

SENATE BILL 433

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71r2346
CF HB 789

By: **Senator Klausmeier**

Introduced and read first time: February 2, 2007

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 7, 2007

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 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)

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**
10 **THE 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 FEES 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:

Governor.

President of the Senate.

Speaker of the House of Delegates.