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CHECK ACCEPTANCE REQUIREMENTS

House Bill 4768 as introduced First Analysis (5-22-97)

Sponsor: Rep. Liz Brater
Committee: Consumer Protection

THE APPARENT PROBLEM:

When someone purchases an item from a retail establishment using a personal check, sometimes they are required by the clerk to include certain identifying information on it, such as a credit card number or Social Security number. Apparently, this information may help the retailer better determine the creditworthiness of the customer and whether he or she is actually who he or she claims to be. Some people, however, believe this practice may prevent some people from paying for merchandise via a personal check simply because they cannot supply the requested information--perhaps because they do not have a Social Security number or choose not to carry (or cannot qualify for) a credit card. Moreover, it is feared that those persons who decide to supply this personal information may be taking a risk that someone else could use it for fraudulent purposes. Several other states have laws barring retailers and others from requiring such information to be included on a check as a condition of its acceptance, and some believe Michigan should do the same.

THE CONTENT OF THE BILL:

House Bill 4768 would amend the Revised Judicature Act of 1961 to prohibit a merchant from demanding a Social Security number or credit card number as a condition of accepting a personal check or any other instrument authorizing the payment of money. Specifically, demanding such information from an individual would be a state civil infraction punishable by a fine of up to \$500. In cases involving the sale or lease of tangible property in the ordinary course of business, the owner of the business would be liable for the infraction; otherwise, the person who had made the demand would be liable. The bill would continue to allow a demand for a Social Security number or credit card number under certain circumstances. Specifically, governmental entities would be allowed to require Social Security numbers to be included on checks made for tax payments; credit granting institutions would be allowed to require their own account numbers to be recorded on checks; and a person or business could require a credit card number and expiration date on a check where

acceptance of the check was based on the guarantee of the credit card issuer.

The bill would also specify that the following information would suffice as prima facie evidence of a check drafter's identity: a) the drafter's name, address, home or work phone number (if any), and driver's license, state identification card, or military identification card number, obtained from the drafter and recorded on the check; and b) the signature of the drafter, if witnessed and initialed by the person who received the check.

The bill would take effect July 1, 1997.

MCL 600.2964

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill has no fiscal implications. (5-20-97)

ARGUMENTS:

For:

The bill would prohibit retail establishments and other businesses from requiring a customer to include his or her credit card number or Social Security number on a personal check in order to make a purchase, bringing Michigan in line with at least 20 other states that have adopted similar laws. Some businesses currently will require customers to provide this information before the business will accept the customer's check. Requiring information of this sort may prevent some people from being able to use a check (either because the person does not have a Social Security number, or more commonly, because he or she does not own a credit card). Further, the greater risk is that the information could be used improperly. By providing this personal information on a check, the customer is taking the chance that someone else might surreptitiously use it to obtain access to the owner's credit or otherwise defraud the person. A growing misuse of such information is what is called "identity fraud"; this involves the use of

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a person's Social Security number to establish a line of credit, which is then used to make purchases. By preventing people from being required to provide this information, the bill will help to protect consumers from this type of fraud.

For:

The bill would add language specifying that certain information recorded on a check -- name, address, telephone number, and so forth -- would be "prima facie" evidence of the check writer's identity. According to retailers, this would aid in subsequent collections on bad checks, using the available civil procedures in state law.

POSITIONS:

The Michigan Consumer Federation supports the bill.
(5-21-97)

The Michigan Retailers Association supports the bill.
(5-20-97)

Analyst: W. Flory

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