

HOUSE BILL 159

I3

9lr0484

By: **Delegates Cardin, Bartlett, Benson, Braveboy, Carr, Frick, Gilchrist, Hecht, Rice, Schuler, Stein, and Walkup**

Introduced and read first time: January 26, 2009

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Sending Blank Checks Through the Mail – Recipient**
3 **Approval**

4 FOR the purpose of prohibiting a person from sending a blank check through the mail
5 without prior approval of the recipient; providing that a violation of this Act is
6 an unfair or deceptive trade practice within the meaning of the Maryland
7 Consumer Protection Act; and generally relating to restrictions on sending
8 blank checks through the mail.

9 BY repealing and reenacting, with amendments,
10 Article – Commercial Law
11 Section 13–301
12 Annotated Code of Maryland
13 (2005 Replacement Volume and 2008 Supplement)

14 BY adding to
15 Article – Commercial Law
16 Section 14–1322
17 Annotated Code of Maryland
18 (2005 Replacement Volume and 2008 Supplement)

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

21 **Article – Commercial Law**

22 13–301.

23 Unfair or deceptive trade practices include any:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (1) False, falsely disparaging, or misleading oral or written statement,
2 visual description, or other representation of any kind which has the capacity,
3 tendency, or effect of deceiving or misleading consumers;
- 4 (2) Representation that:
- 5 (i) Consumer goods, consumer realty, or consumer services
6 have a sponsorship, approval, accessory, characteristic, ingredient, use, benefit, or
7 quantity which they do not have;
- 8 (ii) A merchant has a sponsorship, approval, status, affiliation,
9 or connection which he does not have;
- 10 (iii) Deteriorated, altered, reconditioned, reclaimed, or
11 secondhand consumer goods are original or new; or
- 12 (iv) Consumer goods, consumer realty, or consumer services are
13 of a particular standard, quality, grade, style, or model which they are not;
- 14 (3) Failure to state a material fact if the failure deceives or tends to
15 deceive;
- 16 (4) Disparagement of the goods, realty, services, or business of another
17 by a false or misleading representation of a material fact;
- 18 (5) Advertisement or offer of consumer goods, consumer realty, or
19 consumer services:
- 20 (i) Without intent to sell, lease, or rent them as advertised or
21 offered; or
- 22 (ii) With intent not to supply reasonably expected public
23 demand, unless the advertisement or offer discloses a limitation of quantity or other
24 qualifying condition;
- 25 (6) False or misleading representation of fact which concerns:
- 26 (i) The reason for or the existence or amount of a price
27 reduction; or
- 28 (ii) A price in comparison to a price of a competitor or to one's
29 own price at a past or future time;
- 30 (7) Knowingly false statement that a service, replacement, or repair is
31 needed;

1 (8) False statement which concerns the reason for offering or
2 supplying consumer goods, consumer realty, or consumer services at sale or discount
3 prices;

4 (9) Deception, fraud, false pretense, false premise, misrepresentation,
5 or knowing concealment, suppression, or omission of any material fact with the intent
6 that a consumer rely on the same in connection with:

7 (i) The promotion or sale of any consumer goods, consumer
8 realty, or consumer service;

9 (ii) A contract or other agreement for the evaluation, perfection,
10 marketing, brokering or promotion of an invention; or

11 (iii) The subsequent performance of a merchant with respect to
12 an agreement of sale, lease, or rental;

13 (10) Solicitations of sales or services over the telephone without first
14 clearly, affirmatively, and expressly stating:

15 (i) The solicitor's name and the trade name of a person
16 represented by the solicitor;

17 (ii) The purpose of telephone conversation; and

18 (iii) The kind of merchandise, real property, intangibles, or
19 service solicited;

20 (11) Use of any plan or scheme in soliciting sales or services over the
21 telephone that misrepresents the solicitor's true status or mission;

22 (12) Use of a contract related to a consumer transaction which contains
23 a confessed judgment clause that waives the consumer's right to assert a legal defense
24 to an action;

25 (13) Use by a seller, who is in the business of selling consumer realty, of
26 a contract related to the sale of single family residential consumer realty, including
27 condominiums and town houses, that contains a clause limiting or precluding the
28 buyer's right to obtain consequential damages as a result of the seller's breach or
29 cancellation of the contract;

30 (14) Violation of a provision of:

31 (i) This title;

32 (ii) An order of the Attorney General or agreement of a party
33 relating to unit pricing under Title 14, Subtitle 1 of this article;

- 1 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer
2 Debt Collection Act;
- 3 (iv) Title 14, Subtitle 3 of this article, the Maryland
4 Door-to-Door Sales Act;
- 5 (v) Title 14, Subtitle 9 of this article, Kosher Products;
- 6 (vi) Title 14, Subtitle 10 of this article, Automotive Repair
7 Facilities;
- 8 (vii) Section 14-1302 of this article;
- 9 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales
10 Act;
- 11 (ix) Section 22-415 of the Transportation Article;
- 12 (x) Title 14, Subtitle 20 of this article;
- 13 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
14 Enforcement Act;
- 15 (xii) Title 14, Subtitle 21 of this article;
- 16 (xiii) Section 18-107 of the Transportation Article;
- 17 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
18 Solicitations Act;
- 19 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash
20 Parts Act;
- 21 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 22 (xvii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales
23 Act;
- 24 (xviii) Title 14, Subtitle 26 of this article, the Maryland
25 Door-to-Door Solicitations Act;
- 26 (xix) Title 14, Subtitle 31 of this article, the Maryland Household
27 Goods Movers Act;
- 28 (xx) Title 14, Subtitle 32 of this article, the Maryland Telephone
29 Consumer Protection Act;

1 (xxi) Title 14, Subtitle 34 of this article, the Social Security
2 Number Privacy Act;

3 (xxii) Section 14–1319 or § 14–1320 of this article;

4 (xxiii) Section 7–304 of the Criminal Law Article;

5 (xxiv) Title 7, Subtitle 3 of the Real Property Article, the
6 Protection of Homeowners in Foreclosure Act;

7 (xxv) Title 6, Subtitle 13 of the Environment Article; [or]

8 (xxvi) Section 7–405(e)(2)(ii) of the Health Occupations Article; or

9 **(XXVII) SECTION 14–1322 OF THIS ARTICLE; OR**

10 (15) Act or omission that relates to a residential building and that is
11 chargeable as a misdemeanor under or otherwise violates a provision of the Energy
12 Conservation Building Standards Act, Title 7, Subtitle 4 of the Public Utility
13 Companies Article.

14 **14–1322.**

15 **(A) A PERSON MAY NOT SEND A BLANK CHECK THROUGH THE MAIL**
16 **WITHOUT PRIOR APPROVAL OF THE RECIPIENT OF THE CHECK.**

17 **(B) A VIOLATION OF THIS SECTION IS AN UNFAIR OR DECEPTIVE TRADE**
18 **PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2009.