

HOUSE BILL 1126

I3, N1

0lr2319

By: **Delegate Holmes**

Introduced and read first time: February 17, 2010

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Prizes Conditioned on Purchase or Sales Promotion –**
3 **Tenant Referrals**

4 FOR the purpose of providing that certain provisions of law prohibiting notifying a
5 person of a prize, award, or anything of value conditioned on the purchase of
6 goods or services or participating in or submitting to a sales promotion effort do
7 not apply to offers by a landlord or property management company of rewards
8 or credits to a current tenant for referring an applicant for rental who becomes
9 a tenant of the landlord or property management company within a certain
10 period of time; requiring a landlord or property management company that
11 offers a reward or credit for a tenant referral to make certain disclosures;
12 authorizing the landlord or property management company to disclose certain
13 information to the referring tenant; prohibiting the landlord or property
14 management company from disclosing certain information to the referring
15 tenant; prohibiting the landlord or property management company from
16 treating certain obligations as a reward or credit; and generally relating to
17 rewards or credits for tenant referrals.

18 BY repealing and reenacting, with amendments,
19 Article – Commercial Law
20 Section 13–305
21 Annotated Code of Maryland
22 (2005 Replacement Volume and 2009 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**

26 13–305.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) This section does not apply to:

2 (1) Trading stamps, as defined by § 13–101 of the Business Regulation
3 Article;

4 (2) State lottery tickets issued under the authority of Title 9, Subtitle
5 1 of the State Government Article;

6 (3) Retail promotions, not involving the offer of gifts and prizes, which
7 offer savings on consumer goods or services including “one-cent sales”,
8 “two-for-the-price-of-one-sales”, or manufacturer’s “cents-off” coupons; [or]

9 (4) Games of skill competition not involving sales promotion efforts;
10 **OR**

11 **(5) OFFERS BY A LANDLORD OR PROPERTY MANAGEMENT**
12 **COMPANY OF REWARDS OR CREDITS TO A CURRENT TENANT OF THE LANDLORD**
13 **OR PROPERTY MANAGEMENT COMPANY FOR REFERRING AN APPLICANT FOR**
14 **RENTAL WHO BECOMES A TENANT OF THE LANDLORD OR PROPERTY**
15 **MANAGEMENT COMPANY WITHIN 90 DAYS AFTER THE DATE OF THE REFERRAL.**

16 (b) A person may not notify any other person by any means, as part of an
17 advertising scheme or plan, that the other person has won a prize, received an award,
18 or has been selected or is eligible to receive anything of value if the other person is
19 required to purchase goods or services, pay any money to participate in, or submit to a
20 sales promotion effort.

21 (c) In addition to the exceptions provided in subsection (a) of this section,
22 subsection (b) of this section does not prohibit the offer of prizes requiring the person
23 to purchase other goods and services if the retail price of the prize offered does not
24 exceed the greater of:

25 (1) \$40; or

26 (2) The lesser of:

27 (i) 20% of the purchase price of the goods or services that must
28 be purchased; or

29 (ii) \$400.

30 (d) The exception provided in subsection (c) of this section does not apply to
31 the offer of a prize requiring the person either to pay any money to participate in or to
32 submit to a sales promotion effort, or to a prize promotion involving the award of
33 prizes by chance.

1 (e) (1) When a person offers prizes in a sales promotion effort relating to
2 the sale, lease, or rental of real property not prohibited by this section, that person
3 shall disclose to each offeree, in writing, clearly and conspicuously:

4 [(1)] (I) That the purpose of the sales promotion effort is to solicit
5 the purchase, lease, or rental of real property;

6 [(2)] (II) The exact number of each prize offered in each category to
7 be made available during the sales promotion;

8 [(3)] (III) The manufacturer's suggested retail price or comparable
9 retail price of each prize offered;

10 [(4) (i)] (IV) 1. If calculable in advance, the odds against
11 winning each prize; or

12 [(ii)] 2. If not calculable in advance, a statement to that effect,
13 or that the odds of winning will be determined by the number of entries;

14 [(5)] (V) Whether all prizes offered will be awarded and when a
15 determination of winners will be made; and

16 [(6)] (VI) If prizes with retail prices or monetary values in excess of
17 \$100 are offered, where and when a list of winners of those prizes can be obtained.

18 (2) A LANDLORD OR PROPERTY MANAGEMENT COMPANY THAT
19 OFFERS A REWARD OR CREDIT FOR A REFERRAL DESCRIBED IN SUBSECTION
20 (A)(5) OF THIS SECTION:

21 (I) SHALL DISCLOSE THE EXACT TERMS OF THE AMOUNT
22 OF THE REWARD OR CREDIT TO THE CURRENT TENANT;

23 (II) SHALL DISCLOSE TO THE REFERRED APPLICANT FOR
24 RENTAL THAT IF THE RENTAL APPLICATION RESULTS IN A LEASE AGREEMENT
25 WITH THE LANDLORD OR PROPERTY MANAGEMENT COMPANY, THE REFERRING
26 TENANT WILL QUALIFY FOR A REFERRAL REWARD OR CREDIT;

27 (III) SHALL DISCLOSE TO THE REFERRED APPLICANT THAT
28 WHETHER THE APPLICATION FOR RENTAL RESULTS IN A LEASE AGREEMENT
29 WITH THE LANDLORD OR PROPERTY MANAGEMENT COMPANY MAY BE
30 DISCLOSED TO THE REFERRING TENANT;

31 (IV) 1. MAY DISCLOSE TO THE REFERRING TENANT ONLY
32 WHETHER THE REFERRAL RESULTED IN A LEASE AGREEMENT BETWEEN THE

1 LANDLORD OR PROPERTY MANAGEMENT COMPANY AND THE REFERRED
2 APPLICANT; AND

3 2. MAY NOT DISCLOSE ANY OTHER INFORMATION
4 REGARDING THE LEASE AGREEMENT; AND

5 (v) MAY NOT TREAT ANY OBLIGATION UNDER TITLE 8 OF
6 THE REAL PROPERTY ARTICLE AS A REWARD OR CREDIT.

7 (f) Where provisions of law or regulations relating to the awarding of prizes
8 in the sale, lease, or rental of real property exist, including § 11A–119 of the Real
9 Property Article, the provisions of those laws or regulations shall apply if the
10 provisions are more stringent than this section.

11 (g) If a person offers a contest, sweepstakes, or other sales promotion effort
12 not prohibited by this section, involving the award of prizes by chance, that person
13 shall disclose to each offeree in writing:

14 (1) The exact number of each prize offered in each category to be made
15 available during the contest, sweepstakes, or sales promotion;

16 (2) The manufacturer's suggested retail price, or comparable retail
17 price, of each prize offered;

18 (3) If calculable in advance, the odds against winning each prize and if
19 not calculable in advance, a statement that the odds of winning will be determined by
20 the number of entries;

21 (4) Whether all prizes offered will be awarded and when a
22 determination of winners will be made;

23 (5) What, if any, conditions must be met in order to receive a prize;

24 (6) If prizes with retail prices or monetary values in excess of \$100 are
25 offered, where and when a list of winners of those prizes can be obtained; and

26 (7) That in order to receive the prize offered in the sales promotion you
27 may not be required to:

28 (i) Purchase goods or services;

29 (ii) Pay any money; or

30 (iii) Where applicable, submit to a sales promotion effort.

1 (h) If a person offers a contest, sweepstakes, or other sales promotion effort
2 not prohibited by this section, not involving the award of prizes by chance, that person
3 shall disclose to each offeree in writing:

4 (1) The manufacturer's suggested retail price, or comparable retail
5 price of each prize offered;

6 (2) What, if any, conditions must be met in order to receive a prize;
7 and

8 (3) That in order to receive the prize offered in the sales promotion you
9 may not be required to:

10 (i) Purchase goods or services, unless the retail price of the
11 prize is within the limits set by subsection (c) of this section;

12 (ii) Pay any money; or

13 (iii) Where applicable, submit to a sales promotion effort.

14 (i) The disclosures shall appear on the first page of the prize notification
15 document.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2010.