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ANNUAL FREE CREDIT REPORT

House Bill 4190 (Substitute H-1*) First Analysis (4-13-99)

Sponsor: Rep. Nancy Cassis
Committee: Insurance and Financial Services

THE APPARENT PROBLEM:

Typically, when consumers seek credit, such as an auto loan, a home mortgage, or a credit card or other line of credit, the financial institutions or other businesses involved will obtain credit information from a credit reporting agency or from a local credit bureau. (Credit reports are used for other purposes as well; for example by employers in evaluating prospective employees, by landlords, and insurance companies.) A federal law, the Fair Credit Reporting Act, regulates these agencies and bureaus, which it calls consumer reporting agencies. Under the federal act, at the request of the consumer, an agency is required to "clearly and accurately" disclose to the consumer the information in the consumer's file, the sources of the information, the people who have obtained a report, any checks on which an adverse characterization is based, and a record of inquiries by people other than the consumer during the past year that identified the consumer in connection with a credit or insurance transaction.

This disclosure must be made free of charge in cases where the consumer has been denied credit or insurance or has been notified that his or her credit rating has been adversely affected. Also, one free disclosure per year is available to a person who is unemployed and looking for work, is a recipient of public welfare assistance, or has reason to believe the file contains inaccurate information due to fraud. However, if a consumer wants a copy of his or her report prior to seeking credit and does not fall into one of the special categories, he or she must pay a fee to the agency. (The law sets a cap of \$8 on the fee, to be adjusted annually for inflation.)

Credit reports sometimes contain mistaken (or, at least, disputable) information about bill-paying, lawsuits and court orders, divorces and separations, liens, and disputes with credit card companies or stores. A consumer is not likely to discover this until trying to obtain credit (or housing, insurance, or employment). Mistakes can lead to delays in

obtaining a loan or even refusals of credit. They also can lead, as revealed by testimony before the House Insurance and Financial Services Committee, to embarrassment, frustration, and damage to reputation. It makes sense for consumers to check their credit reports before they seek credit, in order to clear up any errors and misunderstandings and to avoid complications in the credit approval process. But if they do, they must pay a fee to get their own report from the local bureau or one of the three major bureaus that dominate the industry. (These are Trans Union, Equifax, and Experian.) Several states -- Georgia, Maryland, Massachusetts, and Vermont -- have enacted legislation that goes beyond the federal law to mandate one free credit report for a consumer each year at the consumer's request. Legislation has been introduced to require this in Michigan.

THE CONTENT OF THE BILL:

The bill would create a new act under which a consumer reporting agency would be required to disclose to a consumer all information in the consumer's file at the request of the consumer within 30 days and, if it was the consumer's first request or if the consumer had not made such a request in more than one year, without charge. The consumer would have to submit evidence verifying his or her identity. (Essentially, this provides a consumer one free credit report disclosure annually.)

A consumer reporting agency wilfully violating the provisions of the bill would be liable to a person injured by the violation for either 1) actual damages or \$1,000, whichever was greater, plus reasonable attorney fees; or 2) any remedy or penalty under the federal Fair Credit Reporting Act (Title VI of the Consumer Credit Protection Act) for a violation that substantially corresponds to a violation of the act. The bill would define a "consumer reporting agency" and "a consumer report" by referring to the definition of those terms in the federal act.

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The bill specifies that it does not require a consumer reporting agency to disclose to the consumer any information concerning credit scores or other risk scores or predictors relating to the consumer.

BACKGROUND INFORMATION:

The federal act, the Fair Credit Reporting Act, can be found on the web at <http://www.law.cornell.edu/topics/consumer-credit.html>.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no fiscal impact on the state, but could increase local court costs if consumers pursue legal action against violators. (HFA fiscal note dated 2-8-99)

ARGUMENTS:

For:

Mistakes by credit reporting agencies can result in embarrassment, frustration, and damage to reputation for a consumer, as well as the loss or delay of credit, such as a mortgage loan or auto loan. While consumers can get a free copy of their credit reports when they have been denied credit or suffered certain other "adverse actions" that reflect on their creditworthiness, people who want to be pro-active and check their reports before seeking credit must pay a fee to a credit bureau or similar agency. This does not seem fair. After all, this is information about the consumer that is distributed for profit to third parties. The consumer should be able to check this information for accuracy. It is not only in the consumer's interest that the information be correct, but is also in the interest of the credit reporting agency and the parties that rely on the information. It is not too much to ask that once each year, a person be able to get a copy of his or her credit report, check it for accuracy, and make corrections, without paying a fee to the organization that derives its revenue from selling this information. The state has a valid interest in protecting consumers against the circulation of bad information.

Against:

Consumer reporting agencies provide a vital service. The information that they collect, store, and transmit makes possible the enormous free flow of credit that greatly benefits the consuming public. It is not in their interest to provide inaccurate information. Consumers are already adequately protected by federal

law. Many credit reports are now made available free of charge, and credit bureaus take the time to go over them with consumers. The federal law provides for free reports where deserved: when people are denied credit or suffer other adverse actions that bear on their creditworthiness; and when people are in certain protected categories. Others who want their reports must only pay \$8. This is the limit imposed by federal law and does not reflect the cost of providing and explaining a report to the consumer. The fee was higher just a few years ago. Credit bureau representatives say that most of the reports requested are made available free of charge now. But they fear that, if this bill is passed and publicized, they will be swamped with requests for free credit reports. This will be time-consuming and labor intensive, and will inflict a great financial burden on them. The Ann Arbor Credit Bureau estimates that if 25 percent of the persons on whom they carry files request their reports, the cost to the bureau would be \$250,000. Remember, this bill will only affect credit bureau operations in Michigan. It will put Michigan agencies at a disadvantage, perhaps even putting them in jeopardy, and hurt the reputation of the state with credit-related businesses.

POSITIONS:

A representative of the Michigan State Chamber of Commerce testified in support of the bill. (3-10-99)

The Michigan Credit Union League supports the bill. (3-23-99)

The Small Business Association of Michigan supports the bill. (3-24-99)

The Michigan Financial Institutions Bureau has no position on the bill. (3-24-99)

Representatives of the Ann Arbor Credit Bureau, Saginaw Credit Bureau, and the Credit Bureau of Benton Harbor and St. Joseph have opposed the bill. (3-24-99, 3-10-99, and 3-23-99, respectively)

A representative of Trans Union testified in opposition to the bill. (3-10-99)

The Michigan Retailers Association is opposed to the bill. (3-23-99)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.