

Legislative Analysis



IDENTIFY THEFT AMENDMENTS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6457 as introduced
Sponsor: Rep. Rick Baxter

House Bill 6458 as introduced
Sponsor: Rep. David Farhat

House Bill 6459 as introduced
Sponsor: Rep. John Pastor
Committee: Banking and Financial Services

Complete to 9-18-06

A SUMMARY OF HOUSE BILLS 6457-6459 AS REPORTED FROM COMMITTEE ON 9-14-06

House Bill 6457 would create the Consumer Identity Protection Act, under which the Office of Financial and Insurance Services (OFIS) would be required to establish a state credit activity list and publish it quarterly for use by consumer reporting agencies. The list would consist of the names, addresses, and social security numbers of those consumers who register with OFIS to receive notifications of credit activity from consumer reporting agencies. The list would have to be established within 120 days after the bill's effective date.

Beginning 90 days after the list is established, a consumer reporting agency would have to notify a consumer on the then-current version of the list of any new activity involving that consumer in the preceding calendar quarter. The notice would have to be provided in writing within a reasonable amount of time after March 31, June 30, September 30, and December 31, as applicable. The notice would be provided electronically, if the consumer so requests. "New activity" refers to a transaction where credit is extended to a consumer or where a consumer is a borrower, debtor, mortgagor, or guarantor, or otherwise first becomes directly or indirectly responsible for any debt or other credit activity. (The term does not apply to transactions involving previously existing credit arrangements.)

The bill also would create a Credit Activity List Fund from which money could be appropriated to OFIS to cover the costs of administering the credit activity list. The Fund would receive fees charged by OFIS to consumer reporting agencies for access to the list and the annual fees charged to consumers for inclusion on the list. The annual fee for consumers could not exceed \$5.

A consumer reporting agency could not use credit activity list information for any other purpose, and OFIS could not sell or transfer credit activity list information for any purpose unrelated to the act.

House Bill 6458 would amend the Uniform Commercial Code (MCL 440.4403) to address bank stop-payment orders on checks when one or more blank checks are stolen from a

customer or when the bank customer is the victim of identity theft. If the customer provides the bank with a copy of the police report, the bank would have to do all of the following:

** Have the customer prepare, sign, and deliver to the bank an affidavit of fraud and forgery, in a form approved the State Police, or an affidavit of identity theft (as described in the Identity Theft Protection Act).

** Notify the merchant who presents an item that the bank dishonors or returns subject to a stop-payment order, that identity theft was the reason for the action and provide the merchant with the customer's signed affidavit; and provide the customer with the name of the person (the merchant) who presented the item for payment.

House Bill 6459 would amend the Identity Theft Protection Act (MCL 445.71) to prohibit a person, in the conduct of trade or commerce, from retaining all or any part of a consumer's credit card or account number for more than four years after a credit card purchase transaction was completed or for more than the retention period established in any agreement between the person and the credit card issuer, whichever is longer. Information could be retained for a longer period with the consumer's consent.

FISCAL IMPACT:

House Bill 6457 will increase State of Michigan revenue for use by the Office of Financial and Insurance Services (OFIS) to create and administer a credit activity list. The fees will consist of either a charge to consumers to be included on the credit activity list, not to exceed \$5 annually, or a fee charged to the credit reporting agencies, or both. The amount to be charged to credit reporting agencies is not specified. These revenues would be credited to a newly-created State restricted fund known as the Credit Activity List Fund. State expenditures will rise to create and administer this list, but the amount of such increase is not determinable at this time.

House Bills 6458 and 6459 have no fiscal impact on the State of Michigan or its local units of government

POSITIONS:

AARP Michigan supports the concept of the bills. (9-13-06)

Public Interest Research Group In Michigan (PIRGIM) indicated support for the bills and proposed strengthening amendments. (9-13-06)

Michigan Bankers Association indicated opposition to House Bill 6458. (9-13-06)

Legislative Analyst: E. Best
Fiscal Analyst: Richard Child

■ 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.