HOUSE BILL 343

By: **Delegates Howard, Aumann, Barkley, Bobo, Boteler, Cane, Davis, Dwyer, Glenn, Griffith, Harrison, Hecht, Holmes, Jones, Love, McDonough, Pena–Melnyk, Proctor, Rice, Riley, Robinson, Stein, Stocksdale, Taylor, F. Turner, V. Turner, Valderrama, Vaughn, and Walker**
Introduced and read first time: January 30, 2009
Assigned to: Economic Matters

A BILL ENTITLED

1   AN ACT concerning

2   **Consumer Protection – Disclosure of Personal Information by Credit Card**
3   **Issuers – Limitations**

4   FOR the purpose of prohibiting credit card issuers from disclosing certain personal
5   information of a cardholder without a certain authorization; requiring credit
6   card issuers to provide a certain notice to certain cardholders at certain times;
7   specifying the contents of the notice; providing that a cardholder's disclosure
8   authorization is effective until the occurrence of a certain event; providing that
9   the revocation of a disclosure authorization is subject to the rights of a credit
10   card issuer that acted in a certain manner; requiring a credit card issuer to
11   obtain a disclosure authorization for certain credit card accounts; requiring
12   credit card issuers to retain certain disclosure authorizations or copies of the
13   disclosure authorizations; providing that a violation of this Act is an unfair or
14   deceptive trade practice within the meaning of the Maryland Consumer
15   Protection Act and is subject to certain enforcement and penalty provisions;
16   defining certain terms; and generally relating to required authorizations for the
17   disclosure of personal information of cardholders by credit card issuers.

18   BY adding to
19   Article – Commercial Law
20   Section 14–1322
21   Annotated Code of Maryland
22   (2005 Replacement Volume and 2008 Supplement)

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

25   **Article – Commercial Law**

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

1   **14–1322.**

2   (A)   (1)   IN THIS SECTION THE FOLLOWING WORDS HAVE THE
3   MEANINGS INDICATED.

4   (2)   "AFFILIATE" MEANS A PERSON THAT CONTROLS, IS
5   CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH A CREDIT CARD
6   ISSUER.

7   (3)   "CARDHOLDER" MEANS A CONSUMER TO WHOM A CREDIT
8   CARD HAS BEEN ISSUED BY A CREDIT CARD ISSUER.

9   (4)   "CONSUMER" MEANS AN ACTUAL OR PROSPECTIVE
10   PURCHASER OF CONSUMER GOODS OR CONSUMER SERVICES.

11   (5)   "CONSUMER GOODS" HAS THE MEANING STATED IN § 13–101
12   OF THIS ARTICLE.

13   (6)   "CONSUMER SERVICES" HAS THE MEANING STATED IN §
14   13–101 OF THIS ARTICLE.

15   (7)   "CREDIT CARD ISSUER" MEANS A PERSON THAT EXTENDS TO
16   A CARDHOLDER THE RIGHT TO USE A CREDIT CARD IN CONNECTION WITH THE
17   PURCHASE OF CONSUMER GOODS OR CONSUMER SERVICES.

18   (8)   (I)   "PERSONAL INFORMATION" MEANS AN INDIVIDUAL'S
19   FIRST NAME OR FIRST INITIAL AND LAST NAME IN COMBINATION WITH ANY ONE
20   OR MORE OF THE FOLLOWING:

21   1.   A SOCIAL SECURITY NUMBER;

22   2.   A DRIVER'S LICENSE NUMBER;

23   3.   A FINANCIAL ACCOUNT NUMBER, INCLUDING A
24   CREDIT CARD NUMBER OR DEBIT CARD NUMBER, THAT IN COMBINATION WITH
25   ANY REQUIRED SECURITY CODE, ACCESS CODE, OR PASSWORD, WOULD PERMIT
26   ACCESS TO AN INDIVIDUAL'S FINANCIAL ACCOUNT; OR

27   4.   AN INDIVIDUAL TAXPAYER IDENTIFICATION
28   NUMBER.

29   (II)   "PERSONAL INFORMATION" INCLUDES:

1   **1.   INFORMATION PROVIDED BY A CARDHOLDER TO A**
2 **CREDIT CARD ISSUER AS PART OF AN APPLICATION FOR A CREDIT CARD; AND**

3   **2.   ANY INFORMATION OTHERWISE OBTAINED ABOUT**
4 **A CARDHOLDER IN CONNECTION WITH CONSUMER GOODS OR CONSUMER**
5 **SERVICES PURCHASED WITH A CREDIT CARD ISSUED BY THE CREDIT CARD**
6 **ISSUER.**

7   **(B)   EXCEPT AS OTHERWISE PROVIDED BY LAW, A CREDIT CARD ISSUER**
8 **MAY NOT, DIRECTLY OR INDIRECTLY, DISCLOSE ANY PERSONAL INFORMATION**
9 **ABOUT A CARDHOLDER TO A PERSON THAT IS NOT AN AFFILIATE UNLESS:**

10   **(1)   THE CARDHOLDER EXPRESSLY AUTHORIZES THE DISCLOSURE**
11 **IN WRITING; AND**

12   **(2)   THE CREDIT CARD ISSUER PROVIDES TO THE CARDHOLDER A**
13 **CLEAR AND CONSPICUOUS NOTICE, AT THE TIME A CREDIT CARD ACCOUNT IS**
14 **OPENED AND AT LEAST ONCE EACH YEAR WHILE THE ACCOUNT REMAINS OPEN,**
15 **THAT:**

16   **(I)   REFLECTS THE CREDIT CARD ISSUER'S PRIVACY**
17 **POLICIES AND PRACTICES WITH RESPECT TO PERSONAL INFORMATION;**

18   **(II)   IDENTIFIES THE TYPES OF PERSONAL INFORMATION**
19 **THAT MAY BE DISCLOSED BY THE CREDIT CARD ISSUER, AND THE TYPES OF**
20 **PERSONS THAT ARE NOT AFFILIATES TO WHICH THE CREDIT CARD ISSUER**
21 **DISCLOSES PERSONAL INFORMATION;**

22   **(III)   INFORMS THE CARDHOLDER THAT A DISCLOSURE**
23 **AUTHORIZATION MAY BE REVOKED IN WRITING;**

24   **(IV)   INFORMS THE CARDHOLDER OF ANY DISCLOSURE**
25 **AUTHORIZATION IN EFFECT ON THE DATE OF THE NOTICE; AND**

26   **(V)   INFORMS THE CARDHOLDER ABOUT HOW TO REVOKE A**
27 **DISCLOSURE AUTHORIZATION AND HOW TO AUTHORIZE THE DISCLOSURE OF**
28 **PERSONAL INFORMATION.**

29   **(C)   (1)   A   CARDHOLDER'S   DISCLOSURE   AUTHORIZATION   IS**
30 **EFFECTIVE UNTIL:**

31   **(I)   THE CARDHOLDER REVOKES IT IN WRITING; OR**

1   **(II)** **THE CARDHOLDER CLOSES THE CREDIT CARD**
2 **ACCOUNT.**

3   **(2)** **A REVOCATION OF A DISCLOSURE AUTHORIZATION IS**
4 **SUBJECT TO THE RIGHTS OF A CREDIT CARD ISSUER THAT ACTED REASONABLY**
5 **IN RELIANCE ON THE DISCLOSURE AUTHORIZATION.**

6   **(3)** **A CREDIT CARD ISSUER SHALL OBTAIN A DISCLOSURE**
7 **AUTHORIZATION FOR EACH CREDIT CARD ACCOUNT THAT THE CARDHOLDER**
8 **HAS WITH THE CREDIT CARD ISSUER.**

9   **(4)** **A CREDIT CARD ISSUER SHALL RETAIN THE CARDHOLDER'S**
10 **DISCLOSURE AUTHORIZATION, OR A COPY OF THE CARDHOLDER'S DISCLOSURE**
11 **AUTHORIZATION, IN THE CARDHOLDER'S RECORDS.**

12   **(D)** **A VIOLATION OF THIS SECTION IS:**

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

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

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