

SENATE BILL 145

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14

2000 Regular Session
0lr0814
CF 0lr0974

By: **Senator Bromwell**
Introduced and read first time: January 19, 2000
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: March 1, 2000

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; defining a term
14 certain terms; providing for the application of this Act; making provisions of this
15 Act severable; and generally relating to late fees.

16 BY adding to
17 Article - Commercial Law
18 Section 14-1315
19 Annotated Code of Maryland
20 (1990 Replacement Volume and 1999 Supplement)

21 BY repealing
22 Article - Commercial Law
23 Section 14-1315(f)
24 Annotated Code of Maryland
25 (1990 Replacement Volume and 1999 Supplement)

1 (As enacted by Section 1 of this Act)

2 BY adding to

3 Article - Commercial Law

4 Section 14-1315(f)

5 Annotated Code of Maryland

6 (1990 Replacement Volume and 1999 Supplement)

7 (As enacted by Section 1 of this Act)

8 BY adding to

9 Article - Real Property

10 Section 11B-112.1

11 Annotated Code of Maryland

12 (1996 Replacement Volume and 1999 Supplement)

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

15 **Article - Commercial Law**

16 14-1315.

17 (A) (1) IN THIS SECTION; THE FOLLOWING WORDS HAVE THE MEANING
18 INDICATED.

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

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

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

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

30 (I) 1. AS A FLAT RATE;

31 (II) 2. AS A PERCENTAGE OF THE AMOUNT DUE; OR

32 (III) 3. IN ANY OTHER TERMS.

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

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

3 (1) THE AMOUNT OF THE LATE FEE;

4 (2) THE CONDITIONS UNDER WHICH THE LATE FEE WILL BE IMPOSED;
5 AND

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

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

8 (1) INTEREST;

9 (2) A FINANCE CHARGE;

10 (3) LIQUIDATED DAMAGES; OR

11 (4) A PENALTY.

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

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

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

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

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

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

1

Article - Commercial Law2 14-1315.

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

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

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

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

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

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

19 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
 20 PARAGRAPH, A LATE FEE INCLUDED IN A CONSUMER CONTRACT PURSUANT TO THIS
 21 SECTION MAY NOT BE IMPOSED UNTIL 15 DAYS AFTER THE DATE THE BILL WAS
 22 RENDERED FOR THE GOODS OR SERVICES PROVIDED.

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

26 **Article - Real Property**

27 11B-112.1.

28 THE BYLAWS OF A HOMEOWNERS ASSOCIATION MAY PROVIDE FOR A LATE
 29 CHARGE OF \$15 OR ONE-TENTH OF THE TOTAL AMOUNT OF ANY DELINQUENT
 30 ASSESSMENT OR INSTALLMENT, WHICHEVER IS GREATER, PROVIDED THE CHARGE
 31 MAY NOT BE IMPOSED MORE THAN ONCE FOR THE SAME DELINQUENT PAYMENT
 32 AND MAY BE IMPOSED ONLY IF THE DELINQUENCY HAS CONTINUED FOR AT LEAST
 33 15 CALENDAR DAYS.

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

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to all
2 late fees provided for in contracts entered into, or in effect, on or after November 5,
3 1995. This Act does not apply to late fees imposed before November 5, 1995. If a late
4 fee was not imposed on a payment amount that was past due for goods or services
5 provided before the effective date of this Act, a late fee may not be imposed on or after
6 the effective date of this Act on that payment amount if that payment amount was
7 paid before the effective date of this Act. Further, if a late fee was imposed on a
8 payment amount that was past due for goods or services provided before the effective
9 date of this Act, an additional late fee may not be imposed on or after the effective
10 date of this Act on that payment amount if the amount of the late fee previously
11 imposed on that payment amount is lower than the amount of the late fee allowed
12 under this Act.

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

17 SECTION 5. AND BE IT FURTHER ENACTED, That if any provision of this
18 Act or the application thereof to any person or circumstance is held invalid for any
19 reason in a court of competent jurisdiction, the invalidity does not affect other
20 provisions or any other application of this Act which can be given effect without the
21 invalid provision or application, and for this purpose the provisions of this Act are
22 declared severable.

23 SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
24 take effect October 1, 2000.

25 SECTION 4. 7. AND BE IT FURTHER ENACTED, That, except as provided in
26 Section 6 of this Act, this Act shall take effect June 1, 2000.