CREDIT SERVICES PROTECTION ACT
Act 160 of 1994

AN ACT to prohibit certain methods, acts, and practices of credit services organizations; to prescribe remedies and penalties; and to repeal certain acts and parts of acts.

History: 1994, Act 160, Imd. Eff. June 13, 1994.

The People of the State of Michigan enact:

445.1821 Short title.

Sec. 1. This act shall be known and may be cited as the “credit services protection act”.

History: 1994, Act 160, Imd. Eff. June 13, 1994.

445.1822 Definitions.

Sec. 2. As used in this act:

(a) "Buyer" means a person who is solicited to purchase or who purchases the services of a credit services organization.

(b) "Credit services organization" means, except as otherwise provided in subdivision (c), a person who, in return for consideration, attempts to sell, provide, or perform 1 or more of the following:

(*i*) The improvement of a person's credit record, history, or rating.

(*ii*) The obtainment of an extension of credit.

(*iii*) Advice or assistance regarding the improvement or repair of a person's credit record, history, or rating.

(*iv*) Advice or assistance regarding the obtainment of an extension of credit.

(*v*) Advice or assistance regarding foreclosure of a real estate mortgage.

(*vi*) Serve as an intermediate between a debtor and a creditor on behalf of the debtor regarding credit that was extended prior to any agreement to have the credit services organization serve as an intermediate.

(c) Credit services organization does not include any of the following:

(*i*) A person who is licensed in this state or otherwise authorized to make loans or extend credit under any state statute while engaged in the regular course of business under that state statute, other than 1966 PA 326, MCL 438.31 to 438.33.

(*ii*) A federal or state chartered bank, credit union, savings bank, or savings and loan institution, an entity of the federally chartered farm credit system, or any solely owned subsidiary thereof.

(*iii*) A person licensed under the occupational code, 1980 PA 299, MCL 339.101 to 339.2919, when engaged in the regular course of business.

(*iv*) A person licensed to practice law in this state if the person renders services within the course of that person's practice as an attorney and does not engage in the business of a credit services organization on a regular and continuing basis.

(*v*) A judicial officer or other person acting under court order.

(*vi*) A consumer reporting agency, as defined in section 603 of the fair credit reporting act, 15 USC 1681a, while engaged in the regular course of the credit reporting business.

(*vii*) A debt management business licensed under the debt management act, 1975 PA 148, MCL 451.411 to 451.437, while engaged in the regular course of business under that act.

(*viii*) An investment adviser or broker-dealer registered under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, or the uniform securities act (2002), 2008 PA 551, MCL 451.2101 to 451.2703.

(*ix*) A nonprofit corporation that is exempt from taxation under section 501c(3) of the internal revenue code, 26 USC 501c(3).

(*x*) A finance subsidiary of a manufacturing corporation.

(d) "Extension of credit" means the right to defer payment of debt or to incur debt.

(e) "Person" means an individual, partnership, corporation, limited liability company, association, or other legal entity.

History: 1994, Act 160, Imd. Eff. June 13, 1994;—Am. 2009, Act 97, Imd. Eff. Sept. 24, 2009.

445.1823 Prohibited conduct.

Sec. 3. A credit services organization, a salesperson, agent, or representative of a credit services organization, or an independent contractor who sells or attempts to sell the services of a credit services organization shall not do any of the following:

(a) Charge or receive from a buyer who is seeking a loan or extension of credit any money or other valuable consideration before the closing of the loan or extension of credit.

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(b) Charge a buyer or receive from a buyer of services money or other valuable consideration before completing performance of all services the credit services organization has agreed to perform for the buyer.

(c) Charge a buyer or receive from a buyer money or other valuable consideration solely for referral to a retail seller who will or may extend credit to the buyer if the credit that is or may be extended to the buyer is substantially the same as that available to the general public.

(d) Make or use a false or misleading representation in the offer or sale of the services of a credit services organization.

(e) Engage, directly or indirectly, in a fraudulent or deceptive act, practice, or course of business in connection with the offer or sale of the services of a credit services organization including, but not limited to, both of the following:

(*i*) Guaranteeing or otherwise stating that the organization is able to delete an adverse credit history unless the representation clearly discloses, in a manner equally as conspicuous as the guarantee, that this can be done only if the credit history is inaccurate or obsolete and is not claimed to be accurate by the creditor who submitted the information.

(*ii*) Guaranteeing or otherwise stating that the organization is able to obtain an extension of credit regardless of the buyer's previous credit problems or credit history unless the representation clearly discloses, in a manner equally as conspicuous as the guarantee, the eligibility requirements for obtaining an extension of credit.

(f) Fail to perform the agreed services within 90 days following the date the buyer signs the contract for services.

(g) Counsel or advise a buyer to make a statement that is known, or should be known, to be untrue or misleading to a consumer credit reporting agency, a person who has extended credit to a buyer, or to a person to whom the buyer is applying for an extension of credit.

(h) Remove, assist, or advise the buyer to remove adverse information from the buyer's credit record which is accurate and not obsolete.

(i) Create, assist, or advise the buyer to create a new credit record by using a different name, address, social security number, or employer identification number.

(j) Submit a buyer's dispute to a consumer credit reporting agency without the buyer's knowledge.

(k) Provide a service to a buyer that is not pursuant to a written contract that complies with this section.

History: 1994, Act 160, Imd. Eff. June 13, 1994.

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445.1824 Actions by attorney general, county prosecutor, or buyer; limitation; other legal remedies not limited or prohibited.

Sec. 4. (1) Except as provided in subsection (2), the attorney general, a county prosecutor, or a buyer may bring an action to do 1 or more of the following:

(a) Enjoin a person who is engaged or is about to engage in a method, act, or practice that violates this act.

(b) Obtain a declaratory judgment that a method, act, or practice violates this act.

(c) Recover actual damages consisting of an amount not less than the amount paid by the buyer to the credit services organization, plus reasonable attorney fees and court costs. The court may also award the buyer any punitive damages that it considers proper.

(2) A person shall not bring an action under this act more than 4 years after the date of execution of the contract for services to which the action relates.

(3) In an action under this act, the burden of proving an exemption under section 2(c) is on the person claiming the exemption.

(4) This act does not limit or prohibit any other legal remedy available to the attorney general, a county prosecutor, or a buyer.

History: 1994, Act 160, Imd. Eff. June 13, 1994.

445.1825 Violation as misdemeanor; penalty; separate offense; recovery of fees or other charges.

Sec. 5. (1) A person who violates this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than $1,000.00, or both. Each transaction in violation of this act constitutes a separate offense.

(2) A credit services organization that violates this act is barred from recovering any fees or other charges from a buyer.

History: 1994, Act 160, Imd. Eff. June 13, 1994.

445.1826 Repeal of MCL 445.1701 to 445.1708.

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Sec. 6. Act No. 361 of the Public Acts of 1988, being sections 445.1701 to 445.1708 of the Michigan Compiled Laws, is repealed.

History: 1994, Act 160, Imd. Eff. June 13, 1994.

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