

**CITY OF BALTIMORE
COUNCIL BILL 07-0627
(First Reader)**

Introduced by: Councilmembers Kraft, D’Adamo, Clarke, Welch, Reisinger

Introduced and read first time: March 26, 2007

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Office of Consumer Affairs**

3 FOR the purpose of establishing an Office of Consumer Affairs and providing for its
4 administration, powers, and duties; establishing an Advisory Board on Consumer Affairs and
5 providing for its composition, appointment, powers, and duties; prohibiting certain unfair or
6 deceptive trade practices; defining certain terms; imposing certain penalties; and generally
7 relating to the promotion of consumer affairs and the prohibition of unfair or deceptive trade
8 practices.

9 BY adding

10 Article 2 - Protections

11 Section(s) 18-1 through 18-57, to be under the new subtitle,

12 “Subtitle 18. Office of Consumer Affairs”

13 Baltimore City Code

14 (Edition 2000)

15 BY adding

16 Article 8 - Ethics

17 Section(s) 7-8(6a)

18 Baltimore City Code

19 (Edition 2000)

20 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
21 Laws of Baltimore City read as follows:

22 **Baltimore City Code**

23 **Article 2. Consumer Protections**

24 **SUBTITLE 18. OFFICE OF CONSUMER AFFAIRS**

25 *PART I. DEFINITIONS; GENERAL PROVISIONS*

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 **§ 18-1. DEFINITIONS.**

2 (A) *IN GENERAL.*

3 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

4 (B) “*ADMINISTRATOR*”.

5 “ADMINISTRATOR” MEANS THE CONSUMER AFFAIRS ADMINISTRATOR OR THE
6 ADMINISTRATOR’S DESIGNEE.

7 (C) “*ADVERTISEMENT*”.

8 (1) “ADVERTISEMENT” MEANS THE PUBLICATION, DISSEMINATION, OR CIRCULATION OF
9 ANY ORAL OR WRITTEN MATTER, INCLUDING LABELING, THAT DIRECTLY OR
10 INDIRECTLY TENDS TO INDUCE A PERSON TO ENTER INTO AN OBLIGATION, SIGN A
11 CONTRACT, OR ACQUIRE TITLE OR INTEREST IN ANY MERCHANDISE, SERVICES, REAL
12 PROPERTY, INTANGIBLES, OR CREDIT.

13 (2) “ADVERTISEMENT” INCLUDES ANY DEVICE THAT DISGUISES A FORM OF BUSINESS
14 SOLICITATION BY USING:

15 (I) A WORD SUCH AS “RENEWAL”, “INVOICE”, “BILL”, “STATEMENT”, OR
16 “REMINDER” TO CREATE AN IMPRESSION OF AN EXISTING OBLIGATION IF THERE
17 IS NONE; OR

18 (II) OTHER LANGUAGE TO MISLEAD A PERSON IN RELATION TO A PROPOSED
19 COMMERCIAL TRANSACTION.

20 (D) “*CONSUMER*”.

21 “CONSUMER” MEANS AN ACTUAL OR PROSPECTIVE PURCHASER, LESSEE, OR RECIPIENT OF
22 MERCHANDISE, SERVICES, REAL PROPERTY, INTANGIBLES, OR CREDIT PRIMARILY FOR
23 PERSONAL, HOUSEHOLD, FAMILY, OR AGRICULTURAL PURPOSES.

24 (E) “*INCLUDES*”; “*INCLUDING*”.

25 “INCLUDES” OR “INCLUDING” MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF
26 LIMITATION.

27 (F) “*MERCHANDISE*”.

28 “MERCHANDISE” MEANS ANY OBJECTS, WARES, GOODS, OR COMMODITIES.

29 (G) “*MERCHANT*”.

30 “MERCHANT” MEANS ANY PERSON WHO DIRECTLY OR INDIRECTLY OFFERS OR MAKES
31 AVAILABLE TO CONSUMERS ANY MERCHANDISE, SERVICES, REAL PROPERTY,
32 INTANGIBLES, OR CREDIT .

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1 (H) *“PERSON”*.

2 (1) *IN GENERAL*.

3 “PERSON” MEANS, EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION:

4 (I) AN INDIVIDUAL;

5 (II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
6 KIND; OR

7 (III) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY,
8 OR REPRESENTATIVE OF ANY KIND.

9 (2) *EXCLUSIONS*.

10 “PERSON” DOES NOT INCLUDE A GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR
11 UNIT OF A GOVERNMENTAL ENTITY.

12 (I) *“SALE”*.

13 “SALE” INCLUDES:

14 (1) ANY SALE OF OR OFFER OR ATTEMPT TO SELL, FOR CASH OR CREDIT, ANY
15 MERCHANDISE, SERVICES, REAL PROPERTY, INTANGIBLES, OR CREDIT; AND

16 (2) ANY SERVICE OR OFFER FOR SERVICE THAT RELATES TO ANY PERSON, BUILDING,
17 OR EQUIPMENT.

18 (J) *“SERVICE”*.

19 “SERVICE” MEANS ANY:

20 (1) BUILDING REPAIR OR IMPROVEMENT SERVICE;

21 (2) PROFESSIONAL OR SUBPROFESSIONAL SERVICE;

22 (3) REPAIR OF A MOTOR VEHICLE, HOME APPLIANCE, OR OTHER SIMILAR COMMODITY;

23 (4) REPAIR, INSTALLATION, OR OTHER SERVICING OF ANY PLUMBING, HEATING,
24 ELECTRICAL, OR MECHANICAL DEVICE.

25 (K) *“UNFAIR OR DECEPTIVE TRADE PRACTICE”*.

26 “UNFAIR OR DECEPTIVE TRADE PRACTICE” HAS THE MEANING STATED IN PART IV OF THIS
27 SUBTITLE.

28 **§ 18-2. {RESERVED}**

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1 **§ 18-3. SEVERABILITY.**

2 (A) *IN GENERAL.*

3 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION:

4 (1) ALL PROVISIONS OF THIS SUBTITLE ARE SEVERABLE; AND

5 (2) IF A COURT DETERMINES THAT A WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH,
6 SUBSECTION, SECTION, OR OTHER PROVISION IS INVALID OR THAT THE
7 APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR CIRCUMSTANCES
8 IS INVALID, THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE
9 PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES ARE NOT AFFECTED BY THAT
10 DECISION.

11 (B) *EXCEPTIONS.*

12 SUBSECTION (A) OF THIS SECTION DOES NOT APPLY:

13 (1) TO THE EXTENT THAT A PROVISION SPECIFICALLY PROVIDES OTHERWISE; OR

14 (2) IF THE COURT FINDS THAT THE REMAINING PROVISIONS ALONE ARE INCOMPLETE
15 AND INCAPABLE OF BEING EXECUTED IN ACCORDANCE WITH THE LEGISLATIVE
16 INTENT.

17 **§§ 18-4 TO 18-5. {RESERVED}**

18 ***PART II. OFFICE AND ADMINISTRATOR***

19 **§ 18-6. OFFICE ESTABLISHED.**

20 THERE IS AN OFFICE OF CONSUMER AFFAIRS.

21 **§ 18-7. ADMINISTRATOR.**

22 (A) *IN GENERAL.*

23 THE HEAD OF THE OFFICE OF CONSUMER AFFAIRS IS THE CONSUMER AFFAIRS
24 ADMINISTRATOR.

25 (B) *APPOINTMENT.*

26 THE ADMINISTRATOR IS APPOINTED BY THE MAYOR, SUBJECT TO CONFIRMATION BY THE
27 CITY COUNCIL, IN ACCORDANCE WITH CITY CHARTER ARTICLE IV, § 6.

28 (C) *QUALIFICATIONS.*

29 THE ADMINISTRATOR MUST:

30 (1) HAVE THOROUGH KNOWLEDGE OF METHODS AND PRACTICES OF PROTECTING
31 CONSUMER INTEREST, INCLUDING:

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1 (I) KNOWLEDGE OF FEDERAL, STATE, AND CITY LAWS; AND

2 (II) KNOWLEDGE OF THE METHODS AND TECHNIQUES OF INVESTIGATING
3 COMPLAINTS AND CHARGES OF UNLAWFUL TRADE PRACTICES;

4 (2) HAVE AT LEAST 5 YEARS OF EXPERIENCE IN COMMUNITY SERVICE OR RELATED
5 WORK, INCLUDING:

6 (I) AT LEAST 1 YEAR DEALING WITH CONSUMER PROTECTION OR TRADE
7 PRACTICES; AND

8 (II) AT LEAST 1 YEAR OF MANAGERIAL EXPERIENCE.

9 **§ 18-8. STAFF.**

10 THE OFFICE OF CONSUMER AFFAIRS MAY EMPLOY A STAFF AS PROVIDED IN THE ORDINANCE
11 OF ESTIMATES.

12 **§§ 18-9 TO 18-10. {RESERVED}**

13 **§ 18-11. POWERS AND DUTIES – ENFORCEMENT.**

14 (A) *IN GENERAL.*

15 THE CONSUMER AFFAIRS ADMINISTRATOR:

16 (1) SHALL RECEIVE, INVESTIGATE, AND CONCILIATE COMPLAINTS OF UNFAIR OR
17 DECEPTIVE TRADE PRACTICES AGAINST CONSUMERS;

18 (2) MAY INITIATE ITS OWN INVESTIGATION OF UNFAIR OR DECEPTIVE TRADE
19 PRACTICES AGAINST CONSUMER; AND

20 (2) MAY HOLD HEARINGS IN CONNECTION WITH THESE COMPLAINTS AND
21 INVESTIGATIONS.

22 (B) *SUMMONSES.*

23 (1) THE ADMINISTRATOR MAY ISSUE SUMMONSES TO COMPEL THE ATTENDANCE OF
24 WITNESSES AND THE PRODUCTION OF DOCUMENTS, PAPERS, BOOKS, RECORDS, AND
25 OTHER EVIDENCE IN ANY MATTER TO WHICH THIS SUBTITLE APPLIES.

26 (2) IN CASE OF DISOBEDIENCE TO A SUMMONS, THE ADMINISTRATOR MAY APPLY TO A
27 COURT OF COMPETENT JURISDICTION FOR AN ORDER REQUIRING COMPLIANCE WITH
28 THE SUMMONS.

29 (C) *CEASE-AND-DESIST ORDERS.*

30 IF, ON ALL THE EVIDENCE, THE ADMINISTRATOR FINDS THAT A RESPONDENT HAS
31 ENGAGED IN AN UNFAIR OR DECEPTIVE TRADE PRACTICE, THE ADMINISTRATOR MAY ISSUE
32 AND CAUSE TO BE SERVED ON THE RESPONDENT AN ORDER REQUIRING THE RESPONDENT

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1 TO CEASE AND DESIST FROM THE PRACTICE AND TO TAKE WHATEVER AFFIRMATIVE
2 ACTION EQUITY AND JUSTICE REQUIRES TO EFFECTUATE THE PURPOSES OF THIS SUBTITLE.

3 (D) *REFERRAL TO OTHER AGENCIES.*

4 THE CONSUMER AFFAIRS ADMINISTRATOR MAY REFER INFORMATION ABOUT AN
5 APPARENT OR POTENTIAL VIOLATION OF ANY CONSUMER PROTECTION LAW TO THE
6 APPROPRIATE GOVERNMENTAL OR REGULATORY AGENCY, PUBLIC OR PRIVATE, WITH
7 JURISDICTION OVER THAT LAW.

8 **§ 18-12. POWERS AND DUTIES – PROMOTING CONSUMER INTERESTS.**

9 (A) *WITH GOVERNMENT AGENCIES.*

10 THE CONSUMER AFFAIRS ADMINISTRATOR SHALL:

11 (1) PRESENT THE INTERESTS OF CONSUMERS BEFORE ADMINISTRATIVE AND
12 REGULATORY AGENCIES AND LEGISLATIVE BODIES; AND

13 (2) ASSIST, ADVISE, AND COOPERATE WITH OTHER FEDERAL, STATE, AND CITY
14 AGENCIES AND OFFICIALS TO PROTECT AND PROMOTE THE INTEREST OF THE
15 CONSUMER PUBLIC.

16 (B) *WITH BUSINESS AND INDUSTRY.*

17 THE CONSUMER AFFAIRS ADMINISTRATOR SHALL UNDERTAKE ACTIVITIES TO ENCOURAGE
18 LOCAL BUSINESS AND INDUSTRY TO MAINTAIN HIGH STANDARDS OF HONESTY, FAIR
19 BUSINESS PRACTICES, AND PUBLIC RESPONSIBILITY IN THE PRODUCTION, PROMOTION, AND
20 SALE OF MERCHANDISE, SERVICES, REAL PROPERTY, INTANGIBLES, OR CREDIT.

21 (C) *PUBLIC EDUCATION.*

22 THE CONSUMER AFFAIRS ADMINISTRATOR SHALL DEVELOP AND CONDUCT PROGRAMS OF
23 CONSUMER EDUCATION AND INFORMATION THROUGH PUBLIC HEARINGS, MEETINGS,
24 PUBLICATIONS, OR OTHER MATERIAL PREPARED FOR DISTRIBUTION TO THE CONSUMER
25 PUBLIC.

26 **§ 8-13. POWERS AND DUTIES – ANNUAL REPORT.**

27 (A) *IN GENERAL.*

28 THE CONSUMER AFFAIRS ADMINISTRATOR SHALL REPORT ANNUALLY TO THE MAYOR
29 AND CITY COUNCIL ON THE ACTIVITIES OF THE OFFICE OF CONSUMER AFFAIRS.

30 (B) *CONTENTS.*

31 THE ANNUAL REPORT SHALL INCLUDE:

32 (1) THE NUMBER OF COMPLAINTS FILED;

33 (2) THE NATURE OF THOSE COMPLAINTS;

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1 (3) THE DISPOSITION OF THOSE COMPLAINTS; AND

2 (4) OTHER RELEVANT ACTIVITIES OF THE OFFICE UNDERTAKEN DURING THE PREVIOUS
3 YEAR.

4 **§ 18-14. POWERS AND DUTIES – OTHER.**

5 THE CONSUMER AFFAIRS ADMINISTRATOR MAY PERFORM OTHER FUNCTIONS CONSISTENT
6 WITH THE PURPOSES OF THIS SUBTITLE AS ARE NECESSARY OR APPROPRIATE TO PROTECT AND
7 PROMOTE THE WELFARE OF CONSUMERS.

8 **§ 18-15. RULES AND REGULATIONS.**

9 (A) *ADMINISTRATOR TO ADOPT.*

10 THE CONSUMER AFFAIRS ADMINISTRATOR SHALL ADOPT RULES AND REGULATIONS TO:

11 (1) FURTHER DEFINE THE “UNFAIR OR DECEPTIVE TRADE PRACTICES” PROSCRIBED BY
12 THIS SUBTITLE;

13 (2) ESTABLISH PROCEDURES TO GOVERN THE CONDUCT OF INVESTIGATIONS AND
14 HEARINGS UNDER THIS SUBTITLE; AND

15 (3) OTHERWISE CARRY OUT THIS SUBTITLE.

16 (B) *FILING WITH LEGISLATIVE REFERENCE.*

17 A COPY OF ALL RULES AND REGULATIONS MUST BE FILED WITH THE DEPARTMENT OF
18 LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

19 **§§ 18-16 TO 18-17. {RESERVED}**

20 ***PART III. ADVISORY BOARD ON CONSUMER AFFAIRS***

21 **§ 18-18. BOARD ESTABLISHED.**

22 THERE IS AN ADVISORY BOARD ON CONSUMER AFFAIRS.

23 **§ 18-19. APPOINTMENT AND QUALIFICATIONS.**

24 (A) *COMPOSITION.*

25 THE ADVISORY BOARD COMPRISES 7 MEMBERS APPOINTED BY THE MAYOR IN
26 ACCORDANCE WITH ARTICLE IV, § 6 OF THE CITY CHARTER.

27 (B) *QUALIFICATIONS.*

28 OF THE 7 MEMBERS OF THE ADVISORY BOARD:

29 (1) AT LEAST 2 MEMBERS MUST REPRESENT A CONSUMER INTEREST GROUP.

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1 (2) AT LEAST 2 MEMBERS MUST REPRESENT A BUSINESS INTEREST GROUP.

2 (3) AT LEAST 1 MEMBER MUST REPRESENT AN ECONOMICALLY DISADVANTAGED
3 GROUP.

4 (4) ALL MEMBERS MUST BE RESIDENTS OF THE CITY.

5 **§ 18-20. CHAIR.**

6 (A) *MAYOR TO DESIGNATE.*

7 FROM AMONG THE MEMBERS OF THE ADVISORY BOARD, THE MAYOR DESIGNATES THE
8 CHAIR OF THE BOARD.

9 (B) *TERM.*

10 THE CHAIR SERVES UNTIL HIS OR HER TERM AS A MEMBER EXPIRES.

11 **§ 18-21. COMPENSATION.**

12 A MEMBER OF THE ADVISORY BOARD:

13 (1) RECEIVES NO COMPENSATION FOR HIS OR HER SERVICES ON THE BOARD; BUT

14 (2) IS ENTITLED TO REIMBURSEMENT FOR NECESSARY AND PROPER EXPENSES INCURRED IN
15 PERFORMING HIS OR HER DUTIES AS A MEMBER.

16 **§ 18-22. EXECUTIVE SECRETARY.**

17 THE CONSUMER AFFAIRS ADMINISTRATOR SERVES AS THE EXECUTIVE SECRETARY OF THE
18 ADVISORY BOARD.

19 **§ 18-23. MEETINGS.**

20 THE BOARD SHALL MEET ON CALL OF THE CHAIR AS OFTEN AS NEEDED TO PERFORM ITS
21 DUTIES.

22 **§§ 18-24 TO 18-25. {RESERVED}**

23 **§ 18-26. DUTIES OF BOARD.**

24 THE ADVISORY BOARD ON CONSUMER AFFAIRS SHALL:

25 (1) ANNUALLY REVIEW THE PROGRAMS OF THE OFFICE OF CONSUMER AFFAIRS AND MAKE
26 RECOMMENDATIONS TO THE ADMINISTRATOR BEFORE SUBMISSION OF THE OFFICE'S
27 ANNUAL BUDGET REQUEST;

28 (2) SUBMIT AN ANNUAL REPORT TO THE MAYOR AND CITY COUNCIL;

29 (3) ADVISE THE OFFICE OF CONSUMER AFFAIRS AND THE ADMINISTRATOR IN CARRYING
30 OUT THEIR DUTIES;

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1 (4) HOLD PUBLIC HEARINGS AS IT CONSIDERS NECESSARY, INCLUDING HEARINGS FOR THE
2 PURPOSE OF FORMING RECOMMENDATIONS ON THE SCOPE AND APPLICATION OF THE
3 THIS SUBTITLE; AND

4 (5) AT THE DIRECTIVE OF THE MAYOR OR BY RESOLUTION OF THE CITY COUNCIL, REVIEW
5 AND MAKE RECOMMENDATIONS ON ANY MATTER RELATED TO CONSUMER
6 PROTECTION.

7 **§§ 18-27 TO 18-28. {RESERVED}**

8 ***PART IV. UNFAIR OR DECEPTIVE TRADE PRACTICES***

9 **§ 18-29. SCOPE.**

10 THIS PART IV DOES NOT APPLY TO:

11 (1) THE PROFESSIONAL SERVICES OF A CERTIFIED PUBLIC ACCOUNTANT, ARCHITECT,
12 CLERGYMAN, PROFESSIONAL ENGINEER, LAWYER, VETERINARIAN, INSURANCE
13 COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE, INSURANCE PRODUCER
14 LICENSED BY THE STATE, CHRISTIAN SCIENCE PRACTITIONER, LAND SURVEYOR,
15 PROPERTY LINE SURVEYOR, CHIROPRACTOR, OPTOMETRIST, PHYSICAL THERAPIST,
16 PODIATRIST, REAL ESTATE BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL
17 ESTATE SALESPERSON, OR MEDICAL OR DENTAL PRACTITIONER;

18 (2) A TELEVISION OR RADIO BROADCASTING STATION OR A PUBLISHER OR PRINTER OF A
19 NEWSPAPER, MAGAZINE, OR OTHER FORM OF PRINTED ADVERTISING WHO
20 BROADCASTS, PUBLISHES, OR PRINTS AN ADVERTISEMENT THAT VIOLATES THIS
21 SUBTITLE, UNLESS THE STATION, PUBLISHER, OR PRINTER ENGAGES IN AN UNFAIR OR
22 DECEPTIVE TRADE PRACTICE IN THE SALE OF ITS OWN MERCHANDISE, SERVICES, REAL
23 PROPERTY, INTANGIBLES, OR CREDIT OR HAS KNOWLEDGE THAT THE ADVERTISING
24 VIOLATES THIS SUBTITLE; OR

25 (3) A PUBLIC SERVICE COMPANY, TO THE EXTENT THAT ITS SERVICES AND OPERATIONS
26 ARE REGULATED BY THE STATE PUBLIC SERVICE COMMISSION.

27 **§ 18-30. UNFAIR, ETC., PRACTICES DEFINED.**

28 UNFAIR OR DECEPTIVE TRADE PRACTICES INCLUDE ANY OF THE FOLLOWING:

29 (1) ANY FALSE, FALSELY DISPARAGING, OR MISLEADING ORAL OR WRITTEN STATEMENT,
30 VISUAL DESCRIPTION, OR OTHER REPRESENTATION OF ANY KIND THAT HAS THE
31 CAPACITY, TENDENCY, OR EFFECT OF DECEIVING OR MISLEADING CONSUMERS.

32 (2) ANY REPRESENTATION THAT:

33 (I) MERCHANDISE, SERVICES, REAL PROPERTY, INTANGIBLES, OR CREDIT HAVE A
34 SPONSORSHIP, APPROVAL, ACCESSORY, CHARACTERISTIC, INGREDIENT, USE,
35 BENEFIT, OR QUANTITY THAT THEY DO NOT HAVE;

36 (II) A MERCHANT HAS A SPONSORSHIP, APPROVAL, STATUS, AFFILIATION, OR
37 CONNECTION THAT THE MERCHANT DOES NOT HAVE;

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1 (III) DETERIORATED, ALTERED, RECONDITIONED, RECLAIMED, OR SECONDHAND
2 MERCHANDISE ARE ORIGINAL OR NEW; OR

3 (IV) MERCHANDISE, SERVICES, REAL PROPERTY, INTANGIBLES, OR CREDIT ARE OF
4 PARTICULAR STANDARD, QUALITY, GRADE, STYLE, OR MODEL THAT THEY ARE
5 NOT.

6 (3) A MISREPRESENTATION OF OR FAILURE TO STATE A MATERIAL FACT, IF THE
7 MISREPRESENTATION OR FAILURE DECEIVES OR TENDS TO DECEIVE.

8 (4) DISPARAGING THE MERCHANDISE, SERVICES, REAL PROPERTY, INTANGIBLES, OR
9 CREDIT OR BUSINESS OF ANOTHER BY A FALSE OR MISLEADING REPRESENTATION OF A
10 MATERIAL FACT.

11 (5) ADVERTISING OR OFFERING MERCHANDISE, SERVICES, REAL PROPERTY, INTANGIBLES,
12 OR CREDIT :

13 (I) WITHOUT INTENT TO SELL, LEASE, OR RENT THEM AS ADVERTISED OR OFFERED;
14 OR

15 (II) WITH INTENT NOT TO SUPPLY REASONABLY EXPECTED PUBLIC DEMAND,
16 UNLESS THE ADVERTISEMENT OR OFFER DISCLOSES A LIMITATION OF QUANTITY
17 OR OTHER QUALIFYING CONDITION.

18 (6) MAKING A FALSE OR MISLEADING REPRESENTATION OF FACT THAT CONCERNS:

19 (I) THE REASONS FOR OR THE EXISTENCE OR AMOUNT OF A PRICE REDUCTION; OR

20 (II) A PRICE IN COMPARISON TO A COMPETITOR'S PRICE OR TO ONE'S OWN PRICE AT
21 A PAST OR FUTURE TIME.

22 (7) MAKING A KNOWINGLY FALSE STATEMENT THAT A SERVICE, REPLACEMENT, OR
23 REPAIR IS NEEDED.

24 (8) FALSELY STATING THE REASON FOR OFFERING OR SUPPLYING MERCHANDISE,
25 SERVICES, REAL PROPERTY, INTANGIBLES, OR CREDIT AT SALE OR DISCOUNT PRICES.

26 (9) ANY DECEPTION, FRAUD, FALSE PRETENSE, FALSE PREMISE, MISREPRESENTATION, OR
27 KNOWING CONCEALMENT, SUPPRESSION, OR OMISSION OF ANY MATERIAL FACT WITH
28 THE INTENT THAT A CONSUMER RELY ON IT IN CONNECTION WITH:

29 (I) THE PROMOTION OR SALE OF ANY MERCHANDISE, SERVICES, REAL PROPERTY,
30 INTANGIBLES, OR CREDIT; OR

31 (II) THE SUBSEQUENT PERFORMANCE OF A MERCHANT WITH RESPECT TO AN
32 AGREEMENT OF SALE, LEASE, OR RENTAL.

33 (10) SOLICITATIONS OF SALES OR SERVICES OVER THE TELEPHONE WITHOUT FIRST
34 CLEARLY, AFFIRMATIVELY, AND EXPRESSLY STATING:

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- 1 (I) THE SOLICITOR'S NAME AND THE TRADE NAME OF THE PERSON THAT THE
2 SOLICITOR REPRESENTS;
- 3 (II) THE PURPOSE OF THE TELEPHONE CALL; AND
- 4 (III) THE KIND OF MERCHANDISE, SERVICES, REAL PROPERTY, INTANGIBLES, OR
5 CREDIT BEING SOLICITED.
- 6 (11) THE USE OF ANY PLAN OR SCHEME IN SOLICITING SALES OR SERVICES OVER THE
7 TELEPHONE THAT MISREPRESENTS THE SOLICITOR'S TRUE STATUS AND MISSION.
- 8 (12) USE OF A CONTRACT FOR OR RELATED TO A CONSUMER TRANSACTION THAT
9 CONTAINS A CONFESSED JUDGMENT CLAUSE WAIVING THE CONSUMER'S RIGHT TO
10 ASSERT A LEGAL DEFENSE TO OR IN AN ACTION;
- 11 (13) THE USE BY A PERSON IN THE BUSINESS OF SELLING REAL PROPERTY OF A CONTRACT
12 FOR OR RELATING TO THE SALE OF A SINGLE-FAMILY DWELLING THAT CONTAINS A
13 CLAUSE LIMITING OR PRECLUDING A CONSUMER BUYER FROM OBTAINING
14 CONSEQUENTIAL DAMAGES AS A RESULT OF THE SELLER'S BREACH OR CANCELLATION
15 OF THE CONTRACT.
- 16 (14) IF THE CONSUMER REQUESTS A WRITTEN ESTIMATE OF PROPOSED REPAIRS,
17 ALTERATIONS, MODIFICATIONS, OR SERVICING, PERFORMING A REPAIR, ALTERATION,
18 MODIFICATION, OR SERVICING WITHOUT HAVING PROVIDED THE ESTIMATE..
- 19 (15) MAKING ANY REPAIR, ALTERATION, MODIFICATION, OR SERVICING THAT EXCEEDS
20 THE PRICE QUOTED IN A WRITTEN ESTIMATE BY 10% OR MORE, WITHOUT THE PRIOR
21 WRITTEN OR ORAL APPROVAL OF THE CONSUMER.
- 22 (16) CHARGING A SERVICE OR LABOR CHARGE TO REASSEMBLE OR RESTORE AN
23 ELECTRICAL OR MECHANICAL APPARATUS, APPLIANCE, OR OTHER ITEM TO ITS
24 TENDERED CONDITION, UNLESS THE CONSUMER WAS NOTIFIED OF THAT SERVICE OR
25 LABOR CHARGE BEFORE LEAVING THE TENDERED ITEM.
- 26 (17) FAILING TO SUPPLY TO A CONSUMER A COPY OF A SALES OR SERVICE CONTRACT,
27 LEASE, PROMISSORY NOTE, TRUST AGREEMENT, OR OTHER EVIDENCE OF
28 INDEBTEDNESS THAT THE HAS SIGNED.
- 29 (18) SELLING, LEASING, OR PROVIDING MERCHANDISE, SERVICES, REAL PROPERTY,
30 INTANGIBLES, OR CREDIT ON A CREDIT SALE BASIS WITH THE KNOWLEDGE THAT THERE
31 IS NO REASONABLE PROBABILITY OF THE CONSUMER'S PAYING THE OBLIGATION IN
32 FULL.
- 33 (19) SELLING, LEASING, OR PROVIDING MERCHANDISE, SERVICES, REAL PROPERTY,
34 INTANGIBLES, OR CREDIT WITH THE KNOWLEDGE OF THE CONSUMER'S INABILITY TO
35 RECEIVE SUBSTANTIAL BENEFITS FROM THEM.
- 36 (20) SELLING, LEASING, OR PROVIDING MERCHANDISE, SERVICES, REAL PROPERTY,
37 INTANGIBLES, OR CREDIT WHERE A GROSS DISPARITY EXISTS BETWEEN THE PRICE OF
38 THE MERCHANDISE, SERVICES, REAL PROPERTY, INTANGIBLES, OR CREDIT AND THEIR
39 VALUE, MEASURED BY THE PRICE AT WHICH SIMILAR MERCHANDISE, SERVICES, REAL

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1 PROPERTY, INTANGIBLES, OR CREDIT ARE READILY OBTAINABLE IN TRANSACTIONS BY
2 LIKE BUYERS OR LESSEES. ANY COMMISSION OR REBATE RECEIVED BY A MERCHANT
3 SHALL BE CONSIDERED IN DETERMINING THE EXISTENCE OF A GROSS DISPARITY.

4 (21) A MERCHANT'S FAILING TO DISCLOSE THAT THE MERCHANT CONTRACTED FOR OR
5 RECEIVED A COMMISSION FEE OR REBATE WITH RESPECT TO CREDIT SALES.

6 (22) KNOWINGLY TAKING ADVANTAGE OF THE INABILITY OF THE CONSUMER TO
7 REASONABLY PROTECT HIS OR HER INTERESTS BY REASON OF PHYSICAL OR MENTAL
8 INFIRMITIES, IGNORANCE, ILLITERACY, OR INABILITY TO UNDERSTAND THE LANGUAGE
9 OF AN AGREEMENT.

10 (23) REPLACING A PART OR COMPONENT IN AN ELECTRICAL OR MECHANICAL APPARATUS,
11 APPLIANCE, OR OTHER ITEM WHEN THE PART OR COMPONENT IS NOT DEFECTIVE,
12 UNLESS THE REPLACEMENT IS SPECIFICALLY REQUESTED BY THE CONSUMER.

13 (24) FALSELY STATING OR REPRESENTING THAT A REPAIR, ALTERATION, MODIFICATION,
14 OR SERVICING HAS BEEN MADE WHEN IT HAS NOT BEEN.

15 (25) INSERTING INTO A CONTRACT OF SALE OR LEASE A CLAUSE OR CONDITION THAT IS SO
16 ONE SIDED AS TO BE UNCONSCIONABLE UNDER THE CIRCUMSTANCES EXISTING AT THE
17 TIME OF MAKING THE CONTRACT.

18 **§ 18-31. UNFAIR, ETC., PRACTICES PROHIBITED.**

19 (A) *IN GENERAL.*

20 A MERCHANT MAY NOT ENGAGE IN ANY DECEPTIVE OR UNFAIR TRADE PRACTICE, AS
21 DESCRIBED IN § 18-30 {"UNFAIR, ETC., PRACTICES DEFINED"} OF THIS SUBTITLE OR AS
22 FURTHER DEFINED BY THE OFFICE OF CONSUMER AFFAIRS, WITH RESPECT TO ANY
23 CONSUMER.

24 (B) *DAMAGE, ETC., UNNECESSARY.*

25 THE PROHIBITION IMPOSED BY THIS SECTION APPLIES WHETHER OR NOT ANY CONSUMER IN
26 FACT HAS BEEN MISLED, DECEIVED, OR DAMAGED BY THE PROHIBITED PRACTICE.

27 **§§ 18-32 TO 18-40. {RESERVED}**

28 ***PART V. ENFORCEMENT PROCEEDINGS***

29 **§ 18-41. ADMINISTRATOR'S STATEMENT OF CHARGES.**

30 (A) *ADMINISTRATOR MAY FILE.*

31 (1) IF THE ADMINISTRATOR HAS REASON TO SUSPECT THAT A MERCHANT HAS ENGAGED IN
32 AN UNFAIR OR DECEPTIVE TRADE PRACTICE, THE ADMINISTRATOR MAY INVESTIGATE
33 THE PRACTICE AND FILE, IN WRITING, A STATEMENT OF CHARGES THAT DETAILS THE
34 ALLEGED VIOLATION OR VIOLATIONS.

35 (2) A COPY OF THE STATEMENT OF CHARGES SHALL BE SERVED ON THE MERCHANT.

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1 (B) *WHEN.*

2 A STATEMENT OF CHARGES MAY BE FILED AT THE START OF AN INVESTIGATION OR AT ANY
3 LATER TIME THAT THE ADMINISTRATOR CONSIDERS APPROPRIATE.

4 **§ 18-42. CONSUMER'S COMPLAINT.**

5 (A) *CONSUMER MAY FILE.*

6 ANY CONSUMER WHO HAS REASON TO BELIEVE THAT HE OR SHE HAS BEEN SUBJECTED TO
7 A VIOLATION OF THIS SUBTITLE MAY FILE A WRITTEN COMPLAINT WITH THE
8 ADMINISTRATOR.

9 (B) *CONTENTS OF COMPLAINT.*

10 THE COMPLAINT SHALL STATE:

- 11 (1) THE NAME AND ADDRESS OF THE PERSON ALLEGED TO HAVE COMMITTED THE
12 VIOLATION;
13 (2) THE PARTICULARS OF THE VIOLATION; AND
14 (3) ANY OTHER INFORMATION THAT THE ADMINISTRATOR REQUIRES.

15 (C) *PROCEDURE NOT EXCLUSIVE.*

16 THIS SECTION DOES NOT PREVENT ANY PERSON FROM:

- 17 (1) EXERCISING ANY RIGHT OR SEEKING ANY REMEDY TO WHICH SHE OR HE MIGHT
18 OTHERWISE BE ENTITLED; OR
19 (2) FILING A COMPLAINT WITH ANY OTHER FEDERAL, STATE, OR CITY AGENCY OR IN
20 COURT.

21 **§ 18-43. INVESTIGATION.**

22 (A) *IN GENERAL.*

23 ON THE FILING OF A COMPLAINT, THE ADMINISTRATOR SHALL INVESTIGATE THE
24 ALLEGATIONS TO ASCERTAIN FACTS AND ISSUES.

25 (B) *COOPERATION OF LICENSING AUTHORITIES AND OTHER CONTRACTING AGENCIES.*

26 THE OFFICE MAY SEEK THE COOPERATION OF THE LICENSING AUTHORITIES AND OTHER
27 CONTRACTING AGENCIES OF CITY GOVERNMENT IN CONNECTION WITH AN INVESTIGATION
28 OF A PERSON WHO IS LICENSED BY OR HAS A CONTRACTUAL RELATIONSHIP WITH THE
29 CITY.

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§ 18-44. NO REASONABLE GROUNDS FOUND.

IF THE ADMINISTRATOR DETERMINES THAT THE COMPLAINT LACKS REASONABLE GROUNDS ON WHICH TO BASE A VIOLATION OF THIS SUBTITLE, THE ADMINISTRATOR MAY:

- (1) DISMISS THE COMPLAINT; OR
- (2) ORDER ANY FURTHER INVESTIGATION THE ADMINISTRATOR CONSIDERS NECESSARY.

§ 18-45. REASONABLE GROUNDS FOUND.

(A) *IN GENERAL.*

IF THE ADMINISTRATOR FINDS REASONABLE GROUNDS TO BELIEVE THAT A VIOLATION HAS OCCURRED, THE OFFICE SHALL UNDERTAKE ONE OR MORE OF THE FOLLOWING PROCEDURES, AS THE ADMINISTRATOR CONSIDERS APPROPRIATE.

(B) *CONCILIATION.*

- (1) THE OFFICE MAY ATTEMPT TO CONCILIATE THE MATTER, EITHER BY:
 - (I) METHODS OF CONFERENCE AND PERSUASION WITH ALL INTERESTED PARTIES AND ANY REPRESENTATIVES THEY MIGHT CHOOSE TO ASSIST THEM; OR
 - (II) ANY OTHER METHODS THAT THE OFFICE CONSIDERS APPROPRIATE.
- (2) IN ATTEMPTING CONCILIATION, THE OFFICE MAY SEEK THE SERVICES OF THE ADVISORY BOARD ON CONSUMER AFFAIRS.
- (3) CONCILIATION CONFERENCES SHALL BE INFORMAL.
- (4) NOTHING SAID OR DONE DURING A CONFERENCE MAY BE MADE PUBLIC BY THE OFFICE OR THE ADVISORY BOARD, UNLESS ALL PARTIES AGREE IN WRITING.
- (5) THE TERMS OF A CONCILIATION THAT HAS BEEN AGREED TO BY THE PARTIES SHALL BE REDUCED TO WRITING AND INCORPORATED INTO A WRITTEN CONCILIATION OR SETTLEMENT AGREEMENT TO BE SIGNED BY THE PARTIES AND BY THE ADMINISTRATOR.
- (6) A CONCILIATION OR SETTLEMENT AGREEMENT IS FOR CONCILIATION PURPOSES ONLY AND DOES NOT CONSTITUTE AN ADMISSION BY ANY PARTY THAT A LAW HAS BEEN VIOLATED.

(C) *ASSURANCE OF COMPLIANCE OR DISCONTINUANCE.*

- (1) THE ADMINISTRATOR MAY ACCEPT A WRITTEN ASSURANCE OF COMPLIANCE OR ASSURANCE OF DISCONTINUANCE FROM A MERCHANT WHO HAS ENGAGED IN OR WAS ABOUT TO ENGAGE IN A VIOLATION OF THIS SUBTITLE.
- (2) WHEN ACCEPTED AND SIGNED BY THE ADMINISTRATOR, AN ASSURANCE OF COMPLIANCE OR DISCONTINUANCE IS A MATTER OF PUBLIC RECORD.

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1 (3) AN ASSURANCE OF COMPLIANCE OR DISCONTINUANCE DOES NOT CONSTITUTE AN
2 ADMISSION BY ANY PARTY THAT A LAW HAS BEEN VIOLATED.

3 (D) *REFERRAL TO SOLICITOR.*

4 THE ADMINISTRATOR MAY REFER A MATTER TO THE CITY SOLICITOR FOR APPROPRIATE
5 ACTION IF:

6 (1) THE ADMINISTRATOR BELIEVES THAT ACTION TO BE THE MOST EFFECTIVE
7 PROCEDURE UNDER THE CIRCUMSTANCES;

8 (2) THE OFFICE FAILS TO OBTAIN AN ASSURANCE OF COMPLIANCE OR
9 DISCONTINUANCE; OR

10 (3) THE ADMINISTRATOR DETERMINES THAT A COMPLAINT IS NOT SUSCEPTIBLE OF
11 CONCILIATION OR SETTLEMENT.

12 **§ 18-46. STIPULATIONS OR CONDITIONS.**

13 (A) *AUTHORIZED.*

14 A CONCILIATION OR SETTLEMENT AGREEMENT, AN ASSURANCE OF COMPLIANCE OR
15 DISCONTINUANCE, OR A CEASE-AND-DESIST ORDER PROVIDED FOR BY THIS SUBTITLE MAY
16 INCLUDE A STIPULATION OR CONDITION FOR:

17 (1) THE PAYMENT BY THE VIOLATOR OR ALLEGED VIOLATOR OF THE COSTS OF
18 INVESTIGATION BY THE OFFICE; AND

19 (2) THE RESTITUTION BY THE VIOLATOR OR ALLEGED VIOLATOR TO THE CONSUMER OF
20 MONEY, PROPERTY, OR OTHER THING RECEIVED FROM THE CONSUMER IN
21 CONNECTION WITH A VIOLATION OR ALLEGED VIOLATION OF THIS SUBTITLE.

22 (B) *NOT EXCLUSIVE.*

23 THESE STIPULATIONS AND CONDITIONS DO NOT PRECLUDE THE OFFICE FROM USING ANY
24 OTHER STIPULATION, CONDITION, OR REMEDY NECESSARY TO CORRECT A VIOLATION OF
25 THIS SUBTITLE.

26 **§ 18-47. VIOLATION OF AGREEMENT OR ASSURANCE.**

27 (A) *CONSTITUTES VIOLATION OF SUBTITLE.*

28 IT IS A VIOLATION OF THIS SUBTITLE TO FAIL TO ADHERE TO ANY PROVISION CONTAINED IN
29 A CONCILIATION OR SETTLEMENT AGREEMENT, ASSURANCE OF COMPLIANCE OR
30 DISCONTINUANCE, OR CEASE-AND-DESIST ORDER.

31 (B) *NONENFORCEMENT IS NOT A WAIVER.*

32 A FAILURE BY THE OFFICE TO ENFORCE A VIOLATION OF A PROVISION OF AN AGREEMENT,
33 ASSURANCE, OR ORDER DOES NOT CONSTITUTE A WAIVER OF THAT PROVISION, OF ANY
34 OTHER PROVISION, OR OF ANY RIGHT OF THE OFFICE.

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1 **§ 18-48. {RESERVED}**

2 **§ 18-49. ACTION TO RESTRAIN UNLAWFUL ACTS.**

3 (A) *IN GENERAL.*

4 IF THE ADMINISTRATOR HAS REASON TO BELIEVE THAT A MERCHANT IS USING, HAS USED,
5 OR IS ABOUT TO USE ANY PRACTICE PROHIBITED BY THIS SUBTITLE, THE ADMINISTRATOR
6 MAY REFER THE MATTER TO THE CITY SOLICITOR FOR AN ACTION TO RESTRAIN, BY
7 TEMPORARY OR PERMANENT INJUNCTION, THE USE OF THAT PRACTICE.

8 (B) *JUDICIAL RELIEF.*

9 A COURT OF COMPETENT JURISDICTION MAY ISSUE A RESTRAINING ORDER, TEMPORARY OR
10 PERMANENT INJUNCTION, OR OTHER APPROPRIATE FORM OF RELIEF.

11 **§ 18-50. ARBITRATION OF DISPUTES.**

12 (A) *SUBMISSION TO ARBITRATION.*

13 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SUBTITLE, THE OFFICE MAY ENTER
14 INTO AN AGREEMENT WITH A PERSON TO SUBMIT A DISPUTE ARISING UNDER THIS SUBTITLE
15 TO ARBITRATION IN ACCORDANCE WITH THE MARYLAND UNIFORM ARBITRATION ACT.

16 (B) *ARBITRATION PROGRAMS.*

17 THE OFFICE MAY ADMINISTER A PROGRAM OF VOLUNTARY ARBITRATION OF CONSUMER
18 DISPUTES, INCLUDING:

19 (1) THE RECRUITMENT AND TRAINING OF VOLUNTEER ARBITRATORS; AND

20 (2) THE EDUCATION OF THE PUBLIC AND BUSINESS COMMUNITY AS TO THE BENEFITS
21 OF ARBITRATION.

22 (C) *CLERICAL SUPPORT.*

23 THE OFFICE SHALL PROVIDE OFFICE SPACE AND CLERICAL HELP FOR ARBITRATION
24 TRIBUNALS.

25 **§ 18-51. {RESERVED}**

26 **§ 18-52. RECOVERIES IN ACTION BY CITY.**

27 IN ANY ACTION BROUGHT BY THE OFFICE UNDER THIS SUBTITLE:

28 (1) THE OFFICE MAY SEEK APPROPRIATE RESTITUTION OR COMPENSATORY DAMAGES FOR
29 ANY CONSUMER WHO HAS BEEN HARMED BY A VIOLATION OF THIS SUBTITLE; AND

30 (2) THE OFFICE IS ENTITLED TO RECOVER FROM A VIOLATOR THE OFFICE'S COSTS FOR
31 INVESTIGATION AND HEARING.

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1 **§§ 18-53 TO 18-55. {RESERVED}**

2 ***PART VI. PENALTIES***

3 **§ 18-56. CIVIL PENALTY.**

4 IN AN ACTION BROUGHT BY THE OFFICE UNDER THIS SUBTITLE, THE COURT MAY IMPOSE A
5 CIVIL PENALTY OF UP TO \$1,000 FOR EACH VIOLATION OF THIS SUBTITLE.

6 **§ 18-57. CRIMINAL PENALTY.**

7 ANY PERSON WHO VIOLATES A PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR
8 AND, ON CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR IMPRISONMENT
9 FOR NOT MORE THAN 1 YEAR, OR BOTH FINE AND IMPRISONMENT, FOR EACH OFFENSE.

10 **Article 8. Ethics**

11 **§ 7-8. Persons required to file – Agency officials and staff.**

12 Except as provided in § 7-10 {"Person filing with State"} of this subtitle, the following
13 officials and employees must file the financial disclosure statements required by this subtitle:

14 (6A) *CONSUMER AFFAIRS, OFFICE OF.*

15 (I) ADMINISTRATOR.

16 (II) MEMBERS OF THE ADVISORY BOARD ON CONSUMER AFFAIRS.

17 (III) ALL NON-CLERICAL EMPLOYEES OF OFFICE.

18 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
19 are not law and may not be considered to have been enacted as a part of this or any prior
20 Ordinance.

21 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
22 after the date it is enacted.