

HOUSE BILL 1400

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7lr2558

By: **Delegates S. Howard, Carey, Clark, Fisher, Impallaria, Jacobs, Lisanti, Malone, Mautz, McConkey, W. Miller, Saab, Simonaire, and Sophocleus**

Introduced and read first time: February 10, 2017

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of prohibiting a certain services agreement between a credit card
4 processor and a business entity from including a certain provision authorizing
5 liquidated damages or specifying a certain fee for the termination of a services
6 agreement; prohibiting a credit card processor who has received a certain
7 termination notice from debiting or accessing the bank account of a certain business
8 entity after a certain period of time; authorizing the Commissioner of Financial
9 Regulation to take certain actions; establishing certain civil penalties for a violation
10 of this Act; defining certain terms; and generally relating to credit card processors
11 and service agreements.

12 BY adding to

13 Article – Commercial Law

14 Section 12–1401 through 12–1404 to be under the new subtitle “Subtitle 14. Credit
15 Card Processors”

16 Annotated Code of Maryland

17 (2013 Replacement Volume and 2016 Supplement)

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

19 That the Laws of Maryland read as follows:

20 **Article – Commercial Law**

21 **SUBTITLE 14. CREDIT CARD PROCESSORS.**

22 **12–1401.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

(2) "CREDIT CARD PROCESSOR" INCLUDES:

(I) A MERCHANT SERVICES PROVIDER;

(II) A FINANCIAL INSTITUTION;

(III) AN INDEPENDENT SALES ORGANIZATION; OR

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

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

12-1402.

(A) A SERVICES AGREEMENT MAY NOT:

(1) INCLUDE A PROVISION AUTHORIZING LIQUIDATED DAMAGES FOR THE TERMINATION OF THE SERVICES AGREEMENT; OR

(2) SPECIFY A FEE FOR THE TERMINATION OF THE SERVICES AGREEMENT THAT EXCEEDS \$99.

(B) A CREDIT CARD PROCESSOR WHO HAS RECEIVED A WRITTEN NOTICE OF TERMINATION OF A SERVICES AGREEMENT FROM A BUSINESS ENTITY MAY NOT DEBIT OR ACCESS THE BANK ACCOUNT OF THE BUSINESS ENTITY AFTER 60 DAYS FROM RECEIPT OF THE WRITTEN NOTICE OF TERMINATION.

12-1403.

IF A COMPLAINT FOR A VIOLATION OF § 12-1402 OF THIS SUBTITLE IS FILED WITH THE COMMISSIONER OF FINANCIAL REGULATION, THE COMMISSIONER MAY INVESTIGATE THE COMPLAINT AND USE ANY OF THE INVESTIGATIVE AND

1 ENFORCEMENT POWERS PROVIDED UNDER TITLE 2, SUBTITLE 1 OF THE FINANCIAL
2 INSTITUTIONS ARTICLE.

3 12-1404.

4 (A) A PERSON WHO VIOLATES § 12-1402 OF THIS SUBTITLE IS SUBJECT TO
5 A FINE NOT EXCEEDING \$1,000 FOR EACH VIOLATION.

6 (B) A PERSON WHO HAS BEEN FOUND TO HAVE VIOLATED THIS SUBTITLE
7 AND WHO SUBSEQUENTLY REPEATS THE SAME VIOLATION IS SUBJECT TO A FINE OF
8 NOT MORE THAN \$5,000 FOR EACH SUBSEQUENT VIOLATION.

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

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2017.