

SENATE BILL 873

I2
HB 1513/18 – ECM

9lr1818
CF 9lr1436

By: **Senator Klausmeier**

Introduced and read first time: February 7, 2019

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Maryland Credit Repair Businesses Act**

3 FOR the purpose of recodifying provisions relating to the regulation of credit repair
4 businesses by the Commissioner of Financial Regulation; altering the definition of
5 “credit services business” to exclude a credit repair business and a person that
6 provides credit repair services; prohibiting a credit repair business and certain
7 persons from receiving money or certain consideration unless the business is licensed
8 by the Commissioner in a certain manner; prohibiting a credit repair business and
9 certain persons from receiving money or certain consideration for certain purposes;
10 prohibiting a credit repair business and certain persons from making, or assisting or
11 advising a consumer to make, a certain false or misleading statement or
12 representation; prohibiting a credit repair business and certain persons from making
13 certain false or misleading representations, engaging in certain fraud or deception,
14 or participating in creation of a new consumer report, file, or record in a certain
15 manner; prohibiting a credit repair business and certain persons from charging or
16 receiving money before full performance of services, subject to a certain exception;
17 authorizing a certain credit repair business and its employees and independent
18 contractors to charge or receive any money or other valuable consideration prior to
19 full and complete performance of certain services under certain circumstances;
20 providing that a certain subscription agreement may not have a certain term
21 exceeding a certain number of days and may be canceled by a certain consumer at
22 any time; providing for the application of this Act to certain contracts; requiring a
23 credit repair business to be licensed in a certain manner and to be subject to certain
24 provisions; specifying certain initial and renewal license fees and the information
25 that must be contained in a certain application; altering the period of time that a
26 certain credit repair business must maintain a certain information statement on file;
27 specifying the contents of the information statement; specifying the contents of a
28 certain required disclosure to a consumer by a credit repair business in a certain
29 contract; specifying the contents of a certain notice of cancellation that must be
30 attached to a certain contract in a certain manner; requiring that certain documents
31 must be provided to a consumer at a certain time; establishing certain acts as

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



violations of this Act; specifying the amount of the surety bond that the credit repair business is required to obtain; providing that a consumer may file with the Commissioner a certain complaint; authorizing the Commissioner to inspect certain materials and take certain actions with respect to a complaint; authorizing the Commissioner to issue certain orders and take certain actions in a certain manner; providing for the filing of a certain petition by the Commissioner in a circuit court for certain purposes in a certain manner; increasing the amount of a monetary award that a certain credit repair business is liable to a certain consumer under certain circumstances; increasing the number of years within which a certain action to enforce a certain liability may be brought; defining certain terms; making stylistic changes; and generally relating to credit repair businesses.

BY repealing and reenacting, without amendments,
Article – Commercial Law
Section 14–1901(a)
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Commercial Law
Section 14–1901(e)
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY adding to
Article – Commercial Law
Section 14–19A–01 through 14–19A–17 to be under the new subtitle “Subtitle 19A.
Maryland Credit Repair Businesses Act”
Annotated Code of Maryland
(2013 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,
Article – Financial Institutions
Section 11–302
Annotated Code of Maryland
(2011 Replacement Volume and 2018 Supplement)

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

Article – Commercial Law

14–1901.

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

(e) (1) “Credit services business” means any person who, with respect to the

1 extension of credit by others, sells, provides, or performs, or represents that such person
2 can or will sell, provide, or perform, any of the following services in return for the payment
3 of money or other valuable consideration:

4 (i) [Improving a consumer's credit record, history, or rating or
5 establishing a new credit file or record;

6 (ii) Obtaining an extension of credit for a consumer; or

7 [(iii)] (II) Providing advice or assistance to a consumer with regard
8 to [either subparagraph] ITEM (i) [or (ii)] of this paragraph.

9 (2) ["Credit services business" includes a person who sells or attempts to
10 sell written materials containing information that the person represents will enable a
11 consumer to establish a new credit file or record.

12 (3) "Credit services business" does not include:

13 (i) Any person authorized to make loans or extensions of credit
14 under the laws of [this] THE State or the United States who is actively engaged in the
15 business of making loans or other extensions of credit to residents of [this] THE State;

16 (ii) Any bank, trust company, savings bank, or savings and loan
17 association whose deposits or accounts are eligible for insurance by the Federal Deposit
18 Insurance Corporation or any credit union organized and chartered under the laws of [this]
19 THE State or the United States;

20 (iii) Any nonprofit organization exempt from taxation under §
21 501(c)(3) of the Internal Revenue Code [(26 U.S.C. § 501(c)(3))];

22 (iv) Any person licensed as a real estate broker, an associate real
23 estate broker, or a real estate salesperson by [this] THE State where the person is acting
24 within the course and scope of that license;

25 (v) Any person licensed as a mortgage lender by [this] THE State;

26 (vi) An individual admitted to the Bar of the Court of Appeals of
27 Maryland when the individual renders services within the course and scope of practice by
28 the individual as a lawyer and does not engage in the credit services business on a regular
29 and continuing basis;

30 (vii) Any broker-dealer registered with the Securities and Exchange
31 Commission or the Commodity Futures Trading Commission where the broker-dealer is
32 acting within the course and scope of that regulation;

33 (viii) Any consumer reporting agency as defined in the federal Fair

Credit Reporting Act (15 U.S.C. §§ 1681 – 1681t) or in § 14–1201(f) of this title;

(ix) An individual licensed by the Maryland Board of Public Accountancy when the individual renders services within the course and scope of practice by the individual as a certified public accountant and does not engage in the credit services business on a regular and continuing basis; [or]

(x) Beginning July 1, 2013, a mortgage assistance relief service provider regulated under Title 7, Subtitle 5 of the Real Property Article; OR

(XI) A CREDIT REPAIR BUSINESS UNDER SUBTITLE 19A OF THIS TITLE.

SUBTITLE 19A. MARYLAND CREDIT REPAIR BUSINESSES ACT.

14–19A–01.

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

(B) “COMMISSIONER” MEANS THE COMMISSIONER OF FINANCIAL REGULATION OF THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

(C) “CONSUMER” MEANS AN INDIVIDUAL WHO PURCHASES OR WHO IS SOLICITED TO PURCHASE FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES THE SERVICES OF A CREDIT REPAIR BUSINESS.

(D) “CONSUMER REPORT”, “CONSUMER REPORTING AGENCY”, “FILE”, AND “INVESTIGATIVE CONSUMER REPORT” HAVE THE MEANINGS STATED IN § 14–1201 OF THIS TITLE.

(E) (1) “CREDIT REPAIR BUSINESS” MEANS A PERSON THAT, WITH RESPECT TO THE EXTENSION OF CREDIT BY OTHERS, SELLS, PROVIDES, OR PERFORMS, OR REPRESENTS THAT THE PERSON CAN OR WILL SELL, PROVIDE, OR PERFORM, ANY OF THE FOLLOWING SERVICES IN RETURN FOR THE PAYMENT OF MONEY OR OTHER VALUABLE CONSIDERATION:

(I) IMPROVING A CONSUMER’S CREDIT RECORD, HISTORY, OR RATING;

(II) ESTABLISHING A NEW CREDIT FILE OR RECORD FOR THE CONSUMER; OR

(III) PROVIDING ADVICE OR ASSISTANCE TO A CONSUMER WITH

1 REGARD TO ITEM (I) OR (II) OF THIS PARAGRAPH.

2 (2) "CREDIT REPAIR BUSINESS" INCLUDES A PERSON THAT SELLS OR
3 ATTEMPTS TO SELL WRITTEN MATERIALS CONTAINING INFORMATION THAT THE
4 PERSON REPRESENTS WILL ENABLE A CONSUMER TO ESTABLISH A NEW CREDIT FILE
5 OR RECORD.

6 (3) "CREDIT REPAIR BUSINESS" DOES NOT INCLUDE:

7 (I) A PERSON AUTHORIZED TO MAKE LOANS OR EXTENSIONS
8 OF CREDIT UNDER THE LAWS OF THE STATE OR THE UNITED STATES THAT IS
9 ACTIVELY ENGAGED IN THE BUSINESS OF MAKING LOANS OR OTHER EXTENSIONS OF
10 CREDIT TO RESIDENTS OF THE STATE;

11 (II) A BANK, TRUST COMPANY, SAVINGS BANK, OR SAVINGS AND
12 LOAN ASSOCIATION WHOSE DEPOSITS OR ACCOUNTS ARE ELIGIBLE FOR INSURANCE
13 BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY CREDIT UNION
14 ORGANIZED AND CHARTERED UNDER THE LAWS OF THE STATE OR THE UNITED
15 STATES;

16 (III) A NONPROFIT ORGANIZATION EXEMPT FROM TAXATION
17 UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE;

18 (IV) A PERSON LICENSED AS A REAL ESTATE BROKER, AN
19 ASSOCIATE REAL ESTATE BROKER, OR A REAL ESTATE SALESPERSON BY THE STATE
20 WHERE THE PERSON IS ACTING WITHIN THE COURSE AND SCOPE OF THAT LICENSE;

21 (V) A PERSON LICENSED AS A MORTGAGE LENDER BY THE
22 STATE;

23 (VI) AN INDIVIDUAL ADMITTED TO THE BAR OF THE COURT OF
24 APPEALS OF MARYLAND WHEN THE INDIVIDUAL RENDERS SERVICES WITHIN THE
25 COURSE AND SCOPE OF PRACTICE BY THE INDIVIDUAL AS A LAWYER AND DOES NOT
26 ENGAGE IN THE CREDIT REPAIR BUSINESS ON A REGULAR AND CONTINUING BASIS;

27 (VII) A BROKER-DEALER REGISTERED WITH THE SECURITIES
28 AND EXCHANGE COMMISSION OR THE COMMODITY FUTURES TRADING
29 COMMISSION WHERE THE BROKER-DEALER IS ACTING WITHIN THE COURSE AND
30 SCOPE OF THAT REGULATION;

31 (VIII) A CONSUMER REPORTING AGENCY AS DEFINED IN THE
32 FEDERAL FAIR CREDIT REPORTING ACT (15 U.S.C. §§ 1681 – 1681T) OR IN §
33 14-1201(F) OF THIS TITLE;

(IX) AN INDIVIDUAL LICENSED BY THE MARYLAND BOARD OF PUBLIC ACCOUNTANCY WHEN THE INDIVIDUAL RENDERS SERVICES WITHIN THE COURSE AND SCOPE OF PRACTICE BY THE INDIVIDUAL AS A CERTIFIED PUBLIC ACCOUNTANT AND DOES NOT ENGAGE IN THE CREDIT REPAIR BUSINESS ON A REGULAR AND CONTINUING BASIS;

(X) BEGINNING JULY 1, 2013, A MORTGAGE ASSISTANCE RELIEF SERVICE PROVIDER REGULATED UNDER TITLE 7, SUBTITLE 5 OF THE REAL PROPERTY ARTICLE; OR

(XI) A CREDIT SERVICES BUSINESS UNDER SUBTITLE 19 OF THIS TITLE.

(F) "EXTENSION OF CREDIT" MEANS THE RIGHT TO DEFER PAYMENT OF DEBT, OR TO INCUR DEBT AND DEFER ITS PAYMENT, OFFERED OR GRANTED PRIMARILY FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES.

(G) "PERSON" INCLUDES AN INDIVIDUAL, A CORPORATION, A GOVERNMENT OR GOVERNMENTAL SUBDIVISION OR AGENCY, A BUSINESS TRUST, A STATUTORY TRUST, AN ESTATE, A TRUST, A PARTNERSHIP, AN ASSOCIATION, TWO OR MORE PERSONS HAVING A JOINT OR COMMON INTEREST, AND ANY OTHER LEGAL OR COMMERCIAL ENTITY.

14-19A-02.

(A) A CREDIT REPAIR BUSINESS AND ITS EMPLOYEES AND INDEPENDENT CONTRACTORS WHO SELL OR ATTEMPT TO SELL THE SERVICES OF A CREDIT REPAIR BUSINESS MAY NOT:

(1) RECEIVE ANY MONEY OR OTHER VALUABLE CONSIDERATION FROM A CONSUMER UNLESS THE CREDIT REPAIR BUSINESS HAS SECURED FROM THE COMMISSIONER A LICENSE UNDER THIS SUBTITLE;

(2) RECEIVE ANY MONEY OR OTHER VALUABLE CONSIDERATION SOLELY FOR REFERRAL OF A CONSUMER TO A RETAIL SELLER OR TO ANY OTHER CREDIT GRANTOR THAT WILL OR MAY EXTEND CREDIT TO THE CONSUMER IF THE CREDIT EXTENDED TO THE CONSUMER IS ON SUBSTANTIALLY THE SAME TERMS AS THOSE AVAILABLE TO THE GENERAL PUBLIC;

(3) MAKE, OR ASSIST OR ADVISE A CONSUMER TO MAKE, ANY STATEMENT OR OTHER REPRESENTATION THAT IS FALSE OR MISLEADING, OR WHICH BY THE EXERCISE OF REASONABLE CARE SHOULD BE KNOWN TO BE FALSE

OR MISLEADING, TO A CONSUMER REPORTING AGENCY, GOVERNMENT AGENCY, OR PERSON TO WHOM THE CONSUMER APPLIES OR INTENDS TO APPLY FOR AN EXTENSION OF CREDIT, REGARDING A CONSUMER'S CREDITWORTHINESS, CREDIT STANDING, CREDIT CAPACITY, OR TRUE IDENTITY;

(4) MAKE OR USE A FALSE OR MISLEADING REPRESENTATION IN THE OFFER OR SALE OF THE SERVICES OF A CREDIT REPAIR BUSINESS;

(5) ENGAGE, DIRECTLY OR INDIRECTLY, IN ANY ACT, PRACTICE, OR COURSE OF BUSINESS THAT OPERATES AS A FRAUD OR DECEPTION ON ANY PERSON IN CONNECTION WITH THE OFFER OR SALE OF THE SERVICES OF A CREDIT REPAIR BUSINESS;

(6) EXCEPT AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION, CHARGE OR RECEIVE ANY MONEY OR OTHER VALUABLE CONSIDERATION BEFORE FULL AND COMPLETE PERFORMANCE OF THE SERVICES THAT THE CREDIT REPAIR BUSINESS HAS AGREED TO PERFORM FOR OR ON BEHALF OF THE CONSUMER; OR

(7) CREATE, ASSIST A CONSUMER TO CREATE, OR PROVIDE A CONSUMER WITH INFORMATION ON HOW TO CREATE, A NEW CONSUMER REPORT, CREDIT FILE, OR CREDIT RECORD BY OBTAINING AND USING A DIFFERENT NAME, ADDRESS, TELEPHONE NUMBER, SOCIAL SECURITY NUMBER, OR EMPLOYER TAX IDENTIFICATION NUMBER.

(B) (1) A CREDIT REPAIR BUSINESS AND ITS EMPLOYEES AND INDEPENDENT CONTRACTORS WHO SELL OR ATTEMPT TO SELL THE SERVICES OF A CREDIT REPAIR BUSINESS MAY CHARGE OR RECEIVE ANY MONEY OR OTHER VALUABLE CONSIDERATION BEFORE FULL AND COMPLETE PERFORMANCE OF THE SERVICES THAT THE CREDIT REPAIR BUSINESS HAS AGREED TO PERFORM FOR OR ON BEHALF OF THE CONSUMER IF THE CONSUMER HAS AGREED TO PAY FOR THE SERVICES DURING THE TERM OF A WRITTEN SUBSCRIPTION AGREEMENT THAT PROVIDES FOR THE CONSUMER TO MAKE PERIODIC PAYMENTS DURING THE TERM OF THE AGREEMENT IN CONSIDERATION FOR THE CREDIT REPAIR BUSINESS'S ONGOING PERFORMANCE OF SERVICES FOR OR ON BEHALF OF THE CONSUMER.

(2) A SUBSCRIPTION AGREEMENT SPECIFIED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) MAY NOT HAVE A TERM THAT EXCEEDS 180 DAYS; AND

(II) MAY BE CANCELED BY THE CONSUMER AT ANY TIME.

14-19A-03.

(A) NOTWITHSTANDING ANY CHOICE OF LAW OR DESIGNATION OF SITUS IN A CONTRACT, THIS SUBTITLE APPLIES TO ANY CONTRACT FOR CREDIT REPAIR IF:

(1) THE CREDIT REPAIR BUSINESS OFFERS OR AGREES TO SELL, PROVIDE, OR PERFORM ANY SERVICES TO A RESIDENT OF THE STATE;

(2) A RESIDENT OF THE STATE ACCEPTS OR MAKES THE OFFER IN THE STATE TO PURCHASE THE SERVICES OF THE CREDIT REPAIR BUSINESS; OR

(3) THE CREDIT REPAIR BUSINESS MAKES ANY VERBAL OR WRITTEN SOLICITATION OR COMMUNICATION THAT ORIGINATES EITHER INSIDE OR OUTSIDE THE STATE BUT IS RECEIVED IN THE STATE BY A RESIDENT OF THE STATE.

(B) A CREDIT REPAIR BUSINESS IS REQUIRED TO BE LICENSED UNDER THIS SUBTITLE AND IS SUBJECT TO THIS SUBTITLE AND TITLE 11, SUBTITLE 3 OF THE FINANCIAL INSTITUTIONS ARTICLE.

(C) (1) A LICENSE REQUIRED BY THIS SUBTITLE SHALL BE ISSUED BY THE COMMISSIONER.

(2) (I) THE FEES FOR INITIAL LICENSING AND ANNUAL RENEWAL OF A LICENSE SHALL BE SET BY THE COMMISSIONER.

(II) THE FEE FOR AN INITIAL LICENSE MAY NOT EXCEED \$1,000.

(III) THE FEE FOR AN ANNUAL LICENSE RENEWAL MAY NOT EXCEED \$500.

(3) THE LICENSE APPLICATION SHALL CONTAIN:

(I) THE NAME AND ADDRESS OF THE CREDIT REPAIR BUSINESS;

(II) THE NAME AND PRINCIPAL ADDRESS OF EACH PERSON THAT DIRECTLY OR INDIRECTLY OWNS OR CONTROLS 10% OR MORE OF THE OUTSTANDING SHARES OF STOCK IN THE CREDIT REPAIR BUSINESS;

(III) EITHER:

1. A FULL AND COMPLETE DISCLOSURE OF ANY LITIGATION OR UNRESOLVED COMPLAINT FILED WITH A GOVERNMENTAL AUTHORITY OF THE STATE RELATING TO THE OPERATION OF THE CREDIT REPAIR BUSINESS; OR

1 2. A NOTARIZED STATEMENT THAT THERE IS NO
2 UNRESOLVED LITIGATION OR COMPLAINT FILED WITH A GOVERNMENTAL
3 AUTHORITY OF THE STATE RELATING TO THE OPERATION OF THE CREDIT REPAIR
4 BUSINESS; AND

5 (IV) THE NAME AND ADDRESS OF THE CREDIT REPAIR
6 BUSINESS'S AGENT AUTHORIZED TO RECEIVE SERVICE OF PROCESS.

7 (4) A LICENSEE SHALL NOTIFY THE COMMISSIONER WITHIN 90 DAYS
8 AFTER ANY CHANGE IN THE INFORMATION PROVIDED IN THE APPLICATION UNDER
9 PARAGRAPH (3) OF THIS SUBSECTION.

10 (D) A PERSON NOT INCLUDED IN THE DEFINITION OF A CREDIT REPAIR
11 BUSINESS UNDER § 14-19A-01 OF THIS SUBTITLE IS EXEMPT FROM LICENSING
12 UNDER THIS SUBTITLE.

13 14-19A-04.

14 A PERSON THAT ADVERTISES A SERVICE DESCRIBED IN § 14-19A-01(E)(1) OR
15 (2) OF THIS SUBTITLE, WHETHER OR NOT THE PERSON IS A CREDIT REPAIR
16 BUSINESS, SHALL CLEARLY AND CONSPICUOUSLY STATE IN EACH ADVERTISEMENT:

17 (1) THE LICENSE NUMBER ISSUED UNDER § 14-19A-03 OF THIS
18 SUBTITLE; OR

19 (2) IF NOT REQUIRED TO BE LICENSED, THE EXEMPTION PROVIDED
20 BY THE COMMISSIONER.

21 14-19A-05.

22 (A) BEFORE EITHER THE EXECUTION OF A CONTRACT OR AN AGREEMENT
23 BETWEEN A CONSUMER AND A CREDIT REPAIR BUSINESS OR THE RECEIPT BY THE
24 CREDIT REPAIR BUSINESS OF ANY MONEY OR OTHER VALUABLE CONSIDERATION,
25 THE CREDIT REPAIR BUSINESS SHALL PROVIDE THE CONSUMER WITH A WRITTEN
26 INFORMATION STATEMENT CONTAINING ALL THE INFORMATION REQUIRED UNDER
27 § 14-19A-06 OF THIS SUBTITLE.

28 (B) THE CREDIT REPAIR BUSINESS SHALL MAINTAIN ON FILE FOR A PERIOD
29 OF 3 YEARS AFTER THE DATE OF THE CONSUMER'S ACKNOWLEDGMENT A COPY OF
30 THE INFORMATION STATEMENT SIGNED BY THE CONSUMER ACKNOWLEDGING
31 RECEIPT OF THE INFORMATION STATEMENT.

1 **14-19A-06.**

2 **(A) THE INFORMATION STATEMENT REQUIRED UNDER § 14-19A-05 OF**
3 **THIS SUBTITLE SHALL INCLUDE:**

4 **(1) AN ACCURATE STATEMENT OF THE CONSUMER'S RIGHT TO**
5 **REVIEW ANY FILE ON THE CONSUMER MAINTAINED BY ANY CONSUMER REPORTING**
6 **AGENCY AND THE RIGHT OF THE CONSUMER TO RECEIVE A COPY OF A CONSUMER**
7 **REPORT CONTAINING ALL INFORMATION IN THAT FILE, AS PROVIDED UNDER THE**
8 **FEDERAL FAIR CREDIT REPORTING ACT (15 U.S.C. § 1681G) AND UNDER § 14-1206**
9 **OF THIS TITLE;**

10 **(2) A STATEMENT THAT A COPY OF THE CONSUMER REPORT**
11 **CONTAINING ALL INFORMATION IN THE CONSUMER'S FILE WILL BE FURNISHED**
12 **FREE OF CHARGE BY THE CONSUMER REPORTING AGENCY IF REQUESTED BY THE**
13 **CONSUMER WITHIN 30 DAYS AFTER RECEIVING A NOTICE OF A DENIAL OF CREDIT,**
14 **AS PROVIDED UNDER THE FEDERAL FAIR CREDIT REPORTING ACT (15 U.S.C. §**
15 **1681J) AND UNDER § 14-1209 OF THIS TITLE;**

16 **(3) A STATEMENT THAT A NOMINAL CHARGE NOT TO EXCEED \$5 MAY**
17 **BE IMPOSED ON THE CONSUMER BY THE CONSUMER REPORTING AGENCY FOR A**
18 **COPY OF THE CONSUMER REPORT CONTAINING ALL THE INFORMATION IN THE**
19 **CONSUMER'S FILE, IF THE CONSUMER HAS NOT BEEN DENIED CREDIT WITHIN 30**
20 **DAYS AFTER RECEIPT OF THE CONSUMER'S REQUEST;**

21 **(4) A COMPLETE AND ACCURATE STATEMENT OF THE CONSUMER'S**
22 **RIGHT TO DISPUTE THE COMPLETENESS OR ACCURACY OF ANY ITEM ON THE**
23 **CONSUMER CONTAINED IN ANY FILE THAT IS MAINTAINED BY ANY CONSUMER**
24 **REPORTING AGENCY, AS PROVIDED UNDER THE FEDERAL FAIR CREDIT REPORTING**
25 **ACT (15 U.S.C. § 1681i) AND UNDER § 14-1208 OF THIS TITLE;**

26 **(5) A COMPLETE AND DETAILED DESCRIPTION OF THE SERVICES TO**
27 **BE PERFORMED BY THE CREDIT REPAIR BUSINESS FOR OR ON BEHALF OF THE**
28 **CONSUMER AND THE TOTAL AMOUNT THE CONSUMER WILL HAVE TO PAY FOR THE**
29 **SERVICES; AND**

30 **(6) A STATEMENT THAT ACCURATELY REPORTED INFORMATION MAY**
31 **NOT BE PERMANENTLY REMOVED FROM THE FILE OF A CONSUMER REPORTING**
32 **AGENCY.**

33 **(B) A CREDIT REPAIR BUSINESS REQUIRED TO OBTAIN A LICENSE UNDER §**
34 **14-19A-03 OF THIS SUBTITLE SHALL INCLUDE IN THE INFORMATION STATEMENT**
35 **REQUIRED UNDER § 14-19A-05 OF THIS SUBTITLE:**

1 (1) A STATEMENT OF THE CONSUMER'S RIGHT TO FILE A COMPLAINT
2 UNDER § 14-19A-12 OF THIS SUBTITLE;

3 (2) THE ADDRESS OF THE COMMISSIONER WHERE THE COMPLAINTS
4 SHOULD BE FILED; AND

5 (3) A STATEMENT THAT A BOND EXISTS AND THE CONSUMER'S RIGHT
6 TO PROCEED AGAINST THE BOND UNDER THE CIRCUMSTANCES AND IN THE MANNER
7 PROVIDED IN § 14-19A-11 OF THIS SUBTITLE.

8 14-19A-07.

9 (A) EVERY CONTRACT BETWEEN A CONSUMER AND A CREDIT REPAIR
10 BUSINESS FOR THE PURCHASE OF THE SERVICES OF THE CREDIT REPAIR BUSINESS
11 SHALL BE IN WRITING, DATED AND SIGNED BY THE CONSUMER, AND SHALL INCLUDE:

12 (1) A CONSPICUOUS STATEMENT IN AT LEAST 10 POINT BOLD TYPE,
13 IN IMMEDIATE PROXIMITY TO THE SPACE RESERVED FOR THE SIGNATURE OF THE
14 CONSUMER, AS FOLLOWS:

15 "YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT ANY TIME BEFORE
16 MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THE TRANSACTION.
17 SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF
18 THIS RIGHT.";

19 (2) THE TERMS AND CONDITIONS OF PAYMENT, INCLUDING THE
20 TOTAL OF ALL PAYMENTS TO BE MADE BY THE CONSUMER, WHETHER TO THE
21 CREDIT REPAIR BUSINESS OR TO SOME OTHER PERSON;

22 (3) A COMPLETE AND DETAILED DESCRIPTION OF THE SERVICES TO
23 BE PERFORMED AND THE RESULTS TO BE ACHIEVED BY THE CREDIT REPAIR
24 BUSINESS FOR OR ON BEHALF OF THE CONSUMER, INCLUDING:

25 (I) ALL GUARANTEES AND ALL PROMISES OF FULL OR PARTIAL
26 REFUNDS; AND

27 (II) A LIST OF THE ADVERSE INFORMATION APPEARING ON THE
28 CONSUMER'S CREDIT REPORT THAT THE CREDIT REPAIR BUSINESS EXPECTS TO
29 HAVE MODIFIED AND THE ESTIMATED DATE BY WHICH EACH MODIFICATION WILL
30 OCCUR; AND

31 (4) THE PRINCIPAL BUSINESS ADDRESS OF THE CREDIT REPAIR

BUSINESS AND THE NAME AND ADDRESS OF ITS AGENT IN THE STATE AUTHORIZED
TO RECEIVE SERVICE OF PROCESS.

(B) THE CONTRACT SHALL BE ACCOMPANIED BY A FORM COMPLETED IN
DUPLICATE, CAPTIONED "NOTICE OF CANCELLATION", THAT SHALL BE
ATTACHED TO THE CONTRACT AND EASILY DETACHABLE, AND SHALL CONTAIN IN AT
LEAST 10 POINT BOLD TYPE THE FOLLOWING STATEMENT:

"NOTICE OF CANCELLATION

YOU MAY CANCEL THIS CONTRACT, WITHOUT ANY PENALTY OR OBLIGATION,
AT ANY TIME BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE
THE CONTRACT IS SIGNED.

IF YOU CANCEL, ANY PAYMENT MADE BY YOU UNDER THIS CONTRACT WILL
BE RETURNED WITHIN 10 DAYS AFTER THE SELLER RECEIVES YOUR
CANCELLATION NOTICE.

TO CANCEL THIS CONTRACT, MAIL OR DELIVER A SIGNED AND DATED COPY
OF THIS CANCELLATION NOTICE, OR ANY OTHER WRITTEN NOTICE, TO

.....
(NAME OF SELLER)

AT

.....
(ADDRESS OF SELLER)

.....
(PLACE OF BUSINESS)

NOT LATER THAN MIDNIGHT

.....
(DATE)

I HEREBY CANCEL THIS TRANSACTION.

.....
(DATE) (BUYER'S SIGNATURE)"

(C) A COPY OF THE COMPLETED CONTRACT AND ALL OTHER DOCUMENTS
THE CREDIT REPAIR BUSINESS REQUIRES THE CONSUMER TO SIGN SHALL BE GIVEN

1 TO THE CONSUMER BY THE CREDIT REPAIR BUSINESS AT THE TIME THE DOCUMENTS
2 ARE SIGNED.

3 14-19A-08.

4 (A) ANY BREACH BY A CREDIT REPAIR BUSINESS OF A CONTRACT UNDER
5 THIS SUBTITLE, OR OF ANY OBLIGATION ARISING UNDER IT, SHALL CONSTITUTE A
6 VIOLATION OF THIS SUBTITLE.

7 (B) ANY CONTRACT FOR SERVICES FROM A CREDIT REPAIR BUSINESS THAT
8 DOES NOT COMPLY WITH THE APPLICABLE PROVISIONS OF THIS SUBTITLE SHALL BE
9 VOID AND UNENFORCEABLE AS CONTRARY TO THE PUBLIC POLICY OF THE STATE.

10 (C) (1) ANY WAIVER BY A CONSUMER OF ANY OF THE PROVISIONS OF THIS
11 SUBTITLE SHALL BE DEEMED VOID AND UNENFORCEABLE BY A CREDIT REPAIR
12 BUSINESS AS CONTRARY TO THE PUBLIC POLICY OF THE STATE.

13 (2) ANY ATTEMPT BY A CREDIT REPAIR BUSINESS TO HAVE A
14 CONSUMER WAIVE RIGHTS GIVEN BY THIS SUBTITLE SHALL CONSTITUTE A
15 VIOLATION OF THIS SUBTITLE.

16 (D) IN ANY PROCEEDING INVOLVING THIS SUBTITLE, THE BURDEN OF
17 PROVING AN EXEMPTION OR AN EXCEPTION FROM A DEFINITION IS ON THE PERSON
18 CLAIMING IT.

19 14-19A-09.

20 (A) A CREDIT REPAIR BUSINESS IS REQUIRED TO OBTAIN A SURETY BOND
21 IN ACCORDANCE WITH TITLE 11, SUBTITLE 3 OF THE FINANCIAL INSTITUTIONS
22 ARTICLE.

23 (B) THE SURETY BOND:

24 (1) SHALL BE IN AN AMOUNT EQUAL TO 100 TIMES THE STANDARD
25 FEE CHARGED BY THE CREDIT REPAIR BUSINESS; BUT

26 (2) MAY NOT BE LESS THAN \$50,000 NOR GREATER THAN \$75,000.

27 14-19A-10.

28 THE SURETY BOND SHALL BE ISSUED BY A SURETY COMPANY AUTHORIZED TO
29 DO BUSINESS IN THE STATE.

1 **14-19A-11.**

2 (A) ANY PERSON CLAIMING AGAINST THE SURETY BOND FOR A VIOLATION
3 OF THIS SUBTITLE MAY MAINTAIN AN ACTION AGAINST THE CREDIT REPAIR
4 BUSINESS AND AGAINST THE SURETY.

5 (B) THE SURETY SHALL BE LIABLE ONLY FOR ACTUAL DAMAGES AND NOT
6 FOR PUNITIVE DAMAGES AUTHORIZED UNDER § 14-19A-13 OF THIS SUBTITLE.

7 (C) THE AGGREGATE LIABILITY OF THE SURETY TO ALL PERSONS DAMAGED
8 BY A CREDIT REPAIR BUSINESS'S VIOLATION OF THIS SUBTITLE MAY NOT EXCEED
9 THE AMOUNT OF THE SURETY BOND.

10 **14-19A-12.**

11 (A) A CONSUMER WHO HAS REASON TO BELIEVE THAT THIS SUBTITLE HAS
12 BEEN VIOLATED BY A CREDIT REPAIR BUSINESS OR BY ANY OTHER PERSON MAY FILE
13 WITH THE COMMISSIONER A WRITTEN COMPLAINT STATING THE DETAILS OF THE
14 ALLEGED VIOLATION.

15 (B) AFTER RECEIVING THE COMPLAINT, THE COMMISSIONER MAY INSPECT
16 THE PERTINENT BOOKS, RECORDS, LETTERS, AND CONTRACTS OF ANY CREDIT
17 REPAIR BUSINESS AND OF ANY PERSON THAT HAS FURNISHED INFORMATION TO THE
18 CREDIT REPAIR BUSINESS RELATING TO THE SPECIFIC WRITTEN COMPLAINT.

19 (C) THE COMMISSIONER MAY INVESTIGATE THE COMPLAINT AND HOLD A
20 HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE
21 GOVERNMENT ARTICLE.

22 (D) THE COMMISSIONER MAY:

23 (1) HOLD A HEARING ON THE COMPLAINT AT A TIME AND PLACE IN
24 THE STATE REASONABLY CONVENIENT TO THE PARTIES INVOLVED;

25 (2) SUBPOENA WITNESSES;

26 (3) TAKE DEPOSITIONS OF WITNESSES RESIDING OUTSIDE THE
27 STATE, IN THE MANNER PROVIDED FOR WITNESSES IN CIVIL ACTIONS IN COURTS OF
28 RECORD;

29 (4) ADMINISTER OATHS;

30 (5) ISSUE ORDERS FOR COMPLIANCE WITH THIS SUBTITLE; AND

1 **(6) AFTER FINDING A PATTERN AND PRACTICE OF VIOLATION OF THIS**
2 **SUBTITLE, ISSUE CEASE AND DESIST ORDERS.**

3 **(E) (1) THE COMMISSIONER SHALL GIVE TO THE CREDIT REPAIR**
4 **BUSINESS, OR THE SALESPERSON, AGENT, REPRESENTATIVE, OR INDEPENDENT**
5 **CONTRACTOR ACTING ON BEHALF OF THE CREDIT REPAIR BUSINESS AGAINST WHOM**
6 **A COMPLAINT IS FILED, WRITTEN NOTICE OF THE COMPLAINT AND THE TIME AND**
7 **PLACE OF ANY HEARING.**

8 **(2) THE NOTICE SHALL:**

9 **(I) BE IN WRITING; AND**

10 **(II) BE SENT BY CERTIFIED MAIL TO THE PRINCIPAL PLACE OF**
11 **BUSINESS OF THE CREDIT REPAIR BUSINESS OR THE PRINCIPAL PLACE OF BUSINESS**
12 **OR RESIDENCE ADDRESS OF THE SALESPERSON, AGENT, REPRESENTATIVE, OR**
13 **INDEPENDENT CONTRACTOR ACTING ON BEHALF OF THE CREDIT REPAIR BUSINESS,**
14 **AT LEAST 10 DAYS BEFORE THE DATE OF THE HEARING.**

15 **(F) (1) IF, AFTER THE HEARING, THE COMMISSIONER FINDS THAT THE**
16 **CREDIT REPAIR BUSINESS, OR THE SALESPERSON, AGENT, REPRESENTATIVE, OR**
17 **INDEPENDENT CONTRACTOR ACTING ON BEHALF OF THE CREDIT REPAIR BUSINESS,**
18 **HAS ENGAGED OR IS ENGAGING IN ANY ACT OR PRACTICE PROHIBITED BY THIS**
19 **SUBTITLE, THE COMMISSIONER:**

20 **(I) SHALL ORDER THE CREDIT REPAIR BUSINESS OR THE**
21 **PERSON OR BOTH TO CEASE AND DESIST FROM THE ACT OR PRACTICE; AND**

22 **(II) MAY ORDER THAT RESTITUTION BE PAID TO AN AGGRIEVED**
23 **CONSUMER.**

24 **(2) THE ORDER OF THE COMMISSIONER SHALL COMPLY WITH THE**
25 **ADMINISTRATIVE PROCEDURE ACT.**

26 **(G) (1) IF AN APPEAL IS NOT FILED, THE ORDER OF THE COMMISSIONER**
27 **BECOMES FINAL AFTER EXPIRATION OF THE TIME ALLOWED BY THE**
28 **ADMINISTRATIVE PROCEDURE ACT FOR APPEALS FROM THE COMMISSIONER'S**
29 **ORDERS.**

30 **(2) IF AN APPEAL IS FILED, THE ORDER OF THE COMMISSIONER**
31 **BECOMES FINAL AFTER A FINAL DECISION OF A COURT AFFIRMING THE ORDER OR**
32 **DISMISSING THE APPEAL.**

(H) IF A CREDIT REPAIR BUSINESS OR ANY OTHER PERSON FAILS TO COMPLY WITH ANY LAWFUL ORDER OF THE COMMISSIONER UNDER THIS SUBTITLE OR IF ANY WITNESS FAILS TO APPEAR AND TESTIFY TO ANY MATTER REGARDING WHICH THE WITNESS MAY BE LAWFULLY INTERROGATED, ON PETITION OF THE COMMISSIONER STATING THE FACTS, THE CIRCUIT COURT OF ANY COUNTY SHALL:

(1) COMPEL OBEDIENCE TO THE REQUIREMENTS OF THE SUBPOENA OR ORDER;

(2) COMPEL THE PRODUCTION OF CONTRACTS, FORMS, FILES, AND ANY OTHER EVIDENCE; AND

(3) ORDER COMPLIANCE WITH ANY LAWFUL ORDER ISSUED BY THE COMMISSIONER UNDER SUBSECTION (D)(5) OR (6) OF THIS SECTION.

(I) IF THE CREDIT REPAIR BUSINESS OR ANY OTHER PERSON FAILS, REFUSES, OR NEGLECTS TO COMPLY WITH THE ORDER OF THE COURT, THE COURT MAY PUNISH THAT PERSON FOR CONTEMPT OF COURT.

(J) THE ADMINISTRATIVE PROCEDURE ACT, INCLUDING ITS PROVISIONS FOR JUDICIAL REVIEW OF A FINAL DECISION IN A CONTESTED CASE, APPLIES TO PROCEEDINGS BEFORE THE COMMISSIONER UNDER THIS SUBTITLE.

14-19A-13.

(A) ANY CREDIT REPAIR BUSINESS THAT WILLFULLY FAILS TO COMPLY WITH ANY REQUIREMENT IMPOSED UNDER THIS SUBTITLE WITH RESPECT TO ANY CONSUMER IS LIABLE TO THAT CONSUMER IN AN AMOUNT EQUAL TO THE SUM OF:

(1) ANY ACTUAL DAMAGES SUSTAINED BY THE CONSUMER AS A RESULT OF THE FAILURE;

(2) A MONETARY AWARD EQUAL TO 4 TIMES THE TOTAL AMOUNT COLLECTED FROM THE CONSUMER, AS ORDERED BY THE COMMISSIONER;

(3) THE AMOUNT OF PUNITIVE DAMAGES THAT THE COURT MAY ALLOW; AND

(4) IN THE CASE OF ANY SUCCESSFUL ACTION TO ENFORCE ANY LIABILITY UNDER THIS SECTION, THE COSTS OF THE ACTION TOGETHER WITH REASONABLE ATTORNEY'S FEES AS DETERMINED BY THE COURT.

1 **(B) ANY CREDIT REPAIR BUSINESS THAT NEGLIGENTLY FAILS TO COMPLY**
2 **WITH ANY REQUIREMENT IMPOSED UNDER THIS SUBTITLE WITH RESPECT TO ANY**
3 **CONSUMER IS LIABLE TO THAT CONSUMER IN AN AMOUNT EQUAL TO THE SUM OF:**

4 **(1) ANY ACTUAL DAMAGES SUSTAINED BY THE CONSUMER AS A**
5 **RESULT OF THE FAILURE; AND**

6 **(2) IN THE CASE OF ANY SUCCESSFUL ACTION TO ENFORCE ANY**
7 **LIABILITY UNDER THIS SECTION, THE COST OF THE ACTION TOGETHER WITH**
8 **REASONABLE ATTORNEY'S FEES AS DETERMINED BY THE COURT.**

9 **14-19A-14.**

10 **(A) AN ACTION TO ENFORCE ANY LIABILITY CREATED UNDER THIS**
11 **SUBTITLE SHALL BE BROUGHT WITHIN 4 YEARS AFTER THE DATE THE VIOLATION**
12 **OCCURRED.**

13 **(B) IF A DEFENDANT HAS MATERIALLY AND WILLFULLY MISREPRESENTED**
14 **ANY INFORMATION REQUIRED TO BE DISCLOSED TO A CONSUMER BY THIS SUBTITLE**
15 **AND THE INFORMATION IS MATERIAL TO ESTABLISHING THE DEFENDANT'S**
16 **LIABILITY, THE ACTION MAY BE BROUGHT AT ANY TIME WITHIN 4 YEARS AFTER THE**
17 **DISCOVERY OF THE MISREPRESENTATION.**

18 **14-19A-15.**

19 **(A) EACH SALE OF THE SERVICES OF A CREDIT REPAIR BUSINESS THAT**
20 **VIOLATES THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER**
21 **TITLE 13 OF THIS ARTICLE.**

22 **(B) IF THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE**
23 **ATTORNEY GENERAL HAS REASON TO BELIEVE THAT A CREDIT REPAIR BUSINESS,**
24 **OR ANY SALESPERSON, AGENT, REPRESENTATIVE, OR INDEPENDENT CONTRACTOR**
25 **ACTING ON BEHALF OF A CREDIT REPAIR BUSINESS, HAS VIOLATED THIS SUBTITLE,**
26 **THE DIVISION MAY INSTITUTE A PROCEEDING UNDER TITLE 13 OF THIS ARTICLE.**

27 **14-19A-16.**

28 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON**
29 **THAT VIOLATES THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION**
30 **IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING**
31 **\$5,000 OR BOTH, IN ADDITION TO ANY CIVIL PENALTIES.**

32 **(B) A PERSON MAY NOT BE IMPRISONED FOR A VIOLATION OF AN ORDER OF**

1 THE COMMISSIONER OR OF THE ATTORNEY GENERAL ENTERED UNDER THIS
2 SUBTITLE OR TITLE 13 OF THIS ARTICLE.

3 14-19A-17.

4 THIS SUBTITLE MAY BE REFERRED TO AS THE MARYLAND CREDIT REPAIR
5 BUSINESSES ACT.

6 **Article – Financial Institutions**

7 11-302.

8 (a) In this section, “installment loan” means a loan or extension of credit made for
9 consideration under § 12-103(a)(3) or (c), Title 12, Subtitle 9, or Title 12, Subtitle 10 of the
10 Commercial Law Article.

11 (b) Unless the person is licensed by the Commissioner, a person may not:

12 (1) Engage in the business of making installment loans;

13 (2) Make more than 5 installment loans a year; [or]

14 (3) Engage in the business of a credit services business as defined under
15 Title 14, Subtitle 19 of the Commercial Law Article; **OR**

16 **(4) ENGAGE IN THE BUSINESS OF A CREDIT REPAIR BUSINESS AS**
17 **DEFINED UNDER TITLE 14, SUBTITLE 19A OF THE COMMERCIAL LAW ARTICLE.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2019.