Unofficial Copy D4 2003 Regular Session 3lr1136

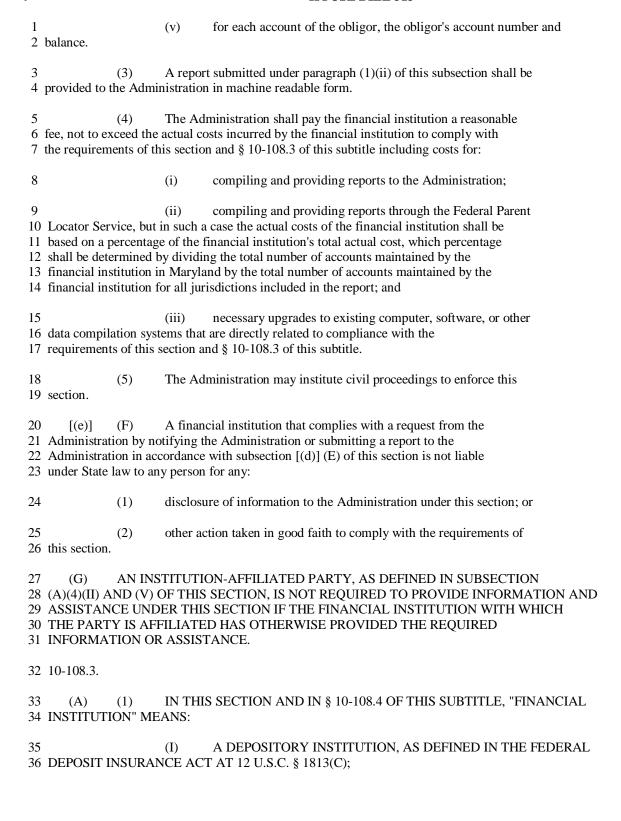
By: Delegate Jones Introduced and read first time: January 31, 2003 Assigned to: Judiciary A BILL ENTITLED 1 AN ACT concerning 2 **Child Support Enforcement - Financial Institution - Definition** 3 FOR the purpose of altering the definition of financial institution in a provision requiring a financial institution to provide certain information and assistance to 4 5 the Child Support Enforcement Administration; providing for the construction of 6 a certain reference for certain purposes; establishing that an 7 institution-affiliated party is not required to provide certain information or 8 assistance to the Administration under certain circumstances; providing certain 9 immunity from civil liability or criminal penalty for an institution-affiliated 10 party; defining a certain term; and generally relating to child support enforcement. 11 12 BY repealing and reenacting, with amendments, Article - Family Law 13 14 Section 10-108.2, 10-108.3, and 10-108.4 15 Annotated Code of Maryland 16 (1999 Replacement Volume and 2002 Supplement) 17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 18 MARYLAND, That the Laws of Maryland read as follows: 19 **Article - Family Law** 20 10-108.2. [In] EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, IN this 21 (a) (1) 22 section and in [§ 10-108.3] §§ 10-108.3 AND 10-108.4 of this [subtitle] SUBTITLE, the 23 following words have the meanings indicated. "Account" means: 24 (2)(i) 25 any funds from a demand deposit account, checking

26 account, negotiable order of withdrawal account, savings account, time deposit 27 account, money market mutual fund account, or certificate of deposit account;

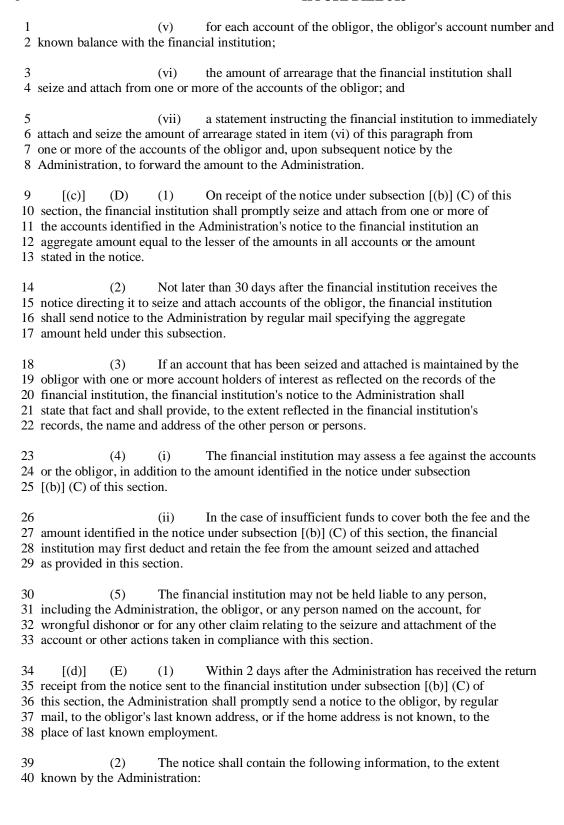
	2. any funds paid towards the purchase of shares or other interest in a financial institution, as defined in paragraph (4)(ii) and (iii) of this subsection; and
4 5	3. any funds or property held by a financial institution, as defined in paragraph (4)(iv) of this subsection.
6	(ii) "Account" does not include:
	1. an account or portion of an account to which an obligor does not have access due to the pledge of the funds as security for a loan or other obligation;
10 11	2. funds or property deposited to an account after the time that the financial institution initially attaches the account;
12 13	3. an account or portion of an account to which the financial institution has a present right to exercise a right of setoff;
14 15	4. an account or portion of an account that has an account holder of interest named as an owner on the account; or
16 17	5. an account or portion of an account to which the obligor does not have an unconditional right of access.
18 19	(3) "Account holder of interest" means any person, other than the obligor, who asserts an ownership interest in an account.
20	(4) "Financial institution" means:
21 22	(i) a depository institution, as defined in the Federal Deposit Insurance Act at 12 U.S.C. § 1813(c);
23 24	(II) AN INSTITUTION-AFFILIATED PARTY, AS DEFINED IN THE FEDERAL DEPOSIT INSURANCE ACT AT 12 U.S.C. § 1813(U);
25 26	[(ii)] (III) a federal OR STATE credit union, as defined in the Federal Credit Union Act at 12 U.S.C. § 1752;
27 28	[(iii)] (IV) a State credit union regulated under Title 6 of the Financial Institutions Article; [or]
29 30	(V) AN INSTITUTION-AFFILIATED PARTY, AS DEFINED IN THE FEDERAL CREDIT UNION ACT AT 12 U.S.C. § 1786(R); OR
	[(iv)] (VI) a benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity doing business in the State that holds property or maintains accounts reflecting property belonging to others.
34	(B) FOR PURPOSES OF SUBSECTION (A)(4)(V) OF THIS SECTION, ANY

35 REFERENCE TO "INSURED CREDIT UNION" AT 12 U.S.C. § 1786(R) SHALL BE

	CONSTRUED TO INCLUDE A CREDIT UNION INSURED IN ACCORDANCE WITH § 6-701(A)(2) OF THE FINANCIAL INSTITUTIONS ARTICLE.				
	[(b)] (C) To carry out the purposes of this section, the Administration may request from any financial institution information and assistance to enable the Administration to enforce the liability of a parent to support a child of the parent.				
8	[(c)] (D) (1) The Administration may request not more than four times a year from a financial institution the information set forth in subsection [(d)(2)] (E)(2) of this section concerning any obligor in arrears in paying child support through a support enforcement agency.				
10 11	0 (2) A request for information by the Administration under paragraph (1) 1 of this subsection shall:				
12	(i) contain:				
13 14	the full name of the obligor and any other names known to be used by the obligor; and				
15 16	2. the Social Security number or other taxpayer identification number of the obligor; and				
	7 (ii) be transmitted to the financial institution in an electronic 8 format unless the financial institution specifically asks the Administration to submit 9 the request in writing.				
	[(d)] (E) (1) Within 30 days after a financial institution receives a request for information under subsection [(c)] (D) of this section, the financial institution shall:				
	(i) notify the Administration that the financial institution submits reports indirectly through the Federal Parent Locator Service under 42 U.S.C. § 666(a)(17); or				
	(ii) with respect to each obligor whose name the Administration submitted to the financial institution and who maintains an account with the financial institution, submit a report to the Administration.				
29 30	9 (2) The report described in paragraph (1)(ii) of this subsection shall 0 contain, to the extent reflected in the records of the financial institution:				
31	(i) the full name of the obligor;				
32	(ii) the address of the obligor;				
33 34	(iii) the Social Security or other taxpayer identification number of the obligor;				
35 36	(iv) any other identifying information needed to assure positive identification of the obligor; and				

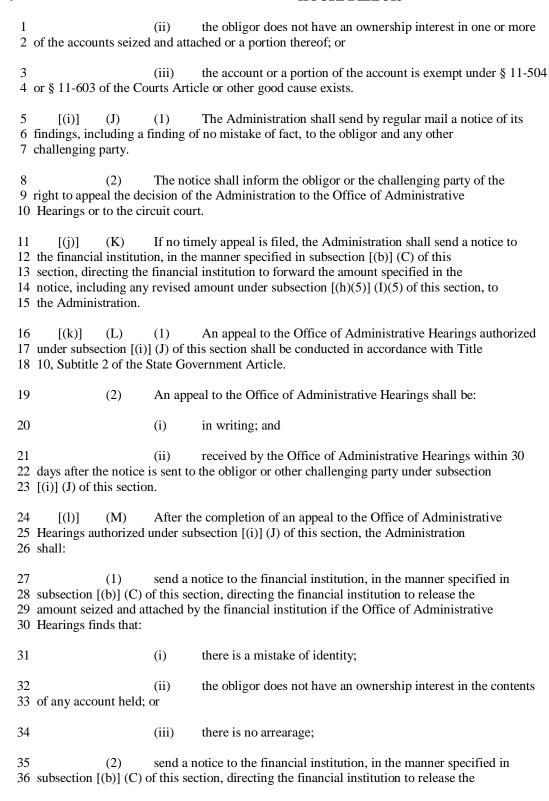


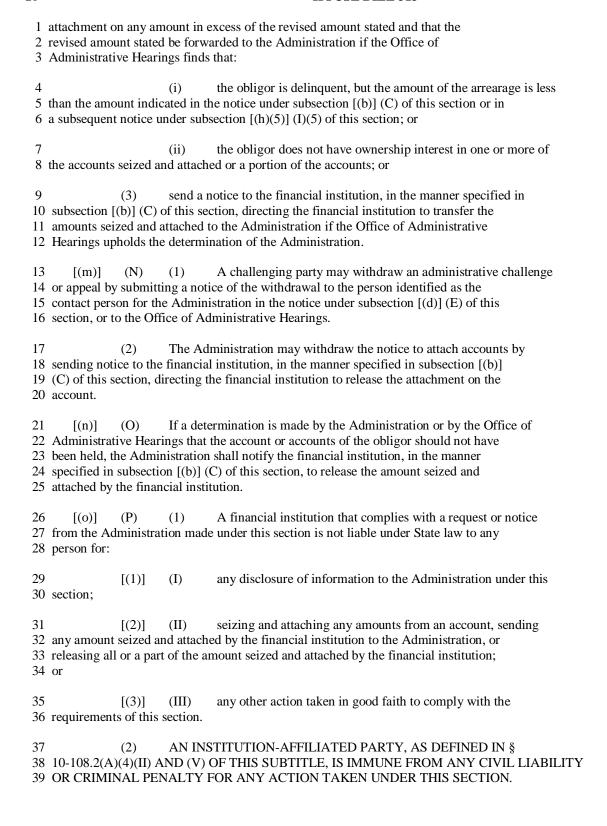
FEDERAL CREDIT	(II) UNION A	A FEDERAL OR STATE CREDIT UNION, AS DEFINED IN THE ACT AT 12 U.S.C. § 1752;				
FINANCIAL INSTIT	(III) UTIONS	A STATE CREDIT UNION REGULATED UNDER TITLE 6 OF THE ARTICLE; OR				
BUSINESS IN THE S	STATE T	A BENEFIT ASSOCIATION, INSURANCE COMPANY, SAFE EY MARKET MUTUAL FUND, OR SIMILAR ENTITY DOING THAT HOLDS PROPERTY OR MAINTAINS ACCOUNTS ELONGING TO OTHERS.				
	ES NOT	S SECTION AND IN § 10-108.4 OF THIS SUBTITLE, "FINANCIAL INCLUDE AN INSTITUTION-AFFILIATED PARTY, AS DEFINED (V) OF THIS SUBTITLE.				
under 42 U.S.C. § 66 and has not paid child institute an action to the accounts of the old	6(a)(17): d support attach and oligor wit	If an obligor identified in a report submitted under Section a report made to the Federal Parent Locator Service is \$500 or more in arrears of a child support obligation for more than 60 days, the Administration may d seize the amount of the arrearage in one or more of the afinancial institution to satisfy the amount of				
(2) Before attaching and seizing the obligor's accounts, the Administration shall send a notice to the obligor at the obligor's last known address advising the obligor of the enforcement actions that may be taken, including that the obligor's accounts may be subject to garnishment for payment of a child support arrearage.						
[(b)] (C) (1) If the Administration institutes an action against an obligor under subsection [(a)] (B) of this section, the Administration shall send a notice to the financial institution in which one or more of the obligor's accounts are located, by certified mail, return receipt requested, or by other method acceptable to the financial institution, at the address designated for this purpose by the financial institution or, if no address has been designated, to the principal office of the financial institution.						
(2) The notice shall contain the following information, to the extent known by the Administration:						
	(i)	the address of the Administration;				
the Administration;	(ii)	the telephone number, address, and name of a contact person at				
identification number	(iii) of the ol	the name and Social Security number or other taxpayer bligor;				
	DEPOSIT COMPAN BUSINESS IN THE STEFLECTING PROFEST (2) INSTITUTION" DOIN § 10-108.2(A)(4)(1) [(a)] (B) 10-108.2 of this subtituted an action to a the accounts of the old arrearage owed by the company of the old arrearage owed by the company of the old arrearage. [(b)] (C) under subsection [(a) financial institution in certified mail, return institution, at the add if no address has been (2) known by the Admin	(III) FINANCIAL INSTITUTIONS (IV) DEPOSIT COMPANY, MONE BUSINESS IN THE STATE TREFLECTING PROPERTY B (2) IN THIS INSTITUTION" DOES NOT IN § 10-108.2(A)(4)(II) AND [(a)] (B) (1) 10-108.2 of this subtitle or in a under 42 U.S.C. § 666(a)(17) and has not paid child support institute an action to attach and the accounts of the obligor with arrearage owed by the obligor (2) Before a Administration shall send a not advising the obligor of the enf obligor's accounts may be sub arrearage. [(b)] (C) (1) under subsection [(a)] (B) of the financial institution in which of certified mail, return receipt re institution, at the address design (2) The notice known by the Administration: (i)				

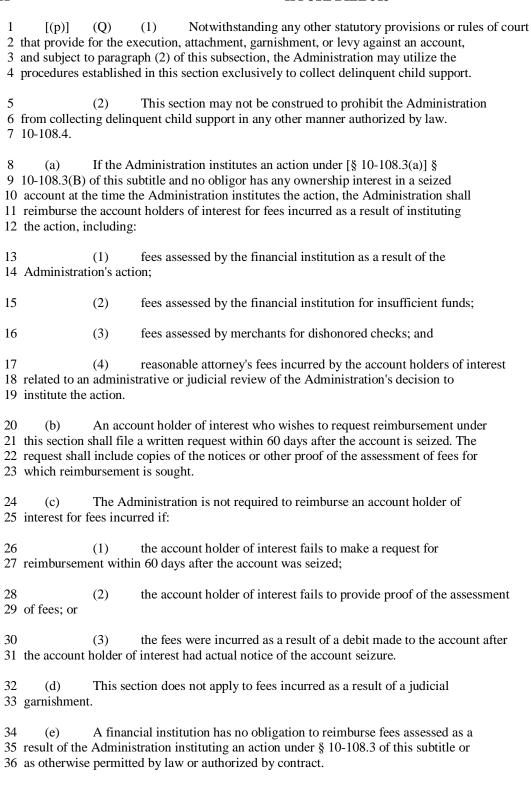


1		(i)	the address of the Administration;				
2 3	the Administration;	(ii)	the telephone number, address, and name of a contact person at				
4 5	identification number	(iii) of the ob	the name and Social Security number or other taxpayer oligor;				
6		(iv)	the address of the obligor;				
7 8	(v) for each account of the obligor, the obligor's account number and known balances with the financial institution;						
9		(vi)	the total amount of the arrearage owed by the obligor;				
10		(vii)	the date the notice is being sent;				
13 14	(viii) a statement informing the obligor that the Administration has directed the financial institution to seize and attach the amount of the arrearage owed by the obligor from one or more of the accounts of the obligor and, upon subsequent notice by the Administration, to forward the amount to the Administration; and						
18 19	(ix) a statement informing the obligor that, unless a timely challenge is made to the Administration by the obligor or an account holder of interest under subsection [(g)] (H) of this section, the Administration shall notify the financial institution to forward the amount seized and attached by the financial institution to the Administration.						
23 24	[(e)] (F) If a timely challenge is not made by the obligor or an account holder of interest under subsection [(g)] (H) of this section, the Administration shall send a notice to the financial institution, in the manner specified in subsection [(b)] (C) of this section, directing the institution to forward the amount seized and attached by the financial institution to the Administration.						
28 29	[(f)] (G) The Administration shall apply the amount seized and forwarded by the financial institution to the obligor's child support arrears. If the obligor has more than one child support case with arrears, the Administration shall allocate the amount received among one or more of the obligor's cases, as determined appropriate by the Administration.						
31 32	[(g)] (H) (1) An obligor or an account holder of interest may challenge the actions of the Administration under this section by:						
33		(i)	filing a request for an investigation with the Administration; or				
34		(ii)	filing a motion with the circuit court.				
35	(2)	A challe	enge under paragraph (1)(i) of this subsection shall:				
36		(i)	be in writing;				

1 2	of the notice under su	(ii) bsection	be received by the Administration within 30 days from the date [(d)] (E) of this section;				
3	obligor under subsect	(iii) ion [(d)]	be sent to the contact person identified in the notice sent to the (E) of this section; and				
5		(iv)	specify, in detail, the reasons for the challenge.				
	(3) of the Administration related to an account.		gor or account holder of interest may not challenge the actions s related to visitation, custody, or other matters not				
	(4) An obligor or an account holder of interest may challenge the actions of the Administration based on an exemption in § 11-504 or § 11-603 of the Courts Article or for any other good cause.						
	L(/3 (/	(1) cration sha	Upon receipt of a challenge under subsection [(g)] (H) of this all review the challenge in accordance with this				
15 16	The Administration shall release or reduce the amount seized and attached by the financial institution for a mistake of fact, including:						
17		(i)	a mistake in the identity of the obligor;				
18		(ii)	a mistake in the ownership of an account;				
19		(iii)	a mistake in the contents of an account;				
20		(iv)	a mistake in the amount of arrearage due; or				
21		(v)	any other good cause.				
		cial instit	ministration shall release or reduce the amount seized and ution if the account is exempt under § 11-504 or § r for any other good cause.				
27 28	(4) The Administration shall send a notice to the financial institution, in the manner specified in subsection [(b)] (C) of this section, directing the financial institution to release the amount seized and attached by the financial institution if the Administration determines that a mistake of fact has occurred, the account is exempt under § 11-504 or § 11-603 of the Courts Article, or other good cause exists.						
32	institution to reduce t	in subsect the amour	ministration shall send a notice to the financial institution, in etion [(b)] (C) of this section, directing the financial not seized and attached to the revised amount stated and if the Administration determines that:				
34 35	originally indicated o	(i) on the not	the amount owed by the obligor is less than the amount ice under subsection (b) of this section:				







SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 2 July 1, 2003.