

BY: Commerce and Government Matters Committee

AMENDMENTS TO HOUSE BILL NO. 727

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike "and Dobson" and substitute "Dobson, Arnick, Brinkley, Glassman, Kittleman, Parrott, Shank, and Snodgrass".

AMENDMENT NO. 2

On page 1, in line 4, strike the second "the" and substitute "certain"; in line 7, after "law;" insert "exempting certain financial institutions from the applicability of certain investigative and enforcement powers authorized under this Act;"; in line 12, strike "or is about to violate"; strike beginning with "limiting" in line 16 down through "of" in line 17 and substitute "authorizing a court to issue an order to require a person to appear before"; in line 25, after "circumstances;" insert "altering the authority of the Commissioner to issue a cease and desist order under the Maryland Consumer Loan Law under certain circumstances; authorizing the Commissioner to issue a summary cease and desist order under the Maryland Consumer Loan Law under certain circumstances; defining a certain term;"; and after line 32, insert:

"BY repealing and reenacting, with amendments,

Article - Financial Institutions

Section 11-215

Annotated Code of Maryland

(1998 Replacement Volume and 1999 Supplement)".

AMENDMENT NO. 3

On page 2, after line 4, insert:

"(A) IN THIS SECTION, "AFFILIATE" HAS THE MEANING STATED IN § 5-401(B) OF THIS ARTICLE."

(Over)

in line 5, strike “(A)” and substitute “(B) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,”; in line 9, strike “(B)” and substitute “(C)”; and after line 12, insert:

“(D) THE PROVISIONS OF §§ 2-114 THROUGH 2-116, INCLUSIVE, OF THIS SUBTITLE DO NOT APPLY TO:

(1) ANY BANK, TRUST COMPANY, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, OR CREDIT UNION INCORPORATED OR CHARTERED UNDER THE LAWS OF THIS STATE OR THE UNITED STATES THAT MAINTAINS ITS PRINCIPAL OFFICE IN THIS STATE;

(2) ANY OUT-OF-STATE BANK, AS DEFINED IN § 5-1001 OF THIS ARTICLE, HAVING A BRANCH THAT ACCEPTS DEPOSITS IN THIS STATE;

(3) ANY INSTITUTION INCORPORATED UNDER FEDERAL LAW AS A SAVINGS ASSOCIATION OR SAVINGS BANK THAT DOES NOT MAINTAIN ITS PRINCIPAL OFFICE IN THIS STATE BUT HAS A BRANCH THAT ACCEPTS DEPOSITS IN THIS STATE; OR

(4) AN AFFILIATE OF AN INSTITUTION DESCRIBED IN PARAGRAPH (1), (2), OR (3) OF THIS SUBSECTION.”.

AMENDMENT NO. 4

On page 2, strike beginning with “WITHIN” in line 15 down through “STATE” in line 16; strike beginning with “OR” in line 17 down through “VIOLATE” in line 18; and in line 26, before “PUBLISH” insert “SUBJECT TO THE PROVISIONS OF TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE,”.

On page 3, strike in their entirety lines 8 through 22, inclusive; in line 25, strike “OR IS ABOUT TO ENGAGE”; and in line 39, strike “IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURES ACT”.

On page 4, in line 7, strike “A” and substitute “EACH”; after line 20, insert:

“(D) NOTICE OF ANY HEARING UNDER THIS SECTION SHALL BE GIVEN AND THE HEARING SHALL BE HELD IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.”;

and in lines 25 and 32, in each instance, after “ACTION” insert “IN THE CIRCUIT COURT OF THE COUNTY IN WHICH THE PERSON RESIDES OR TRANSACTS BUSINESS”.

On page 5, in line 3, strike the second “A” and substitute “EACH”.

AMENDMENT NO. 5

On page 5, after line 10, insert:

“11-215.

(A) Subject to the hearing provisions of § 11-217 of this subtitle, the Commissioner may order a licensee OR ANY OTHER PERSON to cease and desist from a course of conduct if the course of conduct results in an evasion or violation of the Maryland Consumer Loan Law or of any rule or regulation adopted under it.

(B) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS SUBSECTION, WHEN THE COMMISSIONER DETERMINES THAT A LICENSEE OR ANY OTHER PERSON IS ABOUT TO ENGAGE IN AN ACT OR PRACTICE CONSTITUTING AN EVASION OR VIOLATION OF THE MARYLAND CONSUMER LOAN LAW OR OF ANY RULE OR REGULATION ADOPTED UNDER THE MARYLAND CONSUMER LOAN LAW, AND THAT IMMEDIATE ACTION AGAINST THE LICENSEE OR PERSON IS IN THE PUBLIC INTEREST, THE COMMISSIONER MAY IN THE COMMISSIONER’S DISCRETION ISSUE, WITHOUT A PRIOR HEARING, A SUMMARY ORDER DIRECTING THE LICENSEE OR PERSON TO CEASE AND DESIST FROM ENGAGING IN THE ACT OR PRACTICE.

(2) A SUMMARY CEASE AND DESIST ORDER ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL GIVE THE LICENSEE OR PERSON:

(Over)

(I) SUBJECT TO THE HEARING PROVISIONS OF § 11-217 OF THIS SUBTITLE, NOTICE OF THE OPPORTUNITY FOR A HEARING TO DETERMINE WHETHER THE SUMMARY CEASE AND DESIST ORDER SHOULD BE VACATED, MODIFIED, OR ENTERED AS FINAL; AND

(II) NOTICE THAT THE SUMMARY CEASE AND DESIST ORDER WILL BE ENTERED AS FINAL IF THE LICENSEE OR PERSON DOES NOT REQUEST A HEARING WITHIN 15 DAYS OF RECEIPT OF THE SUMMARY CEASE AND DESIST ORDER.”.