REPORTING ADVERSE INFORMATION ABOUT COSIGNER

Act 211 of 1989

AN ACT to require notice to cosigners; to impose duties on persons who report adverse information regarding an indebtedness; to provide remedies; and to impose penalties.

History: 1989, Act 211, Eff. Mar. 29, 1990

The People of the State of Michigan enact:

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445.271 Definitions.

Sec. 1.

As used in this act:

(a) "Adverse information" means information indicating that the cosigner has not complied with the contractual provisions of an obligation.

(b) "Collection action" means requesting a cosigner to pay all or part of the obligation.

(c) "Cosigner" means a natural person who renders himself or herself liable for the obligation of another person without compensation. The term includes a person whose signature is requested as a condition to granting credit to another person, or as a condition for forbearance on collection of another person's obligation that is in default. The term does not include a spouse whose signature is required on a credit obligation to perfect a security interest under state law, or a person who has executed a guarantee. A person who does not receive goods, services, or money in return for a credit obligation does not receive compensation within the meaning of this definition. A person is a cosigner within the meaning of this act whether or not he or she is designated as a cosigner on a credit obligation.

(d) "Obligation" means an indebtedness incurred by an individual for personal, family, or household purposes.

(e) "Person" means an individual, firm, partnership, association, or corporation.

(f) "Primary obligor" means a person, other than a cosigner, who signs an obligation as a debtor.

History: 1989, Act 211, Eff. Mar. 29, 1990

445.272 Reporting adverse information about cosigner; notice; response; prohibition.

Sec. 2.

(1) Before reporting adverse information about a cosigner to a consumer reporting agency as defined in the fair credit reporting act, 15 U.S.C. 1681-1681t, concerning the obligation that was cosigned or providing any information regarding the cosigner's obligation to a collection agency as defined in section 901 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.901 of the Michigan Compiled Laws, concerning the obligation that was cosigned or taking any collection action on the obligation against the cosigner that was cosigned, other than orally communicating the information permitted in subdivision (a), a person shall do both of the following:

(a) Send to the cosigner, by first class mail, a notice indicating that the primary obligor has become delinquent or defaulted on the obligation and that the cosigner is responsible for payment of the obligation.

(b) Allow the cosigner not less than 30 days from the date that the notice was sent to respond to the notice by doing either of the following:

(i) Paying the amount then due and owing under the obligation.

(ii) Making other arrangements satisfactory to the person to whom the obligation is owed.

(2) A person shall not report adverse information regarding a cosigner if the cosigner has responded to a notice in the manner described in subsection (1)(b).

History: 1989, Act 211, Eff. Mar. 29, 1990

445.273 Action by cosigner; notice; statement; resolution.

Sec. 3.

(1) A cosigner who suffers loss as a result of a violation of this act may bring an action to recover actual damages or $250.00, whichever is greater, together with reasonable attorney's fees.

(2) Not less than 30 days prior to bringing an action as provided in subsection (1), the cosigner shall notify the person alleged to have violated this act of his or her intention to bring an action. The notice shall include a statement of the specific evidence which proves the loss suffered by the cosigner. If within 25 days after the date of receiving the notice, the person alleged to have violated this act tenders to the cosigner an amount equal to the loss, or otherwise resolves the matter to the cosigner's satisfaction, the cosigner shall be barred from further recovery for that loss, including reasonable attorney's fees.

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