

HOUSE BILL No. 4915

May 12, 2009, Introduced by Reps. Robert Jones, Constan, Warren, Scripps, Smith, Bauer, Bledsoe, Stanley, Switalski, Geiss, Young, Durhal, Bettie Scott, Miller, Melton, Gonzales, Barnett and Meadows and referred to the Committee on Judiciary.

A bill to amend 1976 PA 331, entitled "Michigan consumer protection act," by amending section 4 (MCL 445.904), as amended by 2003 PA 216.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) This act does not apply to either of the
2 following:

3 (a) A transaction or conduct specifically authorized under
4 laws administered by a regulatory board or officer acting under
5 statutory authority of this state or the United States. **HOWEVER,**
6 **THE EXISTENCE OF A RULE OR STATUTE OR THE GRANT OF A LICENSE THAT**
7 **REGULATES OR AUTHORIZES A GENERAL TRANSACTION OF A PERSON ENGAGED**
8 **IN TRADE OR COMMERCE IN THIS STATE DOES NOT EXEMPT THAT PERSON**
9 **UNDER THIS SUBDIVISION. THIS SUBDIVISION DOES NOT EXEMPT A PERSON**
10 **ENGAGED IN TRADE OR COMMERCE IN THIS STATE FROM THE REQUIREMENTS OF**

1 THIS ACT ON THE BASIS THAT THE GENERAL CONDUCT OF THE BUSINESS OF
2 THAT PERSON IS REGULATED BY LAW.

3 (b) An act done by ~~the~~**A** publisher, owner, agent, or employee
4 of a newspaper, periodical, directory, radio or television station,
5 or other communications medium in the publication or dissemination
6 of an advertisement unless the publisher, owner, agent, or employee
7 knows or, under the circumstances, reasonably should know of the
8 false, misleading, or deceptive character of the advertisement or
9 has a direct financial interest in the sale or distribution of the
10 advertised goods, property, or service.

11 (2) Except for the purposes of an action filed by a person
12 under section 11, this act does not apply to or create a cause of
13 action for an unfair, unconscionable, or deceptive method, act, or
14 practice that is made unlawful by any of the following:

15 (a) The banking code of 1999, 1999 PA 276, MCL 487.11101 to
16 487.15105.

17 (b) 1939 PA 3, MCL 460.1 to 460.10cc.

18 (c) The motor carrier act, 1933 PA 254, MCL 475.1 to 479.43.

19 (d) The savings bank act, 1996 PA 354, MCL 487.3101 to
20 487.3804.

21 (e) The credit union act, **2003 PA 215, MCL 490.101 TO 490.601.**

22 (3) This act does not apply to or create a cause of action for
23 an unfair, unconscionable, or deceptive method, act, or practice
24 that is made unlawful by chapter 20 of the insurance code of 1956,
25 1956 PA 218, MCL 500.2001 to 500.2093.

26 (4) The burden of proving an exemption from this act is upon
27 the person claiming the exemption.

1 Enacting section 1. It is the intent of the legislature to
2 restore the exemption established in section 4(1)(a) of the
3 Michigan consumer protection act, 1976 PA 331, MCL 445.904, to its
4 original construction in Attorney General v Diamond Mortgage Co.,
5 414 Mich 603, 617 (1982), that a license is not specific authority
6 for all the conduct and transactions of the licensee's business.