A BILL ENTITLED

AN ACT concerning

Consumer Protection - Claims and Defenses in Consumer Credit Contracts - Businesses

FOR the purpose of altering the definition of "consumer" to include a certain business for the purpose of preserving a consumer's claims and defenses in a consumer credit contract; specifying the rights and remedies provided to a certain consumer protected under a certain provision of law; and generally relating to consumer protection and consumer credit contracts.

BY repealing and reenacting, without amendments,
Article - Commercial Law
Section 13-301(14)(vii)
Annotated Code of Maryland
(2000 Replacement Volume and 2004 Supplement)

BY repealing and reenacting, with amendments,
Article - Commercial Law
Section 14-1302
Annotated Code of Maryland
(2000 Replacement Volume and 2004 Supplement)

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

Article - Commercial Law

13-301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(vii) Section 14-1302 of this article;
1 In this section the following words have the meanings indicated.

2 "Person" means an individual, corporation, or any other business organization.

3 "Consumer" means [a natural person]:

4 (I) AN INDIVIDUAL who seeks or acquires goods or services for personal, family, or household use; OR

5 (II) A BUSINESS THAT ENTERS INTO A LOAN, CONTRACT, OR LEASE FOR WHICH AN INDIVIDUAL IS PERSONALLY LIABLE AS EITHER A SIGNATORY OR A GUARANTOR.

6 "Creditor" means a person who, in the ordinary course of business, lends purchase money or finances the sale of goods or services to consumers on a deferred payment basis if that person is not acting, for the purposes of a particular transaction, in the capacity of a credit card issuer.

7 "Purchase money loan" means a cash advance which is received by a consumer in return for a "finance charge" within the meaning of the Truth in Lending Act and Regulation Z, which is applied, in whole or substantial part, to a purchase of goods or services from a seller who (i) refers consumers to the creditor or (ii) is affiliated with the creditor by common control, contract, or business arrangement.

8 "Financing a sale" means extending credit to a consumer in connection with a "credit sale" within the meaning of the Truth in Lending Act and Regulation Z.

9 "Contract" means any oral or written agreement, formal or informal, between a creditor and a seller, which contemplates or provides for cooperative or concerted activity in connection with the sale of goods or services to consumers or the financing thereof.

10 "Business arrangement" means any understanding, procedure, course of dealing, or arrangement, formal or informal, between a creditor and a seller, in connection with the sale of goods or services to consumers or the financing thereof.

11 "Credit card issuer" means a person who extends to cardholders the right to use a credit card in connection with purchases of goods or services.

12 "Consumer credit contract" means any instrument which evidences or embodies a debt arising from a "purchase money loan" transaction or a "financed sale" as defined in paragraphs (5) and (6) of this subsection.

13 "Seller" means a person who, in the ordinary course of business, sells goods or services to consumers.
"Amounts paid by the debtor" shall include all amounts paid by the debtor and any remaining amount due under the contract.

In connection with any sale or lease in this State of goods or services to consumers, it is an unfair or deceptive trade practice within the meaning of Title 13 of this article for a seller, directly or indirectly, to:

(1) Take or receive a consumer credit contract which fails to contain the following provision in at least ten point, boldface type:

NOTICE

Any holder of this consumer credit contract is subject to all claims and defenses which the debtor could assert against the seller of goods or services obtained pursuant hereto or with the proceeds hereof. Recovery hereunder by the debtor shall not exceed amounts paid by the debtor hereunder.

Or,

(2) Accept, as full or partial payment for such sale, the proceeds of any purchase money loan, unless any consumer credit contract made in connection with such purchase money loan contains the following provision in at least ten point, boldface type:

NOTICE

Any holder of this consumer credit contract is subject to all claims and defenses which the debtor could assert against the seller of goods or services obtained with the proceeds hereof. Recovery hereunder by the debtor shall not exceed amounts paid by the debtor hereunder.

The provisions of this section do not apply where the seller:

[(1)]

(I) Does not require a consumer credit contract which is a negotiable instrument or which contains any provision pursuant to which the consumer agrees to limit or waive claims or defenses which he may have against the seller as to any holder of the consumer credit contract; and

[(2)]

(II) Does not transfer, sell, pledge or assign a consumer credit contract except under conditions where any transferee is subject to all claims and defenses which the consumer has against the seller to the same extent as provided in this section.

ALL RIGHTS AND REMEDIES UNDER TITLE 13 OF THIS ARTICLE SHALL APPLY TO A VIOLATION OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2005.