

SENATE BILL 450

Unofficial Copy  
II

2000 Regular Session  
Olr2212  
CF 0lr0617

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By: **Senators Currie, McFadden, and Lawlah**  
Introduced and read first time: February 4, 2000  
Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Check Cashing Services - Licensing - Maximum Fees**

3 FOR the purpose of prohibiting a person from providing check cashing services unless  
4 licensed by the Commissioner of Financial Regulation; exempting certain check  
5 cashing services from the applicability of the Act; establishing certain  
6 qualifications, procedures, fees, and surety bond requirements for certain  
7 applicants for check cashing licenses; providing for the issuance, content,  
8 expiration, and posting of check cashing licenses; imposing certain record  
9 keeping, check endorsement, and compliance requirements on licensees;  
10 authorizing the Commissioner to investigate a licensee under certain  
11 circumstances; establishing maximum fees that a licensee may charge for check  
12 cashing services under certain circumstances; authorizing the Commissioner to  
13 issue a cease and desist order, suspend or revoke a license, or report an alleged  
14 criminal violation under certain circumstances; imposing certain criminal and  
15 civil penalties for certain violations; defining certain terms; and generally  
16 relating to check cashing services.

17 BY repealing

18 Article - Financial Institutions  
19 The subtitle designation "Subtitle 1. Bank Services and Bank Services  
20 Corporations" immediately preceding the former Section 12-101  
21 Annotated Code of Maryland  
22 (1998 Replacement Volume and 1999 Supplement)

23 BY adding to

24 Article - Financial Institutions  
25 Section 12-101 through 12-127, inclusive, to be under the new subtitle "Subtitle  
26 1. Check Cashing Services"  
27 Annotated Code of Maryland  
28 (1998 Replacement Volume and 1999 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
30 MARYLAND, That the subtitle designation "Subtitle 1. Bank Services and Bank

1 Services Corporations" immediately preceding the former Section 12-101 of Article -  
2 Financial Institutions of the Annotated Code of Maryland be repealed.

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

5 **Article - Financial Institutions**

6 SUBTITLE 1. CHECK CASHING SERVICES.

7 12-101.

8 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
9 INDICATED.

10 (B) "LICENSE" MEANS, UNLESS THE CONTEXT REQUIRES OTHERWISE, A  
11 LICENSE ISSUED BY THE COMMISSIONER UNDER THIS SUBTITLE TO PROVIDE CHECK  
12 CASHING SERVICES.

13 (C) "MOBILE UNIT" MEANS A MOTOR VEHICLE OR OTHER MOVABLE MEANS  
14 FROM WHICH CHECK CASHING SERVICES ARE PROVIDED.

15 (D) (1) "PAYMENT INSTRUMENT" MEANS A CHECK OR A DRAFT ORDERING A  
16 PERSON TO PAY MONEY.

17 (2) "PAYMENT INSTRUMENT" INCLUDES A MONEY ORDER.

18 (E) "PROVIDE CHECK CASHING SERVICES" MEANS TO ACCEPT OR CASH, FOR  
19 COMPENSATION, A PAYMENT INSTRUMENT.

20 12-102.

21 THIS SUBTITLE DOES NOT APPLY TO CHECK CASHING SERVICES:

22 (1) FOR WHICH A FEE OF \$2 OR LESS IS CHARGED PER PAYMENT  
23 INSTRUMENT;

24 (2) IN WHICH A CUSTOMER PRESENTS A PAYMENT INSTRUMENT FOR  
25 THE EXACT AMOUNT OF A PURCHASE; OR

26 (3) INVOLVING FOREIGN CURRENCY EXCHANGE SERVICES OR THE  
27 CASHING OF A PAYMENT INSTRUMENT DRAWN ON A FINANCIAL INSTITUTION OTHER  
28 THAN A FEDERAL, STATE, OR OTHER STATE FINANCIAL INSTITUTION.

29 12-103.

30 SECTIONS 12-106, 12-107, AND 12-108(C) AND (D)(2) OF THIS SUBTITLE DO NOT  
31 APPLY TO:

32 (1) A BANKING INSTITUTION;

- 1 (2) A NATIONAL BANKING ASSOCIATION;
- 2 (3) A FEDERAL OR STATE SAVINGS AND LOAN ASSOCIATION;
- 3 (4) A FEDERAL OR STATE CREDIT UNION; OR
- 4 (5) AN OTHER-STATE BANK HAVING A BRANCH IN THIS STATE.

5 12-104.

6 THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE  
7 PROVISIONS OF THIS SUBTITLE.

8 12-105.

9 (A) A PERSON MAY NOT PROVIDE CHECK CASHING SERVICES UNLESS THE  
10 PERSON IS LICENSED UNDER THIS SUBTITLE.

11 (B) A SEPARATE LICENSE IS REQUIRED FOR EACH PLACE OF BUSINESS AT  
12 WHICH, OR MOBILE UNIT FROM WHICH, A PERSON PROVIDES CHECK CASHING  
13 SERVICES.

14 12-106.

15 TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL SATISFY THE  
16 COMMISSIONER THAT:

17 (1) THE APPLICANT'S BUSINESS WILL PROMOTE THE CONVENIENCE  
18 AND ADVANTAGE OF THE COMMUNITY IN WHICH THE APPLICANT'S PLACE OF  
19 BUSINESS, OR MOBILE UNIT, WILL BE LOCATED; AND

20 (2) THE APPLICANT OR, IF THE APPLICANT IS NOT AN INDIVIDUAL, EACH  
21 OF THE OWNERS, OFFICERS, DIRECTORS, OR PRINCIPALS OF THE ENTITY:

22 (I) HAS SUFFICIENT EXPERIENCE, CHARACTER, FINANCIAL  
23 RESPONSIBILITY, AND GENERAL FITNESS TO:

24 1. COMMAND THE CONFIDENCE OF THE PUBLIC; AND

25 2. WARRANT THE BELIEF THAT THE BUSINESS WILL BE  
26 OPERATED LAWFULLY, HONESTLY, FAIRLY, AND EFFICIENTLY; AND

27 (II) HAS NOT COMMITTED ANY ACT THAT WOULD BE A GROUND  
28 FOR SUSPENSION OR REVOCATION OF A LICENSE UNDER THIS SUBTITLE.

29 12-107.

30 (A) WITH AN APPLICATION AND AT ANY OTHER TIME THE COMMISSIONER  
31 REQUIRES, AN APPLICANT OR LICENSEE SHALL PROVIDE FINGERPRINTS FOR USE IN  
32 CONDUCTING A CRIMINAL HISTORY RECORDS CHECK.

1 (B) AN APPLICANT OR LICENSEE REQUIRED UNDER THIS SECTION TO  
2 PROVIDE FINGERPRINTS SHALL PAY ANY PROCESSING OR OTHER REQUIRED FEE.

3 (C) IF THE APPLICANT OR LICENSEE IS A CORPORATION, THE  
4 FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS SHALL  
5 APPLY TO THE PRESIDENT, AND ANY OTHER OFFICER, DIRECTOR, PRINCIPAL, OR  
6 OWNER OF THE CORPORATION AS REQUIRED BY THE COMMISSIONER.

7 12-108.

8 (A) (1) TO APPLY FOR A LICENSE, AN APPLICANT SHALL SUBMIT TO THE  
9 COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER  
10 REQUIRES.

11 (2) THE APPLICATION SHALL INCLUDE:

12 (I) THE APPLICANT'S NAME AND ADDRESS AND, IF THE APPLICANT  
13 IS NOT AN INDIVIDUAL, THE NAMES AND ADDRESSES OF EACH:

14 1. OWNER WHO OWNS 5% OR MORE OF THE ENTITY; AND

15 2. OFFICER, DIRECTOR, OR PRINCIPAL OF THE ENTITY;

16 (II) 1. THE ADDRESS AT WHICH CHECK CASHING SERVICES WILL  
17 BE PROVIDED; OR

18 2. IF THE LICENSE IS FOR A MOBILE UNIT, THE VEHICLE  
19 IDENTIFICATION NUMBER OF THE MOBILE UNIT AND THE GEOGRAPHIC AREA IN  
20 WHICH THE MOBILE UNIT WILL BE OPERATING; AND

21 (III) ANY OTHER INFORMATION THAT THE COMMISSIONER  
22 REQUIRES FOR AN INVESTIGATION AND FINDINGS UNDER § 12-109 OF THIS  
23 SUBTITLE.

24 (B) WITH THE APPLICATION, THE APPLICANT SHALL PAY TO THE  
25 COMMISSIONER:

26 (1) AN INVESTIGATION FEE OF \$100; AND

27 (2) A LICENSE FEE OF:

28 (I) \$1,000 IF THE APPLICANT APPLIES FOR A LICENSE TO BE  
29 ISSUED ON OR AFTER JANUARY 1 AND ON OR BEFORE DECEMBER 31 OF AN  
30 EVEN-NUMBERED YEAR; OR

31 (II) \$500 IF THE APPLICANT APPLIES FOR A LICENSE TO BE ISSUED  
32 ON OR AFTER JANUARY 1 AND ON OR BEFORE DECEMBER 31 OF AN ODD-NUMBERED  
33 YEAR.

34 (C) (1) WITH THE APPLICATION, THE APPLICANT SHALL FILE WITH THE  
35 COMMISSIONER A SURETY BOND.

1           (2)     THE SURETY BOND FILED UNDER THIS SUBSECTION SHALL RUN TO  
2 THE STATE FOR THE BENEFIT OF INDIVIDUALS WHO HAVE BEEN DAMAGED BY A  
3 VIOLATION OF ANY LAW OR REGULATION GOVERNING CHECK CASHING SERVICES  
4 THAT IS COMMITTED BY A LICENSEE.

5           (3)     THE SURETY BOND SHALL BE:

6                   (I)     IN THE AMOUNT OF AT LEAST \$50,000;

7                   (II)    ISSUED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS  
8 IN THE STATE;

9                   (III)   CONDITIONED SO THAT THE APPLICANT SHALL COMPLY WITH  
10 ALL LAWS REGULATING THE PROVISION OF CHECK CASHING SERVICES; AND

11                  (IV)   APPROVED BY THE COMMISSIONER.

12   (D)   (1)     SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS  
13 SUBSECTION, IF AN APPLICANT APPLIES FOR MORE THAN ONE LICENSE, AS TO EACH  
14 LICENSE THE APPLICANT SHALL:

15                   (I)     SUBMIT A SEPARATE APPLICATION; AND

16                   (II)    PAY A SEPARATE INVESTIGATION FEE AND LICENSE FEE.

17           (2)     AN APPLICANT THAT APPLIES FOR MORE THAN ONE LICENSE IS NOT  
18 REQUIRED TO PROVIDE FINGERPRINTS FOR A CRIMINAL HISTORY RECORDS CHECK  
19 FOR MORE THAN ONE APPLICATION.

20 12-109.

21   (A)    WHEN AN APPLICANT FOR A LICENSE FILES THE APPLICATION AND PAYS  
22 THE FEES REQUIRED BY § 12-108 OF THIS SUBTITLE, THE COMMISSIONER SHALL  
23 INVESTIGATE THE FACTS RELEVANT TO THE APPLICATION TO DETERMINE IF THE  
24 APPLICANT MEETS THE REQUIREMENTS OF THIS SUBTITLE.

25   (B)    UNLESS THE COMMISSIONER AND AN APPLICANT AGREE IN WRITING TO  
26 EXTEND THE TIME, THE COMMISSIONER SHALL APPROVE OR DENY EACH  
27 APPLICATION FOR A LICENSE WITHIN 60 DAYS AFTER THE DATE WHEN THE  
28 COMPLETE APPLICATION IS FILED AND THE FEES ARE PAID.

29   (C)    THE COMMISSIONER SHALL ISSUE A LICENSE TO ANY APPLICANT WHO  
30 MEETS THE REQUIREMENTS OF THIS SUBTITLE.

31   (D)    (1)     IF AN APPLICANT DOES NOT MEET THE REQUIREMENTS OF THIS  
32 SUBTITLE, THE COMMISSIONER SHALL:

33                   (I)     DENY THE APPLICATION;

34                   (II)    NOTIFY THE APPLICANT IMMEDIATELY OF THE DENIAL;

1 (III) IF A SURETY BOND HAS BEEN FILED, RETURN THE SURETY  
2 BOND FILED UNDER § 12-108 OF THIS SUBTITLE;

3 (IV) REFUND THE LICENSE FEE; AND

4 (V) RETAIN THE INVESTIGATION FEE.

5 (2) WITHIN 10 DAYS AFTER THE COMMISSIONER DENIES AN  
6 APPLICATION, THE COMMISSIONER SHALL:

7 (I) FILE IN THE COMMISSIONER'S OFFICE WRITTEN FINDINGS AND  
8 A SUMMARY OF THE EVIDENCE SUPPORTING THEM; AND

9 (II) SEND A COPY OF THE FINDINGS AND SUMMARY TO THE  
10 APPLICANT.

11 12-110.

12 (A) THE COMMISSIONER SHALL INCLUDE ON EACH LICENSE:

13 (1) THE NAME OF THE LICENSEE; AND

14 (2) (I) THE ADDRESS AT WHICH CHECK CASHING SERVICES WILL BE  
15 PROVIDED; OR

16 (II) IF THE LICENSE IS FOR A MOBILE UNIT, THE VEHICLE  
17 IDENTIFICATION NUMBER OF THE MOBILE UNIT AND THE GEOGRAPHIC AREA IN  
18 WHICH CHECK CASHING SERVICES WILL BE PROVIDED.

19 (B) (1) A LICENSE AUTHORIZES THE LICENSEE TO PROVIDE CHECK  
20 CASHING SERVICES UNDER THE NAME STATED ON THE LICENSE AND AT THE  
21 ADDRESS AT WHICH, OR IF THE LICENSE IS FOR A MOBILE UNIT THE GEOGRAPHIC  
22 AREA IN WHICH, CHECK CASHING SERVICES WILL BE PROVIDED.

23 (2) ONLY ONE PLACE OF BUSINESS, OR ONE MOBILE UNIT, MAY BE  
24 MAINTAINED UNDER A LICENSE.

25 (C) THE COMMISSIONER MAY ISSUE MORE THAN ONE LICENSE TO AN  
26 APPLICANT WHO:

27 (1) COMPLIES WITH § 12-108 OF THIS SUBTITLE; AND

28 (2) OTHERWISE MEETS THE REQUIREMENTS OF THIS SUBTITLE.

29 12-111.

30 (A) A LICENSE EXPIRES ON DECEMBER 31 IN EACH ODD-NUMBERED YEAR  
31 UNLESS IT IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION.

32 (B) ON OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A LICENSE  
33 MAY BE RENEWED FOR AN ADDITIONAL 2-YEAR TERM, IF THE LICENSEE:

1 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

2 (2) PAYS TO THE COMMISSIONER A RENEWAL FEE OF \$1,000;

3 (3) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE  
4 FORM THAT THE COMMISSIONER REQUIRES; AND

5 (4) IF A SURETY BOND HAD BEEN FILED INITIALLY, FILES A SURETY  
6 BOND OR SURETY BOND CONTINUATION CERTIFICATE FOR THE AMOUNT REQUIRED  
7 UNDER § 12-108 OF THIS SUBTITLE.

8 (C) THE COMMISSIONER SHALL DETERMINE IF THE REQUIREMENTS OF §  
9 12-106 OF THIS SUBTITLE TO QUALIFY FOR A LICENSE CONTINUE TO APPLY.

10 (D) THE COMMISSIONER MAY DETERMINE THAT LICENSES ISSUED UNDER  
11 THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

12 12-112.

13 (A) A LICENSE IS NOT TRANSFERABLE.

14 (B) A LICENSEE SHALL DISPLAY THE LICENSE CONSPICUOUSLY AT THE  
15 LICENSEE'S PLACE OF BUSINESS OR MOBILE UNIT.

16 12-113.

17 (A) A LICENSEE MAY NOT CHANGE THE PLACE OF BUSINESS FOR WHICH A  
18 LICENSE IS ISSUED UNLESS THE LICENSEE:

19 (1) NOTIFIES THE COMMISSIONER IN WRITING OF THE PROPOSED  
20 CHANGE; AND

21 (2) RECEIVES THE WRITTEN CONSENT OF THE COMMISSIONER PRIOR  
22 TO THE CHANGE.

23 (B) IF THE COMMISSIONER CONSENTS TO A PROPOSED CHANGE OF PLACE OF  
24 BUSINESS, THE LICENSEE SHALL ATTACH THE WRITTEN CONSENT TO THE LICENSE.

25 12-114.

26 (A) A LICENSEE SHALL KEEP THE BOOKS AND RECORDS THAT THE  
27 COMMISSIONER REQUIRES TO DETERMINE COMPLIANCE WITH THIS SUBTITLE.

28 (B) UNLESS A LONGER PERIOD IS EXPRESSLY REQUIRED BY STATE OR  
29 FEDERAL LAW, A LICENSEE SHALL RETAIN THE RECORDS REQUIRED UNDER THIS  
30 SUBTITLE FOR A PERIOD OF AT LEAST 2 YEARS.

31 (C) A LICENSEE MAY RETAIN THE RECORDS REQUIRED UNDER THIS SUBTITLE  
32 AT ANY LOCATION, PROVIDED THAT THE LICENSEE:

1 (1) NOTIFIES THE COMMISSIONER IN WRITING OF THE LOCATION OF  
2 THE RECORDS; AND

3 (2) MAKES THE RECORDS AVAILABLE AT A PLACE OF BUSINESS FOR  
4 WHICH A LICENSE HAS BEEN ISSUED OR AT THE LICENSEE'S PRINCIPAL PLACE OF  
5 BUSINESS, AS AGREED BY THE COMMISSIONER AND THE LICENSEE, WITHIN 7 DAYS  
6 OF A WRITTEN REQUEST FOR EXAMINATION BY THE COMMISSIONER.

7 12-115.

8 (A) AT ANY TIME AND AS OFTEN AS THE COMMISSIONER CONSIDERS  
9 APPROPRIATE, THE COMMISSIONER MAY INVESTIGATE THE RECORDS AND BUSINESS  
10 OPERATIONS OF A LICENSEE OR A PERSON WHO ACTS ON BEHALF OF A LICENSEE.

11 (B) FOR THE PURPOSES OF THIS SECTION, THE COMMISSIONER:

12 (1) SHALL BE GIVEN ACCESS TO ANY BOOKS, PAPERS, RECORDS, SAFES,  
13 OR VAULTS OF THE PERSON UNDER INVESTIGATION; AND

14 (2) MAY EXAMINE UNDER OATH A PERSON WHOSE TESTIMONY THE  
15 COMMISSIONER REQUIRES.

16 12-116.

17 BEFORE A LICENSEE DEPOSITS A PAYMENT INSTRUMENT IN OR PRESENTS A  
18 PAYMENT INSTRUMENT TO A FINANCIAL INSTITUTION, THE LICENSEE SHALL  
19 ENDORSE THE PAYMENT INSTRUMENT WITH THE NAME UNDER WHICH THE  
20 LICENSEE IS LICENSED TO PROVIDE CHECK CASHING SERVICES.

21 12-117.

22 A LICENSEE SHALL COMPLY WITH:

23 (1) ALL FEDERAL AND STATE LAWS CONCERNING MONEY LAUNDERING;  
24 AND

25 (2) THE TRUTH IN LENDING ACT (15 U. S. C. 1601 ET SEQ.).

26 12-118.

27 A LICENSEE SHALL CONSPICUOUSLY POST, IN 48 POINT OR LARGER TYPE, A  
28 NOTICE OF THE FEES FOR CHECK CASHING SERVICES.

29 12-119.

30 A LICENSEE SHALL PAY A CUSTOMER, IN UNITED STATES CURRENCY, THE FACE  
31 AMOUNT OF THE PAYMENT INSTRUMENT RECEIVED LESS THE FEE CHARGED.

1 12-120.

2 EXCEPT AS PROVIDED IN § 15-802(B) OF THE COMMERCIAL LAW ARTICLE, A  
3 LICENSEE MAY NOT CHARGE ANY OTHER FEE, INCLUDING MEMBERSHIP FEES OR  
4 OTHER SERVICE FEES, FOR ACCEPTING OR CASHING A PAYMENT INSTRUMENT IN  
5 EXCESS OF THE GREATER OF:

6 (1) 2% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR \$5, IF  
7 THE PAYMENT INSTRUMENT IS ISSUED BY THE FEDERAL GOVERNMENT OR A STATE  
8 OR LOCAL GOVERNMENT;

9 (2) 3% OF THE FACE AMOUNT OF A PAYMENT INSTRUMENT OR \$5, IF THE  
10 PAYMENT INSTRUMENT IS A PAYROLL CHECK; OR

11 (3) 4% OF THE FACE AMOUNT OF THE PAYMENT INSTRUMENT OR \$5, FOR  
12 ANY OTHER PAYMENT INSTRUMENT.

13 12-121.

14 SUBJECT TO THE HEARING PROVISIONS OF § 12-123 OF THIS SUBTITLE, THE  
15 COMMISSIONER MAY ORDER A LICENSEE TO CEASE AND DESIST FROM A COURSE OF  
16 CONDUCT IF THE COURSE OF CONDUCT RESULTS IN AN EVASION OR VIOLATION OF  
17 THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE.

18 12-122.

19 SUBJECT TO THE HEARING PROVISIONS OF § 12-123 OF THIS SUBTITLE, THE  
20 COMMISSIONER MAY SUSPEND OR REVOKE THE LICENSE OF ANY LICENSEE IF THE  
21 LICENSEE OR ANY OWNER, OFFICER, DIRECTOR, PRINCIPAL, EMPLOYEE, OR AGENT  
22 OF THE LICENSEE:

23 (1) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION FOR A  
24 LICENSE;

25 (2) HAS BEEN CONVICTED OF ANY CRIME OF MORAL TURPITUDE;

26 (3) HAS BEEN CONVICTED OF A VIOLATION OF ANY FEDERAL OR STATE  
27 CONSUMER PROTECTION LAWS;

28 (4) IN CONNECTION WITH PROVIDING CHECK CASHING SERVICES:

29 (I) COMMITS FRAUD; OR

30 (II) ENGAGES IN AN ILLEGAL OR DISHONEST ACTIVITY;

31 (5) VIOLATES A PROVISION OF THIS SUBTITLE, A REGULATION ADOPTED  
32 UNDER THIS SUBTITLE, OR ANY OTHER LAW CONCERNING CHECK CASHING  
33 SERVICES IN THE STATE; OR

34 (6) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH,  
35 DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE

1 LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY, FAIRLY,  
2 EQUITABLY, AND EFFICIENTLY.

3 12-123.

4 (A) BEFORE THE COMMISSIONER TAKES ANY ACTION UNDER § 12-121, §  
5 12-122, OR § 12-124 OF THIS SUBTITLE, THE COMMISSIONER SHALL GIVE THE  
6 LICENSEE AN OPPORTUNITY FOR A HEARING BEFORE THE COMMISSIONER.

7 (B) NOTICE OF THE HEARING SHALL BE GIVEN AND THE HEARING SHALL BE  
8 HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT  
9 ARTICLE.

10 12-124.

11 THE COMMISSIONER SHALL REPORT TO THE APPROPRIATE STATE'S ATTORNEY  
12 OR THE ATTORNEY GENERAL ANY ALLEGED CRIMINAL VIOLATION OF THIS  
13 SUBTITLE.

14 12-125.

15 A PERSON WHO KNOWINGLY VIOLATES THIS SUBTITLE IS GUILTY OF A  
16 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000  
17 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

18 12-126.

19 (A) THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY AGAINST A PERSON  
20 WHO VIOLATES THIS SUBTITLE IN AN AMOUNT NOT EXCEEDING:

21 (1) \$1,000 FOR A FIRST OFFENSE; AND

22 (2) \$5,000 FOR EACH SUBSEQUENT OFFENSE.

23 (B) IN DETERMINING THE AMOUNT OF CIVIL PENALTY TO BE IMPOSED  
24 UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER  
25 THE FOLLOWING:

26 (1) THE SERIOUSNESS OF THE VIOLATION;

27 (2) THE GOOD FAITH OF THE VIOLATOR;

28 (3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

29 (4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC;

30 (5) THE ASSETS OF THE VIOLATOR; AND

31 (6) ANY OTHER FACTOR RELEVANT TO THE DETERMINATION OF THE  
32 CIVIL PENALTY.

1 12-127.

2 (A) A PERSON WHO IS INJURED BY A VIOLATION OF THIS SUBTITLE MAY FILE  
3 AN ACTION TO RECOVER DAMAGES FROM INJUNCTIVE RELIEF.

4 (B) (1) A COURT MAY AWARD A PREVAILING PLAINTIFF UNDER THIS  
5 SECTION:

6 (I) UP TO 3 TIMES THE AMOUNT OF DAMAGES ACTUALLY  
7 INCURRED; AND

8 (II) AN AMOUNT AT LEAST EQUAL TO THE AMOUNT PAID BY THE  
9 PLAINTIFF TO THE DEFENDANT, REASONABLE ATTORNEY'S FEES, AND COSTS.

10 (2) IN ADDITION TO THE AMOUNT AWARDED UNDER PARAGRAPH (1) OF  
11 THIS SUBSECTION, IF A COURT DETERMINES BY CLEAR AND CONVINCING EVIDENCE  
12 THAT A VIOLATION WAS WILLFUL, THE COURT MAY AWARD PUNITIVE DAMAGES TO  
13 THE PLAINTIFF.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 2000.