CHAPTER ______

AN ACT concerning Maryland Collection Agency Licensing Act – Definitions and Legislative Intent

FOR the purpose of defining the term “mortgage lender”; altering clarifying the definition of the term “consumer claim”; declaring the intent of the General Assembly; and generally relating to consumer claims under the Maryland Collection Agency Licensing Act.

BY repealing and reenacting, with amendments,

Article – Business Regulation
Section 7–101
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

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

Article – Business Regulation

7–101.

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.
(a) In this title the following words have the meanings indicated.

(b) “Board” means the State Collection Agency Licensing Board.

(c) “Branch location” means any location other than the principal executive office of a licensee or license applicant at which a person does business as a collection agency or, on licensure, will do business as a collection agency, in the State or with a person in the State.

(d) “Collection agency” means a person who engages directly or indirectly in the business of:

(1) (i) collecting for, or soliciting from another, a consumer claim; or

(ii) collecting a consumer claim the person owns, if the claim was in default when the person acquired it;

(2) collecting a consumer claim the person owns, using a name or other artifice that indicates that another party is attempting to collect the consumer claim;

(3) giving, selling, attempting to give or sell to another, or using, for collection of a consumer claim, a series or system of forms or letters that indicates directly or indirectly that a person other than the owner is asserting the consumer claim; or

(4) employing the services of an individual or business to solicit or sell a collection system to be used for collection of a consumer claim.

(e) “Commissioner” means the Commissioner of Financial Regulation.

(f) (1) “Consumer claim” means a claim that:

[(1)] (I) is for money owed or said to be owed by a resident of the State; and

[(2)] (II) arises from a transaction in which, for a family, household, or personal purpose, the resident sought or got credit, money, personal property, real property, or services.

(2) “CONSUMER CLAIM” INCLUDES, FOR A TRANSACTION CREATING A LIEN OR OTHER SECURITY INTEREST IN REAL PROPERTY OR PERSONAL PROPERTY:

(1) A MONETARY CLAIM AGAINST A CONSUMER; AND
(II) A CLAIM TO, AGAINST, OR OTHERWISE INVOLVING THE
SECURED PROPERTY BASED ON A MORTGAGE, A DEED OF TRUST, OR ANY OTHER
CONTRACT OR INSTRUMENT.

(g) (1) “Control person” means a person who has the power, directly or
indirectly, to direct the management or policies of a collection agency, whether through
ownership of securities, by contract, or otherwise.

(2) “Control person” includes a person who:

(i) is a general partner, an officer, a director, or a member of a
collection agency, or occupies a similar position or performs a similar function;

(ii) directly or indirectly has the right to vote 10% or more of a class
of voting securities, or has the power to sell or direct the sale of 10% or more of a class of
voting securities of a collection agency; or

(iii) in the case of a partnership, a limited partnership, a limited
liability partnership, a limited liability company, or any other business entity:

1. has the right to receive on liquidation or dissolution of a
collection agency 10% or more of the capital of the collection agency; or

2. has contributed 10% or more of the capital of a collection
agency.

(h) “License” means a license issued by the Board to do business as a collection
agency.

(i) “Licensed collection agency” means a person who is required to be licensed
under this subtitle, regardless of whether the person is actually licensed.

(j) “MORTGAGE LENDER” MEANS A PERSON WHO IS DULY LICENSED
UNDER TITLE 11, SUBTITLE 5 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(K) “NMLS” means a multistate uniform licensing system developed and
maintained by the Conference of State Bank Supervisors, or by a subsidiary or an affiliate
of the Conference of State Bank Supervisors, that may be used for the licensing of persons
required to be licensed by the Board.

[(k)] (L) “Unique identifier” means a number or another identifier assigned by
NMLS.

SECTION 2. AND BE IT FURTHER ENACTED, That:
(a) It is the intent of the General Assembly that this Act be applied and interpreted to:

(1) abrogate the holding of the Court of Appeals in Blackstone v. Sharma, 461 Md. 87, 191 A.3d 1188 (2018); and

(2) reinstate and adopt the holding of the Court of Special Appeals in Blackstone v. Sharma, 233 Md. App. 58, 161 A.3d 718 (2017), and adopt the rationale of the Dissenting Opinion in Blackstone v. Sharma, 461 Md. 87, 191 A.3d 1188 (2018), which applies and interprets the Maryland Collection Agency Licensing Act based on its plain language.

(b) It is the intent of the General Assembly that this Act may not be construed as making any substantive changes to the Maryland Collection Agency Licensing Act, but rather shall be construed as clarifying the Maryland Collection Agency Licensing Act.

(c) It is the intent of the General Assembly that, with regard to sales of real property to bona fide purchasers made in accordance with Title 14, Chapter 200 of the Maryland Rules, this Act shall apply only to sales made on or after the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.