

HOUSE BILL 1647

I2

8lr3002

By: **Delegates S. Howard, Rose, and Saab**

Introduced and read first time: February 9, 2018

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Credit Card Processors – Service Agreements**

3 FOR the purpose of requiring a credit card processor to send a summary of a certain
4 services agreement to certain businesses; requiring the summary to include certain
5 information; requiring a credit card processor to provide a certain notice regarding a
6 services agreement renewal before a certain date; requiring the notice to disclose
7 certain information; authorizing the Commissioner of Financial Regulation to take
8 certain actions; establishing certain civil penalties for a violation of this Act; defining
9 certain terms; and generally relating to credit card processors and service
10 agreements.

11 BY adding to

12 Article – Commercial Law

13 Section 12–1401 through 12–1404 to be under the new subtitle “Subtitle 14. Credit
14 Card Processors”

15 Annotated Code of Maryland

16 (2013 Replacement Volume and 2017 Supplement)

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

19 **Article – Commercial Law**

20 **SUBTITLE 14. CREDIT CARD PROCESSORS.**

21 **12–1401.**

22 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
23 **INDICATED.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) (1) “CREDIT CARD PROCESSOR” MEANS A PERSON THAT PROCESSES**
2 **CREDIT CARD OR ELECTRONIC COMMERCE TRANSACTIONS ON BEHALF OF A**
3 **BUSINESS ENTITY FOR A FEE.**

4 **(2) “CREDIT CARD PROCESSOR” INCLUDES:**

5 **(I) A MERCHANT SERVICES PROVIDER;**

6 **(II) A FINANCIAL INSTITUTION;**

7 **(III) AN INDEPENDENT SALES ORGANIZATION; AND**

8 **(IV) ANY SUBSIDIARY OR AFFILIATE OF AN ENTITY LISTED IN**
9 **ITEMS (I) THROUGH (III) OF THIS PARAGRAPH.**

10 **(C) “SERVICES AGREEMENT” MEANS A CONTRACT BETWEEN A CREDIT**
11 **CARD PROCESSOR AND A BUSINESS ENTITY UNDER WHICH THE BUSINESS ENTITY**
12 **AGREES TO PAY THE CREDIT CARD PROCESSOR FOR PROCESSING CREDIT CARD OR**
13 **ELECTRONIC COMMERCE TRANSACTIONS ON BEHALF OF THE BUSINESS ENTITY.**

14 **12-1402.**

15 **(A) EACH YEAR A CREDIT CARD PROCESSOR SHALL SEND TO EACH**
16 **BUSINESS WITH WHOM IT HAS A SERVICES AGREEMENT A SUMMARY OF THE**
17 **SERVICES AGREEMENT.**

18 **(B) THE SUMMARY REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
19 **SHALL INCLUDE:**

20 **(1) THE INTEREST RATE AUTHORIZED UNDER THE SERVICES**
21 **AGREEMENT;**

22 **(2) THE AMOUNT AND PURPOSE OF EACH FEE, FINE, OR PENALTY**
23 **THAT THE CREDIT CARD PROCESSOR MAY CHARGE OR ASSESS UNDER THE SERVICES**
24 **AGREEMENT;**

25 **(3) THE EXPIRATION OF THE SERVICES AGREEMENT;**

26 **(4) THE SERVICES AGREEMENT RENEWAL DATE; AND**

27 **(5) THE NAME, TELEPHONE NUMBER, MAILING ADDRESS, AND**
28 **E-MAIL ADDRESS OF AN AUTHORIZED REPRESENTATIVE OF THE CREDIT CARD**
29 **PROCESSOR.**

1 **(C) (1) AT LEAST 90 DAYS BEFORE A BUSINESS ENTITY MUST CANCEL A**
2 **SERVICES AGREEMENT TO PREVENT AUTOMATIC RENEWAL OF THE AGREEMENT, A**
3 **CREDIT CARD PROCESSOR SHALL PROVIDE WRITTEN NOTICE TO THE BUSINESS**
4 **ENTITY THAT THE SERVICES AGREEMENT WILL AUTOMATICALLY RENEW.**

5 **(2) THE REQUIRED NOTICE UNDER PARAGRAPH (1) OF THIS**
6 **SUBSECTION SHALL DISCLOSE:**

7 **(I) THAT THE SERVICES AGREEMENT WILL AUTOMATICALLY**
8 **RENEW UNLESS THE BUSINESS ENTITY CANCELS THE AGREEMENT;**

9 **(II) THE DATE BY WHICH THE BUSINESS ENTITY MUST CANCEL**
10 **THE SERVICES AGREEMENT TO PREVENT THE AGREEMENT FROM RENEWING; AND**

11 **(III) PROCEDURES FOR CANCELING THE SERVICES AGREEMENT.**

12 **12-1403.**

13 **IF A COMPLAINT FOR A VIOLATION OF § 12-1402 OF THIS SUBTITLE IS FILED**
14 **WITH THE COMMISSIONER OF FINANCIAL REGULATION, THE COMMISSIONER MAY**
15 **INVESTIGATE THE COMPLAINT AND USE ANY OF THE INVESTIGATIVE AND**
16 **ENFORCEMENT POWERS PROVIDED UNDER TITLE 2, SUBTITLE 1 OF THE FINANCIAL**
17 **INSTITUTIONS ARTICLE.**

18 **12-1404.**

19 **(A) A PERSON THAT VIOLATES § 12-1402 OF THIS SUBTITLE IS SUBJECT TO**
20 **A FINE NOT EXCEEDING \$1,000 FOR EACH VIOLATION.**

21 **(B) A PERSON THAT HAS BEEN FOUND TO HAVE VIOLATED THIS SUBTITLE**
22 **AND THAT SUBSEQUENTLY REPEATS THE SAME VIOLATION IS SUBJECT TO A FINE OF**
23 **NOT MORE THAN \$5,000 FOR EACH SUBSEQUENT VIOLATION.**

24 **(C) THE FINES PROVIDED FOR IN SUBSECTIONS (A) AND (B) OF THIS**
25 **SECTION ARE CIVIL PENALTIES AND ARE RECOVERABLE BY THE COMMISSIONER OF**
26 **FINANCIAL REGULATION IN A CIVIL ACTION OR AN ADMINISTRATIVE CEASE AND**
27 **DESIST ACTION UNDER § 2-115 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

28 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
29 **October 1, 2018.**