

SENATE BILL 866

I4

8lr1888

By: ~~Senator Feldman~~ **Senators Feldman, Astle, Benson, Hershey, Jennings,
Klausmeier, Mathias, Middleton, Reilly, and Rosapepe**

Introduced and read first time: February 5, 2018

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2018

CHAPTER _____

1 AN ACT concerning

2 **Commercial Law – Maryland Uniform Electronic Transactions Act – Revisions**

3 FOR the purpose of providing that a certain consumer shall be deemed not to have agreed
4 to enter into a certain consumer contract by electronic means or in electronic form
5 under certain circumstances; defining certain terms; and generally relating to the
6 Maryland Uniform Electronic Transactions Act.

7 BY renumbering

8 Article – Commercial Law

9 Section 21–101(e) through (q), respectively

10 to be Section 21–101(g) through (s), respectively

11 Annotated Code of Maryland

12 (2013 Replacement Volume and 2017 Supplement)

13 BY adding to

14 Article – Commercial Law

15 Section 21–101(e) and (f)

16 Annotated Code of Maryland

17 (2013 Replacement Volume and 2017 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – Commercial Law

20 Section 21–104

21 Annotated Code of Maryland

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.



(2013 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 21–101(e) through (q), respectively, of Article – Commercial Law of the Annotated Code of Maryland be renumbered to be Section(s) 21–101(g) through (s), respectively.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Commercial Law

21–101.

(E) “CONSUMER” HAS THE MEANING STATED IN § 13–101 OF THIS ARTICLE.

(F) “CONSUMER CONTRACT” MEANS A CONTRACT FOR CONSUMER CREDIT, CONSUMER DEBTS, CONSUMER GOODS, CONSUMER REALTY, OR CONSUMER SERVICES, AS DEFINED IN § 13–101 OF THIS ARTICLE.

21–104.

(a) This title does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) (1) This title applies only to transactions between parties, each of which has agreed to conduct transactions by electronic means.

(2) Whether the parties have agreed to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties’ conduct.

(3) Except for a separate and optional agreement the primary purpose of which is to authorize a transaction to be conducted by electronic means, a provision to conduct a transaction electronically may not be contained in a standard form contract unless that provision is conspicuously displayed and separately consented to.

(4) An agreement to conduct a transaction electronically may not be inferred solely from the fact that a party has used electronic means to pay an account or register a purchase warranty.

(5) (I) THE PROVISIONS OF THIS PARAGRAPH DO NOT APPLY TO A CONSUMER CONTRACT FOR A BANKING PRODUCT OR SERVICE THAT IS SUBJECT TO REGULATORY OVERSIGHT BY A STATE OR FEDERAL FINANCIAL REGULATORY AUTHORITY.

1 **(II) A CONSUMER SHALL BE DEEMED NOT TO HAVE AGREED TO**
 2 **ENTER INTO A CONSUMER CONTRACT BY ELECTRONIC MEANS OR IN ELECTRONIC**
 3 **FORM UNLESS THE CONSUMER:**

4 ~~(H)~~ **1. HAS BEEN GIVEN A REASONABLE OPPORTUNITY TO**
 5 **REVIEW A COPY OF THE COMPLETE CONTRACT BEFORE SIGNING THE CONTRACT;**
 6 **AND**

7 ~~(H)~~ **2. THE COPY OF THE COMPLETE CONTRACT IS:**

8 ~~1.~~ **A. CLEAR AND READABLE; AND**

9 ~~2.~~ **B. IN AN ELECTRONIC OR WRITTEN FORM.**

10 **[(5)] (6)** This subsection may not be varied by agreement.

11 (c) (1) A party that agrees to conduct a transaction by electronic means may
 12 refuse to conduct other transactions by electronic means.

13 (2) The right granted by this subsection may not be waived by agreement.

14 (d) (1) Except as otherwise provided in this title, the effect of any of its
 15 provisions may be varied by agreement.

16 (2) The presence in provisions of this title of the words “unless otherwise
 17 agreed”, or words of similar import, does not imply that the effect of other provisions may
 18 not be varied by agreement.

19 (e) Whether an electronic record or electronic signature has legal consequences is
 20 determined by this title and other applicable law.

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

Approved:

_____ Governor.

_____ President of the Senate.

_____ Speaker of the House of Delegates.