

# HOUSE BILL 789

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71r2357  
CF SB 433

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

Introduced and read first time: February 9, 2007

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

4 FOR the purpose of clarifying the entities that may use a name, title, or other words  
5 that represent that the person is authorized to do the business of banking in the  
6 State; providing that under certain circumstances, a person may not use the  
7 name, trade name, trademark, service mark, logo, or tagline of a certain bank  
8 ~~that is similar to that which is used by the bank~~ or a term or design that is  
9 similar to the name, trade name, trademark, service mark, logo, or tagline of a  
10 certain bank in certain material; providing for an exception; providing for a  
11 penalty for a violation of ~~the~~ this Act; defining ~~a certain term~~ certain terms; and  
12 generally relating to the deceptive use of the name, trade name, trademark,  
13 service mark, logo, or tagline of a bank.

14 BY repealing and reenacting, with amendments,  
15 Article – Financial Institutions  
16 Section 5–806  
17 Annotated Code of Maryland  
18 (2003 Replacement Volume and 2006 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – Financial Institutions**

4 5–806.

5 (a) Except for a bank, trust company, ~~or~~ savings bank, **OR SAVINGS AND**  
6 **LOAN ASSOCIATION** that is authorized to do business in this State, a person may not  
7 use any name, title, or other words that represent that the person is authorized to do  
8 the business of banking in this State.

9 (B) (1) **(I) IN THIS SUBSECTION, THE FOLLOWING TERMS HAVE THE**  
10 **MEANINGS INDICATED.**

11 **(II) 1. “BANK” “BANK” MEANS ANY BANK, TRUST**  
12 **COMPANY, SAVINGS BANK, OR SAVINGS AND LOAN ASSOCIATION INCORPORATED**  
13 **OR CHARTERED UNDER THE LAWS OF THIS STATE OR THE UNITED STATES**  
14 **THAT ACCEPTS DEPOSITS THAT IS AUTHORIZED TO DO BUSINESS IN THIS STATE,**  
15 **AND ANY SUBSIDIARY OR AFFILIATE OF THE ENTITY.**

16 **2. “BANK” INCLUDES ANY FARM CREDIT SYSTEM**  
17 **INSTITUTION IN THIS STATE.**

18 **(III) “NAME” MEANS THE NAME, TRADE NAME, TRADEMARK,**  
19 **SERVICE MARK, LOGO, OR TAGLINE USED BY A BANK TO IDENTIFY ITSELF.**

20 (2) **EXCEPT WITH THE CONSENT OF THE BANK, A PERSON MAY**  
21 **NOT USE THE NAME, TRADE NAME, LOGO, OR TAGLINE OF A BANK OR THE NAME,**  
22 **TRADE NAME, LOGO, OR TAGLINE OR ANY TERM OR DESIGN THAT IS SIMILAR TO**  
23 **THAT WHICH IS USED BY THE NAME OF THE A BANK IN ANY MARKETING**  
24 **MATERIAL PROVIDED TO ANOTHER PERSON OR IN ANY SOLICITATION OF**  
25 **ANOTHER PERSON IF THE NAME, TRADE NAME, LOGO, OR TAGLINE IN A MANNER**  
26 **THAT MAY CAUSE A REASONABLE PERSON TO BELIEVE BE CONFUSED,**  
27 **MISTAKEN, OR DECEIVED THAT THE MARKETING MATERIAL OR SOLICITATION:**

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

29 (II) **ORIGINATED FROM SOMEONE AFFILIATED,**  
30 **CONNECTED, OR ASSOCIATED WITH THE BANK;**

1                    (III) IS ~~ENDORSED~~ APPROVED OR SPONSORED BY THE BANK;  
2 OR

3                    ~~(III)~~ (IV) IS THE RESPONSIBILITY OF THE BANK.

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

8            (1) ACTUAL DAMAGES SUSTAINED AS A RESULT OF THE  
9 VIOLATION;

10           (2) EITHER:

11                (I) ALL PROFITS ATTRIBUTABLE TO THE VIOLATION; OR

12                (II) \$1,000 FOR EACH VIOLATION; AND

13                (3) REASONABLE COURT COSTS AND REASONABLE ATTORNEY'S  
14 FEEES AND COURT COSTS.

15            ~~(D) (1) IF THE COMMISSIONER REASONABLY BELIEVES THAT A~~  
16 ~~PERSON HAS VIOLATED OR INTENDS TO VIOLATE SUBSECTION (B) OF THIS~~  
17 ~~SECTION, THE COMMISSIONER MAY ISSUE A CEASE AND DESIST ORDER TO THE~~  
18 ~~PERSON IN ACCORDANCE WITH § 2-115 OF THIS ARTICLE.~~

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

23            ~~(3) FOR THE PURPOSES OF IMPOSING PENALTIES UNDER~~  
24 ~~PARAGRAPH (2) OF THIS SUBSECTION, EACH INSTANCE OF A VIOLATION OF~~  
25 ~~THIS SECTION IS A SEPARATE VIOLATION.~~

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

4            SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 5 October 1, 2007.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.