

# HOUSE BILL 1292

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

Introduced and read first time: February 13, 2009

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2009

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Consumer Protection – ~~Blacklist Prevention~~ Consumer Credit Contracts –**  
3 **Prohibited Provisions**

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

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**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



14-1322.

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

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

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

(4) "CONSUMER CREDIT", "CONSUMER GOODS", AND "CONSUMER SERVICES" MEAN, RESPECTIVELY, CREDIT, GOODS, AND SERVICES THAT ARE PRIMARILY FOR PERSONAL, HOUSEHOLD, OR FAMILY PURPOSES.

~~(5) "MERCHANT" HAS THE MEANING STATED IN § 13-101 OF THIS ARTICLE.~~

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

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

~~(2) THE MORTGAGE LENDER THAT HOLDS A MORTGAGE ON THE CONSUMER'S HOME.~~

(5) "PROHIBITED RISK FACTOR" MEANS THE IDENTITY OF:

(I) A PERSON FROM WHOM A CONSUMER LAWFULLY OBTAINS CONSUMER CREDIT, CONSUMER GOODS, OR CONSUMER SERVICES; OR

(II) A PERSON WHO MAKES OR HOLDS A MORTGAGE LOAN ON A CONSUMER'S HOME.

1       **(B) A PERSON MAY NOT INCLUDE OR ENFORCE A PROVISION IN A**  
2 **CONSUMER CREDIT CONTRACT, WITHOUT THE CONSUMER'S PRIOR WRITTEN**  
3 **CONSENT, THAT:**

4               **(1) TRIGGERS A DEFAULT UNDER THE CONSUMER CREDIT**  
5 **CONTRACT BASED ON A PROHIBITED RISK FACTOR; OR**

6               **(2) AUTHORIZES A PARTY TO THE CONSUMER CREDIT CONTRACT**  
7 **TO USE A PROHIBITED RISK FACTOR FOR THE PURPOSE OF:**

8                       **(I) ACCELERATING A PAYMENT OWED UNDER THE**  
9 **CONSUMER CREDIT CONTRACT;**

10                      **(II) INCREASING THE INTEREST RATE PAYABLE UNDER THE**  
11 **CONSUMER CREDIT CONTRACT;**

12                      **(III) REDUCING THE CREDIT LIMIT AVAILABLE UNDER THE**  
13 **CONSUMER CREDIT CONTRACT; OR**

14                      **(IV) ALTERING A TERM OF THE CONSUMER CREDIT**  
15 **CONTRACT IN ANY OTHER MANNER ADVERSE TO THE CONSUMER.**

16       **(C) EACH CONSUMER CREDIT CONTRACT SHALL CONTAIN A CLEAR AND**  
17 **CONSPICUOUS STATEMENT INFORMING THE CONSUMER OF THE PROVISIONS**  
18 **PROHIBITED ~~IN A CONSUMER CONTRACT~~ UNDER SUBSECTION (B) OF THIS**  
19 **SECTION.**

20       **(D) A PROVISION INCLUDED IN A CONSUMER CREDIT CONTRACT IN**  
21 **VIOLATION OF SUBSECTION (B) OF THIS SECTION IS VOID AND**  
22 **UNENFORCEABLE.**

23       **(E) SUBSECTION (B) OF THIS SECTION DOES NOT PROHIBIT A PERSON**  
24 **FROM USING INFORMATION TO DETECT OR PREVENT FRAUDULENT ACTIVITY**  
25 **~~RELATING TO THE MERCHANT FROM WHICH THE CONSUMER OBTAINS~~**  
26 **~~CONSUMER CREDIT, CONSUMER GOODS, OR CONSUMER SERVICES OR RELATING~~**  
27 **~~TO THE MORTGAGE LENDER THAT HOLDS A MORTGAGE ON THE CONSUMER'S~~**  
28 **~~HOME.~~ IN CONNECTION WITH THE PROVISION OF CONSUMER CREDIT.**

29       **(F) A VIOLATION OF THIS SECTION IS:**

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

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

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.