

HOUSE BILL 70

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HB 356/00 - JUD

2001 Regular Session
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(PRE-FILED)

By: **Delegate Getty**
Requested: August 11, 2000
Introduced and read first time: January 10, 2001
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **District Court - Civil Jurisdiction - Dishonored Checks and Other**
3 **Instruments**

4 FOR the purpose of clarifying that the District Court of Maryland has exclusive
5 original civil jurisdiction in an action for certain damages for a dishonored check
6 or other instrument regardless of the amount in controversy; making stylistic
7 changes; and generally relating to the exclusive original civil jurisdiction of the
8 District Court of Maryland.

9 BY repealing and reenacting, with amendments,
10 Article - Commercial Law
11 Section 15-802
12 Annotated Code of Maryland
13 (2000 Replacement Volume and 2000 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article - Courts and Judicial Proceedings
16 Section 4-401
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 2000 Supplement)

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

21 **Article - Commercial Law**

22 15-802.

23 (a) When a check or other instrument has been dishonored by nonacceptance
24 or nonpayment and has not been paid within 10 days, the holder to whom the check
25 or other instrument was issued or negotiated may send a notice of dishonor to the
26 maker or drawer as provided under this section.

1 (b) If a check or other instrument has not been paid within 30 days after the
2 holder has sent a notice of dishonor to the maker or drawer, the maker or drawer of a
3 check or other instrument that has been dishonored may be liable for:

4 (1) The amount of the check or instrument;

5 (2) A collection fee of up to \$25; and

6 (3) An amount up to 2 times the amount of the check, but not more than
7 \$1,000.

8 (c) (1) (i) The holder of a check or other instrument that has been
9 dishonored may seek the damages provided under this section in any LOCATION OF
10 THE District Court of [the State] MARYLAND 30 days after a notice of dishonor has
11 been sent by mail to the last known address of the maker or drawer.

12 (ii) The holder shall obtain a certificate of mailing from the U.S.
13 Postal Service for each notice sent by the holder under subparagraph (i) of this
14 paragraph.

15 (2) A notice of dishonor sent by a holder under this section to a maker or
16 drawer of a dishonored check or other instrument shall substantially comply with the
17 form prescribed in § 15-803 of this subtitle.

18 (d) A holder may not recover any damages under subsection (b)(3) of this
19 section if:

20 (1) The holder has demanded of, and received from, the maker or
21 drawer:

22 (i) Collection costs in excess of the collection fee provided under
23 subsection (b)(2) of this section; or

24 (ii) Collection costs within 30 days after the mailing of the notice of
25 dishonor, under subsection (c) of this section; or

26 (2) The dishonored check or other instrument provides for the payment
27 of collection costs in the event of dishonor.

28 (e) (1) It shall be a complete defense to any action brought under this
29 section by any holder of a dishonored check or other instrument that, within 30 days
30 from the mailing of the notice of dishonor, the maker or drawer has paid to the holder
31 the full amount of the check or other instrument and collection costs of not more than
32 \$25.

33 (2) It shall be a complete defense to any action brought under this
34 section by a holder to whom a dishonored check or other instrument was issued that
35 the dishonor of the check or other instrument was due to a justifiable stop payment
36 order or to the attachment of the account.

1 (9) Proceedings under Article 27, § 264 or § 297 of the Code for the
2 forfeiture or return of moneys involved in a gambling or controlled dangerous
3 substances seizure where the amount involved, excluding any interest and attorney's
4 fees, if attorney's fees are recoverable by law or contract, does not exceed \$20,000;

5 (10) A proceeding for adjudication of:

6 (i) A municipal infraction as defined in Article 23A, § 3(b)(1) of the
7 Code;

8 (ii) A Commission infraction as defined in Article 28, § 5-113 of the
9 Code;

10 (iii) A WSSC infraction as defined in Article 29, § 18-104.1 of the
11 Code, concerning rules and regulations governing publicly owned watershed property;

12 (iv) A WSSC infraction as defined in Article 29, § 18-104.2 of the
13 Code, concerning WSSC regulations governing:

14 1. Erosion and sediment control for utility construction; and

15 2. Plumbing, gas fitting, and sewer cleaning;

16 (v) A zoning violation for which a civil penalty has been provided
17 pursuant to Article 66B, § 7.02 or Article 28, § 8-120(c) of the Code;

18 (vi) A violation of an ordinance enacted:

19 1. By a charter county for which a civil penalty is provided
20 under Article 25A, § 5(A) of the Code; or

21 2. By the Mayor and City Council of Baltimore for which a
22 civil penalty is provided by ordinance;

23 (vii) A citation for a Code violation issued under Article 27, § 403 of
24 the Code;

25 (viii) A civil infraction relating to a violation of the Fair Election
26 Practices Act of the election laws as provided under Article 33, § 13-604 of the Code;

27 (ix) A violation of an ordinance or regulation enacted by a county
28 without home rule, under authority granted under Article 25 of the Code, or any
29 provision of the Code of Public Local Laws for that county, for which a civil penalty is
30 provided;

31 (x) A civil infraction that is authorized by law to be prosecuted by a
32 sanitary commission; or

33 (xi) A subdivision violation for which a civil penalty has been
34 provided in accordance with Article 66B, § 14.07(f) of the Code;

1 (11) A proceeding for adjudication of a civil penalty for any violation under
2 § 5-1001 of the Environment Article, § 15-113, § 15-113.1, § 21-1122, or § 21-1414 of
3 the Transportation Article or Article 41, § 2-101(c-1) of the Code or any rule or
4 regulation issued pursuant to those sections;

5 (12) A proceeding to enforce a civil penalty assessed by the Maryland
6 Division of Labor and Industry under Title 5 of the Labor and Employment Article
7 where the amount involved does not exceed \$20,000;

8 (13) A proceeding for a civil infraction under § 21-202.1 of the
9 Transportation Article;

10 (14) A proceeding for a temporary peace order or peace order under Title
11 3, Subtitle 15 of this article; [and]

12 (15) A proceeding for condemnation and immediate possession of and title
13 to abandoned, blighted, and deteriorated property under authority granted in the
14 Code of Public Local Laws of a county, including Baltimore City, where the estimated
15 value of the property does not exceed \$25,000; AND

16 (16) AN ACTION FOR DAMAGES FOR A DISHONORED CHECK OR OTHER
17 INSTRUMENT UNDER TITLE 15, SUBTITLE 8 OF THE COMMERCIAL LAW ARTICLE,
18 REGARDLESS OF THE AMOUNT IN CONTROVERSY.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2001.