



Romney Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

DISCLOSURE OF CREDIT REPORTS TO CONSUMERS

House Bill 5726 (Substitute H-2)
Sponsor: Rep. Nancy Cassis

House Bill 5885 (Substitute H-2)
Sponsor: Rep. Liz Brater

Committee: Consumer Protection
First Analysis (9-24-98)

THE APPARENT PROBLEM:

Increases in technology and availability of personal information have helped to change the credit reporting industry from an industry consisting primarily of local companies to a nationwide industry where (although many smaller local companies still exist and do business) several large companies collect, retain, analyze, and provide reports regarding the credit history of huge numbers of individuals. These companies offer the credit histories for sale to banks, credit card companies, and other lenders of money. Those companies that purchase credit histories rely heavily on the reports and the lending decisions that those companies make are influenced by the information provided in these reports. The reports are presumed to be dependable and the subject of the report is rarely given an opportunity to discuss with the lender any inaccuracies the report might contain. However, mistakes do occur and consumers who have not reviewed the information contained in their own report may find too late that an inaccuracy contained in the report has caused their credit application to be rejected. It is argued that because consumers are only allowed free access to their own credit information under limited circumstances, many people remain unaware of the contents of their own credit history rather than pay a fee to review that information. In light of the degree to which this information is relied upon by lenders, from banks to mortgage holders to department stores, it has been suggested that consumers should be afforded the free access to review the information contained in their credit history at least once per year.

THE CONTENT OF THE BILLS:

House Bill 5885 would create the Consumer Reporting Agency Disclosure Act to require consumer reporting agencies, sometimes known as credit reporting agencies, to provide an individual with the information contained in his or her file upon request. The bill would apply to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a). After receiving a request from an individual along with information verifying his or her identity, a credit reporting agency would have to provide the individual with all of the information in the file pertaining to him or her. However, the agency would not be required to disclose any information concerning credit scores or other risk scores or predictors relating to the individual. The reporting agency would not be allowed to charge the consumer for the information, unless the consumer had made a prior request for the information less than one year prior to the current request.

House Bill 5726 would create a new act to provide remedies and penalties for violation of the Consumer Reporting Agency Disclosure Act that would be created by House Bill 5885. If a consumer reporting agency violated acts' provisions, a civil action could be brought against the agency. The injured person could recover the greater of his or her actual damages or \$1,000, and reasonable attorney fees; or any remedy or penalty authorized under the Fair Credit Reporting Act for a violation of that act that was substantially similar to the provisions of the Consumer Reporting Agency Disclosure Act. [Note: The bill

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references section 2 of the Consumer Reporting Agency Disclosure Act. However, in the current version of House Bill 5885, section 2 contains definitions of terms used in the act. An amendment is pending to correct the error.]

Neither bill would take effect unless both were enacted.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

Given the volume of information currently available to and used by credit reporting agencies, inaccuracies can, and do, occur; unfortunately, since most people have little or no knowledge of the contents of their credit history, these errors can harm a consumer's credit rating before they are discovered. As a result of this risk of error, the credit reporting agencies suggest that a consumer should make a habit of routinely reviewing his or her credit information. Generally, however, unless he or she has had a credit application rejected, a consumer must pay a fee for a copy of the information. By allowing a person to request and receive one free copy of his or her history a year, the bill would help consumers to verify the accuracy of the information and also improve the dependability of the information maintained by the credit reporting agencies and provided to their customers.

Against:

The business of credit reporting is already the subject of extensive federal regulation that provides adequate protection of consumers rights. The addition of the suggested legislation will likely increase the complexity of what is already a confusing area of law. The existing federal law already allows consumers to request their credit information from credit reporting agencies. Although generally this costs \$8 per request, there are several situations where the agencies are required to provide the report without cost to the consumer. For example, if a consumer has recently been denied credit due to information contained in the report, is unemployed and intending to seek employment, is on public assistance, or has reason to

believe that the report contains inaccurate information as a result of fraud the consumer may receive a copy of his or her report without charge. The \$8 fee is hardly excessive and is needed to help companies to

defray the costs of providing the requested information. If everyone is entitled to a free copy of their report the costs of compliance would likely be overly burdensome, especially for the locally owned small businesses involved in providing credit information.

Furthermore, the bill's penalty provisions are unfair. A reporting agency would be subject to the same penalty for a violation whether the violation was intentional or negligent. It would be better to have the bills mirror the federal law by providing differing penalties depending upon the negligent or intentional nature of the business' actions.

POSITIONS:

The Associated Credit Bureaus of Michigan oppose the bills. (9-23-98)

The Michigan Financial Services Association opposes the bills (9-23-98)

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.