

HOUSE BILL 1292

I3

9lr0873

By: **Delegates Ali, Frick, Rudolph, Taylor, and Vaughn**

Introduced and read first time: February 13, 2009

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Blacklist Prevention**

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; permitting certain
8 information to be used to detect or prevent certain fraudulent activity; providing
9 that a violation of this Act is an unfair or deceptive trade practice within the
10 meaning of the Maryland Consumer Protection Act and is subject to certain
11 enforcement and penalty provisions; defining certain terms; and generally
12 relating to consumer contracts.

13 BY adding to

14 Article – Commercial Law

15 Section 14–1322

16 Annotated Code of Maryland

17 (2005 Replacement Volume and 2008 Supplement)

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

20 **Article – Commercial Law**

21 **14–1322.**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) “CONSUMER” MEANS A PURCHASER, LESSEE, OR RECIPIENT
2 OF CONSUMER GOODS, CONSUMER SERVICES, OR CONSUMER CREDIT.

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

7 (4) “CONSUMER CREDIT”, “CONSUMER GOODS”, AND “CONSUMER
8 SERVICES” MEAN, RESPECTIVELY, CREDIT, GOODS, AND SERVICES THAT ARE
9 PRIMARILY FOR PERSONAL, HOUSEHOLD, OR FAMILY PURPOSES.

10 (5) “MERCHANT” HAS THE MEANING STATED IN § 13-101 OF THIS
11 ARTICLE.

12 (B) A PERSON MAY NOT INCLUDE OR ENFORCE A PROVISION IN A
13 CONSUMER CONTRACT BY WHICH A DEFAULT UNDER THE CONSUMER
14 CONTRACT IS TRIGGERED, OR THAT AUTHORIZES A PARTY TO THE CONSUMER
15 CONTRACT TO ACCELERATE A PAYMENT OWED UNDER THE CONSUMER
16 CONTRACT, INCREASE THE INTEREST RATE PAYABLE UNDER THE CONSUMER
17 CONTRACT, REDUCE THE CREDIT LIMIT AVAILABLE UNDER THE CONSUMER
18 CONTRACT, OR ALTER A TERM OF THE CONSUMER CONTRACT IN ANY OTHER
19 MANNER ADVERSE TO THE CONSUMER, WITHOUT THE CONSUMER’S PRIOR
20 WRITTEN CONSENT, BASED ON:

21 (1) THE MERCHANT FROM WHICH THE CONSUMER OBTAINS
22 CONSUMER CREDIT, CONSUMER GOODS, OR CONSUMER SERVICES; OR

23 (2) THE MORTGAGE LENDER THAT HOLDS A MORTGAGE ON THE
24 CONSUMER’S HOME.

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

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

31 (E) SUBSECTION (B) OF THIS SECTION DOES NOT PROHIBIT A PERSON
32 FROM USING INFORMATION TO DETECT OR PREVENT FRAUDULENT ACTIVITY
33 RELATING TO THE MERCHANT FROM WHICH THE CONSUMER OBTAINS
34 CONSUMER CREDIT, CONSUMER GOODS, OR CONSUMER SERVICES OR RELATING

1 TO THE MORTGAGE LENDER THAT HOLDS A MORTGAGE ON THE CONSUMER'S
2 HOME.

3 (F) A VIOLATION OF THIS SECTION IS:

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

6 (2) SUBJECT TO THE PENALTY AND ENFORCEMENT PROVISIONS
7 CONTAINED IN TITLE 13 OF THIS ARTICLE.

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