

## Article - Commercial Law

§12-707.

(a) Notwithstanding the provisions of § 12-703 of this subtitle, any creditor who violates any provisions of this subtitle is liable to the applicant in an amount equal to the sum of any actual damages sustained by the applicant acting either in an individual capacity or as a representative of a class.

(b) Any creditor who fails to comply with any requirement imposed under this subtitle shall be liable to the aggrieved applicant for punitive damages in an amount not greater than \$10,000, as determined by the court, in addition to any actual damages provided in subsection (a) of this section. In pursuing the recovery allowed under this subsection, the applicant may proceed only in an individual capacity and not as a representative of a class.

(c) Notwithstanding subsection (b) of this section, any creditor who fails to comply with any requirement imposed under this subtitle may be liable for punitive damages in the case of a class action in such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not exceed the lesser of \$100,000 or 1 percent of the net worth of the creditor. In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

(d) When a creditor fails to comply with any requirement imposed under this subtitle, an aggrieved applicant may institute a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other action.

(e) In the case of any successful action to enforce the foregoing liability, the costs of the action together with a reasonable attorney's fee as determined by the court shall be added to any damages awarded by the court under the provisions of subsections (a), (b), and (d) of this section.

(f) A creditor does not violate this subtitle if the creditor shows by a preponderance of evidence in any administrative or judicial proceeding that the violation was not willful or resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(g) An action under this title may be brought in any district court or circuit court, depending upon the amount in controversy, within one year from the date of the occurrence of the violation.