

HOUSE BILL 593

C2

9lr1596
CF SB 485

By: **The Speaker (By Request – Office of the Attorney General) and Delegates Anderson, Atterbeary, Barron, Branch, Bromwell, Brooks, Charkoudian, Clippinger, Crosby, Cullison, D.E. Davis, Dumais, Fennell, Gaines, Glenn, Hettleman, Hill, Holmes, Kelly, Kipke, Korman, R. Lewis, Lierman, Lisanti, Luedtke, ~~Mautz~~, Moon, Mosby, Pena-Melnyk, Pendergrass, Queen, Sample-Hughes, Stein, Valderrama, Valentino-Smith, ~~and Wilson~~ Wilson, and Sydnor**

Introduced and read first time: February 4, 2019

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2019

CHAPTER _____

1 AN ACT concerning

2 **Maryland Collection Agency Licensing Act – Definitions and Legislative Intent**

3 FOR the purpose of defining the term “mortgage lender”; ~~altering~~ clarifying the definition
4 of the term “consumer claim”; declaring the intent of the General Assembly; and
5 generally relating to ~~consumer claims under~~ the Maryland Collection Agency
6 Licensing Act.

7 BY repealing and reenacting, with amendments,
8 Article – Business Regulation
9 Section 7–101
10 Annotated Code of Maryland
11 (2015 Replacement Volume and 2018 Supplement)

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

Article – Business Regulation

14
15 7–101.

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.



1 (a) In this title the following words have the meanings indicated.

2 (b) “Board” means the State Collection Agency Licensing Board.

3 (c) “Branch location” means any location other than the principal executive office
4 of a licensee or license applicant at which a person does business as a collection agency or,
5 on licensure, will do business as a collection agency, in the State or with a person in the
6 State.

7 (d) “Collection agency” means a person who engages directly or indirectly in the
8 business of:

9 (1) (i) collecting for, or soliciting from another, a consumer claim; or

10 (ii) collecting a consumer claim the person owns, if the claim was in
11 default when the person acquired it;

12 (2) collecting a consumer claim the person owns, using a name or other
13 artifice that indicates that another party is attempting to collect the consumer claim;

14 (3) giving, selling, attempting to give or sell to another, or using, for
15 collection of a consumer claim, a series or system of forms or letters that indicates directly
16 or indirectly that a person other than the owner is asserting the consumer claim; or

17 (4) employing the services of an individual or business to solicit or sell a
18 collection system to be used for collection of a consumer claim.

19 (e) “Commissioner” means the Commissioner of Financial Regulation.

20 (f) **(1)** “Consumer claim” means a claim that:

21 **[(1)] (I)** is for money owed or said to be owed by a resident of the State;
22 and

23 **[(2)] (II)** arises from a transaction in which, for a family, household, or
24 personal purpose, the resident sought or got credit, money, personal property, real
25 property, or services.

26 **(2) “CONSUMER CLAIM” INCLUDES, FOR A TRANSACTION CREATING**
27 **A LIEN OR OTHER SECURITY INTEREST IN REAL PROPERTY OR PERSONAL**
28 **PROPERTY:**

29 **(I) A MONETARY CLAIM AGAINST A CONSUMER; AND**

1 **(II) A CLAIM TO, AGAINST, OR OTHERWISE INVOLVING THE**
2 **SECURED PROPERTY BASED ON A MORTGAGE, A DEED OF TRUST, OR ANY OTHER**
3 **CONTRACT OR INSTRUMENT.**

4 (g) (1) “Control person” means a person who has the power, directly or
5 indirectly, to direct the management or policies of a collection agency, whether through
6 ownership of securities, by contract, or otherwise.

7 (2) “Control person” includes a person who:

8 (i) is a general partner, an officer, a director, or a member of a
9 collection agency, or occupies a similar position or performs a similar function;

10 (ii) directly or indirectly has the right to vote 10% or more of a class
11 of voting securities, or has the power to sell or direct the sale of 10% or more of a class of
12 voting securities of a collection agency; or

13 (iii) in the case of a partnership, a limited partnership, a limited
14 liability partnership, a limited liability company, or any other business entity:

15 1. has the right to receive on liquidation or dissolution of a
16 collection agency 10% or more of the capital of the collection agency; or

17 2. has contributed 10% or more of the capital of a collection
18 agency.

19 (h) “License” means a license issued by the Board to do business as a collection
20 agency.

21 (i) “Licensed collection agency” means a person who is required to be licensed
22 under this subtitle, regardless of whether the person is actually licensed.

23 (j) **“MORTGAGE LENDER” MEANS A PERSON WHO IS DULY LICENSED**
24 **UNDER TITLE 11, SUBTITLE 5 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

25 (k) “NMLS” means a multistate uniform licensing system developed and
26 maintained by the Conference of State Bank Supervisors, or by a subsidiary or an affiliate
27 of the Conference of State Bank Supervisors, that may be used for the licensing of persons
28 required to be licensed by the Board.

29 [(k)] (L) “Unique identifier” means a number or another identifier assigned by
30 NMLS.

31 SECTION 2. AND BE IT FURTHER ENACTED, That:

1 (a) It is the intent of the General Assembly that this Act be applied and
2 interpreted to:

3 (1) abrogate the holding of the Court of Appeals in *Blackstone v. Sharma*,
4 461 Md. 87, 191 A.3d 1188 (2018); and

5 (2) ~~reinstate and adopt the holding of the Court of Special Appeals in~~
6 ~~*Blackstone v. Sharma*, 233 Md. App. 58, 161 A.3d 718 (2017), and adopt~~ the rationale of the
7 Dissenting Opinion in *Blackstone v. Sharma*, 461 Md. 87, 191 A.3d 1188 (2018), which
8 applies and interprets the Maryland Collection Agency Licensing Act based on its plain
9 language.

10 (b) It is the intent of the General Assembly that this Act may not be construed as
11 making any substantive changes to the Maryland Collection Agency Licensing Act, but
12 rather shall be construed as clarifying the Maryland Collection Agency Licensing Act.

13 (c) It is the intent of the General Assembly that, with regard to sales of real
14 property to bona fide purchasers made in accordance with Title 14, Chapter 200 of the
15 Maryland Rules, this Act shall apply only to sales made on or after the effective date of this
16 Act.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
18 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.