

SENATE BILL 255

I3, I2

1lr1437

(PRE-FILED)

By: **Senator Hershey**

Requested: November 1, 2020

Introduced and read first time: January 13, 2021

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Maryland Credit Services Business Act – Revisions**

3 FOR the purpose of prohibiting a credit services business, its employees, and independent
4 contractors from attempting to remove or advising a consumer to remove certain
5 information from the consumer's credit report, calling or sending certain
6 communications to certain entities, and sending certain communications to a person
7 without disclosing certain information; requiring a certain credit services business,
8 its employees, and independent contractors to provide certain information to a
9 certain credit reporting agency or data furnisher in a certain communication,
10 perform certain services within a certain time frame, provide a certain monthly
11 statement to a certain consumer, and identify when certain communications
12 originate from the credit services business under certain circumstances; requiring a
13 certain credit services business to redact certain information from certain
14 communications; altering a certain description required to be included in a certain
15 contract between a consumer and a credit services business; requiring a consumer
16 credit reporting agency, creditor, debt collector, or debt buyer to communicate with
17 a credit services business about certain accounts under certain circumstances;
18 prohibiting a credit reporting agency, creditor, or debt collector from being required
19 to communicate with a credit services business concerning a certain account under
20 certain circumstances; and generally relating to the Maryland Credit Services
21 Business Act.

22 BY repealing and reenacting, with amendments,
23 Article – Commercial Law
24 Section 14–1902 and 14–1906(a)
25 Annotated Code of Maryland
26 (2013 Replacement Volume and 2020 Supplement)

27 BY adding to
28 Article – Commercial Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 14–1917
2 Annotated Code of Maryland
3 (2013 Replacement Volume and 2020 Supplement)

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

6 **Article – Commercial Law**

7 14–1902.

8 **(A) (1)** A credit services business, its employees, and independent contractors
9 who sell or attempt to sell the services of a credit services business [shall] **MAY** not:

10 **[(1)] (I)** Receive any money or other valuable consideration from the
11 consumer, unless the credit services business has secured from the Commissioner a license
12 under Title 11, Subtitle 3 of the Financial Institutions Article;

13 **[(2)] (II)** Receive any money or other valuable consideration solely for
14 referral of the consumer to a retail seller or to any other credit grantor who will or may
15 extend credit to the consumer, if the credit extended to the consumer is substantially the
16 same terms as those available to the general public;

17 **[(3)] (III)** Make, or assist or advise any consumer to make, any statement
18 or other representation that is false or misleading, or which by the exercise of reasonable
19 care should be known to be false or misleading, to a consumer reporting agency, government
20 agency, or person to whom the consumer applies or intends to apply for an extension of
21 credit, regarding a consumer's creditworthiness, credit standing, credit capacity, or true
22 identity;

23 **[(4)] (IV)** Make or use any false or misleading representations in the offer
24 or sale of the services of a credit services business;

25 **[(5)] (V)** Engage, directly or indirectly, in any act, practice, or course of
26 business which operates as a fraud or deception on any person in connection with the offer
27 or sale of the services of a credit services business;

28 **[(6)] (VI)** Charge or receive any money or other valuable consideration
29 prior to full and complete performance of the services that the credit services business has
30 agreed to perform for or on behalf of the consumer;

31 **[(7)] (VII)** Charge or receive any money or other valuable consideration in
32 connection with an extension of credit that, when combined with any interest charged on
33 the extension of credit, would exceed the interest rate permitted for the extension of credit
34 under the applicable title of this article;

1 **[(8)] (VIII)** Create, assist a consumer to create, or provide a consumer with
2 information on how to create, a new consumer report, credit file, or credit record by
3 obtaining and using a different name, address, telephone number, Social Security number,
4 or employer tax identification number; **[or]**

5 **[(9)] (IX)** Assist a consumer to obtain an extension of credit at a rate of
6 interest which, except for federal preemption of State law, would be prohibited under Title
7 12 of this article;

8 **(X) ATTEMPT TO REMOVE OR ADVISE A CONSUMER TO REMOVE**
9 **ADVERSE INFORMATION FROM THE CONSUMER'S CREDIT REPORT THAT THE CREDIT**
10 **SERVICES BUSINESS KNOWS OR SHOULD REASONABLY KNOW IS ACCURATE;**

11 **(XI) CALL OR SEND A COMMUNICATION TO A CONSUMER CREDIT**
12 **REPORTING AGENCY, CREDITOR, DEBT COLLECTOR, OR DEBT BUYER WITHOUT THE**
13 **PRIOR WRITTEN AUTHORIZATION FROM THE CONSUMER;**

14 **(XII) CALL OR SEND A COMMUNICATION TO A CONSUMER CREDIT**
15 **REPORTING AGENCY, CREDITOR, DEBT COLLECTOR, OR DEBT BUYER**
16 **IMPERSONATING A CONSUMER;**

17 **(XIII) SEND A COMMUNICATION, DIRECTLY OR INDIRECTLY, TO A**
18 **PERSON ON BEHALF OF A CONSUMER WITHOUT DISCLOSING:**

19 **1. THE IDENTITY, STREET ADDRESS, TELEPHONE**
20 **NUMBER, AND FACSIMILE NUMBER OF THE CREDIT SERVICES BUSINESS; AND**

21 **2. IF APPLICABLE, THE NAME AND STREET ADDRESS OF**
22 **THE PARENT ORGANIZATION OF THE SENDER; OR**

23 **(XIV) SEND WRITTEN COMMUNICATION ON BEHALF OF A**
24 **CONSUMER TO A PERSON OTHER THAN THE CONSUMER WITHOUT PROVIDING A**
25 **COPY OF THE COMMUNICATION TO THE CONSUMER WITHIN 5 DAYS AFTER SENDING**
26 **THE COMMUNICATION.**

27 **(2) A CREDIT SERVICES BUSINESS, ITS EMPLOYEES, AND**
28 **INDEPENDENT CONTRACTORS SHALL:**

29 **(I) IN THE FIRST WRITTEN COMMUNICATION WITH A CREDIT**
30 **REPORTING AGENCY OR DATA FURNISHER, PROVIDE SUFFICIENT INFORMATION TO**
31 **ENABLE INVESTIGATION OF A DISPUTE OF AN ACCOUNT;**

32 **(II) PERFORM THE SERVICES AGREED ON WITHIN 180 DAYS**
33 **AFTER THE CONSUMER SIGNING A CONTRACT FOR SERVICES;**

1 **(III) PROVIDE AN ITEMIZED MONTHLY STATEMENT TO THE**
2 **CONSUMER THAT SHOWS EACH SERVICE PERFORMED, INCLUDING EACH CALL OR**
3 **WRITTEN COMMUNICATION, EACH CREDIT CHECK MADE OR SENT ON BEHALF OF**
4 **THE CONSUMER, AND THE DATE OF EACH SERVICE; AND**

5 **(IV) IDENTIFY WHEN A COMMUNICATION ORIGINATES FROM THE**
6 **CREDIT SERVICES BUSINESS WHEN CALLING OR SENDING A COMMUNICATION ON**
7 **BEHALF OF A CONSUMER TO A CONSUMER REPORTING AGENCY, CREDITOR, DEBT**
8 **COLLECTOR, OR DEBT BUYER.**

9 **(B) A CREDIT SERVICES BUSINESS SHALL REDACT THE PERSONAL**
10 **INFORMATION OF A CONSUMER FROM ANY WRITTEN COMMUNICATION TO INCLUDE**
11 **ONLY THE:**

12 **(1) LAST FOUR DIGITS OF THE SOCIAL SECURITY NUMBER,**
13 **TAXPAYER IDENTIFICATION NUMBER, OR STATE IDENTIFICATION NUMBER;**

14 **(2) LAST FOUR DIGITS OF THE FINANCIAL ACCOUNT NUMBER, CREDIT**
15 **CARD NUMBER, OR DEBIT CARD NUMBER; AND**

16 **(3) MONTH AND YEAR OF THE CONSUMER'S DATE OF BIRTH, UNLESS**
17 **OTHERWISE REQUIRED BY LAW.**

18 14–1906.

19 (a) Every contract between a consumer and a credit services business for the
20 purchase of the services of the credit services business shall:

21 (1) Be in writing, dated, and signed by the consumer;

22 (2) For a credit services business providing the services described in §
23 14–1901(e)(1)(i) of this subtitle, include:

24 (i) A conspicuous statement in size equal to at least 10–point bold
25 type, in immediate proximity to the space reserved for the signature of the consumer as
26 follows:

27 “You, the buyer, may cancel this contract at any time prior to midnight of the third
28 business day after the date of the transaction. See the attached notice of cancellation form
29 for an explanation of this right.”;

30 (ii) The terms and conditions of payment, including the total of all
31 payments to be made by the consumer, whether to the credit services business or to some
32 other person;

1 (iii) A complete and detailed description of the services to be
2 performed and the results to be achieved by the credit services business for or on behalf of
3 the consumer, including all guarantees and all promises of full or partial refunds and a list
4 of the adverse information appearing on the consumer's credit report that the credit
5 services business expects to have modified [and] **OR DELETED, THE BASIS FOR THE**
6 **MODIFICATION OR DELETION**, the estimated date by which each modification **OR**
7 **DELETION** will occur, **AND, IF APPLICABLE, THE ANTICIPATED PAYMENT REQUIRED**
8 **BY THE CONSUMER TO ACHIEVE EACH ACCOUNT MODIFICATION OR DELETION**; and

9 (iv) The principal business address of the credit services business
10 and the name and address of its agent in this State authorized to receive service of process;
11 and

12 (3) For a credit services business providing the services described in §
13 14-1901(e)(1)(ii) of this subtitle, include:

14 (i) A statement of the consumer's right to file a complaint under §
15 14-1911 of this subtitle;

16 (ii) The address of the Commissioner where a consumer can file a
17 complaint under § 14-1911 of this subtitle;

18 (iii) A statement that a bond exists and the consumer's right to
19 proceed against the bond under the circumstances and in the manner set forth under §
20 14-1910 of this subtitle; and

21 (iv) The principal business address of the credit services business.

22 **14-1917.**

23 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A**
24 **CONSUMER CREDIT REPORTING AGENCY, CREDITOR, DEBT COLLECTOR, OR DEBT**
25 **BUYER SHALL COMMUNICATE WITH A CREDIT SERVICES BUSINESS CONCERNING AN**
26 **ACCOUNT THAT IS SUBJECT TO A DISPUTE IF THE CONSUMER CREDIT REPORTING**
27 **AGENCY, CREDITOR, DEBT COLLECTOR, OR DEBT BUYER KNOWS:**

28 **(1) A CONSUMER IS REPRESENTED BY THE CREDIT SERVICES**
29 **BUSINESS IN ACCORDANCE WITH A POWER OF ATTORNEY; AND**

30 **(2) THE NAME AND ADDRESS OF THE CREDIT SERVICES BUSINESS.**

31 **(B) A CONSUMER CREDIT REPORTING AGENCY, CREDITOR, OR DEBT**
32 **COLLECTOR MAY NOT BE REQUIRED TO COMMUNICATE WITH A CREDIT SERVICES**
33 **BUSINESS CONCERNING AN ACCOUNT THAT IS SUBJECT TO A DISPUTE IF:**

1 **(1) THE CREDIT SERVICES BUSINESS FAILS TO RESPOND WITHIN A**
2 **REASONABLE TIME PERIOD TO A COMMUNICATION FROM THE CONSUMER CREDIT**
3 **REPORTING AGENCY, CREDITOR, DEBT COLLECTOR, OR DEBT BUYER;**

4 **(2) THE CONSUMER EXPRESSLY DIRECTS THE CONSUMER CREDIT**
5 **REPORTING AGENCY, CREDITOR, DEBT COLLECTOR, OR DEBT BUYER NOT TO**
6 **COMMUNICATE WITH THE CREDIT SERVICES BUSINESS;**

7 **(3) THE ACCOUNT SUBJECT TO THE DISPUTE HAS BEEN PAID,**
8 **SETTLED, OR OTHERWISE RESOLVED AND HAS BEEN REPORTED AS PAID, SETTLED,**
9 **OR OTHERWISE RESOLVED ON THE CONSUMER'S CREDIT REPORT;**

10 **(4) THE ACCOUNT SUBJECT TO THE DISPUTE HAS BEEN REMOVED**
11 **FROM THE CONSUMER'S CREDIT REPORT;**

12 **(5) THE DEBT COLLECTOR HAS PROVIDED TO THE CREDIT SERVICES**
13 **BUSINESS OR TO THE CONSUMER THE VERIFICATION INFORMATION OR**
14 **DOCUMENTATION DESCRIBED IN 15 U.S.C. § 1692G(B) REGARDING THE ACCOUNT**
15 **SUBJECT TO DISPUTE; OR**

16 **(6) THE CONSUMER CREDIT REPORTING AGENCY, CREDITOR, OR**
17 **DEBT COLLECTOR REASONABLY DETERMINES THAT THE DISPUTE IS FRIVOLOUS OR**
18 **IRRELEVANT IN ACCORDANCE WITH 15 U.S.C. § 1681I(A)(3) OR 15 U.S.C. §**
19 **1681S-2(A)(8)(F).**

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