

SENATE BILL 217

11

2lr0077

(PRE-FILED)

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

Requested: October 4, 2021

Introduced and read first time: January 12, 2022

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 21, 2022

CHAPTER _____

1 AN ACT concerning

2 **Commissioner of Financial Regulation – Consumer Loans – Payments and Fees**

3 FOR the purpose of prohibiting a person from taking certain actions related to the payment
4 of fees in cases of certain loans made to consumer borrowers; authorizing, under
5 certain circumstances, a person to require a borrower to pay a fee for the transaction
6 of a payment made by or on behalf of the borrower in cases of certain loans made to
7 consumer borrowers; requiring a person to accept certain types of payment made by
8 or on behalf of the borrower in cases of certain loans made to certain consumer
9 borrowers; and generally relating to payments made and fees paid under consumer
10 loans.

11 BY adding to

12 Article – Commercial Law

13 Section 12–108.1, 12–307.2, 12–405.1, 12–905.1, and 12–1005.1

14 Annotated Code of Maryland

15 (2013 Replacement Volume and 2021 Supplement)

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

17 That the Laws of Maryland read as follows:

18 **Article – Commercial Law**

19 **12–108.1.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (A) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN
2 ACCORDANCE WITH THIS SUBTITLE, A PERSON:

3 (1) MAY NOT REQUIRE A BORROWER TO PAY A FEE FOR THE
4 TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER IN THE
5 FORM OF:

6 (I) CASH;

7 (II) CHECK; ~~OR~~

8 (III) MONEY ORDER; ~~AND~~ OR

9 (IV) AN ELECTRONIC FUNDS TRANSFER THROUGH THE
10 AUTOMATED CLEARING HOUSE;

11 (2) ~~MUST OFFER TO SHALL~~ ACCEPT A PAYMENT MADE BY OR ON
12 BEHALF OF A BORROWER ~~FREE OF CHARGE IN AT LEAST ONE COMMONLY ACCEPTED~~
13 ~~FORM~~ BY CHECK, MONEY ORDER, AND AN ELECTRONIC FUNDS TRANSFER THROUGH
14 THE AUTOMATED CLEARING HOUSE; AND

15 (3) (I) MAY CEASE ACCEPTING PAYMENT BY CHECK OR AN
16 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE
17 AFTER PRIOR NOTICE TO THE BORROWER IF TWO PAYMENTS MADE BY CHECK OR
18 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE BY
19 OR ON BEHALF OF THE BORROWER WERE DISHONORED IN THE IMMEDIATELY
20 PRECEDING 6-MONTH PERIOD; AND

21 (II) SHALL ACCEPT SUBSEQUENT PAYMENT BY CHECK OR AN
22 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE IF
23 THREE REGULAR PAYMENTS ARE TIMELY MADE BY OR ON BEHALF OF THE
24 BORROWER AFTER THE PERSON CEASED ACCEPTING PAYMENT BY CHECK OR AN
25 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE
26 UNDER ITEM (I) OF THIS ITEM.

27 (B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, IN THE CASE OF A LOAN
28 TO A CONSUMER BORROWER MADE IN ACCORDANCE WITH THIS SUBTITLE, A PERSON
29 MAY NOT REQUIRE A BORROWER TO PAY, DIRECTLY OR INDIRECTLY, A FEE FOR THE
30 TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER ~~IF~~
31 UNLESS:

32 (1) ~~THE AGREEMENT, NOTE, OR OTHER EVIDENCE OF THE LOAN~~
33 ~~EXPRESSLY AUTHORIZES THE FEE TO BE IMPOSED; OR~~

1 ~~(2)~~ ~~(1)~~ THE AMOUNT OF THE FEE IS DISCLOSED TO THE
2 BORROWER AT THE TIME OF THE PAYMENT TRANSACTION;

3 ~~(H)~~ ~~(2)~~ THE BORROWER AGREES TO PAY THE FEE; AND

4 ~~(H)~~ ~~(3)~~ THE AMOUNT OF THE FEE DOES NOT EXCEED ~~THE~~
5 ~~ACTUAL COST CHARGED TO THE PERSON BY AN UNAFFILIATED THIRD PARTY FOR~~
6 ~~THE PROCESSING OF THE PAYMENT TRANSACTION~~ EITHER:

7 (I) THE ACTUAL COST CHARGED TO THE PERSON BY AN
8 UNAFFILIATED THIRD PARTY FOR THE PROCESSING OF THE PAYMENT
9 TRANSACTION; OR

10 (II) THE AVERAGE COST OF CHARGES TO THE PERSON BY AN
11 UNAFFILIATED THIRD PARTY FOR THE PROCESSING OF THE PAYMENT
12 TRANSACTIONS FROM SIMILARLY SITUATED BORROWERS.

13 (C) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN
14 ACCORDANCE WITH THIS SUBTITLE, A PERSON MAY NOT ATTEMPT TO INDUCE THE
15 BORROWER TO REMIT PAYMENT IN A FORM FOR WHICH A FEE WILL BE REQUIRED TO
16 BE PAID BY THE BORROWER OVER OTHER FORMS OF PAYMENTS THAT ARE FREE OF
17 CHARGE UNLESS PAYMENT IN THAT FORM WILL PREVENT ONE OR MORE OF THE
18 FOLLOWING WHICH WOULD OTHERWISE OCCUR:

19 (1) THE INCURRENCE OF ONE OR MORE OTHER FEES OR CHARGES BY
20 THE BORROWER, INCLUDING CHARGES FOR DEFAULT OR DELINQUENCY;

21 (2) THE FURNISHING OF DEROGATORY INFORMATION REGARDING
22 THE BORROWER'S PAYMENT HISTORY TO A CONSUMER REPORTING AGENCY;

23 (3) JUDGMENT AGAINST THE BORROWER IN A CIVIL ACTION; OR

24 (4) REPOSSESSION OF OR FORECLOSURE UPON COLLATERAL.

25 **12-307.2.**

26 (A) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN
27 ACCORDANCE WITH THIS SUBTITLE, A PERSON:

28 (1) MAY NOT REQUIRE A BORROWER TO PAY A FEE FOR THE
29 TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER IN THE
30 FORM OF:

31 (I) CASH;

1 (II) CHECK; ~~OR~~

2 (III) MONEY ORDER; ~~AND~~ OR

3 (IV) AN ELECTRONIC FUNDS TRANSFER THROUGH THE
4 AUTOMATED CLEARING HOUSE;

5 (2) ~~MUST OFFER TO~~ SHALL ACCEPT A PAYMENT MADE BY OR ON
6 BEHALF OF A BORROWER ~~FREE OF CHARGE IN AT LEAST ONE COMMONLY ACCEPTED~~
7 ~~FORM BY CHECK, MONEY ORDER, AND AN ELECTRONIC FUNDS TRANSFER THROUGH~~
8 THE AUTOMATED CLEARING HOUSE; AND

9 (3) (I) MAY CEASE ACCEPTING PAYMENT BY CHECK OR AN
10 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE
11 AFTER PRIOR NOTICE TO THE BORROWER IF TWO PAYMENTS MADE BY CHECK OR
12 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE BY
13 OR ON BEHALF OF THE BORROWER WERE DISHONORED IN THE IMMEDIATELY
14 PRECEDING 6-MONTH PERIOD; AND

15 (II) SHALL ACCEPT SUBSEQUENT PAYMENT BY CHECK OR AN
16 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE IF
17 THREE REGULAR PAYMENTS ARE TIMELY MADE BY OR ON BEHALF OF THE
18 BORROWER AFTER THE PERSON CEASED ACCEPTING PAYMENT BY CHECK OR AN
19 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE
20 UNDER ITEM (I) OF THIS ITEM.

21 (B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, IN THE CASE OF A LOAN
22 TO A CONSUMER BORROWER MADE IN ACCORDANCE WITH THIS SUBTITLE, A PERSON
23 MAY NOT REQUIRE A BORROWER TO PAY, DIRECTLY OR INDIRECTLY, A FEE FOR THE
24 TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER ~~IF~~
25 UNLESS:

26 (1) ~~THE AGREEMENT, NOTE, OR OTHER EVIDENCE OF THE LOAN~~
27 ~~EXPRESSLY AUTHORIZES THE FEE TO BE IMPOSED; OR~~

28 (2) ~~(1)~~ (1) THE AMOUNT OF THE FEE IS DISCLOSED TO THE
29 BORROWER AT THE TIME OF THE PAYMENT TRANSACTION;

30 ~~(1)~~ (2) THE BORROWER AGREES TO PAY THE FEE; AND

31 ~~(1)~~ (3) THE AMOUNT OF THE FEE DOES NOT EXCEED ~~THE~~
32 ~~ACTUAL COST CHARGED TO THE PERSON BY AN UNAFFILIATED THIRD PARTY FOR~~
33 ~~THE PROCESSING OF THE PAYMENT TRANSACTION~~ EITHER:

1 **(I) THE ACTUAL COST CHARGED TO THE PERSON BY AN**
2 **UNAFFILIATED THIRD PARTY FOR THE PROCESSING OF THE PAYMENT**
3 **TRANSACTION; OR**

4 **(II) THE AVERAGE COST OF CHARGES TO THE PERSON BY AN**
5 **UNAFFILIATED THIRD PARTY FOR THE PROCESSING OF THE PAYMENT**
6 **TRANSACTIONS FROM SIMILARLY SITUATED BORROWERS.**

7 **(C) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN**
8 **ACCORDANCE WITH THIS SUBTITLE, A PERSON MAY NOT ATTEMPT TO INDUCE THE**
9 **BORROWER TO REMIT PAYMENT IN A FORM FOR WHICH A FEE WILL BE REQUIRED TO**
10 **BE PAID BY THE BORROWER OVER OTHER FORMS OF PAYMENT THAT ARE FREE OF**
11 **CHARGE UNLESS PAYMENT IN THAT FORM WILL PREVENT ONE OR MORE OF THE**
12 **FOLLOWING WHICH WOULD OTHERWISE OCCUR:**

13 **(1) THE INCURRENCE OF ONE OR MORE OTHER FEES OR CHARGES BY**
14 **THE BORROWER, INCLUDING CHARGES FOR DEFAULT OR DELINQUENCY;**

15 **(2) THE FURNISHING OF DEROGATORY INFORMATION REGARDING**
16 **THE BORROWER'S PAYMENT HISTORY TO A CONSUMER REPORTING AGENCY;**

17 **(3) JUDGMENT AGAINST THE BORROWER IN A CIVIL ACTION; OR**

18 **(4) REPOSSESSION OF OR FORECLOSURE UPON COLLATERAL.**

19 **12-405.1.**

20 **(A) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN**
21 **ACCORDANCE WITH THIS SUBTITLE, A PERSON:**

22 **(1) MAY NOT REQUIRE A BORROWER TO PAY A FEE FOR THE**
23 **TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER IN THE**
24 **FORM OF:**

25 **(I) CASH;**

26 **(II) CHECK; ~~OR~~**

27 **(III) MONEY ORDER; ~~AND~~ OR**

28 **(IV) AN ELECTRONIC FUNDS TRANSFER THROUGH THE**
29 **AUTOMATED CLEARING HOUSE;**

1 (2) ~~MUST OFFER TO~~ SHALL ACCEPT A PAYMENT MADE BY OR ON
 2 BEHALF OF A BORROWER ~~FREE OF CHARGE IN AT LEAST ONE COMMONLY ACCEPTED~~
 3 ~~FORM BY CHECK, MONEY ORDER, AND AN ELECTRONIC FUNDS TRANSFER THROUGH~~
 4 THE AUTOMATED CLEARING HOUSE; AND

5 (3) (I) MAY CEASE ACCEPTING PAYMENT BY CHECK OR AN
 6 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE
 7 AFTER PRIOR NOTICE TO THE BORROWER IF TWO PAYMENTS MADE BY CHECK OR
 8 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE BY
 9 OR ON BEHALF OF THE BORROWER WERE DISHONORED IN THE IMMEDIATELY
 10 PRECEDING 6-MONTH PERIOD; AND

11 (II) SHALL ACCEPT SUBSEQUENT PAYMENT BY CHECK OR AN
 12 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE IF
 13 THREE REGULAR PAYMENTS ARE TIMELY MADE BY OR ON BEHALF OF THE
 14 BORROWER AFTER THE PERSON CEASED ACCEPTING PAYMENT BY CHECK OR AN
 15 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE
 16 UNDER ITEM (I) OF THIS ITEM.

17 (B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, IN THE CASE OF A LOAN
 18 TO A CONSUMER BORROWER MADE IN ACCORDANCE WITH THIS SUBTITLE, A PERSON
 19 MAY NOT REQUIRE A BORROWER TO PAY, DIRECTLY OR INDIRECTLY, A FEE FOR THE
 20 TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER ~~IF~~
 21 UNLESS:

22 ~~(1) THE AGREEMENT, NOTE, OR OTHER EVIDENCE OF THE LOAN~~
 23 ~~EXPRESSLY AUTHORIZES THE FEE TO BE IMPOSED; OR~~

24 ~~(2)~~ ~~(1)~~ THE AMOUNT OF THE FEE IS DISCLOSED TO THE
 25 BORROWER AT THE TIME OF THE PAYMENT TRANSACTION;

26 ~~(1)~~ (2) THE BORROWER AGREES TO PAY THE FEE; AND

27 ~~(1)~~ (3) THE AMOUNT OF THE FEE DOES NOT EXCEED ~~THE~~
 28 ~~ACTUAL COST CHARGED TO THE PERSON BY AN UNAFFILIATED THIRD PARTY FOR~~
 29 ~~THE PROCESSING OF THE PAYMENT TRANSACTION~~ EITHER:

30 (I) THE ACTUAL COST CHARGED TO THE PERSON BY AN
 31 UNAFFILIATED THIRD PARTY FOR THE PROCESSING OF THE PAYMENT
 32 TRANSACTION; OR

33 (II) THE AVERAGE COST OF CHARGES TO THE PERSON BY AN
 34 UNAFFILIATED THIRD PARTY FOR THE PROCESSING OF THE PAYMENT
 35 TRANSACTIONS FROM SIMILARLY SITUATED BORROWERS.

1 (C) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN
2 ACCORDANCE WITH THIS SUBTITLE, A PERSON MAY NOT ATTEMPT TO INDUCE THE
3 BORROWER TO REMIT PAYMENT IN A FORM FOR WHICH A FEE WILL BE REQUIRED TO
4 BE PAID BY THE BORROWER OVER OTHER FORMS OF PAYMENT THAT ARE FREE OF
5 CHARGE UNLESS PAYMENT IN THAT FORM WILL PREVENT ONE OR MORE OF THE
6 FOLLOWING WHICH WOULD OTHERWISE OCCUR:

7 (1) THE INCURRENCE OF ONE OR MORE OTHER FEES OR CHARGES BY
8 THE BORROWER, INCLUDING CHARGES FOR DEFAULT OR DELINQUENCY;

9 (2) THE FURNISHING OF DEROGATORY INFORMATION REGARDING
10 THE BORROWER'S PAYMENT HISTORY TO A CONSUMER REPORTING AGENCY;

11 (3) JUDGMENT AGAINST THE BORROWER IN A CIVIL ACTION; OR

12 (4) REPOSSESSION OF OR FORECLOSURE UPON COLLATERAL.

13 12-905.1.

14 (A) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN
15 ACCORDANCE WITH THIS SUBTITLE, A PERSON:

16 (1) MAY NOT REQUIRE A BORROWER TO PAY A FEE FOR THE
17 TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER IN THE
18 FORM OF:

19 (I) CASH;

20 (II) CHECK; ~~OR~~

21 (III) MONEY ORDER; ~~AND~~ OR

22 (IV) AN ELECTRONIC FUNDS TRANSFER THROUGH THE
23 AUTOMATED CLEARING HOUSE;

24 (2) ~~MUST OFFER TO~~ SHALL ACCEPT A PAYMENT MADE BY OR ON
25 BEHALF OF A BORROWER ~~FREE OF CHARGE IN AT LEAST ONE COMMONLY ACCEPTED~~
26 ~~FORM~~ BY CHECK, MONEY ORDER, AND AN ELECTRONIC FUNDS TRANSFER THROUGH
27 THE AUTOMATED CLEARING HOUSE; AND

28 (3) (I) MAY CEASE ACCEPTING PAYMENT BY CHECK OR AN
29 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE
30 AFTER PRIOR NOTICE TO THE BORROWER IF TWO PAYMENTS MADE BY CHECK OR

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 2 OR ON BEHALF OF THE BORROWER WERE DISHONORED IN THE IMMEDIATELY
 3 PRECEDING 6-MONTH PERIOD; AND

4 (II) SHALL ACCEPT SUBSEQUENT PAYMENT BY CHECK OR AN
 5 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE IF
 6 THREE REGULAR PAYMENTS ARE TIMELY MADE BY OR ON BEHALF OF THE
 7 BORROWER AFTER THE PERSON CEASED ACCEPTING PAYMENT BY CHECK OR AN
 8 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE
 9 UNDER ITEM (I) OF THIS ITEM.

10 (B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, IN THE CASE OF A LOAN
 11 TO A CONSUMER BORROWER MADE IN ACCORDANCE WITH THIS SUBTITLE, A PERSON
 12 MAY NOT REQUIRE A BORROWER TO PAY, DIRECTLY OR INDIRECTLY, A FEE FOR THE
 13 TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER ~~IF~~
 14 UNLESS:

15 ~~(1) THE AGREEMENT, NOTE, OR OTHER EVIDENCE OF THE LOAN~~
 16 ~~EXPRESSLY AUTHORIZES THE FEE TO BE IMPOSED; OR~~

17 ~~(2)~~ (1) THE AMOUNT OF THE FEE IS DISCLOSED TO THE
 18 BORROWER AT THE TIME OF THE PAYMENT TRANSACTION;

19 ~~(1)~~ (2) THE BORROWER AGREES TO PAY THE FEE; AND

20 ~~(3)~~ (3) THE AMOUNT OF THE FEE DOES NOT EXCEED ~~THE~~
 21 ~~ACTUAL COST CHARGED TO THE PERSON BY AN UNAFFILIATED THIRD PARTY FOR~~
 22 ~~THE PROCESSING OF THE PAYMENT TRANSACTION~~ EITHER:

23 (I) THE ACTUAL COST CHARGED TO THE PERSON BY AN
 24 UNAFFILIATED THIRD PARTY FOR THE PROCESSING OF THE PAYMENT
 25 TRANSACTION; OR

26 (II) THE AVERAGE COST OF CHARGES TO THE PERSON BY AN
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 31 BORROWER TO REMIT PAYMENT IN A FORM FOR WHICH A FEE WILL BE REQUIRED TO
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 33 CHARGE UNLESS PAYMENT IN THAT FORM WILL PREVENT ONE OR MORE OF THE
 34 FOLLOWING WHICH WOULD OTHERWISE OCCUR:

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2 THE BORROWER, INCLUDING CHARGES FOR DEFAULT OR DELINQUENCY;

3 (2) THE FURNISHING OF DEROGATORY INFORMATION REGARDING
4 THE BORROWER'S PAYMENT HISTORY TO A CONSUMER REPORTING AGENCY;

5 (3) JUDGMENT AGAINST THE BORROWER IN A CIVIL ACTION; OR

6 (4) REPOSSESSION OF OR FORECLOSURE UPON COLLATERAL.

7 12-1005.1.

8 (A) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN
9 ACCORDANCE WITH THIS SUBTITLE, A PERSON:

10 (1) MAY NOT REQUIRE A BORROWER TO PAY A FEE FOR THE
11 TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER IN THE
12 FORM OF:

13 (I) CASH;

14 (II) CHECK; ~~OR~~

15 (III) MONEY ORDER; ~~AND~~ OR

16 (IV) AN ELECTRONIC FUNDS TRANSFER THROUGH THE
17 AUTOMATED CLEARING HOUSE;

18 (2) ~~MUST OFFER TO~~ SHALL ACCEPT A PAYMENT MADE BY OR ON
19 BEHALF OF A BORROWER ~~FREE OF CHARGE IN AT LEAST ONE COMMONLY ACCEPTED~~
20 ~~FORM BY CHECK, MONEY ORDER, AND AN ELECTRONIC FUNDS TRANSFER THROUGH~~
21 THE AUTOMATED CLEARING HOUSE; AND

22 (3) (I) MAY CEASE ACCEPTING PAYMENT BY CHECK OR AN
23 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE
24 AFTER PRIOR NOTICE TO THE BORROWER IF TWO PAYMENTS MADE BY CHECK OR
25 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE BY
26 OR ON BEHALF OF THE BORROWER WERE DISHONORED IN THE IMMEDIATELY
27 PRECEDING 6-MONTH PERIOD; AND

28 (II) SHALL ACCEPT SUBSEQUENT PAYMENT BY CHECK OR AN
29 ELECTRONIC FUNDS TRANSFER THROUGH THE AUTOMATED CLEARING HOUSE IF
30 THREE REGULAR PAYMENTS ARE TIMELY MADE BY OR ON BEHALF OF THE
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3 (B) SUBJECT TO SUBSECTION (A) OF THIS SECTION, IN THE CASE OF A LOAN
 4 TO A CONSUMER BORROWER MADE IN ACCORDANCE WITH THIS SUBTITLE, A PERSON
 5 MAY NOT REQUIRE A BORROWER TO PAY, DIRECTLY OR INDIRECTLY, A FEE FOR THE
 6 TRANSACTION OF A PAYMENT MADE BY OR ON BEHALF OF THE BORROWER ~~IF~~
 7 UNLESS:

8 ~~(1) THE AGREEMENT, NOTE, OR OTHER EVIDENCE OF THE LOAN~~
 9 ~~EXPRESSLY AUTHORIZES THE FEE TO BE IMPOSED; OR~~

10 ~~(2) (1)~~ (1) THE AMOUNT OF THE FEE IS DISCLOSED TO THE
 11 BORROWER AT THE TIME OF THE PAYMENT TRANSACTION;

12 ~~(1)~~ (2) THE BORROWER AGREES TO PAY THE FEE; AND

13 ~~(1)~~ (3) THE AMOUNT OF THE FEE DOES NOT EXCEED ~~THE~~
 14 ~~ACTUAL COST CHARGED TO THE PERSON BY AN UNAFFILIATED THIRD PARTY FOR~~
 15 ~~THE PROCESSING OF THE PAYMENT TRANSACTION~~ EITHER:

16 (I) THE ACTUAL COST CHARGED TO THE PERSON BY AN
 17 UNAFFILIATED THIRD PARTY FOR THE PROCESSING OF THE PAYMENT
 18 TRANSACTION; OR

19 (II) THE AVERAGE COST OF CHARGES TO THE PERSON BY AN
 20 UNAFFILIATED THIRD PARTY FOR THE PROCESSING OF THE PAYMENT
 21 TRANSACTIONS FROM SIMILARLY SITUATED BORROWERS.

22 (C) IN THE CASE OF A LOAN TO A CONSUMER BORROWER MADE IN
 23 ACCORDANCE WITH THIS SUBTITLE, A PERSON MAY NOT ATTEMPT TO INDUCE THE
 24 BORROWER TO REMIT PAYMENT IN A FORM FOR WHICH A FEE WILL BE REQUIRED TO
 25 BE PAID BY THE BORROWER OVER OTHER FORMS OF PAYMENT THAT ARE FREE OF
 26 CHARGE UNLESS PAYMENT IN THAT FORM WILL PREVENT ONE OR MORE OF THE
 27 FOLLOWING WHICH WOULD OTHERWISE OCCUR:

28 (1) THE INCURRENCE OF ONE OR MORE OTHER FEES OR CHARGES BY
 29 THE BORROWER, INCLUDING CHARGES FOR DEFAULT OR DELINQUENCY;

30 (2) THE FURNISHING OF DEROGATORY INFORMATION REGARDING
 31 THE BORROWER'S PAYMENT HISTORY TO A CONSUMER REPORTING AGENCY;

32 (3) JUDGMENT AGAINST THE BORROWER IN A CIVIL ACTION; OR

1 **(4) REPOSSESSION OF OR FORECLOSURE UPON COLLATERAL.**

2 SECTION 2. AND BE IT FURTHER ENACTED, That the Commissioner of
3 Financial Regulation may adopt regulations to implement the provisions of this Act.

4 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 ~~July 1, 2022~~ January 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.