
By: **Senators Stone and Brochin**
Introduced and read first time: January 28, 2004
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Electronic Check Conversion Payments - Notice and**
3 **Consent**

4 FOR the purpose of prohibiting certain persons from using certain checks to make
5 electronic check conversion payments unless consumers are given a certain
6 notice and consent in a certain manner; specifying the content of the notice;
7 providing for a civil penalty; providing for the application of this Act; defining
8 certain terms; and generally relating to the notice and consent requirements for
9 the use of checks to make electronic check conversion payments.

10 BY adding to
11 Article - Commercial Law
12 Section 14-1319
13 Annotated Code of Maryland
14 (2000 Replacement Volume and 2003 Supplement)

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

17 **Article - Commercial Law**

18 14-1319.

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (2) "CONSUMER" MEANS AN ACTUAL OR PROSPECTIVE PURCHASER,
22 LESSEE, OR RECIPIENT OF CONSUMER GOODS OR CONSUMER SERVICES.

23 (3) "CONSUMER GOODS" AND "CONSUMER SERVICES" MEAN,
24 RESPECTIVELY, GOODS AND SERVICES THAT ARE PRIMARILY FOR PERSONAL,
25 HOUSEHOLD, OR FAMILY PURPOSES.

26 (4) "ELECTRONIC CHECK CONVERSION" MEANS A PROCESS IN WHICH
27 THE ROUTING, ACCOUNT, AND SERIAL NUMBERS ON A CHECK ARE USED TO INITIATE
28 A ONETIME TRANSFER OF FUNDS ELECTRONICALLY FROM A DEMAND DEPOSIT,

1 SAVINGS, OR OTHER ACCOUNT HELD DIRECTLY OR INDIRECTLY BY A FINANCIAL
2 INSTITUTION.

3 (B) (1) THIS SECTION APPLIES ONLY TO PAYMENTS MADE BY ELECTRONIC
4 CHECK CONVERSIONS FOR CONSUMER GOODS OR CONSUMER SERVICES.

5 (2) THIS SECTION APPLIES TO A CHECK THAT IS USED TO MAKE AN
6 ELECTRONIC CHECK CONVERSION PAYMENT WHETHER THE CHECK IS:

7 (I) BLANK, PARTIALLY COMPLETED, OR FULLY COMPLETED AND
8 SIGNED;

9 (II) PRESENTED AT THE POINT OF SALE OR MAILED TO A PERSON
10 OR A LOCKBOX AND LATER USED TO MAKE AN ELECTRONIC CHECK CONVERSION; OR

11 (III) RETAINED BY THE CONSUMER, A PERSON ACCEPTING THE
12 CHECK, OR A FINANCIAL INSTITUTION OR DESTROYED BY A PERSON ACCEPTING THE
13 CHECK OR A FINANCIAL INSTITUTION.

14 (C) A PERSON THAT ACCEPTS A CHECK FROM A CONSUMER AS PAYMENT FOR
15 CONSUMER GOODS OR CONSUMER SERVICES MAY NOT USE THE CHECK TO MAKE AN
16 ELECTRONIC CHECK CONVERSION PAYMENT UNLESS:

17 (1) THE PERSON GIVES THE CONSUMER WRITTEN NOTICE THAT STATES:

18 (I) THAT THE CONSUMER'S CHECK MAY BE USED TO MAKE AN
19 ELECTRONIC CHECK CONVERSION PAYMENT FROM THE CONSUMER'S ACCOUNT;

20 (II) THE AMOUNT OF ANY FEE THAT THE PERSON WILL COLLECT
21 FROM THE CONSUMER'S ACCOUNT ELECTRONICALLY IF THE CONSUMER DOES NOT
22 HAVE SUFFICIENT FUNDS IN THE ACCOUNT TO COVER THE CHECK;

23 (III) THAT THE CONSUMER HAS THE RIGHT TO REQUEST THE
24 CONSUMER'S FINANCIAL INSTITUTION TO INVESTIGATE ANY ELECTRONIC CHECK
25 CONVERSION PAYMENT FROM THE CONSUMER'S ACCOUNT THAT THE CONSUMER
26 BELIEVES IS UNAUTHORIZED OR INCORRECT; AND

27 (IV) THAT THE PERSON MAY DESTROY THE CONSUMER'S CHECK
28 THAT IS USED TO MAKE AN ELECTRONIC CHECK CONVERSION PAYMENT; AND

29 (2) THE CONSUMER CONSENTS TO THE USE OF THE CONSUMER'S
30 CHECK TO MAKE AN ELECTRONIC CHECK CONVERSION PAYMENT BY SIGNING THE
31 WRITTEN NOTICE.

32 (D) (1) THE ATTORNEY GENERAL MAY INITIATE A CIVIL ACTION AGAINST A
33 PERSON WHO VIOLATES THIS SECTION TO RECOVER FOR THE STATE A CIVIL
34 PENALTY NOT EXCEEDING \$25 FOR EACH VIOLATION.

1 (2) FOR THE PURPOSES OF THIS SECTION, EACH INSTANCE IN WHICH A
2 CHECK IS USED TO MAKE AN ELECTRONIC CHECK CONVERSION PAYMENT WHEN
3 PROHIBITED BY THIS SECTION IS A SEPARATE VIOLATION.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2004.