

CHAPTER 154

(Senate Bill 433)

AN ACT concerning

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

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

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

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

Article – Financial Institutions

5–806.

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

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

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

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

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

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

(I) ORIGINATED FROM THE BANK;

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

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

OR

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

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

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

(2) EITHER:

(I) ALL PROFITS ATTRIBUTABLE TO THE VIOLATION; OR

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

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

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

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

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

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

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

Approved by the Governor, April 24, 2007.