

# HOUSE BILL 1499

I3, I1

7lr3047

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By: **Delegates Gutierrez, Barkley, Barron, Carr, Chang, Cullison, Gaines, C. Howard, Jackson, Jones, Kelly, Korman, Krimm, Lierman, Moon, Morales, Pena–Melnyk, Platt, Queen, Robinson, Tarlau, Valentino–Smith, M. Washington, Wilkins, and K. Young**

Introduced and read first time: February 10, 2017

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Bank Overdraft Plans – Requirements**

3 FOR the purpose of requiring that an overdraft protection plan of a banking institution be  
4 made available to customers only on an optional basis; requiring the plan to disclose,  
5 in a certain manner, certain fees and penalties and the method of applying debits  
6 and credits to a customer's account; requiring the plan to allow a customer to address  
7 an overdraft on a certain day and in a certain manner; providing for the application  
8 of certain provisions of this Act; providing that a violation of certain provisions of  
9 this Act is subject to certain penalties under certain provisions of law; providing that  
10 a violation of this Act is an unfair or deceptive trade practice within the meaning of  
11 the Maryland Consumer Protection Act; and generally relating to banking  
12 institutions and bank overdraft plans.

13 BY repealing and reenacting, with amendments,  
14 Article – Commercial Law  
15 Section 13–301(14)(xxix)  
16 Annotated Code of Maryland  
17 (2013 Replacement Volume and 2016 Supplement)

18 BY repealing and reenacting, without amendments,  
19 Article – Commercial Law  
20 Section 13–301(14)(xxx)  
21 Annotated Code of Maryland  
22 (2013 Replacement Volume and 2016 Supplement)

23 BY adding to  
24 Article – Commercial Law  
25 Section 13–301(14)(xxxi)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2013 Replacement Volume and 2016 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article – Financial Institutions  
5 Section 5–807  
6 Annotated Code of Maryland  
7 (2011 Replacement Volume and 2016 Supplement)

8 BY adding to  
9 Article – Financial Institutions  
10 Section 5–807.1  
11 Annotated Code of Maryland  
12 (2011 Replacement Volume and 2016 Supplement)

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

15 **Article – Commercial Law**

16 13–301.

17 Unfair or deceptive trade practices include any:

18 (14) Violation of a provision of:

19 (xxix) Title 19, Subtitle 7 of the Business Regulation Article; [or]

20 (xxx) Section 15–311.3 of the Transportation Article; or

21 **(XXXI) SECTION 5–807.1 OF THE FINANCIAL INSTITUTIONS**  
22 **ARTICLE; OR**

23 **Article – Financial Institutions**

24 5–807.

25 (a) A banking institution may not:

26 (1) Issue an advertisement or make a representation that is false,  
27 misleading, or deceptive;

28 (2) Impose as a condition for a loan any restriction on obtaining credit,  
29 property, or service from a competitor unless the restriction is reasonably necessary to  
30 secure the loan;

1 (3) Impose as a condition for a service any restriction on obtaining credit,  
2 property, or service from a competitor; [or]

3 (4) Engage in an act or practice that is anticompetitive, unfair, deceptive,  
4 or injurious to public interest; **OR**

5 **(5) VIOLATE § 5-807.1 OF THIS SUBTITLE.**

6 (b) The Commissioner may further define specific acts or practices that are  
7 anticompetitive, unfair, deceptive, or injurious to the public interest.

8 (c) A banking institution and any director, officer, trustee, manager, agent, or  
9 employee of a banking institution who violates any provision of this section is guilty of a  
10 misdemeanor and on conviction is subject to a fine not exceeding \$3,000 or imprisonment  
11 not exceeding 5 years or both.

12 **5-807.1.**

13 **(A) THIS SECTION APPLIES TO A BANKING INSTITUTION THAT ESTABLISHES**  
14 **AN OVERDRAFT PROTECTION PLAN FOR ITS CUSTOMERS.**

15 **(B) THE OVERDRAFT PROTECTION PLAN SHALL:**

16 **(1) BE MADE AVAILABLE TO CUSTOMERS ONLY ON AN OPTIONAL**  
17 **BASIS AND NOT A MANDATORY BASIS;**

18 **(2) FULLY DISCLOSE ALL FEES AND PENALTIES ASSOCIATED WITH**  
19 **THE HANDLING AND PROCESSING OF OVERDRAFTS BY CUSTOMERS OF THE BANKING**  
20 **INSTITUTION;**

21 **(3) FULLY DISCLOSE THE METHOD OF APPLYING DEBITS AND**  
22 **CREDITS TO A CUSTOMER'S ACCOUNT ON A SINGLE BUSINESS DAY AND ON**  
23 **CONSECUTIVE BUSINESS DAYS; AND**

24 **(4) ALLOW A CUSTOMER TO ADDRESS AN OVERDRAFT ON THE SAME**  
25 **BUSINESS DAY THAT THE BANKING INSTITUTION NOTES THE OVERDRAFT, IN A**  
26 **MANNER DESIGNED TO MINIMIZE THE ASSESSMENT OF AND THE POTENTIAL FOR**  
27 **MULTIPLICATION OF OVERDRAFT FEES AND PENALTIES FOR THE CUSTOMER'S**  
28 **ACCOUNT.**

29 **(C) IN ADDITION TO ANY OTHER PENALTY THAT MAY BE IMPOSED, A**  
30 **VIOLATION OF THIS SECTION IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN**  
31 **THE MEANING OF THE MARYLAND CONSUMER PROTECTION ACT.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2017.