

HOUSE BILL No. 4354

March 7, 1989, Introduced by Reps. Stallworth, DeMars, Harrison, Watkins, Wallace, Webb, Weeks, Saunders, Bennane, Berman, Hart, Bartnik, Clack, Ciaramitaro, Stopczynski, Willis Bullard, Dunaskiss, Hoffman and Stupak and referred to the Committee on Consumers.

A bill to require notice to cosigners; to impose duties on persons who report adverse information regarding an indebtedness; to provide remedies; and to impose penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Adverse information" means information indicating that
3 the cosigner has not complied with the contractual provisions of
4 an obligation.

5 (b) "Collection action" means requesting a cosigner to pay
6 all or part of the obligation.

7 (c) "Cosigner" means a person who renders himself or herself
8 liable for the obligation of another person without
9 compensation. The term includes a person whose signature is
10 requested as a condition to granting credit to another person, or
11 as a condition for forbearance on collection of another person's

1 obligation that is in default. The term does not include a
2 spouse whose signature is required on a credit obligation to per-
3 form a security interest under state law, or a person who has
4 executed a guarantee. A person who does not receive goods, serv-
5 ices, or money in return for a credit obligation does not receive
6 compensation within the meaning of this definition. A person is
7 a cosigner within the meaning of this act whether or not he or
8 she is designated as a cosigner on a credit obligation.

9 (d) "Obligation" means an indebtedness incurred by an indi-
10 vidual for personal, family, or household purposes.

11 (e) "Person" means an individual, firm, partnership, associ-
12 ation, or corporation.

13 (f) "Primary obligor" means a person, other than a cosigner,
14 who signs an obligation as a debtor.

15 Sec. 2. (1) Before reporting adverse information about a
16 cosigner to a consumer reporting agency as defined in the fair
17 credit reporting act, 15 U.S.C. 1681-1681t, concerning an obliga-
18 tion that was cosigned or providing any information regarding a
19 cosigner's obligation to a collection agency as defined in sec-
20 tion 901 of the occupational code, Act No. 299 of the Public Acts
21 of 1980, being section 339.901 of the Michigan Compiled Laws,
22 concerning the obligation that was cosigned or taking any collec-
23 tion action on the obligation that was cosigned, other than
24 orally communicating the information permitted in subdivision
25 (a), a person shall do both of the following:

26 (a) Send to the cosigner, by first class mail, a notice
27 indicating that the primary obligor has become delinquent or

1 defaulted on the obligation and that the cosigner is responsible
2 for payment of the obligation.

3 (b) Allow the cosigner not less than 15 days from the date
4 that the notice was sent to respond to the notice by doing either
5 of the following:

6 (i) Paying the amount then due and owing under the
7 obligation.

8 (ii) Making other arrangements satisfactory to the person to
9 whom the obligation is owed.

10 (2) A person shall not report adverse information regarding
11 a cosigner if the cosigner has responded to a notice in the
12 manner described in subsection (1)(b).

13 Sec. 3. A cosigner who suffers loss as a result of a viola-
14 tion of this act may bring an action to recover actual damages or
15 \$250.00, whichever is greater, together with reasonable
16 attorney's fees.