HOUSE BILL 1647

I2 8lr3002

By: Delegates S. Howard, Rose, and Saab

Introduced and read first time: February 9, 2018

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2018

CHAPTER

1 AN ACT concerning

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Commercial Law - Credit Card Processors - Service Agreements

- 3 FOR the purpose of requiring a credit card processor to send a summary of a certain services agreement to certain businesses; requiring a business to acknowledge a 4 certain services agreement by signing, dating, and returning a copy of the summary 5 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 certain information; requiring a credit card processor to provide a certain notice 8 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
- Section 12–1401 through $\frac{12-1404}{12-1405}$ to be under the new subtitle "Subtitle 14.
- 17 Credit Card Processors"
- 18 Annotated Code of Maryland
- 19 (2013 Replacement Volume and 2017 Supplement)
- 20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 21 That the Laws of Maryland read as follows:

Article - Commercial Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.

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SUBTITLE 14. CREDIT CARD PROCESSORS. 1 2 **12–1401.** IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS 3 (A) INDICATED. (1) "CREDIT CARD PROCESSOR" MEANS A PERSON THAT PROCESSES 5 6 CREDIT CARD OR ELECTRONIC COMMERCE TRANSACTIONS ON BEHALF OF A 7 BUSINESS ENTITY FOR A FEE. 8 **(2)** "CREDIT CARD PROCESSOR" INCLUDES: 9 (I)A MERCHANT SERVICES PROVIDER; (II) A FINANCIAL INSTITUTION; 10 11 (III) AN INDEPENDENT SALES ORGANIZATION; AND 12 (IV) ANY SUBSIDIARY OR AFFILIATE OF AN ENTITY LISTED IN 13 ITEMS (I) THROUGH (III) OF THIS PARAGRAPH. "SERVICES AGREEMENT" MEANS A CONTRACT BETWEEN A CREDIT 14 CARD PROCESSOR AND A BUSINESS ENTITY UNDER WHICH THE BUSINESS ENTITY 15 16 AGREES TO PAY THE CREDIT CARD PROCESSOR FOR PROCESSING CREDIT CARD OR 17 ELECTRONIC COMMERCE TRANSACTIONS ON BEHALF OF THE BUSINESS ENTITY. 12-1402.18 19 THIS SUBTITLE DOES NOT APPLY TO A SERVICES AGREEMENT BETWEEN A 20CREDIT CARD PROCESSOR AND A BUSINESS ENTITY THAT EMPLOYS 50 OR MORE 21EMPLOYEES. 12-1403. 2223 $(A) \quad (1)$ EACH YEAR A CREDIT CARD PROCESSOR SHALL SEND TO EACH 24BUSINESS WITH WHOM IT HAS, OR INTENDS TO HAVE, A SERVICES AGREEMENT A 25SUMMARY OF THE SERVICES AGREEMENT. 26 **(2)** BEFORE ENTERING INTO A SERVICES AGREEMENT WITH A CREDIT

CARD PROCESSOR, THE BUSINESS MUST ACKNOWLEDGE THE SERVICES AGREEMENT

BY SIGNING, DATING, AND RETURNING A COPY OF THE SUMMARY OF THE SERVICES

AGREEMENT TO THE CREDIT CARD PROCESSOR.

- 1 (B) THE SUMMARY REQUIRED UNDER SUBSECTION (A) OF THIS SECTION 2 SHALL INCLUDE:
- 3 (1) THE INTEREST RATE AUTHORIZED UNDER THE SERVICES 4 AGREEMENT;
- 5 (2) THE AMOUNT AND PURPOSE OF EACH FEE, FINE, OR PENALTY THAT THE CREDIT CARD PROCESSOR MAY CHARGE OR ASSESS UNDER THE SERVICES AGREEMENT:
- 8 (3) THE EXPIRATION OF THE SERVICES AGREEMENT;
- 9 (4) THE SERVICES AGREEMENT RENEWAL DATE; AND
- 10 (5) THE NAME, TELEPHONE NUMBER, MAILING ADDRESS, AND 11 E-MAIL ADDRESS OF AN AUTHORIZED REPRESENTATIVE OF THE CREDIT CARD 12 PROCESSOR.
- 13 (C) (1) AT LEAST 90 DAYS BEFORE A BUSINESS ENTITY MUST CANCEL A
 14 SERVICES AGREEMENT TO PREVENT AUTOMATIC RENEWAL OF THE AGREEMENT, A
 15 CREDIT CARD PROCESSOR SHALL PROVIDE WRITTEN NOTICE TO THE BUSINESS
 16 ENTITY THAT THE SERVICES AGREEMENT WILL AUTOMATICALLY RENEW.
- 17 (2) THE REQUIRED NOTICE UNDER PARAGRAPH (1) OF THIS 18 SUBSECTION SHALL DISCLOSE:
- 19 (I) THAT THE SERVICES AGREEMENT WILL AUTOMATICALLY 20 RENEW UNLESS THE BUSINESS ENTITY CANCELS THE AGREEMENT;
- 21 (II) THE DATE BY WHICH THE BUSINESS ENTITY MUST CANCEL 22 THE SERVICES AGREEMENT TO PREVENT THE AGREEMENT FROM RENEWING; AND
- 23 (III) PROCEDURES FOR CANCELING THE SERVICES AGREEMENT.
- 24 12-1403. <u>12-1404.</u>
- 25 IF A COMPLAINT FOR A VIOLATION OF § 12–1402 OF THIS SUBTITLE IS FILED
- 26 WITH THE COMMISSIONER OF FINANCIAL REGULATION, THE COMMISSIONER MAY
- 27 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 **12–1404. 12–1405.**

1 2	(a) A PERSON THAT VIOLATES § $12-1402$ OF THIS SUBTITLE IS SUBJECT TO A FINE NOT EXCEEDING $\$1,000$ \$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 $\$5,000$ $\$500$ 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 9	FINANCIAL REGULATION IN A CIVIL ACTION OR AN ADMINISTRATIVE CEASE AND DESIST ACTION UNDER § 2–115 OF THE FINANCIAL INSTITUTIONS ARTICLE.
0 1	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.
	Approved:
	Governor.
	Speaker of the House of Delegates.

President of the Senate.