

HOUSE BILL 48

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HB 70/01 - JUD

2002 Regular Session
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(PRE-FILED)

By: **Delegate Getty**
Requested: October 31, 2001
Introduced and read first time: January 9, 2002
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: February 12, 2002

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 2001 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Courts and Judicial Proceedings
19 Section 4-401
20 Annotated Code of Maryland
21 (1998 Replacement Volume and 2001 Supplement)

22 BY adding to
23 Article - Courts and Judicial Proceedings

1 Section 4-402(f)
2 Annotated Code of Maryland
3 (1998 Replacement Volume and 2001 Supplement)

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

6 **Article - Commercial Law**

7 15-802.

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

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

15 (1) The amount of the check or instrument;

16 (2) A collection fee of up to \$35; and

17 (3) An amount up to 2 times the amount of the check, but not more than
18 \$1,000.

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

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

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

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

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

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

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

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

5 (e) (1) It shall be a complete defense to any action brought under this
6 section by any holder of a dishonored check or other instrument that, within 30 days
7 from the mailing of the notice of dishonor, the maker or drawer has paid to the holder
8 the full amount of the check or other instrument and collection costs of not more than
9 \$35.

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

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

18 **Article - Courts and Judicial Proceedings**

19 4-401.

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

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

26 (2) An action of replevin, regardless of the value of the thing in
27 controversy;

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

31 (4) An action involving landlord and tenant, distraint, or wrongful
32 detainer, regardless of the amount involved;

33 (5) A grantee suit brought under § 14-109 of the Real Property Article;

34 (6) A petition for injunction relating to the use, disposition,
35 encumbrances, or preservation of property that is:

36 (i) Claimed in a replevin action, until seizure under the writ; or

1 (ii) Sought to be levied upon in an action of distress, until levy and
2 any removal;

3 (7) A petition of injunction filed by:

4 (i) A tenant in an action under § 8-211 of the Real Property Article
5 or a local rent escrow law; or

6 (ii) A person who brings an action under § 14-120 or § 14-125.1 of
7 the Real Property Article;

8 (8) A petition filed by a county or municipality, including Baltimore City,
9 for enforcement of local health, housing, fire, building, electric, licenses and permits,
10 plumbing, animal control, and zoning codes for which equitable relief is provided;

11 (9) Proceedings under Title 12 or Title 13 of the Criminal Procedure
12 Article for the forfeiture or return of moneys involved in a gambling or controlled
13 dangerous substances seizure where the amount involved, excluding any interest and
14 attorney's fees, if attorney's fees are recoverable by law or contract, does not exceed
15 \$20,000;

16 (10) A proceeding for adjudication of:

17 (i) A municipal infraction as defined in Article 23A, § 3(b)(1) of the
18 Code;

19 (ii) A Commission infraction as defined in Article 28, § 5-113 of the
20 Code;

21 (iii) A WSSC infraction as defined in Article 29, § 18-104.1 of the
22 Code, concerning rules and regulations governing publicly owned watershed property;

23 (iv) A WSSC infraction as defined in Article 29, § 18-104.2 of the
24 Code, concerning WSSC regulations governing:

25 1. Erosion and sediment control for utility construction; and

26 2. Plumbing, gas fitting, and sewer cleaning; and

27 3. Required permits for utility construction;

28 (v) A zoning violation for which a civil penalty has been provided
29 pursuant to Article 66B, § 7.02 or Article 28, § 8-120(c) of the Code;

30 (vi) A violation of an ordinance enacted:

31 1. By a charter county for which a civil penalty is provided
32 under Article 25A, § 5(A) of the Code;

33 2. By the Mayor and City Council of Baltimore for which a
34 civil penalty is provided by ordinance; or

1 3. By a code county for which a civil citation is issued under
2 Article 25B, § 13C-1 of the Code;

3 (vii) A citation for a Code violation issued under Article 27, § 403 of
4 the Code;

5 (viii) A civil infraction relating to a violation of the Fair Election
6 Practices Act of the election laws as provided under Article 33, § 13-604 of the Code;

7 (ix) A violation of an ordinance or regulation enacted by a county
8 without home rule, under authority granted under Article 25 of the Code, or any
9 provision of the Code of Public Local Laws for that county, for which a civil penalty is
10 provided;

11 (x) A civil infraction that is authorized by law to be prosecuted by a
12 sanitary commission; or

13 (xi) A subdivision violation for which a civil penalty has been
14 provided in accordance with Article 66B, § 14.07(f) of the Code;

15 (11) A proceeding for adjudication of a civil penalty for any violation under
16 § 5-1001 of the Environment Article, § 15-113, § 15-113.1, § 21-1122, or § 21-1414 of
17 the Transportation Article or Article 41, § 2-101(c-1) of the Code or any rule or
18 regulation issued pursuant to those sections;

19 (12) A proceeding to enforce a civil penalty assessed by the Maryland
20 Division of Labor and Industry under Title 5 of the Labor and Employment Article
21 where the amount involved does not exceed \$20,000;

22 (13) A proceeding for a civil infraction under § 21-202.1 of the
23 Transportation Article;

24 (14) A proceeding for a temporary peace order or peace order under Title
25 3, Subtitle 15 of this article;

26 (15) A proceeding for condemnation and immediate possession of and title
27 to abandoned, blighted, and deteriorated property under authority granted in the
28 Code of Public Local Laws of a county, including Baltimore City, where the estimated
29 value of the property does not exceed \$25,000; [and]

30 (16) A proceeding for a replacement motor vehicle under § 14-1502(c)(1)(i)
31 of the Commercial Law Article; AND

32 (17) AN ACTION FOR DAMAGES FOR A DISHONORED CHECK OR OTHER
33 INSTRUMENT UNDER TITLE 15, SUBTITLE 8 OF THE COMMERCIAL LAW ARTICLE,
34 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)~~ § 4-401(17) OF THIS
4 SUBTITLE EXCEEDS \$25,000, THE DEFENDANT IS ENTITLED TO TRANSFER THE
5 ACTION FROM THE DISTRICT COURT TO AN APPROPRIATE CIRCUIT COURT BY FILING
6 A TIMELY DEMAND AS PRESCRIBED UNDER THE MARYLAND RULES.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect October 1, 2002.