

Chapter 883

(Senate Bill 839)

AN ACT concerning

General Provisions – Damages or Losses – Definition

FOR the purpose of defining “damages” or “losses” in certain statutory causes of action; and generally relating to damages or losses.

BY adding to

Article – General Provisions

Section 1–107.1

Annotated Code of Maryland

(2019 Replacement Volume and 2023 Supplement)

Preamble

WHEREAS, Pursuant to Article 19 of the Maryland Declaration of Rights, the Maryland Constitution expressly provides that every person shall have the rights and remedies as established by the laws of Maryland including those enacted by the Maryland General Assembly; and

WHEREAS, Pursuant to Article 19 of the Maryland Declaration of Rights, Maryland’s Constitution also incorporates the common law of England that existed as of July 4, 1776, in the Court of Law and Equity and also all Acts of Assembly in force and effective as of June 1, 1867; and

WHEREAS, Maryland law and the common law have long recognized the ability of an aggrieved party to recover nominal damages in an action at law and such damages affect the behavior of the defendant towards the plaintiff and thus independently provide redress; and

WHEREAS, The common law of England incorporated into Maryland’s Constitution has also recognized the right to reasonable nominal damages as stated by Blackstone’s statement, “where there is a legal right there is also a legal remedy, by suit or action of law, whenever that right is invaded” (William Blackstone, Commentaries on the Laws of England); and

WHEREAS, Certain conservative advocates influence to some members of the Supreme Court of the United States, like the Federalist Society, seek to close the courthouse doors to persons seeking to enforce the private and public remedies available under Maryland law including those related to civil rights and consumer protections; and

WHEREAS, Recent appellate decisions, such as the *TransUnion LLC v. Ramirez*, 594 U.S. 413 (2021) and *Arkansas State Conference NAACP v. Arkansas Board of*

Apportionment, 86 F.4th 1204 (8th Cir. 2023), are examples of the recent efforts to limit the rights and remedies available to certain protected classes of persons and consumers; and

WHEREAS, In light of the retrenchment of civil rights and consumer protections as exemplified by the trends of the current majority of the United States Supreme Court and their proponents like the Federalist Society, the Maryland General Assembly enacts this legislation to ensure that the purposes of Articles 5 and 19 of the Maryland Declaration of Rights are carried out by any courts interpreting Maryland law; now, therefore,

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

Article – General Provisions

1–107.1.

IN STATUTORY CAUSES OF ACTION CREATED BY THIS CODE TO PROTECT CIVIL RIGHTS OR CONSUMER RIGHTS, “DAMAGES” OR “LOSSES”:

(1) MEANS MONEY CLAIMED BY, OR ORDERED TO BE PAID TO, A PERSON AS COMPENSATION FOR LOSS OR INJURY RESULTING FROM THE VIOLATION OF THE PERSON’S RIGHTS OR PROTECTIONS; AND

(2) INCLUDES REASONABLE NOMINAL DAMAGES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved by the Governor, May 16, 2024.