

SENATE BILL 1126

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0lr3629

By: **Senator Muse**

Constitutional Requirements Complied with for Introduction in the last 35 Days of
Session

Introduced and read first time: March 23, 2010

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Fraud – Fraudulent Misrepresentation Made to a Nonprofit**
3 **Organization Concerning a Lease or Contract**

4 FOR the purpose of prohibiting a person from making certain fraudulent
5 misrepresentations to a nonprofit organization concerning a certain written
6 contract or lease for certain goods of a certain value; making it a misdemeanor
7 for violating this Act; establishing penalties on conviction of a violation of this
8 Act; providing for restitution; providing that prosecution under this Act does not
9 preclude prosecution for theft; providing for a merger of penalties under certain
10 circumstances; defining certain terms; providing for the application of this Act;
11 and generally relating to the crime of making fraudulent misrepresentations to
12 a nonprofit organization concerning a written lease or contract.

13 BY adding to
14 Article – Criminal Law
15 Section 8–409
16 Annotated Code of Maryland
17 (2002 Volume and 2009 Supplement)

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

20 **Article – Criminal Law**

21 **8–409.**

22 **(A) THIS SECTION APPLIES TO A WRITTEN CONTRACT OR WRITTEN**
23 **LEASE FOR A LEASED OR RENTED GOOD OR THING OF VALUE WHETHER OR NOT**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 THE CONTRACT OR LEASE CONTAINS AN OPTION TO PURCHASE THE GOOD OR
2 THING OF VALUE IF THE CONTRACT OR LEASE:

3 (1) IS MADE WITH A NONPROFIT ORGANIZATION; AND

4 (2) IS FOR A GOOD OR THING WITH A VALUE OF \$1,500 OR MORE.

5 (B) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
6 MEANINGS INDICATED.

7 (2) "FRAUDULENT" INCLUDES A FALSE STATEMENT OR A FALSE
8 REPRESENTATION THAT IS KNOWINGLY AND WILLFULLY MADE.

9 (3) (I) "NONPROFIT ORGANIZATION" MEANS AN
10 ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C) OF THE
11 INTERNAL REVENUE CODE.

12 (II) "NONPROFIT ORGANIZATION" INCLUDES AN
13 ORGANIZATION WHOSE MEMBERS BELONG TO A BONA FIDE RELIGIOUS GROUP
14 AND WHO ENGAGE IN PUBLIC RELIGIOUS WORSHIP IN A CHURCH, SYNAGOGUE,
15 MOSQUE, OR ANY OTHER APPROPRIATE STRUCTURE.

16 (C) A PERSON MAY NOT OBTAIN OR ATTEMPT TO OBTAIN MONEY OR
17 VALUABLE CONSIDERATION FROM A NONPROFIT ORGANIZATION BY:

18 (1) MAKING FALSE OR FRAUDULENT PRETENSES,
19 REPRESENTATIONS, OR PROMISES IN OR ABOUT A LEASING TRANSACTION OR
20 CONTRACT; OR

21 (2) FALSELY REPRESENTING TO THE NONPROFIT ORGANIZATION
22 THAT A THIRD PARTY WILL COMPENSATE THE NONPROFIT ORGANIZATION FOR
23 THE VALUABLE CONSIDERATION PAID BY THE NONPROFIT ORGANIZATION TO
24 THE PERSON FOR THE LEASED GOODS OR THINGS OF VALUE.

25 (D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
26 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
27 EXCEEDING 60 DAYS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

28 (E) (1) A PERSON WHO IS CONVICTED OF A VIOLATION OF THIS
29 SECTION SHALL MAKE FULL RESTITUTION OF THE MONEY OR VALUABLE
30 CONSIDERATION OBTAINED BY THE PERSON IN VIOLATION OF THIS SECTION.

31 (2) FULL RESTITUTION UNDER PARAGRAPH (1) OF THIS
32 SUBSECTION SHALL BE MADE AFTER THE PERSON HAS RECEIVED NOTICE AND

1 HAS BEEN GIVEN THE OPPORTUNITY TO BE HEARD AS TO THE AMOUNT OF
2 PAYMENT AND HOW IT IS TO BE MADE.

3 (F) (1) A PROSECUTION UNDER THIS SECTION DOES NOT PRECLUDE
4 PROSECUTION FOR THEFT UNDER § 7-104 OF THIS ARTICLE.

5 (2) IF A PERSON IS CONVICTED UNDER § 7-104 OF THIS ARTICLE
6 AND THIS SECTION FOR THE SAME ACT OR TRANSACTION, THE CONVICTION
7 UNDER THIS SECTION SHALL MERGE FOR SENTENCING PURPOSES INTO THE
8 CONVICTION UNDER § 7-104 OF THIS ARTICLE.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2010.