

SENATE BILL 217

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2lr0077

(PRE-FILED)

By: **Chair, Finance Committee (By Request – Departmental – Labor)**

Requested: October 4, 2021

Introduced and read first time: January 12, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Commissioner of Financial Regulation – Consumer Loans – Fees**

3 FOR the purpose of prohibiting a person from taking certain actions related to the payment
4 of fees in cases of certain loans made to consumer borrowers; authorizing, under
5 certain circumstances, a person to require a borrower to pay a fee for the transaction
6 of a payment made by or on behalf of the borrower in cases of certain loans made to
7 consumer borrowers; and generally relating to fees paid under consumer loans.

8 BY adding to

9 Article – Commercial Law

10 Section 12–108.1, 12–307.2, 12–405.1, 12–905.1, and 12–1005.1

11 Annotated Code of Maryland

12 (2013 Replacement Volume and 2021 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

14 That the Laws of Maryland read as follows:

15 **Article – Commercial Law**

16 **12–108.1.**

17 **(A) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN**
18 **ACCORDANCE WITH THIS SUBTITLE, A PERSON:**

19 **(1) MAY NOT REQUIRE A BORROWER TO PAY A FEE FOR THE**
20 **TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER IN THE**
21 **FORM OF:**

22 **(I) CASH;**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (II) CHECK; OR

2 (III) MONEY ORDER; AND

3 (2) MUST OFFER TO ACCEPT A PAYMENT MADE BY OR ON BEHALF OF
4 A BORROWER FREE OF CHARGE IN AT LEAST ONE COMMONLY ACCEPTED FORM.

5 (B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, IN THE CASE OF A LOAN
6 TO A CONSUMER BORROWER MADE IN ACCORDANCE WITH THIS SUBTITLE, A PERSON
7 MAY REQUIRE A BORROWER TO PAY A FEE FOR THE TRANSACTION OF A PAYMENT
8 MADE BY OR ON BEHALF OF THE BORROWER IF:

9 (1) THE AGREEMENT, NOTE, OR OTHER EVIDENCE OF THE LOAN
10 EXPRESSLY AUTHORIZES THE FEE TO BE IMPOSED; OR

11 (2) (I) THE AMOUNT OF THE FEE IS DISCLOSED TO THE BORROWER
12 AT THE TIME OF THE PAYMENT TRANSACTION;

13 (II) THE BORROWER AGREES TO PAY THE FEE; AND

14 (III) THE AMOUNT OF THE FEE DOES NOT EXCEED THE ACTUAL
15 COST CHARGED TO THE PERSON BY AN UNAFFILIATED THIRD PARTY FOR THE
16 PROCESSING OF THE PAYMENT TRANSACTION.

17 (C) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN
18 ACCORDANCE WITH THIS SUBTITLE, A PERSON MAY NOT ATTEMPT TO INDUCE THE
19 BORROWER TO REMIT PAYMENT IN A FORM FOR WHICH A FEE WILL BE REQUIRED TO
20 BE PAID BY THE BORROWER OVER OTHER FORMS OF PAYMENTS THAT ARE FREE OF
21 CHARGE UNLESS PAYMENT IN THAT FORM WILL PREVENT ONE OR MORE OF THE
22 FOLLOWING WHICH WOULD OTHERWISE OCCUR:

23 (1) THE INCURRENCE OF ONE OR MORE OTHER FEES OR CHARGES BY
24 THE BORROWER, INCLUDING CHARGES FOR DEFAULT OR DELINQUENCY;

25 (2) THE FURNISHING OF DEROGATORY INFORMATION REGARDING
26 THE BORROWER'S PAYMENT HISTORY TO A CONSUMER REPORTING AGENCY;

27 (3) JUDGMENT AGAINST THE BORROWER IN A CIVIL ACTION; OR

28 (4) REPOSSESSION OF OR FORECLOSURE UPON COLLATERAL.

29 12-307.2.

1 **(A) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN**
2 **ACCORDANCE WITH THIS SUBTITLE, A PERSON:**

3 **(1) MAY NOT REQUIRE A BORROWER TO PAY A FEE FOR THE**
4 **TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER IN THE**
5 **FORM OF:**

6 **(I) CASH;**

7 **(II) CHECK; OR**

8 **(III) MONEY ORDER; AND**

9 **(2) MUST OFFER TO ACCEPT A PAYMENT MADE BY OR ON BEHALF OF**
10 **A BORROWER FREE OF CHARGE IN AT LEAST ONE COMMONLY ACCEPTED FORM.**

11 **(B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, IN THE CASE OF A LOAN**
12 **TO A CONSUMER BORROWER MADE IN ACCORDANCE WITH THIS SUBTITLE, A PERSON**
13 **MAY REQUIRE A BORROWER TO PAY A FEE FOR THE TRANSACTION OF A PAYMENT**
14 **MADE BY OR ON BEHALF OF THE BORROWER IF:**

15 **(1) THE AGREEMENT, NOTE, OR OTHER EVIDENCE OF THE LOAN**
16 **EXPRESSLY AUTHORIZES THE FEE TO BE IMPOSED; OR**

17 **(2) (I) THE AMOUNT OF THE FEE IS DISCLOSED TO THE BORROWER**
18 **AT THE TIME OF THE PAYMENT TRANSACTION;**

19 **(II) THE BORROWER AGREES TO PAY THE FEE; AND**

20 **(III) THE AMOUNT OF THE FEE DOES NOT EXCEED THE ACTUAL**
21 **COST CHARGED TO THE PERSON BY AN UNAFFILIATED THIRD PARTY FOR THE**
22 **PROCESSING OF THE PAYMENT TRANSACTION.**

23 **(C) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN**
24 **ACCORDANCE WITH THIS SUBTITLE, A PERSON MAY NOT ATTEMPT TO INDUCE THE**
25 **BORROWER TO REMIT PAYMENT IN A FORM FOR WHICH A FEE WILL BE REQUIRED TO**
26 **BE PAID BY THE BORROWER OVER OTHER FORMS OF PAYMENT THAT ARE FREE OF**
27 **CHARGE UNLESS PAYMENT IN THAT FORM WILL PREVENT ONE OR MORE OF THE**
28 **FOLLOWING WHICH WOULD OTHERWISE OCCUR:**

29 **(1) THE INCURRENCE OF ONE OR MORE OTHER FEES OR CHARGES BY**
30 **THE BORROWER, INCLUDING CHARGES FOR DEFAULT OR DELINQUENCY;**

1 **(2) THE FURNISHING OF DEROGATORY INFORMATION REGARDING**
2 **THE BORROWER'S PAYMENT HISTORY TO A CONSUMER REPORTING AGENCY;**

3 **(3) JUDGMENT AGAINST THE BORROWER IN A CIVIL ACTION; OR**

4 **(4) REPOSSESSION OF OR FORECLOSURE UPON COLLATERAL.**

5 **12-405.1.**

6 **(A) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN**
7 **ACCORDANCE WITH THIS SUBTITLE, A PERSON:**

8 **(1) MAY NOT REQUIRE A BORROWER TO PAY A FEE FOR THE**
9 **TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER IN THE**
10 **FORM OF:**

11 **(I) CASH;**

12 **(II) CHECK; OR**

13 **(III) MONEY ORDER; AND**

14 **(2) MUST OFFER TO ACCEPT A PAYMENT MADE BY OR ON BEHALF OF**
15 **A BORROWER FREE OF CHARGE IN AT LEAST ONE COMMONLY ACCEPTED FORM.**

16 **(B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, IN THE CASE OF A LOAN**
17 **TO A CONSUMER BORROWER MADE IN ACCORDANCE WITH THIS SUBTITLE, A PERSON**
18 **MAY REQUIRE A BORROWER TO PAY A FEE FOR THE TRANSACTION OF A PAYMENT**
19 **MADE BY OR ON BEHALF OF THE BORROWER IF:**

20 **(1) THE AGREEMENT, NOTE, OR OTHER EVIDENCE OF THE LOAN**
21 **EXPRESSLY AUTHORIZES THE FEE TO BE IMPOSED; OR**

22 **(2) (I) THE AMOUNT OF THE FEE IS DISCLOSED TO THE BORROWER**
23 **AT THE TIME OF THE PAYMENT TRANSACTION;**

24 **(II) THE BORROWER AGREES TO PAY THE FEE; AND**

25 **(III) THE AMOUNT OF THE FEE DOES NOT EXCEED THE ACTUAL**
26 **COST CHARGED TO THE PERSON BY AN UNAFFILIATED THIRD PARTY FOR THE**
27 **PROCESSING OF THE PAYMENT TRANSACTION.**

1 **(C) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN**
2 **ACCORDANCE WITH THIS SUBTITLE, A PERSON MAY NOT ATTEMPT TO INDUCE THE**
3 **BORROWER TO REMIT PAYMENT IN A FORM FOR WHICH A FEE WILL BE REQUIRED TO**
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5 **CHARGE UNLESS PAYMENT IN THAT FORM WILL PREVENT ONE OR MORE OF THE**
6 **FOLLOWING WHICH WOULD OTHERWISE OCCUR:**

7 **(1) THE INCURRENCE OF ONE OR MORE OTHER FEES OR CHARGES BY**
8 **THE BORROWER, INCLUDING CHARGES FOR DEFAULT OR DELINQUENCY;**

9 **(2) THE FURNISHING OF DEROGATORY INFORMATION REGARDING**
10 **THE BORROWER'S PAYMENT HISTORY TO A CONSUMER REPORTING AGENCY;**

11 **(3) JUDGMENT AGAINST THE BORROWER IN A CIVIL ACTION; OR**

12 **(4) REPOSSESSION OF OR FORECLOSURE UPON COLLATERAL.**

13 **12-905.1.**

14 **(A) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN**
15 **ACCORDANCE WITH THIS SUBTITLE, A PERSON:**

16 **(1) MAY NOT REQUIRE A BORROWER TO PAY A FEE FOR THE**
17 **TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER IN THE**
18 **FORM OF:**

19 **(I) CASH;**

20 **(II) CHECK; OR**

21 **(III) MONEY ORDER; AND**

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2 **AT THE TIME OF THE PAYMENT TRANSACTION;**

3 **(II) THE BORROWER AGREES TO PAY THE FEE; AND**

4 **(III) THE AMOUNT OF THE FEE DOES NOT EXCEED THE ACTUAL**
5 **COST CHARGED TO THE PERSON BY AN UNAFFILIATED THIRD PARTY FOR THE**
6 **PROCESSING OF THE PAYMENT TRANSACTION.**

7 **(C) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN**
8 **ACCORDANCE WITH THIS SUBTITLE, A PERSON MAY NOT ATTEMPT TO INDUCE THE**
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13 **(1) THE INCURRENCE OF ONE OR MORE OTHER FEES OR CHARGES BY**
14 **THE BORROWER, INCLUDING CHARGES FOR DEFAULT OR DELINQUENCY;**

15 **(2) THE FURNISHING OF DEROGATORY INFORMATION REGARDING**
16 **THE BORROWER'S PAYMENT HISTORY TO A CONSUMER REPORTING AGENCY;**

17 **(3) JUDGMENT AGAINST THE BORROWER IN A CIVIL ACTION; OR**

18 **(4) REPOSSESSION OF OR FORECLOSURE UPON COLLATERAL.**

19 **12-1005.1.**

20 **(A) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN**
21 **ACCORDANCE WITH THIS SUBTITLE, A PERSON:**

22 **(1) MAY NOT REQUIRE A BORROWER TO PAY A FEE FOR THE**
23 **TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER IN THE**
24 **FORM OF:**

25 **(I) CASH;**

26 **(II) CHECK; OR**

27 **(III) MONEY ORDER; AND**

28 **(2) MUST OFFER TO ACCEPT A PAYMENT MADE BY OR ON BEHALF OF**
29 **A BORROWER FREE OF CHARGE IN AT LEAST ONE COMMONLY ACCEPTED FORM.**

1 **(B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, IN THE CASE OF A LOAN**
2 **TO A CONSUMER BORROWER MADE IN ACCORDANCE WITH THIS SUBTITLE, A PERSON**
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22 **THE BORROWER'S PAYMENT HISTORY TO A CONSUMER REPORTING AGENCY;**

23 **(3) JUDGMENT AGAINST THE BORROWER IN A CIVIL ACTION; OR**

24 **(4) REPOSSESSION OF OR FORECLOSURE UPON COLLATERAL.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
26 1, 2022.