

# HOUSE BILL 1178

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By: **Delegates Frick, Feldman, Hecht, and Lee**

Introduced and read first time: February 8, 2008

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law - Consumer Contracts - Prohibited Provisions**

3 FOR the purpose of prohibiting a person from including or enforcing certain provisions  
4 in certain consumer contracts; requiring a consumer contract to contain a  
5 certain statement informing the consumer of the prohibited provisions;  
6 providing that a provision included in a consumer contract in violation of  
7 certain provisions of this Act is void and unenforceable; providing that a  
8 violation of this Act is an unfair or deceptive trade practice within the meaning  
9 of the Maryland Consumer Protection Act and is subject to certain enforcement  
10 and penalty provisions; defining certain terms; and generally relating to  
11 consumer contracts.

12 BY adding to

13 Article - Commercial Law

14 Section 14-1322

15 Annotated Code of Maryland

16 (2005 Replacement Volume and 2007 Supplement)

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

19 **Article - Commercial Law**

20 **14-1322.**

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
22 MEANINGS INDICATED.

23 (2) "CONSUMER" MEANS A PURCHASER, LESSEE, OR RECIPIENT  
24 OF CONSUMER GOODS, CONSUMER SERVICES, OR CONSUMER CREDIT.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(3) “CONSUMER CONTRACT” MEANS A WRITTEN AGREEMENT FOR**  
2 **THE SALE, LEASE, OR PROVISION OF CONSUMER GOODS, CONSUMER SERVICES,**  
3 **OR CONSUMER CREDIT BETWEEN A PERSON AND A CONSUMER WHO RESIDES IN**  
4 **THE STATE.**

5           **(4) “CONSUMER CREDIT”, “CONSUMER GOODS”, AND “CONSUMER**  
6 **SERVICES” MEAN, RESPECTIVELY, CREDIT, GOODS, AND SERVICES WHICH ARE**  
7 **PRIMARILY FOR PERSONAL, HOUSEHOLD, OR FAMILY PURPOSES.**

8           **(5) “CONSUMER REPORT” HAS THE MEANING STATED IN §**  
9 **14-1201 OF THIS TITLE.**

10           **(B) A PERSON MAY NOT INCLUDE OR ENFORCE A PROVISION IN A**  
11 **CONSUMER CONTRACT:**

12           **(1) UNDER WHICH A DEFAULT BY THE CONSUMER UNDER**  
13 **ANOTHER CONTRACT TRIGGERS A DEFAULT UNDER THE CONSUMER CONTRACT;**  
14 **OR**

15           **(2) THAT AUTHORIZES A PARTY TO THE CONSUMER CONTRACT TO**  
16 **ACCELERATE A PAYMENT OWED UNDER THE CONSUMER CONTRACT, INCREASE**  
17 **THE INTEREST RATE PAYABLE UNDER THE CONSUMER CONTRACT, OR ALTER A**  
18 **TERM OF THE CONSUMER CONTRACT IN ANY OTHER MANNER ADVERSE TO THE**  
19 **CONSUMER, WITHOUT THE CONSUMER’S PRIOR WRITTEN CONSENT, BASED ON:**

20                   **(I) A DEFAULT BY THE CONSUMER UNDER ANOTHER**  
21 **CONTRACT;**

22                   **(II) ADVERSE INFORMATION ABOUT THE CONSUMER,**  
23 **INCLUDING INFORMATION CONTAINED IN THE CONSUMER’S CONSUMER**  
24 **REPORT; OR**

25                   **(III) A CHANGE IN THE CONSUMER’S CREDIT SCORE.**

26           **(C) EACH CONSUMER CONTRACT SHALL CONTAIN A CLEAR AND**  
27 **CONSPICUOUS STATEMENT INFORMING THE CONSUMER OF THE PROVISIONS**  
28 **PROHIBITED IN A CONSUMER CONTRACT UNDER SUBSECTION (B) OF THIS**  
29 **SECTION.**

30           **(D) A PROVISION INCLUDED IN A CONSUMER CONTRACT IN VIOLATION**  
31 **OF SUBSECTION (B) OF THIS SECTION IS VOID AND UNENFORCEABLE.**

32           **(E) A VIOLATION OF THIS SECTION IS:**

1                   **(1) AN UNFAIR OR DECEPTIVE TRADE PRACTICE WITHIN THE**  
2 **MEANING OF TITLE 13 OF THIS ARTICLE; AND**

3                   **(2) SUBJECT TO THE PENALTY AND ENFORCEMENT PROVISIONS**  
4 **CONTAINED IN TITLE 13 OF THIS ARTICLE.**

5                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2008.