

HOUSE BILL 789

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71r2357
CF SB 433

By: **Delegates Minnick, Burns, Feldman, Haddaway, Impallaria, Jameson,
Love, Manno, and Miller**

Introduced and read first time: February 9, 2007

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Banking Institutions – Deceptive Use of Names, Trade Names, Logos, or**
3 **Taglines – Penalties**

4 FOR the purpose of providing that under certain circumstances, a person may not use
5 the name, trade name, logo, or tagline of a certain bank that is similar to that
6 which is used by the bank in certain material; providing for an exception;
7 providing for a penalty for a violation of the Act; defining a certain term; and
8 generally relating to the deceptive use of the name, trade name, logo, or tagline
9 of a bank.

10 BY repealing and reenacting, with amendments,
11 Article – Financial Institutions
12 Section 5–806
13 Annotated Code of Maryland
14 (2003 Replacement Volume and 2006 Supplement)

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

17 **Article – Financial Institutions**

18 5–806.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) Except for a bank, trust company, or savings bank that is authorized to
2 do business in this State, a person may not use any name, title, or other words that
3 represent that the person is authorized to do the business of banking in this State.

4 **(B) (1) IN THIS SUBSECTION, "BANK" MEANS ANY BANK, TRUST**
5 **COMPANY, SAVINGS BANK, OR SAVINGS AND LOAN ASSOCIATION INCORPORATED**
6 **OR CHARTERED UNDER THE LAWS OF THIS STATE OR THE UNITED STATES**
7 **THAT ACCEPTS DEPOSITS IN THIS STATE, AND ANY SUBSIDIARY OR AFFILIATE**
8 **OF THE ENTITY.**

9 **(2) EXCEPT WITH THE CONSENT OF THE BANK, A PERSON MAY**
10 **NOT USE THE NAME, TRADE NAME, LOGO, OR TAGLINE OF A BANK OR THE NAME,**
11 **TRADE NAME, LOGO, OR TAGLINE THAT IS SIMILAR TO THAT WHICH IS USED BY**
12 **THE BANK IN ANY MARKETING MATERIAL PROVIDED TO ANOTHER PERSON OR**
13 **IN ANY SOLICITATION OF ANOTHER PERSON IF THE NAME, TRADE NAME, LOGO,**
14 **OR TAGLINE MAY CAUSE A REASONABLE PERSON TO BELIEVE THAT THE**
15 **MARKETING MATERIAL OR SOLICITATION:**

16 **(I) ORIGINATED FROM THE BANK;**

17 **(II) IS ENDORSED BY THE BANK; OR**

18 **(III) IS THE RESPONSIBILITY OF THE BANK.**

19 **(C) IN ADDITION TO ANY OTHER REMEDIES A BANK MAY HAVE UNDER**
20 **ANY OTHER PROVISION OF LAW, A BANK THAT IS AFFECTED BY A VIOLATION OF**
21 **SUBSECTION (B) OF THIS SECTION MAY BRING AN ACTION AGAINST THE PERSON**
22 **THAT COMMITTED THE VIOLATION TO RECOVER:**

23 **(1) ACTUAL DAMAGES SUSTAINED AS A RESULT OF THE**
24 **VIOLATION;**

25 **(2) \$1,000 FOR EACH VIOLATION; AND**

26 **(3) REASONABLE ATTORNEY'S FEES AND COURT COSTS.**

27 **(D) (1) IF THE COMMISSIONER REASONABLY BELIEVES THAT A**
28 **PERSON HAS VIOLATED OR INTENDS TO VIOLATE SUBSECTION (B) OF THIS**
29 **SECTION, THE COMMISSIONER MAY ISSUE A CEASE AND DESIST ORDER TO THE**
30 **PERSON IN ACCORDANCE WITH § 2-115 OF THIS ARTICLE.**

1 **(2) IF A PERSON FAILS TO COMPLY WITH A CEASE AND**
2 **DESIST ORDER ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE**
3 **COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING \$5,000 FOR**
4 **EACH VIOLATION.**

5 **(3) FOR THE PURPOSES OF IMPOSING PENALTIES UNDER**
6 **PARAGRAPH (2) OF THIS SUBSECTION, EACH INSTANCE OF A VIOLATION OF**
7 **THIS SECTION IS A SEPARATE VIOLATION.**

8 **[(b)] (E)** Any person who violates [any provision] **SUBSECTION (A)** of this
9 section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding
10 \$3,000 or imprisonment not exceeding 5 years or both.

11 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
12 **October 1, 2007.**