

HOUSE BILL No. 4067

January 8, 1997, Introduced by Reps. Wojno, Freeman, Mans, Olshove, Hanley, Callahan, Schauer, Thomas, Hale and Gire and referred to the Committee on Consumer Protection.

A bill to amend 1976 PA 331, entitled
"Michigan consumer protection act,"
(MCL 445.901 to 445.922) by adding section 11a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 11A. (1) IN ADDITION TO IMPOSING ANY OTHER PENALTY OR
2 PROVIDING ANY OTHER REMEDY UNDER THIS ACT, A COURT MAY IMPOSE A
3 CIVIL FINE OF NOT MORE THAN \$10,000.00 AGAINST A PERSON FOR EACH
4 ACT OR OMISSION OF THAT PERSON THAT VIOLATES THIS ACT AND
5 ADVERSELY AFFECTS AN OLDER OR DISABLED PERSON. A FINE COLLECTED
6 UNDER THIS SECTION SHALL BE DEPOSITED IN THE STATE TREASURY AND
7 CREDITED TO THE OLDER AND DISABLED VICTIMS FUND CREATED IN SUB-
8 SECTION (4).

9 (2) IN DETERMINING WHETHER TO IMPOSE A CIVIL FINE UNDER THIS
10 SECTION, THE COURT SHALL CONSIDER THE FOLLOWING:

1 (A) WHETHER THE DEFENDANT'S CONDUCT WAS IN DISREGARD OF THE
2 RIGHTS OF AN OLDER OR DISABLED PERSON.

3 (B) WHETHER THE DEFENDANT KNEW OR SHOULD HAVE KNOWN THAT THE
4 DEFENDANT'S CONDUCT WAS DIRECTED TO AN OLDER OR DISABLED PERSON.

5 (C) WHETHER THE OLDER OR DISABLED PERSON WAS MORE VULNERABLE
6 TO THE DEFENDANT'S CONDUCT BECAUSE OF AGE, POOR HEALTH, INFIRMI-
7 TY, IMPAIRED UNDERSTANDING, RESTRICTED MOBILITY, OR DISABILITY
8 THAN OTHER PERSONS AND WHETHER THE OLDER OR DISABLED PERSON ACTU-
9 ALLY SUFFERED SUBSTANTIAL PHYSICAL, EMOTIONAL, OR ECONOMIC DAMAGE
10 RESULTING FROM THE DEFENDANT'S CONDUCT.

11 (D) WHETHER THE DEFENDANT'S CONDUCT CAUSED AN OLDER OR DIS-
12 ABLED PERSON TO SUFFER ANY OF THE FOLLOWING:

13 (i) MENTAL OR EMOTIONAL ANGUISH.

14 (ii) LOSS OF OR ENCUMBRANCE UPON A PRIMARY RESIDENCE OF THE
15 OLDER OR DISABLED PERSON.

16 (iii) LOSS OF OR ENCUMBRANCE UPON THE OLDER OR DISABLED
17 PERSON'S PRINCIPAL EMPLOYMENT OR PRINCIPAL SOURCE OF INCOME.

18 (iv) LOSS OF FUNDS RECEIVED UNDER A PENSION OR RETIREMENT
19 PLAN OR A GOVERNMENT BENEFITS PROGRAM.

20 (v) LOSS OF PROPERTY SET ASIDE FOR RETIREMENT OR FOR PER-
21 SONAL OR FAMILY CARE AND MAINTENANCE.

22 (vi) LOSS OF ASSETS ESSENTIAL TO THE HEALTH AND WELFARE OF
23 THE OLDER OR DISABLED PERSON.

24 (E) ANY OTHER FACTORS THE COURT DEEMS APPROPRIATE.

25 (3) THE OFFICE OF SERVICES TO THE AGING SHALL DEVELOP AND
26 IMPLEMENT A STATEWIDE EDUCATIONAL PROGRAM TO INFORM OLDER PERSONS
27 AND DISABLED PERSONS, LAW ENFORCEMENT AGENCIES, THE JUDICIAL

1 SYSTEM, SOCIAL SERVICES PROFESSIONALS, AND THE GENERAL PUBLIC OF
2 BOTH OF THE FOLLOWING:

3 (A) THE PREVALENCE AND PREVENTION OF CONSUMER CRIMES AGAINST
4 OLDER AND DISABLED PERSONS.

5 (B) THE PROVISIONS OF THIS ACT, INCLUDING THE PENALTIES FOR
6 VIOLATIONS OF THIS ACT AND THE REMEDIES AVAILABLE FOR VICTIMS OF
7 THOSE VIOLATIONS.

8 (4) THE OLDER AND DISABLED VICTIMS FUND IS CREATED WITHIN
9 THE STATE TREASURY.

10 (5) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
11 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER
12 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER
13 SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND
14 INVESTMENTS. THE STATE TREASURER SHALL ANNUALLY PRESENT TO THE
15 OFFICE OF SERVICES TO THE AGING AN ACCOUNTING OF THE AMOUNT OF
16 MONEY IN THE FUND.

17 (6) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
18 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

19 (7) THE OFFICE OF SERVICES TO THE AGING SHALL EXPEND MONEY
20 FROM THE FUND TO IMPLEMENT A CONSUMER EDUCATION PROGRAM AS
21 REQUIRED BY SUBSECTION (3) AND TO PROVIDE OTHER SERVICES AS
22 REQUIRED BY LAW.

23 (8) AS USED IN THIS SECTION:

24 (A) "DISABLED PERSON" MEANS A PERSON WHO HAS A DISABILITY AS
25 THAT TERM IS DEFINED IN SECTION 216 OF TITLE II OF THE SOCIAL
26 SECURITY ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 416.

1 (B) "FUND" MEANS THE OLDER AND DISABLED VICTIMS FUND CREATED
2 PURSUANT TO SUBSECTION (4).

3 (C) "OFFICE OF SERVICES TO THE AGING" MEANS THE ENTITY CRE-
4 ATED BY SECTION 5 OF THE OLDER MICHIGANIANS ACT, 1981 PA 180, MCL
5 400.585.

6 (D) "OLDER PERSON" MEANS A PERSON WHO IS 60 YEARS OF AGE OR
7 OLDER.