



SENATE BILL No. 434

March 28, 1995, Introduced by Senators BERRYMAN and SHUGARS
and referred to the Committee on Financial Services.

A bill to amend sections 1, 10, and 12 of Act No. 379 of the
Public Acts of 1984, entitled

"An act to define and regulate certain credit card transactions,
agreements, charges, and disclosures; to prescribe the powers and
duties of the financial institutions bureau and certain state
agencies; to provide for the promulgation of rules; and to pro-
vide for fines and penalties,"

section 10 as amended by Act No. 171 of the Public Acts of 1987,
being sections 493.101, 493.110, and 493.112 of the Michigan
Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 10, and 12 of Act No. 379 of the
2 Public Acts of 1984, section 10 as amended by Act No. 171 of the
3 Public Acts of 1987, being sections 493.101, 493.110, and 493.112
4 of the Michigan Compiled Laws, are amended to read as follows:

5 Sec. 1. As used in this act:

1 (a) "Commissioner" means the commissioner of the financial
2 institutions bureau of the department of commerce and authorized
3 representatives of the commissioner.

4 (b) "Licensee" means a person licensed under this act.

5 (c) "Person" means an individual, corporation, partnership,
6 association, GOVERNMENTAL ENTITY, or other legal entity.

7 (d) "Credit card arrangement" means ~~an unsecured~~ A loan or
8 ~~unsecured~~ extension of credit THAT IS NOT SECURED BY REAL
9 PROPERTY made to the holder of a credit card or charge card
10 ~~which loan or extension of credit~~ AND THAT is accessed in con-
11 nection with a credit card or charge card authorized by this
12 act.

13 (e) "Credit card" or "charge card" means ~~any~~ A card or
14 device issued by a licensee under a credit card arrangement
15 ~~which arrangement~~ THAT gives to a cardholder the privilege of
16 obtaining credit from the card issuer or any other person in pur-
17 chasing or leasing property or services, obtaining credit or
18 loans, or otherwise.

19 (f) "Truth in lending act" means title I of the consumer
20 credit protection act, Public Law 90-321, 15 U.S.C. 1601 to
21 1667e.

22 Sec. 10. (1) On ~~any~~ A loan made or credit extended pursu-
23 ant to a credit card arrangement, a licensee may collect interest
24 not to exceed ~~+1.5% of the unpaid balance per month~~ THE INTEREST
25 RATE PERMITTED BY THE CREDIT REFORM ACT. ~~Such~~ THE interest
26 shall not be precomputed but ~~shall be~~ computed from time to
27 time on the basis of the unpaid balances. In addition to

1 collecting the interest permitted in this subsection, a licensee
2 may ~~assess~~ DO BOTH OF THE FOLLOWING:

3 (A) ASSESS a fee for the privilege of having a credit card
4 or charge card if the fee is not computed as a percentage of the
5 unpaid balance.

6 (B) REQUIRE THE BORROWER TO PAY THE FEES PERMITTED BY THE
7 CREDIT REFORM ACT.

8 (2) A loan made or credit extended pursuant to a credit card
9 arrangement authorized by this act may be offered in connection
10 with other accounts, services, or other similar agreements not
11 regulated by this act or any other applicable statute. ~~However,~~
12 ~~the~~ THE making of a loan or extension of credit pursuant to a
13 credit card arrangement shall not be conditioned on the require-
14 ment that insurance be obtained on the life of the holder of the
15 credit card or charge card or that any other goods or services be
16 purchased as a condition of the privilege of obtaining a credit
17 card or charge card. If the licensee is the beneficiary of a
18 credit life insurance or credit accident and health insurance
19 policy, as defined in the credit insurance act, Act No. 173 of
20 the Public Acts of 1958, being sections 550.601 to 550.624 of the
21 Michigan Compiled Laws, the licensee shall not use the same
22 application form ~~which~~ THAT is used to elicit applications for
23 an extension of credit or an increase in predetermined credit
24 limits for the purpose of eliciting offers to purchase the credit
25 life or credit accident and health insurance, nor shall the
26 licensee solicit offers to purchase the credit life or credit
27 accident and health insurance as part of the same transaction in

1 which a person applies for credit or an increase in predetermined
2 credit limits.

3 Sec. 12. (1) ~~Any~~ A licensee who ~~wilfully~~ WILLFULLY and
4 intentionally violates this act shall be guilty of a
5 misdemeanor.

6 (2) ~~Any~~ A licensee who enters into a credit card arrange-
7 ment ~~which~~ THAT does not comply with THIS ACT OR WHO OTHERWISE
8 VIOLATES THIS ACT IS SUBJECT TO THE PENALTY AND REMEDY PROVISIONS
9 OF THE CREDIT REFORM ACT. ~~sections 10 and 11 or who violates~~
10 ~~section 10 or 11, except as a result of accidental or bona fide~~
11 ~~error, is barred from the recovery of any interest or other~~
12 ~~charges, attorney fees, or court costs and the consumer shall be~~
13 ~~entitled to recover reasonable attorney fees and court costs from~~
14 ~~the licensee.~~

15 (3) Whether or not he or she seeks damages or has an ade-
16 quate remedy at law, a person, a county prosecutor, or the attor-
17 ney general may bring an action to:

18 (a) Obtain a declaratory judgment that a method, act, or
19 practice is a violation of this act.

20 (b) Enjoin in accordance with the principal of equity a
21 person who is engaging or is about to engage in a method, act, or
22 practice which violates this act.

23 (c) Except as limited by subdivision (d), recover actual
24 damages resulting from a violation of this act, or \$250.00,
25 whichever is greater, together with reasonable attorneys' fees
26 and the costs of bringing the action. Recovery in class actions

1 shall be limited to actual damages without attorneys' fees and
2 the cost of bringing the action.

3 (d) If the licensee establishes by a preponderance of the
4 evidence that the failure to comply with sections 10 and 11 or
5 the violation of section 10 or 11 was not wilful and intentional,
6 the amount recovered pursuant to subdivision (c) shall not exceed
7 actual damages.

8 Section 2. This amendatory act shall not take effect unless
9 Senate Bill No. 438
10 of the 88th Legislature is enacted into law.