

HOUSE BILL 254

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(PRE-FILED)

4lr0231

CF 4lr0232

By: **Chair, Economic Matters Committee (By Request – Departmental – Labor)**

Requested: September 15, 2023

Introduced and read first time: January 10, 2024

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Credit Regulation – Predatory Loan Prevention**
3 **(True Lender Act)**

4 FOR the purpose of prohibiting a person from engaging in certain activities to evade certain
5 requirements relating to lending or the extension of credit; establishing that a person
6 is a lender subject to certain statutory requirements under certain circumstances;
7 and generally relating to lending and credit regulation.

8 BY adding to

9 Article – Commercial Law

10 Section 12–1501 through 12–1503 to be under the new subtitle “Subtitle 15. True
11 Lender Act”

12 Annotated Code of Maryland

13 (2013 Replacement Volume and 2023 Supplement)

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

16 **Article – Commercial Law**

17 **SUBTITLE 15. TRUE LENDER ACT.**

18 **12–1501.**

19 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
20 **INDICATED.**

21 **(B) “COVERED LENDER” MEANS:**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(1) A NATIONAL BANKING ASSOCIATION;

(2) AN OTHER-STATE BANK;

(3) AN OTHER-STATE CREDIT UNION; OR

(4) ANY PERSON THAT EXTENDS LOANS OR CREDIT TO RESIDENTS OF THE STATE AT INTEREST RATES EXCEEDING THOSE AUTHORIZED BY STATE LAW.

(C) "NATIONAL BANKING ASSOCIATION" HAS THE MEANING STATED IN § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(D) "OTHER-STATE BANK" HAS THE MEANING STATED IN § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(E) "OTHER-STATE CREDIT UNION" HAS THE MEANING STATED IN § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(F) "PERSON" HAS THE MEANING STATED IN § 12-101 OF THIS TITLE.

12-1502.

(A) A PERSON MAY NOT ENGAGE IN ANY DEVICE, SUBTERFUGE, OR PRETENSE TO EVADE THE REQUIREMENTS OF THIS TITLE, INCLUDING BY:

(1) MAKING A LOAN OR AN EXTENSION OF CREDIT THAT IS PURPORTED TO BE:

(I) A PERSONAL PROPERTY SALE AND LEASEBACK TRANSACTION; OR

(II) A CASH REBATE FOR A PRETEXTUAL INSTALLMENT SALE OF GOODS OR SERVICES; OR

(2) MAKING OR OFFERING, OR ASSISTING OR ARRANGING FOR A DEBTOR TO OBTAIN, A LOAN OR AN EXTENSION OF CREDIT WITH A GREATER RATE OF INTEREST, CONSIDERATION, OR CHARGE THAN IS AUTHORIZED BY THIS TITLE THROUGH ANY METHOD.

(B) A LOAN OR AN EXTENSION OF CREDIT MADE IN VIOLATION OF SUBSECTION (A) OF THIS SECTION IS VOID AND UNENFORCEABLE AS TO ANY PRINCIPAL, FEE, INTEREST, OR CHARGE.

12-1503.

1 **(A) A PERSON IS A LENDER SUBJECT TO THE REQUIREMENTS OF THIS TITLE**
2 **NOTWITHSTANDING A CLAIM BY THE PERSON TO BE ACTING AS AN AGENT, AS A**
3 **SERVICE PROVIDER, OR IN ANOTHER CAPACITY FOR A COVERED LENDER, IF:**

4 **(1) THE PERSON HOLDS, ACQUIRES, OR MAINTAINS, DIRECTLY OR**
5 **INDIRECTLY, THE PREDOMINANT ECONOMIC INTEREST IN THE LOAN OR EXTENSION**
6 **OF CREDIT;**

7 **(2) THE PERSON MARKETS, BROKERS, ARRANGES, OR FACILITATES**
8 **THE LOAN OR EXTENSION OF CREDIT AND HOLDS THE RIGHT, REQUIREMENT, OR**
9 **FIRST RIGHT OF REFUSAL TO PURCHASE THE LOAN OR EXTENSION OF CREDIT OR A**
10 **RECEIVABLE OR INTEREST IN THE LOAN OR EXTENSION OF CREDIT; OR**

11 **(3) THE TOTALITY OF THE CIRCUMSTANCES INDICATES THAT THE**
12 **PERSON IS THE LENDER AND THE TRANSACTION IS STRUCTURED TO EVADE THE**
13 **REQUIREMENTS OF THIS TITLE.**

14 **(B) FOR PURPOSES OF SUBSECTION (A)(3) OF THIS SECTION,**
15 **CIRCUMSTANCES THAT WEIGH IN FAVOR OF A DETERMINATION THAT A PERSON IS A**
16 **LENDER INCLUDE THOSE IN WHICH THE PERSON:**

17 **(1) INDEMNIFIES, INSURES, OR PROTECTS A COVERED LENDER FOR**
18 **ANY COSTS OR RISKS RELATED TO THE LOAN OR EXTENSION OF CREDIT;**

19 **(2) PREDOMINANTLY DESIGNS, CONTROLS, OR OPERATES THE LOAN**
20 **OR CREDIT PROGRAM;**

21 **(3) HOLDS THE TRADEMARK OR INTELLECTUAL PROPERTY RIGHTS**
22 **IN THE BRAND, UNDERWRITING SYSTEM, OR OTHER CORE ASPECT OF THE LOAN OR**
23 **CREDIT PROGRAM; OR**

24 **(4) PURPORTS TO ACT IN THE STATE AS AN AGENT OR A SERVICE**
25 **PROVIDER OR IN ANOTHER CAPACITY FOR A COVERED LENDER WHILE ACTING**
26 **DIRECTLY AS A LENDER IN OTHER STATES.**

27 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
28 **October 1, 2024.**