

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1205
Economic Matters

(Delegates Miller and McComas)

Commercial Law - Consumer Protection - Automated Bill Payments

This bill requires a business that uses an automated bill payment system to notify a consumer each time a payment is to be automatically deducted from the consumer's bank account or credit card account. Violation of the bill is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA's civil and criminal penalty provisions.

Fiscal Summary

State Effect: The bill's imposition of existing penalty provisions does not have a material effect on State finances or operations. The Office of the Attorney General, Consumer Protection Division, can handle the bill's requirements with existing resources.

Local Effect: The bill's imposition of existing penalty provisions does not have a material effect on local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: "Automated bill payment system" is a method of bill payment in which a consumer authorizes a business to automatically deduct money from the consumer's bank account or credit card account in accordance with a contract.

The notice that a business must send to a consumer, as specified under the bill, must be sent in electronic form at least two business days before the payment is scheduled to be automatically deducted from the consumer's bank account or credit card account.

Additionally, it must include (1) an option to stop using the automated bill payment system and (2) if applicable, the number of payments or time left on the contract between the business and the consumer.

Current Law: The Commercial Law Article does not regulate fund transfers between financial institutions and consumers.

An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Small Business Effect: Additional costs may be incurred for small businesses in the State not already in compliance with the bill's notification requirements.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Department of Legislative Services

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