

HOUSE BILL No. 6459

September 12, 2006, Introduced by Rep. Pastor and referred to the Committee on Banking and Financial Services.

A bill to amend 2004 PA 452, entitled "Identity theft protection act," by amending section 11 (MCL 445.71).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) A person shall not do any of the following in the
2 conduct of trade or commerce:

3 (a) Deny credit or public utility service to or reduce the
4 credit limit of a consumer solely because the consumer was a victim
5 of identity theft, if the person had prior knowledge that the
6 consumer was a victim of identity theft. A consumer is presumed to
7 be a victim of identity theft for the purposes of this subdivision
8 if he or she provides both of the following to the person:

9 (i) A copy of a police report evidencing the claim of the

1 victim of identity theft.

2 (ii) Either a properly completed copy of a standardized
3 affidavit of identity theft developed and made available by the
4 federal trade commission pursuant to 15 USC 1681g or an affidavit
5 of fact that is acceptable to the person for that purpose.

6 (b) Solicit to extend credit to a consumer who does not have
7 an existing line of credit, or has not had or applied for a line of
8 credit within the preceding year, through the use of an unsolicited
9 check that includes personal identifying information other than the
10 recipient's name, address, and a partial, encoded, or truncated
11 personal identifying number. In addition to any other penalty or
12 remedy under this act or the Michigan consumer protection act, 1976
13 PA 331, MCL 445.901 to 445.922, a credit card issuer, financial
14 institution, or other lender that violates this subdivision, and
15 not the consumer, is liable for the amount of the instrument if the
16 instrument is used by an unauthorized user and for any fees
17 assessed to the consumer if the instrument is dishonored.

18 (c) Solicit to extend credit to a consumer who does not have a
19 current credit card, or has not had or applied for a credit card
20 within the preceding year, through the use of an unsolicited credit
21 card sent to the consumer. In addition to any other penalty or
22 remedy under this act or the Michigan consumer protection act, 1976
23 PA 331, MCL 445.901 to 445.922, a credit card issuer, financial
24 institution, or other lender that violates this subdivision, and
25 not the consumer, is liable for any charges if the credit card is
26 used by an unauthorized user and for any interest or finance
27 charges assessed to the consumer.

House Bill No. 6459 as amended September 19, 2006

1 (d) Extend credit to a consumer without exercising reasonable
2 procedures to verify the identity of that consumer. Compliance with
3 regulations issued for depository institutions, and to be issued
4 for other financial institutions, by the United States department
5 of treasury under section 326 of the USA patriot act of 2001, 31
6 USC 5318, is considered compliance with this subdivision. This
7 subdivision does not apply to a purchase of a credit obligation in
8 an acquisition, merger, purchase of assets, or assumption of
9 liabilities or any change to or review of an existing credit
10 account.

11 (E) IF A CONSUMER OBTAINS GOODS OR SERVICES FROM A PERSON IN A
12 TRANSACTION AND PAYS WITH A CREDIT CARD, RETAIN ALL OR ANY PART OF
13 THE CONSUMER'S CREDIT CARD OR ACCOUNT NUMBER AFTER THE TRANSACTION
14 IS COMPLETED FOR MORE THAN 4 YEARS, OR FOR MORE THAN THE PERIOD
15 ESTABLISHED FOR RETENTION OF THAT INFORMATION IN ANY AGREEMENT
16 BETWEEN THE PERSON AND THE CREDIT CARD ISSUER, WHICHEVER IS LONGER,
17 UNLESS THE PERSON REQUESTS AND OBTAINS THE CONSUMER'S CONSENT TO
18 RETENTION OF THAT INFORMATION FOR A LONGER PERIOD. [THIS SUBDIVISION
19 DOES NOT APPLY IF THE PERSON FROM WHICH THE CONSUMER OBTAINS THE GOODS
20 OR SERVICES IS A FINANCIAL INSTITUTION OR AN AFFILIATE OF A FINANCIAL
21 INSTITUTION AND THE CONSUMER IS AN ACCOUNT HOLDER OF THAT FINANCIAL
22 INSTITUTION.]

19 (2) A person who knowingly or intentionally violates
20 subsection (1) is guilty of a misdemeanor punishable by
21 imprisonment for not more than 30 days or a fine of not more than
22 \$1,000.00, or both. This subsection does not affect the
23 availability of any civil remedy for a violation of this act, the
24 Michigan consumer protection act, 1976 PA 331, MCL 445.901 to
25 445.922, or any other state or federal law.