

PENALTIES FOR FRAUDULENT CREDIT APPLICATION

House Bill 5256 as passed by the House Second Analysis (10-14-98)

**Sponsor: Rep. Bob Brown
Committee: Judiciary**

THE APPARENT PROBLEM:

The means for consumers to purchase products has broadened greatly over the past few years and face-to-face transactions are making up an increasingly smaller portion of purchases. As a result, credit cards are becoming an ever more popular means of paying for items, and almost everyone seems to be offering credit cards to consumers -- not merely banks, and other lenders, but stores as well. With the increase in the use of credit and the availability of credit, the crime of fraudulently applying for credit (also commonly called identity theft) is also increasing. What generally happens is a thief manages to get access to a person's credit card numbers, driver's license number, Social Security number, ATM card, or other key information. The thief then can pretend to be that individual and apply for and receive credit from whatever sources he or she can fool. The thief then runs up as much debt as possible before the victim gets sent to collection. Often the first that the victim knows of the line of credit in his or her name is when the collections agency calls.

Even though the victim usually is not required to pay their imposter's bills, they are still often left with a bad credit report which could take months or even years to repair. Thus, when someone assumes another's identity for applying for a loan or other credit, the potential for harm goes beyond merely leaving the victim with an unexpected debt. Victims, until they are able to clear their credit histories, often find it difficult, if not impossible, to obtain loans, rent apartments, have their checks accepted, or even get jobs.

THE CONTENT OF THE BILL:

House Bill 5256 would amend the Michigan Penal Code (MCL 750.219 et al.) to increase the penalties for fraudulent credit application. The bill would eliminate the current misdemeanor crime, punishable

by jail for up to one year or a fine of up to \$500, for making written false statements about financial conditions in order to get a loan or other financial credit. In addition, the bill would add two new fraudulent credit application felonies to the penal code. First, preparing or submitting an application for a loan or other financial credit in another person's name without that person's authorization would be punishable by imprisonment for up to four years, a fine of up to \$2,500, or both; and, second, forwarding an application for a loan or other financial credit on behalf of someone knowing (or having reason to know) that the application had been prepared or was submitted in violation of the penal code would be punishable by imprisonment for up to four years, a fine of up to \$100,000, or both.

The bill's provisions would take effect on October 1, 1998.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

The bill is needed to help to deter the crime of identity theft. The crime is not merely an annoyance but by wrecking a person's credit rating it can seriously harm a person's ability to function in this day and age. It is simply inconvenient to attempt to conduct one's life on a cash only basis. Further, without credit, a person is most likely entirely barred from making a number of purchases; for example, a home or an automobile. Not only does this crime harm the individual who has been impersonated, it harms the lenders as well, who often have no realistic way of collecting on the debt. Given the harm that this can cause to its victims, there is no good reason that it should not be treated more

seriously. Increasing the penalties and eliminating the more archaic language of the current law is one of the best ways to make certain the crime is treated more seriously.

POSITIONS:

The Michigan Bankers Association does not oppose the bill. (10-14-98)

Analyst: W. Flory

■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.