, shall be made to the chief of police or  
10 designee of the chief of police;

11               (2)    in a county that has a county police department, shall be made to  
12 the chief of police or designee of the chief of police;

13               (3)    in a county without a police department, shall be made to the  
14 sheriff or designee of the sheriff;

15               (4)    in Baltimore City, shall be made to the Police Commissioner or the  
16 Police Commissioner's designee;

17               (5)    on property owned, leased, or operated by or under the control of  
18 the Maryland Transportation Authority, the Maryland Aviation Administration, or the  
19 Maryland Port Administration, shall be made to the respective chief of police or the  
20 chief's designee; and

21               (6)    on property owned, leased, or operated by or under the control of  
22 the Maryland-National Capital Park and Planning Commission, to the chief of police  
23 of the Maryland-National Capital Park and Planning Commission for the county in  
24 which the property is located.

25           (n)    When acting under the authority granted in subsection (k) or (l) of this  
26 section, a law enforcement officer:

27               (1)    in addition to any other immunities and exemptions to which the  
28 officer may be entitled, has the immunities from liability and exemptions accorded to a  
29 law enforcement officer of the Department of State Police; but

30               (2)    remains an employee of the officer's employing agency.

31           (o)    (1)    A State's Attorney or the Attorney General may investigate and  
32 prosecute a violation of this section or a violation of any crime based on the act  
33 establishing a violation of this section.

1           (2) If the Attorney General exercises authority under paragraph (1) of  
2 this subsection, the Attorney General has all the powers and duties of a State's  
3 Attorney, including the use of a grand jury in any county or Baltimore City, to  
4 investigate and prosecute the violation.

5           (p) Notwithstanding any other provision of law, the prosecution of a violation  
6 of this section or for a violation of any crime based on the act establishing a violation  
7 of this section may be commenced in any county in which:

8           (1) an element of the crime occurred; or

9           (2) the victim resides.

10 8-516.

11           (a) If a violation of this part results in the death of an individual, a person  
12 who violates a provision of this part is guilty of a felony and on conviction is subject to  
13 imprisonment not exceeding life or a fine not exceeding \$200,000 or both.

14           (b) If a violation of this part results in serious injury to an individual, a  
15 person who violates a provision of this part is guilty of a felony and on conviction is  
16 subject to imprisonment not exceeding 20 years or a fine not exceeding \$100,000 or  
17 both.

18           (c) If the value of the money, health care services, or other goods or services  
19 involved is ~~[\$500]~~ **\$1,000** or more in the aggregate, a person who violates a provision  
20 of this part is guilty of a felony and on conviction is subject to imprisonment not  
21 exceeding 5 years or a fine not exceeding \$100,000 or both.

22           (d) A person who violates any other provision of this part is guilty of a  
23 misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a  
24 fine not exceeding \$50,000 or both.

25           (e) (1) In this subsection, "business entity" includes an association, firm,  
26 institution, partnership, and corporation.

27           (2) A business entity that violates a provision of this part is subject to  
28 a fine not exceeding:

29           (i) \$250,000 for each felony; and

30           (ii) \$100,000 for each misdemeanor.

31 8-801.

32           (a) (1) In this section the following words have the meanings indicated.

1 (2) “Deception” has the meaning stated in § 7–101 of this article.

2 (3) “Deprive” has the meaning stated in § 7–101 of this article.

3 (4) “Obtain” has the meaning stated in § 7–101 of this article.

4 (5) “Property” has the meaning stated in § 7–101 of this article.

5 (6) (i) “Undue influence” means domination and influence  
6 amounting to force and coercion exercised by another person to such an extent that a  
7 vulnerable adult or an individual at least 68 years old was prevented from exercising  
8 free judgment and choice.

9 (ii) “Undue influence” does not include the normal influence  
10 that one member of a family has over another member of the family.

11 (7) “Value” has the meaning stated in § 7–103 of this article.

12 (8) “Vulnerable adult” has the meaning stated in § 3–604 of this  
13 article.

14 (b) (1) A person may not knowingly and willfully obtain by deception,  
15 intimidation, or undue influence the property of an individual that the person knows  
16 or reasonably should know is a vulnerable adult with intent to deprive the vulnerable  
17 adult of the vulnerable adult’s property.

18 (2) A person may not knowingly and willfully obtain by deception,  
19 intimidation, or undue influence the property of an individual that the person knows  
20 or reasonably should know is at least 68 years old, with intent to deprive the  
21 individual of the individual’s property.

22 (c) (1) **(I)** A person convicted of a violation of this section when the  
23 value of the property is **[\$500 or more] AT LEAST \$1,000 BUT LESS THAN \$10,000** is  
24 guilty of a felony and:

25 **[(i)] 1.** is subject to imprisonment not exceeding **[15]10** years  
26 or a fine not exceeding \$10,000 or both; and

27 **[(ii)] 2.** shall restore the property taken or its value to the  
28 owner, or, if the owner is deceased, restore the property or its value to the owner’s  
29 estate.

30 **(II) A PERSON CONVICTED OF A VIOLATION OF THIS**  
31 **SECTION WHEN THE VALUE OF THE PROPERTY IS AT LEAST \$10,000 BUT LESS**  
32 **THAN \$100,000 IS GUILTY OF A FELONY AND:**

1                   **1. IS SUBJECT TO IMPRISONMENT NOT EXCEEDING**  
2 **15 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH; AND**

3                   **2. SHALL RESTORE THE PROPERTY TAKEN OR ITS**  
4 **VALUE TO THE OWNER, OR, IF THE OWNER IS DECEASED, RESTORE THE**  
5 **PROPERTY OR ITS VALUE TO THE OWNER'S ESTATE.**

6                   **(III) A PERSON CONVICTED OF A VIOLATION OF THIS**  
7 **SECTION WHEN THE VALUE OF THE PROPERTY IS \$100,000 OR MORE IS GUILTY**  
8 **OF A FELONY AND:**

9                   **1. IS SUBJECT TO IMPRISONMENT NOT EXCEEDING**  
10 **25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH; AND**

11                   **2. SHALL RESTORE THE PROPERTY TAKEN OR ITS**  
12 **VALUE TO THE OWNER, OR, IF THE OWNER IS DECEASED, RESTORE THE**  
13 **PROPERTY OR ITS VALUE TO THE OWNER'S ESTATE.**

14                   (2) A person convicted of a violation of this section when the value of  
15 the property is less than [~~\$500~~] **\$1,000** is guilty of a misdemeanor and:

16                   (i) is subject to imprisonment not exceeding 18 months or a fine  
17 not exceeding \$500 or both; and

18                   (ii) shall restore the property taken or its value to the owner, or,  
19 if the owner is deceased, restore the property or its value to the owner's estate.

20                   (d) A sentence imposed under this section may be separate from and  
21 consecutive to or concurrent with a sentence for any crime based on the act or acts  
22 establishing the violation of this section.

23                   (e) (1) If a defendant fails to restore fully the property taken or its value  
24 as ordered under subsection (c) of this section, the defendant is disqualified, to the  
25 extent of the defendant's failure to restore the property or its value, from inheriting,  
26 taking, enjoying, receiving, or otherwise benefiting from the estate, insurance  
27 proceeds, or property of the victim of the offense, whether by operation of law or  
28 pursuant to a legal document executed or entered into by the victim before the  
29 defendant shall have been convicted under this section.

30                   (2) The defendant has the burden of proof with respect to establishing  
31 under paragraph (1) of this subsection that the defendant has fully restored the  
32 property taken or its value.

33                   (f) This section may not be construed to impose criminal liability on a person  
34 who, at the request of the victim of the offense, the victim's family, or the court

1 appointed guardian of the victim, has made a good faith effort to assist the victim in  
2 the management of or transfer of the victim's property.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2013.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.