

SENATE BILL 694

I2

9lr2129

CF 9lr0814

By: **Senators Kramer, Feldman, Hayes, Hershey, Jennings, and Kelley**

Introduced and read first time: February 4, 2019

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Credit Card Processors – Service Agreements**

3 FOR the purpose of requiring a credit card processor to send a summary of a certain
4 services agreement to certain businesses; requiring a business to acknowledge a
5 certain services agreement by signing, dating, and returning a copy of the summary
6 of the services agreement to a certain credit card processor before entering into a
7 services agreement with the credit card processor; requiring the summary to include
8 certain information; requiring a credit card processor to provide a certain notice
9 regarding a services agreement renewal before a certain date; requiring the notice
10 to disclose certain information; authorizing the Commissioner of Financial
11 Regulation to take certain actions; establishing certain civil penalties for a violation
12 of this Act; providing for the application of this Act; defining certain terms; and
13 generally relating to credit card processors and service agreements.

14 BY adding to

15 Article – Commercial Law

16 Section 12–1401 through 12–1405 to be under the new subtitle “Subtitle 14. Credit
17 Card Processors”

18 Annotated Code of Maryland

19 (2013 Replacement Volume and 2018 Supplement)

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

22 **Article – Commercial Law**

23 **SUBTITLE 14. CREDIT CARD PROCESSORS.**

24 **12–1401.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (B) (1) "CREDIT CARD PROCESSOR" MEANS A PERSON THAT PROCESSES
4 CREDIT CARD OR ELECTRONIC COMMERCE TRANSACTIONS ON BEHALF OF A
5 BUSINESS ENTITY FOR A FEE.

6 (2) "CREDIT CARD PROCESSOR" INCLUDES:

7 (I) A MERCHANT SERVICES PROVIDER;

8 (II) A FINANCIAL INSTITUTION;

9 (III) AN INDEPENDENT SALES ORGANIZATION; AND

10 (IV) ANY SUBSIDIARY OR AFFILIATE OF AN ENTITY LISTED IN
11 ITEMS (I) THROUGH (III) OF THIS PARAGRAPH.

12 (C) "SERVICES AGREEMENT" MEANS A CONTRACT BETWEEN A CREDIT
13 CARD PROCESSOR AND A BUSINESS ENTITY UNDER WHICH THE BUSINESS ENTITY
14 AGREES TO PAY THE CREDIT CARD PROCESSOR FOR PROCESSING CREDIT CARD OR
15 ELECTRONIC COMMERCE TRANSACTIONS ON BEHALF OF THE BUSINESS ENTITY.

16 **12-1402.**

17 THIS SUBTITLE DOES NOT APPLY TO A SERVICES AGREEMENT BETWEEN A
18 CREDIT CARD PROCESSOR AND A BUSINESS ENTITY THAT EMPLOYS 50 OR MORE
19 EMPLOYEES.

20 **12-1403.**

21 (A) (1) A CREDIT CARD PROCESSOR SHALL SEND TO EACH BUSINESS
22 WITH WHOM IT HAS, OR INTENDS TO HAVE, A SERVICES AGREEMENT A SUMMARY OF
23 THE SERVICES AGREEMENT.

24 (2) BEFORE ENTERING INTO A SERVICES AGREEMENT WITH A CREDIT
25 CARD PROCESSOR, THE BUSINESS SHALL ACKNOWLEDGE THE SERVICES
26 AGREEMENT BY SIGNING, DATING, AND RETURNING A COPY OF THE SUMMARY OF
27 THE SERVICES AGREEMENT TO THE CREDIT CARD PROCESSOR.

28 (B) THE SUMMARY REQUIRED UNDER SUBSECTION (A) OF THIS SECTION
29 SHALL INCLUDE:

30 (1) THE INTEREST RATE AUTHORIZED UNDER THE SERVICES

1 AGREEMENT;

2 (2) THE AMOUNT AND PURPOSE OF EACH FEE, FINE, OR PENALTY
3 THAT THE CREDIT CARD PROCESSOR MAY CHARGE OR ASSESS UNDER THE SERVICES
4 AGREEMENT;

5 (3) THE EXPIRATION DATE OF THE SERVICES AGREEMENT;

6 (4) THE SERVICES AGREEMENT RENEWAL DATE; AND

7 (5) THE NAME, TELEPHONE NUMBER, MAILING ADDRESS, AND
8 E-MAIL ADDRESS OF AN AUTHORIZED REPRESENTATIVE OF THE CREDIT CARD
9 PROCESSOR.

10 (C) (1) AT LEAST 90 DAYS BEFORE A BUSINESS ENTITY MUST CANCEL A
11 SERVICES AGREEMENT TO PREVENT AUTOMATIC RENEWAL OF THE AGREEMENT, A
12 CREDIT CARD PROCESSOR SHALL PROVIDE WRITTEN NOTICE TO THE BUSINESS
13 ENTITY THAT THE SERVICES AGREEMENT WILL AUTOMATICALLY RENEW.

14 (2) THE REQUIRED NOTICE UNDER PARAGRAPH (1) OF THIS
15 SUBSECTION SHALL DISCLOSE:

16 (I) THAT THE SERVICES AGREEMENT WILL AUTOMATICALLY
17 RENEW UNLESS THE BUSINESS ENTITY CANCELS THE AGREEMENT;

18 (II) THE DATE BY WHICH THE BUSINESS ENTITY MUST CANCEL
19 THE SERVICES AGREEMENT TO PREVENT THE AGREEMENT FROM RENEWING;

20 (III) PROCEDURES FOR CANCELING THE SERVICES AGREEMENT;
21 AND

22 (IV) THAT THE SERVICES AGREEMENT HAS CHANGED, IF
23 APPLICABLE.

24 **12-1404.**

25 IF A COMPLAINT ABOUT A VIOLATION OF § 12-1403 OF THIS SUBTITLE IS
26 FILED WITH THE COMMISSIONER OF FINANCIAL REGULATION, THE COMMISSIONER
27 MAY INVESTIGATE THE COMPLAINT AND USE ANY OF THE INVESTIGATIVE AND
28 ENFORCEMENT POWERS PROVIDED UNDER TITLE 2, SUBTITLE 1 OF THE FINANCIAL
29 INSTITUTIONS ARTICLE.

30 **12-1405.**

1 (A) A PERSON THAT VIOLATES § 12-1403 OF THIS SUBTITLE IS SUBJECT TO
2 A FINE NOT EXCEEDING \$100 FOR EACH VIOLATION.

3 (B) A PERSON THAT HAS BEEN FOUND TO HAVE VIOLATED THIS SUBTITLE
4 AND THAT SUBSEQUENTLY REPEATS THE SAME VIOLATION IS SUBJECT TO A FINE OF
5 NOT MORE THAN \$500 FOR EACH SUBSEQUENT VIOLATION.

6 (C) THE FINES PROVIDED FOR IN SUBSECTIONS (A) AND (B) OF THIS
7 SECTION ARE CIVIL PENALTIES AND ARE RECOVERABLE BY THE COMMISSIONER OF
8 FINANCIAL REGULATION IN A CIVIL ACTION OR AN ADMINISTRATIVE CEASE AND
9 DESIST ACTION UNDER § 2-115 OF THE FINANCIAL INSTITUTIONS ARTICLE.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2019.