

HOUSE BILL 70

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D3

2001 Regular Session  
(11r0380)

**ENROLLED BILL**  
*-- Judiciary/Judicial Proceedings --*

Introduced by **Delegate Getty**

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.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **District Court - Civil Jurisdiction - Dishonored Checks and Other**  
3 **Instruments**

4 FOR the purpose of clarifying that the District Court of Maryland has exclusive  
5 original civil jurisdiction in an action for certain damages for a dishonored check  
6 or other instrument regardless of the amount in controversy; making stylistic  
7 changes; providing that in an action for certain damages for a dishonored check  
8 or instrument a defendant is entitled to demand a transfer of the action from the  
9 District Court to an appropriate circuit court under certain circumstances; and  
10 generally relating to the exclusive original civil jurisdiction of the District Court  
11 of Maryland.

12 BY repealing and reenacting, with amendments,  
13 Article - Commercial Law  
14 Section 15-802  
15 Annotated Code of Maryland  
16 (2000 Replacement Volume and 2000 Supplement)

1 BY repealing and reenacting, with amendments,  
2 Article - Courts and Judicial Proceedings  
3 Section 4-401  
4 Annotated Code of Maryland  
5 (1998 Replacement Volume and 2000 Supplement)

6 BY adding to  
7 Article - Courts and Judicial Proceedings  
8 Section 4-402(f)  
9 Annotated Code of Maryland  
10 (1998 Replacement Volume and 2000 Supplement)

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

13 **Article - Commercial Law**

14 15-802.

15 (a) When a check or other instrument has been dishonored by nonacceptance  
16 or nonpayment and has not been paid within 10 days, the holder to whom the check  
17 or other instrument was issued or negotiated may send a notice of dishonor to the  
18 maker or drawer as provided under this section.

19 (b) If a check or other instrument has not been paid within 30 days after the  
20 holder has sent a notice of dishonor to the maker or drawer, the maker or drawer of a  
21 check or other instrument that has been dishonored may be liable for:

- 22 (1) The amount of the check or instrument;
- 23 (2) A collection fee of up to \$25; and
- 24 (3) An amount up to 2 times the amount of the check, but not more than  
25 \$1,000.

26 (c) (1) (i) The holder of a check or other instrument that has been  
27 dishonored may seek the damages provided under this section in ~~any~~ **LOCATION OF**  
28 **THE** District Court of [the State] MARYLAND 30 days after a notice of dishonor has  
29 been sent by mail to the last known address of the maker or drawer.

30 (ii) The holder shall obtain a certificate of mailing from the U.S.  
31 Postal Service for each notice sent by the holder under subparagraph (i) of this  
32 paragraph.

33 (2) A notice of dishonor sent by a holder under this section to a maker or  
34 drawer of a dishonored check or other instrument shall substantially comply with the  
35 form prescribed in § 15-803 of this subtitle.

1 (d) A holder may not recover any damages under subsection (b)(3) of this  
2 section if:

3 (1) The holder has demanded of, and received from, the maker or  
4 drawer:

5 (i) Collection costs in excess of the collection fee provided under  
6 subsection (b)(2) of this section; or

7 (ii) Collection costs within 30 days after the mailing of the notice of  
8 dishonor, under subsection (c) of this section; or

9 (2) The dishonored check or other instrument provides for the payment  
10 of collection costs in the event of dishonor.

11 (e) (1) It shall be a complete defense to any action brought under this  
12 section by any holder of a dishonored check or other instrument that, within 30 days  
13 from the mailing of the notice of dishonor, the maker or drawer has paid to the holder  
14 the full amount of the check or other instrument and collection costs of not more than  
15 \$25.

16 (2) It shall be a complete defense to any action brought under this  
17 section by a holder to whom a dishonored check or other instrument was issued that  
18 the dishonor of the check or other instrument was due to a justifiable stop payment  
19 order or to the attachment of the account.

20 (3) In any action brought under this section by a holder or holder in due  
21 course to whom a dishonored check or other instrument was negotiated, the action is  
22 subject to all valid defenses that may be raised by the maker or drawer against the  
23 holder or holder in due course under Title 3 of this article.

#### 24 **Article - Courts and Judicial Proceedings**

25 4-401.

26 Except as provided in § 4-402 of this subtitle, and subject to the venue  
27 provisions of Title 6 of this article, the District Court has exclusive original civil  
28 jurisdiction in:

29 (1) An action in contract or tort, if the debt or damages claimed do not  
30 exceed \$25,000, exclusive of prejudgment or postjudgment interest, costs, and  
31 attorney's fees if attorney's fees are recoverable by law or contract;

32 (2) An action of replevin, regardless of the value of the thing in  
33 controversy;

34 (3) A matter of attachment before judgment, if the sum claimed does not  
35 exceed \$25,000, exclusive of prejudgment or postjudgment interest, costs, and  
36 attorney's fees if attorney's fees are recoverable by law or contract;

- 1           (4)     An action involving landlord and tenant, distraint, or wrongful  
2 detainer, regardless of the amount involved;
- 3           (5)     A grantee suit brought under § 14-109 of the Real Property Article;
- 4           (6)     A petition for injunction relating to the use, disposition,  
5 encumbrances, or preservation of property that is:
- 6                 (i)     Claimed in a replevin action, until seizure under the writ; or
- 7                 (ii)    Sought to be levied upon in an action of distress, until levy and  
8 any removal;
- 9           (7)     A petition of injunction filed by:
- 10                (i)     A tenant in an action under § 8-211 of the Real Property Article  
11 or a local rent escrow law; or
- 12                (ii)    A person who brings an action under § 14-120 of the Real  
13 Property Article;
- 14           (8)     A petition filed by a county or municipality, including Baltimore City,  
15 for enforcement of local health, housing, fire, building, electric, licenses and permits,  
16 plumbing, animal control, and zoning codes for which equitable relief is provided;
- 17           (9)     Proceedings under Article 27, § 264 or § 297 of the Code for the  
18 forfeiture or return of moneys involved in a gambling or controlled dangerous  
19 substances seizure where the amount involved, excluding any interest and attorney's  
20 fees, if attorney's fees are recoverable by law or contract, does not exceed \$20,000;
- 21           (10)    A proceeding for adjudication of:
- 22                 (i)     A municipal infraction as defined in Article 23A, § 3(b)(1) of the  
23 Code;
- 24                 (ii)    A Commission infraction as defined in Article 28, § 5-113 of the  
25 Code;
- 26                 (iii)   A WSSC infraction as defined in Article 29, § 18-104.1 of the  
27 Code, concerning rules and regulations governing publicly owned watershed property;
- 28                 (iv)    A WSSC infraction as defined in Article 29, § 18-104.2 of the  
29 Code, concerning WSSC regulations governing:
- 30                     1.     Erosion and sediment control for utility construction; and
- 31                     2.     Plumbing, gas fitting, and sewer cleaning;
- 32                 (v)     A zoning violation for which a civil penalty has been provided  
33 pursuant to Article 66B, § 7.02 or Article 28, § 8-120(c) of the Code;

- 1 (vi) A violation of an ordinance enacted:
- 2 1. By a charter county for which a civil penalty is provided  
3 under Article 25A, § 5(A) of the Code; or
- 4 2. By the Mayor and City Council of Baltimore for which a  
5 civil penalty is provided by ordinance;
- 6 (vii) A citation for a Code violation issued under Article 27, § 403 of  
7 the Code;
- 8 (viii) A civil infraction relating to a violation of the Fair Election  
9 Practices Act of the election laws as provided under Article 33, § 13-604 of the Code;
- 10 (ix) A violation of an ordinance or regulation enacted by a county  
11 without home rule, under authority granted under Article 25 of the Code, or any  
12 provision of the Code of Public Local Laws for that county, for which a civil penalty is  
13 provided;
- 14 (x) A civil infraction that is authorized by law to be prosecuted by a  
15 sanitary commission; or
- 16 (xi) A subdivision violation for which a civil penalty has been  
17 provided in accordance with Article 66B, § 14.07(f) of the Code;
- 18 (11) A proceeding for adjudication of a civil penalty for any violation under  
19 § 5-1001 of the Environment Article, § 15-113, § 15-113.1, § 21-1122, or § 21-1414 of  
20 the Transportation Article or Article 41, § 2-101(c-1) of the Code or any rule or  
21 regulation issued pursuant to those sections;
- 22 (12) A proceeding to enforce a civil penalty assessed by the Maryland  
23 Division of Labor and Industry under Title 5 of the Labor and Employment Article  
24 where the amount involved does not exceed \$20,000;
- 25 (13) A proceeding for a civil infraction under § 21-202.1 of the  
26 Transportation Article;
- 27 (14) A proceeding for a temporary peace order or peace order under Title  
28 3, Subtitle 15 of this article; [and]
- 29 (15) A proceeding for condemnation and immediate possession of and title  
30 to abandoned, blighted, and deteriorated property under authority granted in the  
31 Code of Public Local Laws of a county, including Baltimore City, where the estimated  
32 value of the property does not exceed \$25,000; AND
- 33 (16) AN ACTION FOR DAMAGES FOR A DISHONORED CHECK OR OTHER  
34 INSTRUMENT UNDER TITLE 15, SUBTITLE 8 OF THE COMMERCIAL LAW ARTICLE,  
35 REGARDLESS OF THE AMOUNT IN CONTROVERSY.

1 4-402.

2 (F) IF THE AMOUNT IN CONTROVERSY IN AN ACTION FOR DAMAGES FOR A  
3 DISHONORED CHECK OR OTHER INSTRUMENT UNDER § 4-401(16) OF THIS SUBTITLE  
4 EXCEEDS \$25,000, THE DEFENDANT IS ENTITLED TO TRANSFER THE ACTION FROM  
5 THE DISTRICT COURT TO AN APPROPRIATE CIRCUIT COURT BY FILING A TIMELY  
6 DEMAND AS PRESCRIBED UNDER THE MARYLAND RULES.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2001.