HOUSE BILL No. 4965

October 7, 1999, Introduced by Reps. Gieleghem, Switalski, Callahan, Woodward, Dennis, O'Neill, Jacobs, Lockwood, Rivet, Pestka, Frank, Neumann, Baird, Brater, Schermesser, Daniels, Rocca, Ruth Johnson, Thomas, Minore, Jamnick, Schauer, Bogardus, Wojno, Scranton, Faunce and LaForge and referred to the Committee on Family and Civil Law.

A bill to protect against foreclosure proceedings, defaults, enforcement actions, and late payment charges caused by computer date failures; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the

2 "year 2000 citizens' protection act".

3 Sec. 2. As used in this act:

4 (a) "Computer" means a high-speed data processing device

5 that performs logical, arithmetic, or memory functions by the

6 manipulations of electronic or magnetic impulses and includes all

7 input, output, processing, storage, or communication facilities

8 that are connected or related to the device.

9 (b) "Computer date failure" means a malfunction, including,

10 but not limited to, the malfunction of an electronic or

11 mechanical device or the inability of a computer, a computer

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1 network, a computer program, computer software, an embedded chip,

2 or a computer system to accurately store, process, receive, or

3 transmit data, that is caused directly or indirectly by the fail-

4 ure of a computer, a computer network, a computer program, com-

5 puter software, an embedded chip, or a computer system to accu-

6 rately or properly recognize, calculate, display, sort, or other-

7 wise process dates or times in the years 1999 and 2000 and

8 beyond.

9 (c) "Computer network" means an interconnection of 2 or more

10 computers or computer systems by satellite, microwave, line,

11 cable, wiring, or other communication medium with the capability

12 to transmit information among the computers or computer systems.

13 (d) "Computer program" means an ordered set of data-coded

14 instructions or statements that when executed by a computer cause

15 the computer system to process data or perform specific

16 functions.

17 (e) "Computer software" means a set of computer programs,

18 procedures, and associated documentation related to the operation

19 of a computer, computer system, or computer network.

20 (f) "Computer system" means a combination of a computer or a

21 computer network with the documentation, computer software, or

22 physical facilities supporting the computer or computer network.

23 (g) "Consumer reporting agency" means that term as defined

24 in section 603 of the fair credit reporting act, title VI of the

25 consumer credit protection act, Public Law 90-321, 15

26 U.S.C. 1681a.

1   (h) "Embedded chip" means a single or multiple

2 microprocessor chip that operates in conjunction with software,

3 including software on the chip itself, and that in some way con-

4 trols a device or equipment, including, but not limited to, a

5 computer or other electronic or mechanical device.

6   (i) "Individual" means a natural person.

7   (j) "Person" means an individual, corporation, partnership,

8 association, limited liability company, trust, governmental

9 entity, or other legal entity.

10   Sec. 3. Subject to section 5, a person, including a person

11 who transacts business in this state on matters directly or indi-

12 rectly affecting tangible or intangible real or personal proper-

13 ty, mortgages, credit accounts, banking and financial transac-

14 tions, or property interests in this state, shall not initiate or

15 cause to be initiated any foreclosure proceeding, remedy of

16 default, or other action, or impose any late payment charge or

17 similar penalty, against an individual who is in default or

18 breach of an agreement or obligation as the result of either of

19 the following:

20   (a) An improper or incorrect transmission of data or other

21 information, caused in whole or in part by a computer date

22 failure.

23   (b) Failure of a financial transaction to occur in a timely

24 manner, caused in whole or in part by a computer date failure.

25   Sec. 4. This act applies to a foreclosure proceeding,

26 remedy of default, other action, or late charge or similar

27 penalty related to a mortgage, contract, lease, consumer credit

1 obligation, utility bill, banking transaction, or any other type

2 of agreement or obligation.

3 Sec. 5. After an individual in default or breach of the

4 agreement or obligation has had a reasonable period of time after

5 the full restoration of his or her ability to regularly transact

6 business relative to his or her obligations, a person may initi-

7 ate or cause to be initiated an action against the individual

8 otherwise prohibited by section 3.

9 Sec. 6. This act does not apply to an agreement or obliga-

10 tion if the breach or default that forms the basis for the fore-

11 closure proceeding, remedy of default, or other enforcement

12 action, or the imposition of the late payment charge or similar

13 penalty, occurred before any disruption of financial or data

14 transfer operations attributable to the computer date failure.

15 Sec. 7. A consumer reporting agency operating in this state

16 shall not report negative credit information about an individual

17 if all or part of the information resulted from a computer date

18 failure or from the individual's failure or inability to transact

19 financial business or to make a payment due to a computer date

20 failure.

21 Sec. 8. If there is a conflict between this act and any

22 other law of this state, this act controls.

23 Sec. 9. This act is repealed January 1, 2007.