

SENATE BILL 433

I1

(71r2346)

ENROLLED BILL

— *Finance/Economic Matters* —

Introduced by **Senator Klausmeier**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

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

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.

Italics indicate opposite chamber / conference committee amendments.



1 generally relating to the deceptive use of the name, trade name, trademark,
2 service mark, logo, or tagline of a bank.

3 BY repealing and reenacting, with amendments,
4 Article – Financial Institutions
5 Section 5–806
6 Annotated Code of Maryland
7 (2003 Replacement Volume and 2006 Supplement)

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

10 **Article – Financial Institutions**

11 5–806.

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

16 (B) (1) (I) IN THIS SUBSECTION, THE FOLLOWING TERMS HAVE
17 THE MEANINGS INDICATED.

18 (II) 1. “BANK” “BANK” MEANS ANY BANK, TRUST
19 COMPANY, SAVINGS BANK, OR SAVINGS AND LOAN ASSOCIATION INCORPORATED
20 OR CHARTERED UNDER THE LAWS OF THIS STATE OR THE UNITED STATES
21 THAT ACCEPTS DEPOSITS THAT IS AUTHORIZED TO DO BUSINESS IN THIS STATE,
22 AND ANY SUBSIDIARY OR AFFILIATE OF THE ENTITY.

23 2. “BANK” INCLUDES ANY FARM CREDIT SYSTEM
24 INSTITUTION IN THIS STATE.

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

27 (2) EXCEPT WITH THE CONSENT OF THE BANK, A PERSON MAY
28 NOT USE THE NAME, TRADE NAME, LOGO, OR TAGLINE OF A BANK OR THE NAME,
29 TRADE NAME, LOGO, OR TAGLINE OR ANY TERM OR DESIGN THAT IS SIMILAR TO
30 THAT WHICH IS USED BY THE NAME OF THE A BANK IN ANY MARKETING
31 MATERIAL PROVIDED TO ANOTHER PERSON OR IN ANY SOLICITATION OF

1 ~~ANOTHER PERSON IF THE NAME, TRADE NAME, LOGO, OR TAGLINE IN A MANNER~~
 2 ~~THAT MAY CAUSE A REASONABLE PERSON TO BELIEVE BE CONFUSED,~~
 3 ~~MISTAKEN, OR DECEIVED THAT THE MARKETING MATERIAL OR SOLICITATION:~~

4 (I) ORIGINATED FROM THE BANK;

5 (II) ORIGINATED FROM SOMEONE AFFILIATED,
 6 CONNECTED, OR ASSOCIATED WITH THE BANK;

7 (III) IS ~~ENDORSED~~ APPROVED OR SPONSORED BY THE BANK;
 8 OR

9 ~~(H)~~ (IV) IS THE RESPONSIBILITY OF THE BANK.

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

14 (1) ACTUAL DAMAGES SUSTAINED AS A RESULT OF THE
 15 VIOLATION;

16 (2) EITHER:

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

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

19 (3) REASONABLE COURT COSTS AND REASONABLE ATTORNEY'S
 20 FEES AND COURT COSTS.

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

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

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

4 [(b) ~~(E)~~ (D) Any person who violates [any provision] SUBSECTION (A) of this
 5 section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding
 6 \$3,000 or imprisonment not exceeding 5 years or both.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.