

SENATE BILL 238

I3, I1

1lr1225

(PRE-FILED)

By: **Senator Kramer**

Requested: October 29, 2020

Introduced and read first time: January 13, 2021

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Banking Institutions – Unauthorized Debit Transactions**
3 **(Consumer Bank Deposits Protection Act)**

4 FOR the purpose of prohibiting a consumer from being held liable for unauthorized debit
5 transactions if the consumer notifies the banking institution within a certain time
6 frame; providing that a consumer may be held liable for unauthorized debit
7 transactions under certain circumstances; requiring a banking institution to extend
8 the time frame within which a certain consumer has to make a certain notification
9 under certain circumstances; prohibiting a consumer from being held liable for
10 unauthorized debit transactions under a state of emergency declared by the
11 Governor; prohibiting a banking institution from imposing greater liability on a
12 certain consumer than what is established under certain provisions of this Act;
13 requiring a banking institution to notify the Commissioner of Financial Regulation
14 and a certain consumer of an unauthorized debit transaction within a certain period
15 of time after discovering or being notified of the unauthorized debit transaction;
16 making a violation of this Act an unfair, abusive, or deceptive trade practice under
17 the Maryland Consumer Protection Act and subject to certain enforcement and
18 penalty provisions; requiring that a periodic statement display in a certain manner
19 a certain statement or provide a certain statement in a certain manner; defining
20 certain terms; and generally relating to consumer liability for unauthorized debit
21 transactions.

22 BY repealing and reenacting, with amendments,
23 Article – Commercial Law
24 Section 13–301(14)(xxxiv)
25 Annotated Code of Maryland
26 (2013 Replacement Volume and 2020 Supplement)

27 BY repealing and reenacting, without amendments,
28 Article – Commercial Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 13–301(14)(xxxv)
 2 Annotated Code of Maryland
 3 (2013 Replacement Volume and 2020 Supplement)

4 BY adding to
 5 Article – Commercial Law
 6 Section 13–301(14)(xxxvi); and 14–4301 through 14–4307 to be under the new
 7 subtitle “Subtitle 43. Unauthorized Debit Transactions”
 8 Annotated Code of Maryland
 9 (2013 Replacement Volume and 2020 Supplement)

10 BY adding to
 11 Article – Financial Institutions
 12 Section 1–212
 13 Annotated Code of Maryland
 14 (2020 Replacement Volume and 2020 Supplement)

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

17 **Article – Commercial Law**

18 13–301.

19 Unfair, abusive, or deceptive trade practices include any:

20 (14) Violation of a provision of:

21 (xxxiv) The federal Servicemembers Civil Relief Act; [or]

22 (xxxv) § 11–210 of the Education Article; or

23 **(XXXVI) TITLE 14, SUBTITLE 43 OF THIS ARTICLE; OR**

24 **SUBTITLE 43. UNAUTHORIZED DEBIT TRANSACTIONS.**

25 **14–4301.**

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

28 **(B) “BANKING INSTITUTION” HAS THE MEANING STATED IN § 1–101 OF THE**
 29 **FINANCIAL INSTITUTIONS ARTICLE.**

30 **(C) “CONSUMER” MEANS A PERSON THAT HOLDS A BUSINESS OR PERSONAL**
 31 **CHECKING OR SAVINGS ACCOUNT WITH A BANKING INSTITUTION IN THE STATE.**

1 14-4302.

2 (A) A CONSUMER MAY NOT BE HELD LIABLE FOR AN UNAUTHORIZED DEBIT
3 TRANSACTION IF THE CONSUMER NOTIFIES THE BANKING INSTITUTION WITHIN 90
4 DAYS AFTER RECEIPT OF THE PERIODIC STATEMENT THAT SHOWS THE
5 UNAUTHORIZED DEBIT TRANSACTION.

6 (B) A CONSUMER MAY BE HELD LIABLE FOR AN UNAUTHORIZED DEBIT
7 TRANSACTION THAT OCCURS AFTER THE 90-DAY PERIOD ESTABLISHED UNDER
8 SUBSECTION (A) OF THIS SECTION ENDS IF:

9 (1) THE CONSUMER DID NOT PROVIDE NOTICE TO THE BANKING
10 INSTITUTION; AND

11 (2) THE BANKING INSTITUTION SHOWS THAT THE BANKING
12 INSTITUTION COULD HAVE STOPPED ADDITIONAL UNAUTHORIZED DEBIT
13 TRANSACTIONS IF THE BANKING INSTITUTION HAD BEEN NOTIFIED BEFORE THE
14 90-DAY PERIOD ENDED.

15 14-4303.

16 A BANKING INSTITUTION SHALL EXTEND THE 90-DAY PERIOD ESTABLISHED
17 UNDER § 14-4202 OF THIS SUBTITLE FOR EXTENUATING CIRCUMSTANCES SUCH AS
18 HOSPITALIZATION OR EXTENDED TRAVEL.

19 14-4304.

20 A CONSUMER MAY NOT BE HELD LIABLE FOR AN UNAUTHORIZED DEBIT
21 TRANSACTION THAT OCCURS DURING A STATE OF EMERGENCY DECLARED BY THE
22 GOVERNOR.

23 14-4305.

24 A BANKING INSTITUTION MAY NOT IMPOSE GREATER LIABILITY ON A
25 CONSUMER FOR AN UNAUTHORIZED DEBIT TRANSACTION THAN IS ESTABLISHED
26 UNDER THIS SUBTITLE.

27 14-4306.

28 IF A BANKING INSTITUTION DISCOVERS OR IS NOTIFIED THAT AN
29 UNAUTHORIZED DEBIT TRANSACTION HAS OCCURRED, THE BANKING INSTITUTION
30 SHALL REPORT THE UNAUTHORIZED DEBIT TRANSACTION WITHIN 5 DAYS AFTER

1 THE DISCOVERY OR NOTIFICATION TO:

2 (1) THE COMMISSIONER; AND

3 (2) THE CONSUMER.

4 14-4307.

5 A VIOLATION OF THIS SUBTITLE:

6 (1) IS AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN
7 THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

8 (2) IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS
9 CONTAINED IN TITLE 13 OF THIS ARTICLE.

10 Article – Financial Institutions

11 1-212.

12 (A) A PERIODIC STATEMENT MAILED TO A CONSUMER SHALL
13 CONSPICUOUSLY DISPLAY ON THE EXTERIOR OF THE ENVELOPE IN AT LEAST
14 12 POINT BOLD TYPE THE FOLLOWING STATEMENT:

15 “PLEASE CHECK THIS STATEMENT IMMEDIATELY FOR UNAUTHORIZED DEBIT
16 TRANSACTIONS ON YOUR ACCOUNT. IF YOU NOTICE A TRANSACTION THAT YOU DID
17 NOT AUTHORIZE, YOU MUST NOTIFY THE BANK WITHIN 90 DAYS AFTER RECEIVING
18 THIS STATEMENT. IF YOU DO NOT NOTIFY THE BANK WITHIN 90 DAYS AFTER
19 RECEIVING THIS STATEMENT, YOU MAY BE HELD LIABLE FOR SUBSEQUENT
20 UNAUTHORIZED TRANSACTIONS THAT OCCUR AFTER THE 90 DAYS.”.

21 (B) A PERIODIC STATEMENT TRANSMITTED BY E-MAIL OR OTHER
22 ELECTRONIC MEANS SHALL PROVIDE THE STATEMENT REQUIRED UNDER
23 SUBSECTION (A) OF THIS SECTION IN THE FIRST PARAGRAPH OF THE TRANSMITTAL.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2021.