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By: **Delegate Vallario**

Introduced and read first time: February 10, 2005

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection - Rental Assistance Services**

3 FOR the purpose of requiring a person who sells rental assistance services in the  
4 State to register with the Division of Consumer Protection of the Office of the  
5 Attorney General and to pay certain fees; authorizing the Division to bring an  
6 action for mandamus against certain persons to comply with certain provisions  
7 of this Act; requiring a seller of rental assistance services to purchase a certain  
8 surety bond under certain circumstances; authorizing a tenant to file a claim  
9 with certain persons if the tenant suffers or sustains any loss or damage by  
10 reason of the cessation of operations by or bankruptcy of a seller under certain  
11 circumstances; requiring a seller to maintain certain records; establishing a  
12 certain fund for the purpose of administering and enforcing this Act; requiring a  
13 contract or agreement for rental assistance services to contain certain language;  
14 requiring a seller to provide certain information to the Division within a certain  
15 period of time on the cessation of operations by or the bankruptcy of the seller;  
16 making a violation of this Act an unfair or deceptive trade practice and subject  
17 to certain enforcement and penalty provisions; defining certain terms; and  
18 generally relating to rental assistance services.

19 BY repealing and reenacting, with amendments,  
20 Article - Commercial Law  
21 Section 13-301(14)  
22 Annotated Code of Maryland  
23 (2000 Replacement Volume and 2004 Supplement)

24 BY adding to  
25 Article - Commercial Law  
26 Section 14-3301 through 14-3311, inclusive, to be under the new subtitle  
27 "Subtitle 33. Rental Assistance Services"  
28 Annotated Code of Maryland  
29 (2000 Replacement Volume and 2004 Supplement)

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

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**Article - Commercial Law**

2 13-301.

3 Unfair or deceptive trade practices include any:

4 (14) Violation of a provision of:

5 (i) This title;

6 (ii) An order of the Attorney General or agreement of a party  
7 relating to unit pricing under Title 14, Subtitle 1 of this article;8 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt  
9 Collection Act;10 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door  
11 Sales Act;

12 (v) Title 14, Subtitle 9 of this article, Kosher Products;

13 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;

14 (vii) Section 14-1302 of this article;

15 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales  
16 Act;

17 (ix) Section 22-415 of the Transportation Article;

18 (x) Title 14, Subtitle 20 of this article;

19 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty  
20 Enforcement Act;

21 (xii) Title 14, Subtitle 21 of this article;

22 (xiii) Section 18-107 of the Transportation Article;

23 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone  
24 Solicitations Act;25 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts  
26 Act;

27 (xvi) Title 10, Subtitle 6 of the Real Property Article;

28 (xvii) Title 10, Subtitle 8 of the Real Property Article;

29 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;

1 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-to-Door  
2 Solicitations Act;

3 (xx) Title 14, Subtitle 31 of this article, the Maryland Household  
4 Goods Movers Act; [or]

5 (xxi) Title 14, Subtitle 32 of this article, the Maryland Telephone  
6 Consumer Protection Act; or

7 (XXII) TITLE 14, SUBTITLE 33 OF THIS ARTICLE, THE RENTAL  
8 ASSISTANCE SERVICES ACT; OR

9 SUBTITLE 33. RENTAL ASSISTANCE SERVICES.

10 14-3301.

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
12 INDICATED.

13 (B) "DIVISION" MEANS THE DIVISION OF CONSUMER PROTECTION OF THE  
14 OFFICE OF THE ATTORNEY GENERAL.

15 (C) "LIABILITIES" MEANS THE MONEYS ACTUALLY RECEIVED IN ADVANCE  
16 FROM TENANTS LESS THE PRORATED VALUE OF SERVICES RENDERED BY THE  
17 SELLER.

18 (D) "OUTSTANDING LIABILITIES" INCLUDES ALL AMOUNTS THAT WOULD BE  
19 REQUIRED TO BE REFUNDED TO TENANTS IF THE SELLER OF RENTAL ASSISTANCE  
20 SERVICES CEASES OPERATIONS.

21 (E) "RENTAL ASSISTANCE SERVICES" MEANS:

22 (1) RENTING OR LEASING TO A TENANT A RESIDENTIAL RENTAL UNIT  
23 FOR A PERIOD LONGER THAN 3 MONTHS;

24 (2) COLLECTING MONEY FROM THE TENANT THAT INCLUDES THE  
25 RENTAL FEE IMPOSED BY THE LANDLORD FOR THE RESIDENTIAL RENTAL UNIT; AND

26 (3) MAKING THE RENTAL PAYMENTS TO THE LANDLORD OF THE  
27 RESIDENTIAL RENTAL UNIT ON BEHALF OF THE TENANT.

28 (F) (1) "SELLER" MEANS A PERSON, OR AN AGENT, REPRESENTATIVE, OR  
29 EMPLOYEE OF A PERSON, WHO SELLS RENTAL ASSISTANCE SERVICES.

30 (2) "SELLER" DOES NOT INCLUDE A LANDLORD.

31 (G) "TENANT" MEANS AN INDIVIDUAL WHO:

32 (1) BUYS RENTAL ASSISTANCE SERVICES; AND

1 (2) MAKES RENTAL PAYMENTS FOR A RESIDENTIAL RENTAL UNIT TO A  
2 SELLER AND NOT TO THE LANDLORD OF THE RESIDENTIAL RENTAL UNIT.

3 14-3302.

4 (A) (1) A PERSON WHO SELLS RENTAL ASSISTANCE SERVICES IN THE STATE  
5 SHALL REGISTER WITH THE DIVISION ON FORMS THE DIVISION PROVIDES.

6 (2) THE PERSON SHALL FURNISH THE FULL NAME AND ADDRESS OF  
7 EACH BUSINESS LOCATION WHERE RENTAL ASSISTANCE SERVICES ARE SOLD AND  
8 ANY OTHER REGISTRATION INFORMATION THE DIVISION REQUIRES.

9 (B) (1) A PERSON WHO REGISTERS UNDER THIS SUBTITLE SHALL PAY A  
10 REGISTRATION FEE AT THE TIME OF REGISTRATION.

11 (2) ON SEPTEMBER 1 OF EACH YEAR FOLLOWING REGISTRATION, A  
12 SELLER SHALL PAY A RENEWAL FEE TO THE DIVISION.

13 (3) THE FEES FOR REGISTRATION AND RENEWAL REQUIRED UNDER  
14 THIS SUBSECTION SHALL BE SET BY THE DIVISION IN AN AMOUNT NOT EXCEEDING  
15 \$1,200 FOR EACH BUSINESS LOCATION WHERE RENTAL ASSISTANCE SERVICES ARE  
16 SOLD.

17 (C) THE FEES COLLECTED UNDER THIS SECTION MAY ONLY BE USED FOR THE  
18 ADMINISTRATION AND ENFORCEMENT OF THIS SUBTITLE.

19 (D) AT LEAST ONE MEMBER OF THE BOARD OF DIRECTORS OF EACH SELLER  
20 OPERATING IN THE STATE SHALL BE A RESIDENT OF THE COUNTY WHERE A  
21 BUSINESS LOCATION OF THE SELLER IS LOCATED AND SHALL SERVE AS A RESIDENT  
22 AGENT FOR RECEIPT OF SERVICE OF PROCESS.

23 14-3303.

24 THE DIVISION MAY BRING AN ACTION FOR MANDAMUS AGAINST:

25 (1) A PERSON WHO IS SELLING RENTAL ASSISTANCE SERVICES IN THE  
26 STATE TO REQUIRE THE PERSON TO REGISTER UNDER THIS SUBTITLE; AND

27 (2) A SELLER TO REQUIRE THE SELLER TO HAVE AND MAINTAIN THE  
28 SURETY BOND, IRREVOCABLE LETTER OF CREDIT, OR CASH REQUIRED UNDER THIS  
29 SUBTITLE.

30 14-3304.

31 (A) (1) SUBJECT TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION,  
32 A SELLER SHALL PURCHASE A SURETY BOND IN AN AMOUNT NOT LESS THAN THE  
33 AGGREGATE VALUE OF OUTSTANDING LIABILITIES TO ITS TENANTS, INCLUDING ALL  
34 CHARGES, DUES, DEPOSITS, AND ANY OTHER FEES FOR RENTAL ASSISTANCE  
35 SERVICES.

1 (2) THE AMOUNT OF THE SURETY BOND SHALL BE BASED ON A REPORT  
2 PREPARED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT DESCRIBING THE  
3 SELLER'S OUTSTANDING LIABILITIES TO ITS TENANTS USING ACCEPTED STANDARD  
4 ACCOUNTING PRINCIPLES.

5 (3) THE REPORT REQUIRED UNDER PARAGRAPH (2) OF THIS  
6 SUBSECTION SHALL BE SUBMITTED AT THE TIME OF REGISTRATION AND UPDATED  
7 AT EACH RENEWAL UNDER § 14-3302 OF THIS SUBTITLE.

8 (4) THE AMOUNT OF THE SURETY BOND SHALL BE INCREASED, OR MAY  
9 BE DECREASED, AS NECESSARY TO TAKE INTO ACCOUNT CHANGES IN THE SELLER'S  
10 OUTSTANDING LIABILITIES TO ITS TENANTS IN THE FOLLOWING CASES, WHICHEVER  
11 COMES FIRST:

12 (I) WHEN THE SELLER'S OUTSTANDING LIABILITIES TO ITS  
13 TENANTS INCREASE OR DECREASE BY \$10,000; OR

14 (II) ON A QUARTERLY BASIS.

15 (5) IF A SELLER'S OUTSTANDING LIABILITIES TO ITS TENANTS EXCEED  
16 THE AMOUNT OF THE SURETY BOND, AND THE SELLER HAS FAILED TO INCREASE  
17 THE SURETY BOND, THEN THE SELLER SHALL IMMEDIATELY STOP SELLING RENTAL  
18 ASSISTANCE SERVICES AND SHALL REFRAIN FROM SELLING RENTAL ASSISTANCE  
19 SERVICES UNTIL THE REQUIREMENTS OF THIS SECTION HAVE BEEN SATISFIED.

20 (B) AT THE DISCRETION OF THE DIVISION, AN IRREVOCABLE LETTER OF  
21 CREDIT IN A FORM ACCEPTABLE TO THE DIVISION, OR CASH, MAY BE FILED WITH  
22 THE DIVISION INSTEAD OF A SURETY BOND.

23 (C) (1) IF A SELLER OPERATES MORE THAN ONE BUSINESS LOCATION IN  
24 THE STATE, THE SURETY BOND, IRREVOCABLE LETTER OF CREDIT, OR CASH  
25 REQUIREMENTS UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION APPLY TO EACH  
26 BUSINESS LOCATION AT WHICH RENTAL ASSISTANCE SERVICES ARE SOLD.

27 (2) A SELLER IS NOT REQUIRED TO HAVE OR MAINTAIN A SURETY BOND,  
28 IRREVOCABLE LETTER OF CREDIT, OR CASH IN EXCESS OF \$200,000 PER BUSINESS  
29 LOCATION WHERE RENTAL ASSISTANCE SERVICES ARE SOLD.

30 14-3305.

31 (A) IF A TENANT SUFFERS OR SUSTAINS ANY LOSS OR DAMAGE BY REASON OF  
32 THE CESSATION OF OPERATIONS BY OR BANKRUPTCY OF THE SELLER, THE TENANT  
33 MAY:

34 (1) IF THE SELLER HAS PURCHASED A SURETY BOND, FILE A CLAIM  
35 WITH THE SURETY AND, IF THE CLAIM IS NOT PAID, MAY BRING AN ACTION BASED  
36 ON THE BOND AND RECOVER AGAINST THE SURETY; OR

37 (2) IF THE SELLER HAS FILED AN IRREVOCABLE LETTER OF CREDIT OR  
38 CASH WITH THE DIVISION, FILE A CLAIM WITH THE DIVISION.

1 (B) ANY CLAIM UNDER SUBSECTION (A) OF THIS SECTION SHALL BE FILED NO  
2 LATER THAN 1 YEAR FROM THE DATE ON WHICH THE SELLER CEASED OPERATIONS  
3 OR FILED FOR BANKRUPTCY.

4 (C) UNLESS THE SELLER HAS PROVIDED SUFFICIENT NOTICE TO EACH  
5 KNOWN TENANT, THE DIVISION SHALL NOTIFY EACH KNOWN TENANT DESCRIBED IN  
6 SUBSECTION (A) OF THIS SECTION ABOUT THE PROCEDURE FOR FILING A CLAIM.

7 (D) (1) THE DIVISION MAY FILE A CLAIM WITH THE SURETY ON BEHALF OF  
8 ANY TENANT IN SUBSECTION (A) OF THIS SECTION.

9 (2) THE SURETY SHALL PAY THE AMOUNT OF THE CLAIMS TO THE  
10 DIVISION FOR DISTRIBUTION TO CLAIMANTS ENTITLED TO RESTITUTION AND SHALL  
11 BE RELIEVED OF LIABILITY TO THAT EXTENT.

12 (E) THE LIABILITY OF THE SURETY UNDER ANY BOND MAY NOT EXCEED THE  
13 AGGREGATE AMOUNT OF THE BOND, REGARDLESS OF THE NUMBER OR AMOUNT OF  
14 CLAIMS FILED.

15 (F) IF THE CLAIMS FILED SHOULD EXCEED THE AMOUNT OF THE BOND, THE  
16 SURETY SHALL PAY THE AMOUNT OF THE BOND TO THE DIVISION FOR  
17 DISTRIBUTION TO CLAIMANTS ENTITLED TO RESTITUTION AND SHALL BE RELIEVED  
18 OF ALL LIABILITY UNDER THE BOND.

19 (G) THE DIVISION MAY OBTAIN REIMBURSEMENT FOR POSTAGE AND OTHER  
20 REASONABLE EXPENSES INCURRED IN NOTIFYING TENANTS AND DISTRIBUTING  
21 CLAIMS BY:

22 (1) FILING A PRIORITY CLAIM FOR THE EXPENSES AGAINST THE SURETY  
23 BOND POSTED BY THE SELLER; OR

24 (2) APPLYING TO THE EXPENSES ON A PRIORITY BASIS THE PROCEEDS  
25 OF THE IRREVOCABLE LETTER OF CREDIT OR CASH DEPOSIT POSTED BY THE SELLER  
26 WITH THE DIVISION.

27 (H) FOR ANY CLAIM UNDER SUBSECTIONS (A), (D), AND (F) OF THIS SECTION,  
28 THE DIVISION MAY NOT PAY A CLAIM TO A TENANT THAT IS LESS THAN \$5.

29 14-3306.

30 (A) A SELLER THAT PURCHASES A SURETY BOND UNDER THIS SUBTITLE  
31 SHALL MAINTAIN ACCURATE RECORDS OF THE BOND AND OF PREMIUM PAYMENTS  
32 ON THE BOND. THE RECORDS SHALL BE OPEN TO INSPECTION BY THE DIVISION, ON  
33 REASONABLE NOTICE, AT ANY TIME DURING NORMAL BUSINESS HOURS.

34 (B) (1) A SELLER SHALL MAINTAIN ACCURATE RECORDS, UPDATED AS  
35 NECESSARY, OF THE NAME, ADDRESS, CONTRACT OR AGREEMENT TERMS, AND  
36 PAYMENTS BY EACH TENANT.

1 (2) THESE RECORDS SHALL BE OPEN TO INSPECTION BY THE DIVISION,  
2 ON REASONABLE NOTICE, AT ANY TIME DURING NORMAL BUSINESS HOURS.

3 (C) IN ADDITION TO ANY REMEDIES OTHERWISE AVAILABLE, THE DIVISION,  
4 AFTER NOTICE AND A SHOW CAUSE HEARING, MAY REVOKE THE REGISTRATION OF  
5 ANY PERSON WHO FAILS TO MAINTAIN OR PRODUCE THE RECORDS DESCRIBED IN  
6 SUBSECTIONS (A) AND (B) OF THIS SECTION.

7 (D) ANY INFORMATION RECEIVED BY THE DIVISION IN THE COURSE OF  
8 ADMINISTERING THE REGISTRATION PROVISIONS OF THIS SUBTITLE SHALL BE  
9 MADE AVAILABLE TO THE PUBLIC SUBJECT TO THE PROVISIONS OF THE MARYLAND  
10 PUBLIC INFORMATION ACT.

11 14-3307.

12 (A) THERE IS A RENTAL ASSISTANCE SERVICES ADMINISTRATION FUND THAT  
13 IS ESTABLISHED FOR THE PURPOSE OF PAYING THE EXPENSES INCURRED IN THE  
14 ADMINISTRATION AND ENFORCEMENT OF THIS SUBTITLE.

15 (B) THE FUND SHALL BE ADMINISTERED BY THE DIVISION.

16 14-3308.

17 (A) A CONTRACT OR AGREEMENT FOR RENTAL ASSISTANCE SERVICES MAY  
18 NOT CONTAIN AN AUTOMATIC RENEWAL CLAUSE, UNLESS THE AGREEMENT  
19 PROVIDES FOR A RENEWAL OPTION THAT MUST BE ACCEPTED BY THE CONSUMER.

20 (B) (1) (I) A CONSUMER MAY CANCEL A CONTRACT OR AGREEMENT FOR  
21 RENTAL ASSISTANCE SERVICES WITHIN 3 BUSINESS DAYS AFTER RECEIPT OF A COPY  
22 OF THE CONTRACT OR AGREEMENT BY NOTIFYING THE SELLER IN WRITING.

23 (II) WRITTEN NOTIFICATION SHALL BE DELIVERED IN PERSON OR  
24 BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM  
25 THE UNITED STATES POSTAL SERVICE, AND IF MAILED SHALL BE POSTMARKED BY  
26 MIDNIGHT OF THE THIRD BUSINESS DAY.

27 (2) IF A CONSUMER CANCELS WITHIN 3 BUSINESS DAYS, THE SELLER  
28 SHALL REFUND ANY DEPOSIT, DOWN PAYMENT, OR PAYMENT ON THE CONTRACT OR  
29 AGREEMENT.

30 (C) A CONTRACT OR AGREEMENT FOR RENTAL ASSISTANCE SERVICES SHALL  
31 CONSPICUOUSLY DISCLOSE UNDER THE HEADING "NOTICE OF CONSUMER RIGHTS":

32 (1) THE SELLER'S REGISTRATION NUMBER WITH THE DIVISION;

33 (2) A DESCRIPTION OF THE SECURITY HELD AND MAINTAINED BY THE  
34 SELLER UNDER § 14-3304 OF THIS SECTION;

35 (3) THE CONSUMER'S RIGHT TO CANCEL AS DEFINED IN THIS SECTION;  
36 AND

1 (4) THE INFORMATION NECESSARY FOR THE CONSUMER TO CONTACT  
2 THE DIVISION.

3 (D) A CONTRACT OR AGREEMENT FOR RENTAL ASSISTANCE SERVICES SHALL  
4 CONTAIN IN A FORM ACCEPTABLE TO THE DIVISION A CLEAR AND CONSPICUOUS  
5 ITEMIZED DESCRIPTION OF ANY FEES AND CHARGES IMPOSED BY THE SELLER.

6 14-3309.

7 ON THE CESSATION OF OPERATIONS BY OR THE BANKRUPTCY OF THE SELLER,  
8 THE SELLER SHALL PROVIDE THE FOLLOWING INFORMATION TO THE DIVISION  
9 WITHIN 15 BUSINESS DAYS:

10 (1) A LIST OF THE NAMES AND ADDRESSES OF ALL TENANTS;

11 (2) THE ORIGINAL OR A COPY OF ALL CONTRACTS OR AGREEMENTS FOR  
12 RENTAL ASSISTANCE SERVICES; AND

13 (3) A RECORD OF ALL PAYMENTS RECEIVED FOR RENTAL ASSISTANCE  
14 SERVICES.

15 14-3310.

16 (A) A VIOLATION OF THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE TRADE  
17 PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE AND IS SUBJECT TO  
18 THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS  
19 ARTICLE.

20 (B) (1) IN ADDITION TO ANY REMEDIES OTHERWISE AVAILABLE, IF THE  
21 DIVISION DETERMINES THAT A PERSON IS SELLING RENTAL ASSISTANCE SERVICES  
22 IN VIOLATION OF THIS SUBTITLE, THE DIVISION MAY ISSUE A CEASE AND DESIST  
23 ORDER WITHOUT CONDUCTING A HEARING UNDER § 13-403 OF THIS ARTICLE.

24 (2) A CEASE AND DESIST ORDER SHALL GRANT THE RESPONDENT AN  
25 OPPORTUNITY TO REQUEST A HEARING UNDER § 13-403 OF THIS ARTICLE, AND THE  
26 HEARING SHALL BE HELD NO LATER THAN 7 DAYS AFTER THE REQUEST.

27 (3) IF NO REQUEST IS MADE, ANY ORDER ENTERED UNDER THIS  
28 SECTION SHALL BE FINAL 30 DAYS AFTER ENTRY.

29 14-3311.

30 THIS SUBTITLE MAY BE CITED AS THE RENTAL ASSISTANCE SERVICES ACT.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 2005.