# HOUSE BILL 129

I3, I1                                                                          8lr0589

By: **Delegates Ali, Barkley, Cane, and Howard**
Introduced and read first time: January 17, 2008
Assigned to: Economic Matters

A BILL ENTITLED

1    AN ACT concerning

2    **Plastic Card Security Act**

3    FOR the purpose of prohibiting a person that accepts an access device in connection
4        with a transaction from retaining certain data, code numbers, or the full
5        contents of certain magnetic stripe or microprocessor chip data after
6        authorization of the transaction or for a certain debit transaction, for more than
7        a certain time after authorization of the transaction; providing that a person is
8        in violation of certain provisions of this Act if the person's service provider
9        retains certain information; requiring a person that violates certain provisions
10       of this Act to reimburse certain financial institutions for certain costs;
11       authorizing certain financial institutions to recover from certain persons costs
12       for certain damages paid; defining certain terms; and generally relating to the
13       Plastic Card Security Act.

14    BY renumbering
15        Article – Commercial Law
16        Section 14–3505 through 14–3508, respectively
17        to be Section 14–3506 through 14–3509, respectively
18        Annotated Code of Maryland
19        (2005 Replacement Volume and 2007 Supplement)

20    BY repealing and reenacting, with amendments,
21        Article – Commercial Law
22        Section 14–3501
23        Annotated Code of Maryland
24        (2005 Replacement Volume and 2007 Supplement)

25    BY adding to
26        Article – Commercial Law
27        Section 14–3505
28        Annotated Code of Maryland

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
        [Brackets] indicate matter deleted from existing law.

1     (2005 Replacement Volume and 2007 Supplement)

2     SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3     MARYLAND, That Section(s) 14–3505 through 14–3508, respectively, of Article –
4     Commercial Law of the Annotated Code of Maryland be renumbered to be Section(s)
5     14–3506 through 14–3509, respectively.

6     SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
7     read as follows:

**Article – Commercial Law**

9     14–3501.

10     (a)     In this subtitle the following words have the meanings indicated.

11     (b)     **(1)     "ACCESS DEVICE" MEANS A CARD THAT:**

12             **(I)     IS ISSUED BY A FINANCIAL INSTITUTION; AND**

13             **(II)     CONTAINS A MAGNETIC STRIPE, MICROPROCESSOR**
14     **CHIP, OR OTHER MEANS FOR STORAGE OF INFORMATION.**

15     **(2)     "ACCESS DEVICE" INCLUDES:**

16             **(I)     A CREDIT CARD;**

17             **(II)     A DEBIT CARD; OR**

18             **(III)     A STORED VALUE CARD.**

19     **(C)     "ACCESS DEVICE SECURITY CODE" MEANS THE THREE–DIGIT OR**
20     **FOUR–DIGIT VALUE THAT IS:**

21             **(1)     PRINTED ON AN ACCESS DEVICE OR CONTAINED IN THE**
22     **MAGNETIC STRIPE OR MICROPROCESSOR CHIP OF AN ACCESS DEVICE; AND**

23             **(2)     USED TO VALIDATE ACCESS DEVICE INFORMATION DURING**
24     **THE ACCESS DEVICE AUTHORIZATION PROCESS.**

25     **(D)**     (1)     "Business" means a sole proprietorship, partnership, corporation,
26     association, or any other business entity, whether or not organized to operate at a
27     profit.

28             (2)     "Business" includes a financial institution organized, chartered,
29     licensed, or otherwise authorized under the laws of this State, any other state, the

1    United States, or any other country, and the parent or subsidiary of a financial
2    institution.

3    **[**(c)**] (E)** "Encrypted" means the transformation of data through the use of
4    an algorithmic process into a form in which there is a low probability of assigning
5    meaning without use of a confidential process or key.

6    **(F)** **"FINANCIAL INSTITUTION" MEANS A BANK, BANK AND TRUST,**
7    **TRUST COMPANY WITH BANKING POWERS, SAVINGS BANK, INDUSTRIAL LOAN**
8    **COMPANY, SAVINGS ASSOCIATION, CREDIT UNION, OR OTHER LENDER**
9    **REGULATED UNDER FEDERAL LAW OR THE FINANCIAL INSTITUTIONS ARTICLE.**

10    **(G)** **"MAGNETIC STRIPE DATA" MEANS THE DATA CONTAINED IN THE**
11    **MAGNETIC STRIPE OF AN ACCESS DEVICE.**

12    **(H)** **"MICROPROCESSOR CHIP DATA" MEANS THE DATA CONTAINED IN**
13    **THE MICROPROCESSOR CHIP OF AN ACCESS DEVICE.**

14    **[**(d)**](I)** (1) "Personal information" means an individual's first name or
15    first initial and last name in combination with any one or more of the following data
16    elements, when the name or the data elements are not encrypted, redacted, or
17    otherwise protected by another method that renders the information unreadable or
18    unusable:

19    (i) A Social Security number;

20    (ii) A driver's license number;

21    (iii) A financial account number, including a credit card number
22    or debit card number, that in combination with any required security code, access
23    code, or password, would permit access to an individual's financial account; or

24    (iv) An Individual Taxpayer Identification Number.

25    (2) "Personal information" does not include:

26    (i) Publicly available information that is lawfully made
27    available to the general public from federal, State, or local government records;

28    (ii) Information that an individual has consented to have
29    publicly disseminated or listed; or

30    (iii) Information that is disseminated or listed in accordance
31    with the federal Health Insurance Portability and Accountability Act.

1      (J)   "PIN"   MEANS   A   PERSONAL   IDENTIFICATION   CODE   THAT
2   IDENTIFIES AN ACCESS DEVICE HOLDER.

3      (K)   "PIN VERIFICATION CODE NUMBER" MEANS THE DATA USED TO
4   VERIFY AN ACCESS DEVICE HOLDER'S IDENTITY WHEN A PIN IS USED IN A
5   TRANSACTION.

6      [(e)](L)    "Records" means information that is inscribed on a tangible
7   medium or that is stored in an electronic or other medium and is retrievable in
8   perceivable form.

9      (M)   "SERVICE PROVIDER" MEANS A PERSON THAT STORES, PROCESSES,
10  OR TRANSMITS ACCESS DEVICE DATA ON BEHALF OF ANOTHER PERSON.

11  14–3505.

12     (A)   EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
13  PERSON   THAT   ACCEPTS   AN   ACCESS   DEVICE   IN   CONNECTION   WITH   A
14  TRANSACTION MAY NOT RETAIN ACCESS DEVICE SECURITY CODE DATA, A PIN
15  VERIFICATION CODE NUMBER, OR THE FULL CONTENTS OF MAGNETIC STRIPE
16  DATA   OR   MICROPROCESSOR   CHIP   DATA   AFTER   AUTHORIZATION   OF   THE
17  TRANSACTION.

18     (B)   FOR A PIN DEBIT TRANSACTION, A PERSON THAT ACCEPTS AN
19  ACCESS DEVICE IN CONNECTION WITH A TRANSACTION MAY NOT RETAIN THE
20  ACCESS DEVICE SECURITY CODE DATA, A PIN VERIFICATION CODE NUMBER, OR
21  THE FULL CONTENTS OF MAGNETIC STRIPE DATA OR MICROPROCESSOR CHIP
22  DATA   FOR   MORE   THAN   48   HOURS   AFTER   AUTHORIZATION   OF   THE
23  TRANSACTION.

24     (C)   A PERSON IS IN VIOLATION OF THIS SECTION IF THE PERSON'S
25  SERVICE PROVIDER RETAINS ACCESS DEVICE SECURITY CODE DATA, A PIN
26  VERIFICATION CODE NUMBER, OR THE FULL CONTENTS OF MAGNETIC STRIPE
27  DATA   OR   MICROPROCESSOR   CHIP   DATA   OTHERWISE   PROHIBITED   BY
28  SUBSECTIONS (A) AND (B) OF THIS SECTION.

29     (D)   (1)   IF A PERSON VIOLATES THIS SECTION AND THERE IS A
30  BREACH OF THE SECURITY OF A SYSTEM OF THE PERSON OR THE PERSON'S
31  SERVICE PROVIDER UNDER § 14–3504 OF THIS SUBTITLE, THE PERSON SHALL
32  REIMBURSE   A   FINANCIAL   INSTITUTION   THAT   ISSUED   AN   ACCESS   DEVICE
33  AFFECTED BY THE BREACH FOR THE COSTS OF REASONABLE LOSS MITIGATION
34  ACTIONS TAKEN BY THE FINANCIAL INSTITUTION AS A RESULT OF THE BREACH,
35  INCLUDING ANY COSTS INCURRED IN CONNECTION WITH THE:

1                 **(I)**     **CANCELLATION OR REISSUANCE OF AN ACCESS DEVICE;**

2                 **(II)**     **CLOSURE OF A DEPOSIT, TRANSACTION, SHARE DRAFT,**
3 **OR OTHER ACCOUNT AND ANY ACTION TO STOP PAYMENT OR BLOCK**
4 **TRANSACTIONS WITH RESPECT TO THE ACCOUNT;**

5                 **(III)**     **OPENING OR REOPENING OF A DEPOSIT, TRANSACTION,**
6 **SHARE DRAFT, OR OTHER ACCOUNT;**

7                 **(IV)**     **REFUND OR CREDIT MADE TO AN ACCESS DEVICE**
8 **HOLDER TO COVER THE COST OF AN UNAUTHORIZED TRANSACTION; AND**

9                 **(V)**     **NOTIFICATION TO ACCESS DEVICE HOLDERS.**

10            **(2)**   **(I)**     **A FINANCIAL INSTITUTION ALSO MAY RECOVER FROM A**
11 **PERSON THAT HAS VIOLATED THIS SECTION COSTS FOR DAMAGES PAID BY THE**
12 **FINANCIAL INSTITUTION TO ACCESS DEVICE HOLDERS INJURED BY A BREACH**
13 **OF THE SECURITY OF THE SYSTEM.**

14                 **(II)**     **COSTS DO NOT INCLUDE AMOUNTS RECOVERED FROM A**
15 **CREDIT CARD COMPANY BY A FINANCIAL INSTITUTION.**

16      SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2008.