

Legislative Analysis



AMEND CONSUMER PROTECTION ACT AND APPLY TO INSURANCE COMPANIES

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House Bill 5421

Sponsor: Rep. Bettie Cook Scott

Committee: Insurance

Complete to 4-23-08

A SUMMARY OF HOUSE BILL 5421 AS INTRODUCED 11-7-07

The Consumer Protection Act prohibits certain business practices that deceive or mislead consumers. The act is enforced by the attorney general and local prosecutors. Also, individuals, firms, and other entities can bring private actions to enforce the law in some circumstances.

Currently, the act does not apply to "a transaction or conduct specifically authorized under laws administered by a regulatory board or officer acting under statutory authority of this state or the United States." House Bill 5421 would remove this language and would specify that the act applies to any unfair, unconscionable, or deceptive method, act, or practice and creates a cause of action against a company that engages in that method, act or practice, except for a method, act, or practice that is expressly permitted by a statute, rule, or regulation.

The bill also provides a definition of "company." That term would refer to a person engaged in trade or commerce, including but not limited to a person whose profession, occupation, conduct, or transactions are regulated by a federal or state statute, rule, or regulation.

Currently, the act does not apply to or create a cause of action for an unfair, unconscionable, or deceptive method, act, or practice made unlawful by Chapter 20 of the Insurance Code, which deals with unfair and prohibited trade practices and frauds in insurance. House Bill 5421 would eliminate this provision, apparently bringing these methods, acts, or practices under the jurisdiction of the Consumer Protection Act.

Under the bill, a person who claims that the act does not apply to a method, act, or practice because of an exception or exemption described in the act bears the burden of proving that exception or exemption. (Currently, the act says, *The burden of proving an exemption from this act is upon the person claiming the exemption.*)

[The bill would retain exemptions in the act for conduct made unlawful by various acts that regulate financial institutions, by the Public Service Commission law, and by the Motor Carrier Act.]

MCL 445.904

FISCAL IMPACT:

The bill would have an indeterminate impact on the Department of Attorney General, the courts, and local prosecutors depending on extent to which it results in litigation concerning enforcement of the Consumer Protection Act. Any fiscal impact to the attorney general would be related to increased caseload and would depend on the number and complexity of legal actions that the attorney general might bring under the new provisions of the bill.

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