

SENATE BILL No. 477

September 11, 1991, Introduced by Senator ARTHURHULTZ
and referred to the Committee on Appropriations.

A bill to amend sections 2, 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h,
and 7 of Act No. 361 of the Public Acts of 1988, entitled as
amended

"Credit services act,"

section 2 as amended and sections 3a, 3b, 3c, 3d, 3e, 3f, 3g, and
3h as added by Act No. 82 of the Public Acts of 1990, being sec-
tions 445.1702, 445.1703a, 445.1703b, 445.1703c, 445.1703d,
445.1703e, 445.1703f, 445.1703g, 445.1703h, and 445.1707 of the
Michigan Compiled Laws; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, and
2 7 of Act No. 361 of the Public Acts of 1988, section 2 as amended
3 and sections 3a, 3b, 3c, 3d, 3e, 3f, 3g, and 3h as added by Act
4 No. 82 of the Public Acts of 1990, being sections 445.1702,
5 445.1703a, 445.1703b, 445.1703c, 445.1703d, 445.1703e, 445.1703f,

1 445.1703g, 445.1703h, and 445.1707 of the Michigan Compiled Laws,
2 are amended to read as follows:

3 Sec. 2. As used in this act:

4 (a) "Commissioner" means the commissioner of the financial
5 institutions bureau.

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

10 (i) Improve a person's credit record, history, or rating.

11 (ii) Obtain an extension of credit.

12 (iii) Provide advice or assistance regarding either subpara-
13 graph (i) or (ii).

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

16 (i) A person who is licensed in this state or otherwise
17 authorized to make loans or extend credit under any state statute
18 WHILE ENGAGED IN THE REGULAR COURSE OF BUSINESS UNDER THAT STATE
19 STATUTE, other than Act No. 326 of the Public Acts of 1966, being
20 sections 438.31 to 438.33 of the Michigan Compiled Laws.

21 (ii) A federal or state chartered bank, credit union,
22 SAVINGS BANK, or savings and loan institution or any solely owned
23 subsidiary thereof.

24 (iii) A person licensed under the occupational code, Act
25 No. 299 of the Public Acts of 1980, being sections 339.101 to
26 339.2721 of the Michigan Compiled Laws, when engaged in the
27 regular course of business.

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

5 (v) Judicial officers or others acting under court order.

6 (vi) A consumer reporting agency as defined in section 603
7 of the fair credit reporting act, Public Law 91-508, title
8 15 U.S.C. 1681a.

9 (vii) A debt management business licensed under the debt
10 management act, Act No. 148 of the Public Acts of 1975, being
11 sections 451.411 to 451.437 of the Michigan Compiled Laws.

12 (viii) An investment adviser or broker-dealer registered
13 under the uniform securities act, Act No. 265 of the Public Acts
14 of 1964, being sections 451.501 to 451.818 of the Michigan
15 Compiled Laws.

16 (ix) A nonprofit corporation ~~which~~ THAT is exempt from
17 taxation pursuant to section 501c(3) of the United States inter-
18 nal revenue code, title 26 U.S.C. 501c(3).

19 (d) "Licensee" means a person licensed by the commissioner
20 pursuant to this act.

21 (e) "Person" means an individual, corporation, partnership,
22 or other business entity.

23 Sec. 3a. (1) An application for a license to engage in the
24 business of a credit services organization shall be made in writ-
25 ing and under oath to the commissioner in a form as he or she may
26 prescribe. The application shall state the full name and
27 business address of all of the following:

(a) The proprietor, if the applicant is an individual.

(b) Every member, if the applicant is a partnership or association, except that if the applicant is a joint stock association having 50 or more members, the name and business address need be given only for the association and each of its officers and directors.

(c) The corporation and each of its officers and directors, if the applicant is a corporation.

(2) AN APPLICATION FOR A LICENSE SHALL BE ACCOMPANIED BY AN INVESTIGATION FEE AND A FEE FOR AN INITIAL LICENSE IN AN AMOUNT AS PROVIDED BY SECTION 3C. THE INVESTIGATION FEE IS NOT REFUNDABLE.

(3) AN APPLICATION FOR A LICENSE SHALL BE ACCOMPANIED BY BOTH OF THE FOLLOWING:

(A) FINANCIAL STATEMENTS, REASONABLY SATISFACTORY TO THE COMMISSIONER, SHOWING THE APPLICANT'S NET WORTH EXCEEDS \$50,000.00.

(B) A SURETY BOND ISSUED BY A BONDING COMPANY OR INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN THIS STATE IN THE PRINCIPAL SUM OF \$10,000.00 AND IN AN ADDITIONAL PRINCIPAL SUM OF \$3,000.00 FOR EACH OFFICE AND FOR EACH AGENCY OF THE APPLICANT IN THIS STATE AT WHICH THE BUSINESS IS TO BE CONDUCTED, BUT IN NO EVENT SHALL THE BOND BE REQUIRED TO BE IN EXCESS OF \$50,000.00. IF THE BOND ACCOMPANYING THE APPLICATION IS IN A PRINCIPAL SUM OF LESS THAN \$50,000.00, THE APPLICATION SHALL BE ACCOMPANIED BY A LIST OF THE LOCATIONS, INCLUDING AGENCIES, AT WHICH THE BUSINESS IS TO BE CONDUCTED. THE BOND SHALL BE IN FORM SATISFACTORY TO THE

1 COMMISSIONER AND SHALL RUN TO THE COMMISSIONER FOR THE BENEFIT OF
2 ANY RESIDENTS WHO, THROUGH DOING BUSINESS WITH THE APPLICANT OR
3 ITS AGENTS LOCATED IN THIS STATE, ARE CREDITORS OF OR CLAIMANTS
4 AGAINST THE APPLICANT OR ITS AGENTS TO SECURE THE FAITHFUL PER-
5 FORMANCE OF THE OBLIGATIONS OF THE APPLICANT AND THE AGENTS OF
6 THE APPLICANT WITH RESPECT TO PROVIDING SERVICES AS A CREDIT
7 SERVICES ORGANIZATION. THE AGGREGATE LIABILITY OF THE SURETY
8 SHALL NOT EXCEED THE PRINCIPAL SUM OF THE BOND. THE BOND SHALL
9 BE MAINTAINED THROUGHOUT THE PERIOD OF LICENSURE.

10 Sec. 3b. ~~An application for a license shall be accompanied~~
11 ~~by an investigation fee of \$300.00. An investigation fee shall~~
12 ~~not be refunded.~~ UPON THE FILING OF THE APPLICATION, THE PAYMENT
13 OF THE INVESTIGATION AND INITIAL LICENSE FEE, AND THE APPROVAL BY
14 THE COMMISSIONER OF THE BOND DELIVERED PURSUANT TO SECTION 3A(3),
15 THE COMMISSIONER SHALL INVESTIGATE THE FINANCIAL RESPONSIBILITY,
16 FINANCIAL AND BUSINESS EXPERIENCE, CHARACTER, AND GENERAL FITNESS
17 OF THE APPLICANT AND, IF THE COMMISSIONER CONSIDERS IT ADVISABLE,
18 THE GENERAL FITNESS OF THE APPLICANT'S OFFICERS AND DIRECTORS.
19 IF THE COMMISSIONER FINDS THESE FACTORS AND QUALITIES MEET THE
20 REQUIREMENTS OF THIS ACT AND REASONABLY WARRANT THE BELIEF THAT
21 THE APPLICANT'S BUSINESS WILL BE CONDUCTED HONESTLY, FAIRLY,
22 EQUITABLY, CAREFULLY, EFFICIENTLY, AND IN A MANNER COMMANDING THE
23 CONFIDENCE AND TRUST OF THE COMMUNITY, THE COMMISSIONER SHALL
24 ISSUE TO THE APPLICANT A LICENSE TO ENGAGE IN THE BUSINESS OF
25 CREDIT SERVICES SUBJECT TO THIS ACT.

26 Sec. 3c. ~~An application for a license shall be accompanied~~
27 ~~by both of the following:~~

1 ~~(a) Financial statements, reasonably satisfactory to the~~
2 ~~commissioner, showing the applicant's net worth exceeds~~
3 ~~\$50,000.00.~~

4 ~~(b) A surety bond issued by a bonding company or insurance~~
5 ~~company authorized to do business in this state, in the principal~~
6 ~~sum of \$10,000.00 and in an additional principal sum of \$3,000.00~~
7 ~~for each office and for each agency of the applicant in this~~
8 ~~state at which the business is to be conducted, but in no event~~
9 ~~shall the bond be required to be in excess of \$50,000.00. If the~~
10 ~~bond accompanying the application is in a principal sum of less~~
11 ~~than \$50,000.00, the application shall be accompanied by a list~~
12 ~~of the locations, including agencies, at which the business is to~~
13 ~~be conducted. The bond shall be in form satisfactory to the com-~~
14 ~~missioner and shall run to the commissioner for the benefit of~~
15 ~~any residents who, through doing business with the applicant or~~
16 ~~its agents located in this state, are creditors of or claimants~~
17 ~~against the applicant or its agents to secure the faithful per-~~
18 ~~formance of the obligations of the applicant and the agents of~~
19 ~~the applicant with respect to providing services as a credit~~
20 ~~services organization. The aggregate liability of the surety~~
21 ~~shall not exceed the principal sum of the bond.~~ (1) A LICENSEE
22 SHALL PAY TO THE COMMISSIONER ANNUALLY ON OR BEFORE MARCH 1 OF
23 EACH YEAR A LICENSE FEE AS PROVIDED BY THIS SECTION.

24 (2) THE COMMISSIONER SHALL ANNUALLY ESTABLISH THE SCHEDULE
25 OF FEES SUFFICIENT TO PAY THE BUREAU'S COSTS OF ADMINISTERING
26 THIS ACT. THE FEES ARE AS FOLLOWS:

1 (A) FOR THE INVESTIGATION OF AN APPLICANT FOR A LICENSE, NOT
2 LESS THAN \$200.00 OR MORE THAN \$600.00.

3 (B) FOR THE ISSUANCE OR ANNUAL RENEWAL OF A LICENSE, NOT
4 LESS THAN \$300.00 OR MORE THAN \$800.00.

5 (C) FOR AMENDING A LICENSE, NOT LESS THAN \$20.00 OR MORE
6 THAN \$75.00.

7 (D) FOR EXAMINATION OR INVESTIGATION OF THE LICENSEE, NOT
8 LESS THAN \$40.00 OR MORE THAN \$70.00 PER HOUR FOR EACH EXAMINER
9 INVOLVED IN AN EXAMINATION OR INVESTIGATION. IN ADDITION, A
10 LICENSEE SHALL PAY THE ACTUAL TRAVEL AND LODGING EXPENSES
11 INCURRED BY BUREAU EMPLOYEES WHO TRAVEL OUT OF STATE TO EXAMINE
12 THE RECORDS OF THE LICENSEE.

13 (3) MONEY RECEIVED PURSUANT TO THIS ACT SHALL BE PAID INTO
14 THE STATE TREASURY AND CREDITED TO THE FINANCIAL INSTITUTIONS
15 BUREAU TO BE USED FOR THE OPERATION OF THE FINANCIAL INSTITUTIONS
16 BUREAU.

17 (4) FEES RECEIVED PURSUANT TO THIS ACT ARE NOT REFUNDABLE.

18 (5) IF ANY FEES OR PENALTIES PROVIDED FOR IN THIS ACT ARE
19 NOT PAID WHEN REQUIRED, THE ATTORNEY GENERAL MAY MAINTAIN AN
20 ACTION AGAINST THE DELINQUENT PERSON OR LICENSEE FOR THE RECOVERY
21 OF THE FEES OR PENALTIES TOGETHER WITH INTEREST AND COSTS.

22 Sec. 3d. ~~Upon the filing of the application, the payment~~
23 ~~of the investigation fee, and the approval by the commissioner of~~
24 ~~the bond delivered pursuant to section 3c, the commissioner shall~~
25 ~~investigate the financial responsibility, financial and business~~
26 ~~experience, character, and general fitness of the person and, if~~
27 ~~he or she considers it advisable, the general fitness of the~~

~~1 person's officers and directors, and if he or she finds these~~
~~2 factors and qualities meet the requirements of this act and are~~
~~3 such as to reasonably warrant the belief that the person's busi-~~
~~4 ness will be conducted honestly, fairly, equitably, carefully,~~
~~5 efficiently, and in a manner commanding the confidence and trust~~
~~6 of the community, the commissioner shall issue to the person a~~
~~7 license to engage in the business of credit services subject to~~
~~8 this act.~~ WITH THE PRIOR WRITTEN APPROVAL OF THE COMMISSIONER, A
9 LICENSEE MAY CONDUCT BUSINESS AT MORE THAN 1 LOCATION WITHIN THIS
10 STATE AND THROUGH OR BY MEANS OF EMPLOYEES, AGENTS, OR REPRESENT-
11 TIVES AS THE LICENSEE MAY DESIGNATE AND APPOINT FROM TIME TO
12 TIME. A LICENSE UNDER THIS ACT IS NOT REQUIRED OF AN EMPLOYEE,
13 AGENT, OR REPRESENTATIVE WHO IS ACTING FOR OR ON BEHALF OF A
14 LICENSEE IN PROVIDING CREDIT SERVICES.

15 Sec. 3e. (1) ~~A licensee shall pay to the commissioner~~
~~16 within 5 days after the issuance of the license, and annually~~
~~17 thereafter on or before March 1 of each year, a license fee of~~
~~18 \$250.00.~~ A LICENSEE SHALL CONSPICUOUSLY AND CONTINUOUSLY POST AT
19 THE PLACE OF BUSINESS THE GRANTED LICENSE THAT STATES THE NAME OF
20 THE LICENSEE AND THE ADDRESS OF THE BUSINESS.

21 (2) ~~All fees and expenses provided for in this act shall be~~
~~22 paid into the state treasury and credited to the financial insti-~~
~~23 tutions bureau to be used for the operation of the financial~~
~~24 institutions bureau.~~ ALL ADVERTISING OF AND OFFERS TO PROVIDE
25 CREDIT SERVICES SHALL STATE THE NUMBER OF THE LICENSE ISSUED
26 UNDER THIS ACT TO THE CREDIT SERVICES ORGANIZATION BY THE
27 COMMISSIONER.

1 Sec. 3f. ~~With the prior written approval of the~~
2 ~~commissioner, a licensee may conduct business at more than 1~~
3 ~~location within this state and through or by means of employees,~~
4 ~~agents, or representatives as the licensee may designate and~~
5 ~~appoint from time to time. A license under this act is not~~
6 ~~required of an employee, agent, or representative who is acting~~
7 ~~for or on behalf of a licensee in providing credit services.~~ (1)
8 A LICENSE SHALL NOT BE DENIED, SUSPENDED, OR REVOKED EXCEPT ON
9 NOT LESS THAN 10 DAYS' NOTICE TO THE APPLICANT OR LICENSEE SET-
10 TING FORTH IN WRITING THE REASONS FOR THE DENIAL, SUSPENSION, OR
11 REVOCATION. WITHIN 5 DAYS AFTER RECEIPT OF THE NOTICE, THE
12 APPLICANT OR LICENSEE MAY MAKE WRITTEN DEMAND FOR A HEARING. THE
13 COMMISSIONER WITH REASONABLE PROMPTNESS SHALL HEAR AND DETERMINE
14 THE MATTER AS PROVIDED BY THE ADMINISTRATIVE PROCEDURES ACT OF
15 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS
16 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS. IF THE APPLICANT
17 OR LICENSEE CONSIDERS ITSELF AGGRIEVED BY THE ORDER OF THE COM-
18 MISSIONER, THE APPLICANT OR LICENSEE MAY APPEAL WITHIN 30 DAYS
19 FROM THE DATE OF THE ORDER TO THE CIRCUIT COURT IN THE MANNER
20 PROVIDED BY ACT NO. 306 OF THE PUBLIC ACTS OF 1969, AND IS ENTI-
21 TLED TO THE SAME JUDICIAL REVIEW AS PROVIDED IN THAT ACT. IF AN
22 APPEAL IS TAKEN FROM AN ORDER REVOKING A LICENSE, THE EFFECT OF
23 THE ORDER MAY BE STAYED BY THE COURT PENDING THE FINAL DETERMINA-
24 TION OF THE APPEAL.

25 (2) THE COMMISSIONER MAY MAKE INVESTIGATIONS AND CONDUCT
26 HEARINGS AS THE COMMISSIONER CONSIDERS NECESSARY TO DETERMINE
27 WHETHER A LICENSEE OR ANY OTHER PERSON HAS VIOLATED THIS ACT, OR

1 WHETHER A LICENSEE HAS CONDUCTED BUSINESS IN SUCH A MANNER AS
2 WOULD JUSTIFY SUSPENSION OR REVOCATION OF ITS LICENSE.

3 (3) THE COMMISSIONER MAY SUBPOENA WITNESSES AND DOCUMENTS,
4 PAPERS, BOOKS, RECORDS, AND OTHER EVIDENCE IN A MATTER OVER WHICH
5 THE COMMISSIONER HAS JURISDICTION, CONTROL, OR SUPERVISION. THE
6 COMMISSIONER MAY ADMINISTER OATHS AND AFFIRMATIONS TO A PERSON
7 WHOSE TESTIMONY IS REQUIRED.

8 (4) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED BY
9 THE COMMISSIONER OR TO TESTIFY WITH RESPECT TO ANY MATTER CON-
10 CERNING WHICH THE PERSON MAY BE LAWFULLY QUESTIONED, ON APPLICA-
11 TION OF THE COMMISSIONER THE CIRCUIT COURT FOR INGHAM COUNTY MAY
12 ISSUE AN ORDER REQUIRING THE ATTENDANCE OF THE PERSON AND THE
13 GIVING OF TESTIMONY OR PRODUCTION OF EVIDENCE.

14 (5) IF, IN THE OPINION OF THE COMMISSIONER, A PERSON OR
15 LICENSEE IS ENGAGING IN, HAS ENGAGED IN, OR IS ABOUT TO ENGAGE
16 IN, AN UNSAFE OR UNSOUND PRACTICE IN CONJUNCTION WITH PROVIDING
17 CREDIT SERVICES, OR THE COMMISSIONER HAS REASONABLE CAUSE TO
18 BELIEVE THE LICENSEE OR PERSON HAS, IS, OR IS ABOUT TO VIOLATE OR
19 FAIL TO COMPLY WITH THIS ACT OR A RULE PROMULGATED UNDER THIS
20 ACT, THE COMMISSIONER MAY ISSUE AND SERVE UPON THE PERSON OR
21 LICENSEE A NOTICE OF THE CHARGES REGARDING THE UNSAFE OR UNSOUND
22 PRACTICE, VIOLATION, OR FAILURE TO COMPLY. THE NOTICE SHALL CON-
23 TAIN A STATEMENT OF THE FACTS CONSTITUTING THE ALLEGED UNSAFE OR
24 UNSOUND PRACTICE, VIOLATION, OR COMPLIANCE FAILURE AND FIX A TIME
25 AND PLACE AT WHICH A HEARING WILL BE HELD TO DETERMINE WHETHER AN
26 ORDER TO CEASE AND DESIST FROM THE PRACTICE, VIOLATION, OR
27 FAILURE TO COMPLY SHOULD ISSUE AGAINST THE PERSON OR LICENSEE.

1 THE HEARING SHALL NOT BE EARLIER THAN 5 DAYS OR LATER THAN 10
2 DAYS AFTER SERVICE OF THE NOTICE UNLESS AN EARLIER OR A LATER
3 DATE IS SET BY THE COMMISSIONER AT THE REQUEST OF THE PERSON OR
4 LICENSEE. UNLESS THE PERSON OR LICENSEE APPEARS AT THE HEARING
5 PERSONALLY OR BY A DULY AUTHORIZED REPRESENTATIVE, THE PERSON OR
6 LICENSEE SHALL BE CONSIDERED TO HAVE CONSENTED TO THE ISSUANCE OF
7 THE CEASE AND DESIST ORDER. IN THE EVENT OF SUCH CONSENT, OR IF
8 UPON THE RECORD MADE AT THE HEARING, THE COMMISSIONER FINDS THAT
9 AN UNSAFE OR UNSOUND PRACTICE, VIOLATION, OR FAILURE TO COMPLY
10 SPECIFIED IN THE NOTICE OF CHARGES HAS BEEN ESTABLISHED, THE COM-
11 MISSIONER MAY ISSUE AND SERVE UPON THE PERSON OR LICENSEE AN
12 ORDER TO CEASE AND DESIST FROM ANY PRACTICE, VIOLATION, OR FAIL-
13 URE TO COMPLY. THE ORDER MAY ALSO REQUIRE OR RECOMMEND THAT THE
14 PERSON OR LICENSEE TAKE AFFIRMATIVE ACTION TO CORRECT THE CONDI-
15 TIONS RESULTING FROM ANY PRACTICE, VIOLATION, OR FAILURE TO
16 COMPLY AND MAY ASSESS A FINE OF NOT MORE THAN \$500.00 FOR EACH
17 VIOLATION OR FAILURE TO COMPLY. EACH TRANSACTION IN VIOLATION OF
18 THIS ACT AND EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE
19 VIOLATION.

20 (6) A CEASE AND DESIST ORDER ISSUED UNDER SUBSECTION (5)
21 SHALL BECOME EFFECTIVE AT THE EXPIRATION OF 5 DAYS AFTER SERVICE
22 OF THE ORDER UPON THE LICENSEE, EXCEPT IN THE CASE OF AN ORDER
23 ISSUED UPON CONSENT WHICH SHALL BECOME EFFECTIVE AT THE TIME
24 SPECIFIED IN THE ORDER AND REMAINS IN EFFECT AND ENFORCEABLE AS
25 PROVIDED IN THE ORDER, EXCEPT TO THE EXTENT IT IS STAYED, MODI-
26 FIED, TERMINATED, OR SET ASIDE BY ACTION OF THE COMMISSIONER OR A
27 REVIEWING COURT.

1 (7) PROCEEDINGS UNDER SUBSECTION (5) ARE SUBJECT TO THE
2 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC
3 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
4 COMPILED LAWS.

5 Sec. 3g. ~~A licensee shall conspicuously and continuously~~
6 ~~post at the place of business the granted license which shall~~
7 ~~state the name of the licensee and the address of the business.~~
8 THE COMMISSIONER SHALL PROMULGATE RULES THAT ARE NECESSARY FOR
9 THE ENFORCEMENT OF THIS ACT IN ACCORDANCE WITH THE ADMINISTRATIVE
10 PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969,
11 BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS.
12 THE COMMISSIONER SHALL ALSO PROMULGATE RULES THAT ARE NECESSARY
13 TO ENSURE THAT RELEVANT INFORMATION IS DISCLOSED AND MADE AVAIL-
14 ABLE TO CONSUMERS AS REQUIRED BY THIS ACT.

15 Sec. 3h. ~~(1) A license shall not be denied, suspended, or~~
16 ~~revoked except on not less than 10 days' notice to the applicant~~
17 ~~or licensee setting forth in writing the reasons for the denial,~~
18 ~~suspension, or revocation. Within 5 days after receipt of the~~
19 ~~notice, the applicant or licensee may make written demand for a~~
20 ~~hearing. The commissioner with reasonable promptness shall hear~~
21 ~~and determine the matter as provided by the administrative proce-~~
22 ~~dures act of 1969, Act No. 306 of the Public Acts of 1969, being~~
23 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws. If the~~
24 ~~applicant or licensee considers itself aggrieved by the order of~~
25 ~~the commissioner, the applicant or licensee may appeal within 30~~
26 ~~days from the date of the order to the circuit court in the~~
27 ~~manner provided by Act No. 306 of the Public Acts of 1969, and is~~

~~1 entitled to the same judicial review as provided in that act. If
2 an appeal is taken from an order revoking a license, the effect
3 of the order may be stayed by the court pending the final deter-
4 mination of the appeal.~~

~~5 (2) The commissioner may make investigations and conduct
6 hearings as the commissioner considers necessary to determine
7 whether a licensee or any other person has violated any of the
8 provisions of this act, or whether a licensee has conducted busi-
9 ness in such a manner as would justify suspension or revocation
10 of its license.~~

~~11 (3) The commissioner may subpoena witnesses and documents,
12 papers, books, records, and other evidence in a matter over which
13 the commissioner has jurisdiction, control, or supervision. The
14 commissioner may administer oaths and affirmations to a person
15 whose testimony is required.~~

~~16 (4) If a person fails to comply with a subpoena issued by
17 the commissioner or to testify with respect to any matter con-
18 cerning which the person may be lawfully questioned, the circuit
19 court for Ingham county, on application of the commissioner, may
20 issue an order requiring the attendance of the person and the
21 giving of testimony or production of evidence.~~

~~22 (5) If, in the opinion of the commissioner, a person or
23 licensee is engaging in, or has engaged in, or the commissioner
24 has reasonable cause to believe that the person or licensee is
25 about to engage in, an unsafe or unsound practice in conjunction
26 with providing credit services, to the detriment of the people of
27 the state, or the commissioner has reasonable cause to believe~~

~~1 the licensee has, is, or is about to violate or fail to comply
2 with this act or a rule promulgated under this act, the commis-
3 sioner may issue and serve upon the person or licensee a notice
4 of the charges regarding the unsafe or unsound practice, viola-
5 tion, or failure to comply. The notice shall contain a statement
6 of the facts constituting the alleged unsafe or unsound practice,
7 violation, or failure and shall fix a time and place at which a
8 hearing will be held to determine whether an order to cease and
9 desist from the practice, violation, or failure to comply should
10 issue against the licensee. The hearing shall be not earlier
11 than 5 days nor later than 10 days after service of the notice
12 unless an earlier or a later date is set by the commissioner at
13 the request of the person or licensee. Unless the person or
14 licensee appears at the hearing personally or by a duly autho-
15 rized representative, the person or licensee shall be considered
16 to have consented to the issuance of the cease and desist order.
17 In the event of such consent, or if upon the record made at the
18 hearing, the commissioner finds that an unsafe or unsound prac-
19 tice, violation, or failure to comply specified in the notice of
20 charges has been established, the commissioner may issue and
21 serve upon the person or licensee an order to cease and desist
22 from any practice, violation, or failure to comply. The order
23 may also require or recommend that the person or licensee take
24 affirmative action to correct the conditions resulting from any
25 practice, violation, or failure to comply.~~

~~26 (6) A cease and desist order issued under subsection (5)
27 shall become effective at the expiration of 5 days after service~~

~~1 of the order upon the licensee, except in the case of an order~~
~~2 issued upon consent which shall become effective at the time~~
~~3 specified in the order, and shall remain in effect and enforce-~~
~~4 able as provided in the order, except to the extent it is stayed,~~
~~5 modified, terminated, or set aside by action of the commissioner~~
~~6 or a reviewing court.~~ (1) THE COMMISSIONER OR HIS OR HER DESIG-
7 NATED REPRESENTATIVE MAY AT ANY TIME, BUT NOT MORE THAN ONCE IN
8 EACH CALENDAR YEAR, EXAMINE THE BOOKS, ACCOUNTS, AND RECORDS OF A
9 LICENSEE OR PERSON ENGAGED IN THE CREDIT SERVICES BUSINESS.

10 (2) EACH LICENSEE SHALL KEEP AND USE IN THE BUSINESS SUCH
11 BOOKS, ACCOUNTS, AND RECORDS AS THE COMMISSIONER MAY REQUIRE IN
12 ORDER TO DETERMINE WHETHER THE LICENSEE IS COMPLYING WITH THIS
13 ACT. EVERY LICENSEE SHALL PRESERVE THE BOOKS, ACCOUNTS, AND
14 RECORDS FOR AT LEAST 2 YEARS AFTER MAKING THE FINAL ENTRY ON ANY
15 ACCOUNT RECORDED THEREIN, AND MAKE THEM AVAILABLE TO THE
16 COMMISSIONER.

17 Sec. 7. (1) Whether or not he or she seeks damages or has
18 an adequate remedy at law, a person, a county prosecutor, or the
19 attorney general may bring an action to:

20 (a) Obtain a declaratory judgment that a method, act, or
21 practice is a violation of this act.

22 (b) Enjoin in accordance with the principal of equity a
23 person who is engaged or is about to engage in a method, act, or
24 practice ~~which~~ THAT violates this act.

25 (c) Recover actual damages, or \$250.00, whichever is great-
26 er, resulting from a violation of this act or a credit services
27 organization's breach of a contract subject to this act, together

1 with reasonable attorney fees and the costs of bringing the
2 action.

3 (2) A credit services organization ~~which~~ THAT is not in
4 compliance with ~~the provisions of~~ this act ~~shall be~~ IS barred
5 from ~~recovery of~~ RECOVERING any fees or other charges from any
6 person.

7 ~~(3) A person that violates this act shall be guilty of a~~
8 ~~misdemeanor, punishable by imprisonment for not more than 1 year,~~
9 ~~or by a fine of not more than \$1,000.00, or both.~~

10 (3) ~~(4) Nothing in this~~ THIS act shall NOT be construed to
11 limit or prohibit any other legal remedy available to a consumer
12 of credit services, the attorney general, or a county
13 prosecutor.

14 Section 2. Section 3i of Act No. 361 of the Public Acts of
15 1988, being section 445.1703i of the Michigan Compiled Laws, is
16 repealed.