

HOUSE BILL 593

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CF SB 485

By: **The Speaker (By Request – Office of the Attorney General) and Delegates Anderson, Atterbeary, Barron, Branch, Bromwell, Brooks, Charkoudian, Clippinger, Crosby, Cullison, D.E. Davis, Dumais, Fennell, Gaines, Glenn, Hettleman, Hill, Holmes, Kelly, Kipke, Korman, R. Lewis, Lierman, Lisanti, Luedtke, Mautz, Moon, Mosby, Pena–Melnyk, Pendergrass, Queen, Sample–Hughes, Stein, Valderrama, Valentino–Smith, and Wilson**

Introduced and read first time: February 4, 2019

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Collection Agency Licensing Act – Definitions and Legislative Intent**

3 FOR the purpose of defining the term “mortgage lender”; altering the definition of the term
4 “consumer claim”; declaring the intent of the General Assembly; and generally
5 relating to consumer claims under the Maryland Collection Agency Licensing Act.

6 BY repealing and reenacting, with amendments,
7 Article – Business Regulation
8 Section 7–101
9 Annotated Code of Maryland
10 (2015 Replacement Volume and 2018 Supplement)

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

13 **Article – Business Regulation**

14 7–101.

15 (a) In this title the following words have the meanings indicated.

16 (b) “Board” means the State Collection Agency Licensing Board.

17 (c) “Branch location” means any location other than the principal executive office
18 of a licensee or license applicant at which a person does business as a collection agency or,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 on licensure, will do business as a collection agency, in the State or with a person in the
2 State.

3 (d) "Collection agency" means a person who engages directly or indirectly in the
4 business of:

5 (1) (i) collecting for, or soliciting from another, a consumer claim; or

6 (ii) collecting a consumer claim the person owns, if the claim was in
7 default when the person acquired it;

8 (2) collecting a consumer claim the person owns, using a name or other
9 artifice that indicates that another party is attempting to collect the consumer claim;

10 (3) giving, selling, attempting to give or sell to another, or using, for
11 collection of a consumer claim, a series or system of forms or letters that indicates directly
12 or indirectly that a person other than the owner is asserting the consumer claim; or

13 (4) employing the services of an individual or business to solicit or sell a
14 collection system to be used for collection of a consumer claim.

15 (e) "Commissioner" means the Commissioner of Financial Regulation.

16 (f) (1) "Consumer claim" means a claim that:

17 [(1)] (I) is for money owed or said to be owed by a resident of the State;
18 and

19 [(2)] (II) arises from a transaction in which, for a family, household, or
20 personal purpose, the resident sought or got credit, money, personal property, real
21 property, or services.

22 (2) "CONSUMER CLAIM" INCLUDES, FOR A TRANSACTION CREATING
23 A LIEN OR OTHER SECURITY INTEREST IN REAL PROPERTY OR PERSONAL
24 PROPERTY:

25 (I) A MONETARY CLAIM AGAINST A CONSUMER; AND

26 (II) A CLAIM TO, AGAINST, OR OTHERWISE INVOLVING THE
27 SECURED PROPERTY BASED ON A MORTGAGE, A DEED OF TRUST, OR ANY OTHER
28 CONTRACT OR INSTRUMENT.

29 (g) (1) "Control person" means a person who has the power, directly or
30 indirectly, to direct the management or policies of a collection agency, whether through
31 ownership of securities, by contract, or otherwise.

1 (2) “Control person” includes a person who:

2 (i) is a general partner, an officer, a director, or a member of a
3 collection agency, or occupies a similar position or performs a similar function;

4 (ii) directly or indirectly has the right to vote 10% or more of a class
5 of voting securities, or has the power to sell or direct the sale of 10% or more of a class of
6 voting securities of a collection agency; or

7 (iii) in the case of a partnership, a limited partnership, a limited
8 liability partnership, a limited liability company, or any other business entity:

9 1. has the right to receive on liquidation or dissolution of a
10 collection agency 10% or more of the capital of the collection agency; or

11 2. has contributed 10% or more of the capital of a collection
12 agency.

13 (h) “License” means a license issued by the Board to do business as a collection
14 agency.

15 (i) “Licensed collection agency” means a person who is required to be licensed
16 under this subtitle, regardless of whether the person is actually licensed.

17 (j) **“MORTGAGE LENDER” MEANS A PERSON WHO IS DULY LICENSED**
18 **UNDER TITLE 11, SUBTITLE 5 OF THE FINANCIAL INSTITUTIONS ARTICLE.**

19 (k) “NMLS” means a multistate uniform licensing system developed and
20 maintained by the Conference of State Bank Supervisors, or by a subsidiary or an affiliate
21 of the Conference of State Bank Supervisors, that may be used for the licensing of persons
22 required to be licensed by the Board.

23 [(k)] (L) “Unique identifier” means a number or another identifier assigned by
24 NMLS.

25 SECTION 2. AND BE IT FURTHER ENACTED, That:

26 (a) It is the intent of the General Assembly that this Act be applied and
27 interpreted to:

28 (1) abrogate the holding of the Court of Appeals in *Blackstone v. Sharma*,
29 461 Md. 87, 191 A.3d 1188 (2018); and

30 (2) reinstate and adopt the holding of the Court of Special Appeals in
31 *Blackstone v. Sharma*, 233 Md. App. 58, 161 A.3d 718 (2017), and the rationale of the
32 Dissenting Opinion in *Blackstone v. Sharma*, 461 Md. 87, 191 A.3d 1188 (2018), which

1 applies and interprets the Maryland Collection Agency Licensing Act based on its plain
2 language.

3 (b) It is the intent of the General Assembly that this Act may not be construed as
4 making any substantive changes to the Maryland Collection Agency Licensing Act, but
5 rather shall be construed as clarifying the Maryland Collection Agency Licensing Act.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
7 1, 2019.