

HOUSE BILL 635

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8lr2150
CF SB 837

By: **Delegate Sydnor**

Introduced and read first time: January 29, 2018

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2018

CHAPTER _____

1 AN ACT concerning

2 **Courts and Judicial Proceedings – Consumer Contracts**

3 FOR the purpose of ~~prohibiting a merchant in a certain consumer contract from extending~~
4 ~~the period of time during which the merchant may file a civil action at law against a~~
5 ~~consumer~~; prohibiting a merchant in a certain consumer contract from shortening
6 the period of time during which a consumer may file a civil action at law against a
7 merchant; ~~establishing that a violation of certain provisions of this Act is an unfair~~
8 ~~or deceptive trade practice and is subject to certain enforcement and penalty~~
9 ~~provisions; specifying that a certain statute of limitations applicable to certain~~
10 ~~specialties does not apply to a certain consumer contract~~; providing that certain
11 provisions of a consumer contract are void and unenforceable; providing for the
12 application of this Act; defining certain terms; and generally relating to consumer
13 contracts and civil actions.

14 ~~BY repealing and reenacting, with amendments,~~
15 ~~Article — Commercial Law~~
16 ~~Section 13–301(14)(xxix)~~
17 ~~Annotated Code of Maryland~~
18 ~~(2013 Replacement Volume and 2017 Supplement)~~

19 ~~BY repealing and reenacting, without amendments,~~
20 ~~Article — Commercial Law~~
21 ~~Section 13–301(14)(xxx)~~
22 ~~Annotated Code of Maryland~~
23 ~~(2013 Replacement Volume and 2017 Supplement)~~

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 ~~BY adding to~~
 2 ~~Article — Commercial Law~~
 3 ~~Section 13-301(14)(xxxi)~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2013 Replacement Volume and 2017 Supplement)~~

6 BY repealing and reenacting, without amendments,
 7 Article – Courts and Judicial Proceedings
 8 Section 5-101
 9 Annotated Code of Maryland
 10 (2013 Replacement Volume and 2017 Supplement)

11 BY adding to
 12 Article – Courts and Judicial Proceedings
 13 Section 5-101.1
 14 Annotated Code of Maryland
 15 (2013 Replacement Volume and 2017 Supplement)

16 ~~BY repealing and reenacting, with amendments,~~
 17 ~~Article — Courts and Judicial Proceedings~~
 18 ~~Section 5-102~~
 19 ~~Annotated Code of Maryland~~
 20 ~~(2013 Replacement Volume and 2017 Supplement)~~

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

23 ~~Article — Commercial Law~~

24 ~~13-301.~~

25 ~~Unfair or deceptive trade practices include any:~~

26 (14) ~~Violation of a provision of:~~

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

28 ~~(xxx) Section 15-311.3 of the Transportation Article; or~~

29 ~~(xxxi) SECTION 5-101.1 OF THE COURTS AND JUDICIAL~~
 30 ~~PROCEEDINGS ARTICLE; OR~~

31 Article – Courts and Judicial Proceedings

32 5-101.

1 A civil action at law shall be filed within three years from the date it accrues unless
 2 another provision of the Code provides a different period of time within which an action
 3 shall be commenced.

4 **5-101.1.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 6 INDICATED.

7 (2) "CONSUMER" HAS THE MEANING STATED IN § 13-101(C) OF THE
 8 COMMERCIAL LAW ARTICLE.

9 (3) "CONSUMER CONTRACT" MEANS A CONTRACT FOR CONSUMER
 10 CREDIT, CONSUMER DEBTS, CONSUMER GOODS, CONSUMER SERVICES, OR
 11 CONSUMER REALTY AS DEFINED IN § 13-101(D) OF THE COMMERCIAL LAW
 12 ARTICLE.

13 (4) "MERCHANT" HAS THE MEANING STATED IN § 13-101(G) OF THE
 14 COMMERCIAL LAW ARTICLE.

15 (B) IN A CONSUMER CONTRACT, A MERCHANT MAY NOT:

16 (1) ~~EXTEND THE TIME PROVIDED IN § 5-101 OF THIS SUBTITLE FOR A~~
 17 ~~MERCHANT TO FILE A CIVIL ACTION AT LAW AGAINST A CONSUMER; OR~~

18 (2) ~~SHORTEN~~ SHORTEN THE TIME PROVIDED IN § 5-101 OF THIS
 19 SUBTITLE FOR A CONSUMER TO FILE A CIVIL ACTION AT LAW AGAINST A MERCHANT.

20 (C) ~~A VIOLATION OF THIS SECTION:~~

21 (1) ~~IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE~~
 22 ~~MEANING OF TITLE 13 OF THE COMMERCIAL LAW ARTICLE; AND~~

23 (2) ~~IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS~~
 24 ~~CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE~~ ANY PROVISION OF A
 25 CONSUMER CONTRACT THAT DOES NOT COMPLY WITH THIS SECTION IS VOID AND
 26 UNENFORCEABLE.

27 ~~5-102.~~

28 (a) ~~An action on one of the following specialties shall be filed within 12 years after~~
 29 ~~the cause of action accrues, or within 12 years from the date of the death of the last to die~~
 30 ~~of the principal debtor or creditor, whichever is sooner:~~

31 (1) ~~Promissory note or other instrument under seal;~~

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1 ~~(2) Bond except a public officer's bond;~~

2 ~~(3) Judgment;~~

3 ~~(4) Recognizance;~~

4 ~~(5) Contract under seal; or~~

5 ~~(6) Any other specialty.~~

6 ~~(b) A payment of principal or interest on a specialty suspends the operation of~~
7 ~~this section as to the specialty for three years after the date of payment.~~

8 ~~(c) This section does not apply to:~~

9 ~~(1) A specialty taken for the use of the State; [or]~~

10 ~~(2) A deed of trust, mortgage, or promissory note that has been signed~~
11 ~~under seal and secures or is secured by owner-occupied residential property, as defined in~~
12 ~~§ 7-105.1 of the Real Property Article; OR~~

13 ~~(3) A CONSUMER CONTRACT AS DEFINED IN § 5-101.1 OF THIS~~
14 ~~SUBTITLE.~~

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
16 apply only prospectively and may not be applied or interpreted to have any effect on or
17 application to any consumer contract entered into before the effective date of this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.