

HOUSE BILL 585

I3, D3, C2

1lr1888

By: **Delegate D.M. Davis**

Introduced and read first time: January 20, 2021

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Consumer Protection – Financial Capabilities and Legal**
3 **Assistance Fund**

4 FOR the purpose of prohibiting a collection agency from passing to a consumer any costs
5 associated with certain filing fees; establishing the Financial Capabilities and Legal
6 Assistance Fund as a special, nonlapsing fund; specifying the purpose of the Fund;
7 requiring the Division of Consumer Protection in the Office of the Attorney General
8 to administer the Fund; requiring the Division to adopt certain regulations;
9 requiring the State Treasurer to hold the Fund and the Comptroller to account for
10 the Fund; specifying the contents of the Fund; specifying the purpose for which the
11 Fund may be used; providing for the investment of money in and expenditures from
12 the Fund; requiring the State Court Administrator and the Chief Judge of the
13 District Court to collect certain fees and pay the fees into the Fund; requiring interest
14 earnings of the Fund to be credited to the Fund; exempting the Fund from a certain
15 provision of law requiring interest earnings on State money to accrue to the General
16 Fund of the State; defining certain terms; and generally relating to the Financial
17 Capabilities and Legal Assistance Fund.

18 BY repealing and reenacting, without amendments,
19 Article – Business Regulation
20 Section 7–101(a) and (d)
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2020 Supplement)

23 BY adding to
24 Article – Business Regulation
25 Section 7–402
26 Annotated Code of Maryland
27 (2015 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY adding to

Article – Commercial Law

Section 13–207

Annotated Code of Maryland

(2013 Replacement Volume and 2020 Supplement)

BY adding to

Article – Courts and Judicial Proceedings

Section 7–202(h) and 7–301(g)

Annotated Code of Maryland

(2020 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, without amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)(i)

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 6–226(a)(2)(ii) 122. and 123.

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

BY adding to

Article – State Finance and Procurement

Section 6–226(a)(2)(ii) 124.

Annotated Code of Maryland

(2015 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

That the Laws of Maryland read as follows:

Article – Business Regulation

7–101.

(a) In this title the following words have the meanings indicated.

(d) “Collection agency” means a person who engages directly or indirectly in the business of:

(1) (i) collecting for, or soliciting from another, a consumer claim; or

(ii) collecting a consumer claim the person owns, if the claim was in default when the person acquired it;

(2) collecting a consumer claim the person owns, using a name or other artifice that indicates that another party is attempting to collect the consumer claim;

(3) giving, selling, attempting to give or sell to another, or using, for collection of a consumer claim, a series or system of forms or letters that indicates directly or indirectly that a person other than the owner is asserting the consumer claim; or

(4) employing the services of an individual or business to solicit or sell a collection system to be used for collection of a consumer claim.

7-402.

A COLLECTION AGENCY MAY NOT, DIRECTLY OR INDIRECTLY, PASS TO A CONSUMER ANY COSTS ASSOCIATED WITH THE FILING FEE REQUIRED UNDER § 7-202 OR § 7-301 OF THE COURTS ARTICLE.

Article – Commercial Law

13-207.

(A) IN THIS SECTION, “FUND” MEANS THE FINANCIAL CAPABILITIES AND LEGAL ASSISTANCE FUND.

(B) THERE IS A FINANCIAL CAPABILITIES AND LEGAL ASSISTANCE FUND.

(C) THE PURPOSE OF THE FUND IS TO RECEIVE AND DISTRIBUTE FUNDS TO QUALIFIED NONPROFIT ENTITIES THAT PROVIDE COUNSELING SERVICES AND LEGAL ASSISTANCE TO CONSUMERS RELATED TO CONSUMER CREDIT AND DEBT COLLECTION.

(D) (1) THE DIVISION SHALL ADMINISTER THE FUND.

(2) THE DIVISION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION, INCLUDING REGULATIONS THAT ESTABLISH:

(I) A PROCESS FOR APPLYING FOR A DISTRIBUTION OF MONEY FROM THE FUND; AND

(II) ELIGIBILITY REQUIREMENTS FOR THE RECEIPT OF A DISTRIBUTION OF MONEY FROM THE FUND.

(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,
AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

(F) THE FUND CONSISTS OF:

(1) MONEY DISTRIBUTED TO THE FUND UNDER §§ 7-202 AND
7-301 OF THE COURTS ARTICLE;

(2) INTEREST EARNINGS; AND

(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
THE BENEFIT OF THE FUND.

(G) THE FUND MAY BE USED ONLY TO PROVIDE FUNDING TO NONPROFIT
ENTITIES THAT PROVIDE COUNSELING SERVICES AND LEGAL ASSISTANCE TO
CONSUMERS RELATED TO CONSUMER CREDIT AND DEBT COLLECTION.

(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND
IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO
THE FUND.

(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE
WITH THE STATE BUDGET.

(J) MONEY EXPENDED FROM THE FUND FOR NONPROFIT ENTITIES THAT
PROVIDE COUNSELING SERVICES AND LEGAL ASSISTANCE TO CONSUMERS IS
SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT
OTHERWISE WOULD BE APPROPRIATED TO THESE ENTITIES.

Article – Courts and Judicial Proceedings

7-202.

(H) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
MEANINGS INDICATED.

(II) “COLLECTION AGENCY” HAS THE MEANING STATED IN §
7-101 OF THE BUSINESS REGULATION ARTICLE.

(III) “CONSUMER DEBT” MEANS A DEBT THAT IS PRIMARILY FOR
PERSONAL, HOUSEHOLD, FAMILY, OR AGRICULTURAL PURPOSES.

(2) THE STATE COURT ADMINISTRATOR SHALL:

(I) COLLECT A FILING FEE OF \$30 FROM A COLLECTION AGENCY ATTEMPTING TO COLLECT ON A CLAIM FOR UNPAID CONSUMER DEBT; AND

(II) PAY THE FEE INTO THE FINANCIAL CAPABILITIES AND LEGAL ASSISTANCE FUND ESTABLISHED UNDER § 13–207 OF THE COMMERCIAL LAW ARTICLE.

7–301.

(G) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “COLLECTION AGENCY” HAS THE MEANING STATED IN § 7–101 OF THE BUSINESS REGULATION ARTICLE.

(III) “CONSUMER DEBT” MEANS A DEBT THAT IS PRIMARILY FOR PERSONAL, HOUSEHOLD, FAMILY, OR AGRICULTURAL PURPOSES.

(2) THE CHIEF JUDGE OF THE DISTRICT COURT SHALL:

(I) COLLECT A FILING FEE OF \$30 FROM A COLLECTION AGENCY ATTEMPTING TO COLLECT ON A CLAIM FOR UNPAID CONSUMER DEBT; AND

(II) PAY THE FEE INTO THE FINANCIAL CAPABILITIES AND LEGAL ASSISTANCE FUND ESTABLISHED UNDER § 13–207 OF THE COMMERCIAL LAW ARTICLE.

Article – State Finance and Procurement

6–226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

122. the Racing and Community Development Financing Fund;

1 [and]

2 123. the Racing and Community Development Facilities Fund;

3 AND

4 124. THE FINANCIAL CAPABILITIES AND LEGAL
5 ASSISTANCE FUND.

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