

SENATE BILL 145

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2000 Regular Session
(01r0814)

ENROLLED BILL
-- Finance/Economic Matters --

Introduced by **Senator Bromwell**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Consumer Protection - Contracts - Late Fees**

3 FOR the purpose of clarifying the circumstances under which parties to a contract
4 may agree to the payment of late fees; authorizing the parties to a contract to
5 agree to require that late fees be paid when a party fails to make a payment
6 when due; requiring full disclosure of any late fees; requiring that certain late
7 fees be disclosed in a certain manner; establishing certain limitations on the
8 amount and duration of late fees included in certain consumer contracts;
9 establishing certain limitations on the time at which a late fee included in
10 certain consumer contracts may be imposed; providing that a late fee imposed
11 under this Act is subject to certain limitations or conditions; authorizing the
12 bylaws of a homeowners association to provide for a certain late charge under
13 certain circumstances; providing for the effect of this Act; *providing for the*
14 *repeal of certain provisions of this Act on certain dates; providing for the delayed*
15 *effective date of a certain portion of this Act;* defining ~~a term~~ certain terms;
16 providing for the application of this Act; making provisions of this Act severable;
17 and generally relating to late fees.

1 BY adding to
2 Article - Commercial Law
3 Section 14-1315
4 Annotated Code of Maryland
5 (1990 Replacement Volume and 1999 Supplement)

6 BY repealing
7 Article - Commercial Law
8 Section 14-1315(f)
9 Annotated Code of Maryland
10 (1990 Replacement Volume and 1999 Supplement)
11 (As enacted by Section 1 of this Act)

12 BY adding to
13 Article - Commercial Law
14 Section 14-1315(f)
15 Annotated Code of Maryland
16 (1990 Replacement Volume and 1999 Supplement)
17 (As enacted by Section 1 of this Act)

18 BY adding to
19 Article - Real Property
20 Section 11B-112.1
21 Annotated Code of Maryland
22 (1996 Replacement Volume and 1999 Supplement)

23 BY repealing
24 Article - Commercial Law
25 Section 14-1315(f)
26 Annotated Code of Maryland
27 (1990 Replacement Volume and 1999 Supplement)
28 (As enacted by Section 2 of this Act)

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

31 **Article - Commercial Law**

32 14-1315.

33 (A) (1) IN THIS SECTION, THE FOLLOWING WORDS HAVE THE MEANING
34 MEANINGS INDICATED.

1 (2) "CONSUMER CONTRACT" MEANS A CONTRACT INVOLVING THE SALE,
 2 LEASE, OR PROVISION OF GOODS OR SERVICES WHICH ARE FOR PERSONAL, FAMILY,
 3 OR HOUSEHOLD PURPOSES.

4 (3) "CONTRACT", UNLESS SPECIFICALLY PROVIDED OTHERWISE,
 5 INCLUDES CONSUMER, COMMERCIAL, AND BUSINESS CONTRACTS, COVENANTS,
 6 LEASES OF ANY KIND, AND TARIFFS ON FILE WITH ANY REGULATORY AUTHORITY.

7 (4) (I) "LATE FEE" MEANS ANY CHARGE OR FEE IMPOSED BECAUSE A
 8 PAYMENT IS NOT MADE WHEN THE PAYMENT IS DUE UNDER THE TERMS OF A
 9 CONTRACT.

10 ~~(2)~~ (II) "LATE FEE" INCLUDES A FEE IMPOSED UNDER ~~PARAGRAPH (1)~~
 11 ~~OF THIS SUBSECTION~~ SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT IS DESCRIBED:

12 (⊕) 1. AS A FLAT RATE;

13 (⊕) 2. AS A PERCENTAGE OF THE AMOUNT DUE; OR

14 (⊕) 3. IN ANY OTHER TERMS.

15 (B) THE PARTIES TO A CONTRACT MAY AGREE TO REQUIRE THE PAYMENT OF
 16 A LATE FEE WHEN A PARTY FAILS TO MAKE A PAYMENT WHEN THE PAYMENT IS DUE.

17 (C) A CONTRACT THAT REQUIRES THE PAYMENT OF A LATE FEE SHALL
 18 DISCLOSE, BY ITS TERMS OR BY NOTICE:

19 (1) THE AMOUNT OF THE LATE FEE;

20 (2) THE CONDITIONS UNDER WHICH THE LATE FEE WILL BE IMPOSED;

21 AND

22 (3) THE TIMING FOR THE IMPOSITION OF THE LATE FEE.

23 (D) A LATE FEE IMPOSED UNDER THIS SECTION IS NOT:

24 (1) INTEREST;

25 (2) A FINANCE CHARGE;

26 (3) LIQUIDATED DAMAGES; OR

27 (4) A PENALTY.

28 (E) THIS SECTION DOES NOT AFFECT A LATE FEE, A FINANCE CHARGE,
 29 INTEREST, OR ANY OTHER FEE OR CHARGE OTHERWISE ALLOWED UNDER
 30 APPLICABLE LAW.

31 (F) THE AMOUNT OF A LATE FEE INCLUDED IN A CONSUMER CONTRACT
 32 PURSUANT TO THIS SECTION MAY BE UP TO \$10 PER MONTH, OR UP TO 10% PER
 33 MONTH OF THE PAYMENT AMOUNT THAT IS PAST DUE, WHICHEVER IS GREATER.

1 ~~(G)~~ ~~(1)~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
 2 LATE FEE INCLUDED IN A CONSUMER CONTRACT PURSUANT TO THIS SECTION MAY
 3 NOT BE IMPOSED UNTIL 10 DAYS AFTER THE DATE THE BILL WAS RENDERED FOR
 4 THE GOODS OR SERVICES PROVIDED.

5 ~~(2)~~ IF A BILL IS NOT RENDERED, A LATE FEE INCLUDED IN A CONSUMER
 6 CONTRACT PURSUANT TO THIS SECTION MAY NOT BE IMPOSED UNTIL 10 DAYS
 7 AFTER THE PAYMENT AMOUNT BECOMES DUE.

8 ~~(H)~~ ~~(G)~~ A LATE FEE IMPOSED UNDER THIS SECTION IS SUBJECT TO ANY
 9 ADDITIONAL LIMITATIONS OR CONDITIONS PRESCRIBED BY ANY FEDERAL, STATE,
 10 OR LOCAL REGULATORY AGENCY OR AUTHORITY HAVING JURISDICTION OVER
 11 ENTITIES IMPOSING LATE FEES REGULATED BY THIS SECTION.

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

14 Article - Commercial Law

15 14-1315.

16 [(f) The amount of a late fee included in a consumer contract pursuant to this
 17 section may be up to \$10 per month, or up to 10% per month of the payment amount
 18 that is past due, whichever is greater.]

19 ~~(F)~~ ~~(1)~~ A LATE FEE INCLUDED IN A CONSUMER CONTRACT PURSUANT TO
 20 THIS SECTION IS SUBJECT TO ONE OF THE FOLLOWING LIMITATIONS:

21 ~~(I)~~ 1. THE AMOUNT OF THE LATE FEE MAY BE UP TO \$10 \$5 PER
 22 MONTH, OR UP TO 10% PER MONTH OF THE PAYMENT AMOUNT THAT IS PAST DUE,
 23 WHICHEVER IS GREATER; AND

24 2. NO MORE THAN 3 MONTHLY LATE FEES MAY BE IMPOSED
 25 FOR ANY SINGLE PAYMENT AMOUNT THAT IS PAST DUE, REGARDLESS OF THE
 26 PERIOD DURING WHICH THE PAYMENT REMAINS PAST DUE; OR

27 ~~(II)~~ THE AMOUNT OF THE LATE FEE MAY BE UP TO 1.5% PER MONTH
 28 OF THE PAYMENT AMOUNT THAT IS PAST DUE.

29 ~~(2)~~ THE AMOUNT OF THE LATE FEE UNDER PARAGRAPH (1) OF THIS
 30 SUBSECTION SHALL BE DISCLOSED, IN THE CONSUMER CONTRACT OR BY NOTICE, IN
 31 SIZE EQUAL TO AT LEAST 10-POINT BOLD TYPE.

32 ~~(3)~~ ~~(1)~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
 33 PARAGRAPH, A LATE FEE INCLUDED IN A CONSUMER CONTRACT PURSUANT TO THIS
 34 SECTION MAY NOT BE IMPOSED UNTIL 15 DAYS AFTER THE DATE THE BILL WAS
 35 RENDERED FOR THE GOODS OR SERVICES PROVIDED.

1 (II) IF A BILL IS NOT RENDERED, A LATE FEE INCLUDED IN A
 2 CONSUMER CONTRACT PURSUANT TO THIS SECTION MAY NOT BE IMPOSED UNTIL 15
 3 DAYS AFTER THE PAYMENT AMOUNT BECOMES DUE.

4 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 5 read as follows:

6 Article - Real Property

7 11B-112.1.

8 THE BYLAWS OF A HOMEOWNERS ASSOCIATION MAY PROVIDE FOR A LATE
 9 CHARGE OF \$15 OR ONE-TENTH OF THE TOTAL AMOUNT OF ANY DELINQUENT
 10 ASSESSMENT OR INSTALLMENT, WHICHEVER IS GREATER, PROVIDED THE CHARGE
 11 MAY NOT BE IMPOSED MORE THAN ONCE FOR THE SAME DELINQUENT PAYMENT
 12 AND MAY BE IMPOSED ONLY IF THE DELINQUENCY HAS CONTINUED FOR AT LEAST
 13 15 CALENDAR DAYS.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
 15 contracts entered into prior to, on, or after the effective date of this Act, including all
 16 contracts in effect on or after June 8, 1995.

17 SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 14-1315(f) of
 18 Article - Commercial Law of the Annotated Code of Maryland (as enacted by Section 2
 19 of this Act) be repealed.

20 SECTION 3- 5. AND BE IT FURTHER ENACTED, That this Act shall apply to
 21 all late fees provided for in contracts entered into, or in effect, on or after November
 22 5, 1995. This Act does not apply to late fees imposed before November 5, 1995. If a late
 23 fee was not imposed on a payment amount that was past due for goods or services
 24 provided before the effective date of this Act July June 1, 2000, a late fee may not be
 25 imposed on or after the effective date of this Act July June 1, 2000 on that payment
 26 amount if that payment amount was paid before the effective date of this Act July
 27 June 1, 2000. Further, if a late fee was imposed on a payment amount that was past
 28 due for goods or services provided before the effective date of this Act July June 1,
 29 2000, an additional late fee may not be imposed on or after the effective date of this
 30 Act July June 1, 2000 on that payment amount if the amount of the late fee
 31 previously imposed on that payment amount is lower than the amount of the late fee
 32 allowed under this Act.

33 SECTION 4- 6. AND BE IT FURTHER ENACTED, That this Act shall apply to
 34 any case pending or filed on or after June 1, 2000, but may not be applied to any case
 35 for which a final judgment has been rendered and for which appeals have been
 36 exhausted prior to June 1, 2000.

37 SECTION 5- 7. AND BE IT FURTHER ENACTED, That if any provision of this
 38 Act or the application thereof to any person or circumstance is held invalid for any
 39 reason in a court of competent jurisdiction, the invalidity does not affect other
 40 provisions or any other application of this Act which can be given effect without the

1 invalid provision or application, and for this purpose the provisions of this Act are
2 declared severable.

3 SECTION 6: 8. AND BE IT FURTHER ENACTED, That Section 2 of this Act
4 shall take effect October 1, 2000.

5 SECTION 9. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall
6 take effect October 1, 2005.

7 SECTION 4: 7, 10. AND BE IT FURTHER ENACTED, That, except as provided
8 in Section 6 Sections 8 and 9 of this Act, this Act shall take effect June 1, 2000.