



# HOUSE BILL No. 5480

March 7, 2000, Introduced by Reps. Richner, Quarles, Basham, Rivet, Schermesser, Schauer, Hale, Clark, Daniels, Brewer, Brater, Thomas, Rison, Kilpatrick, Scott, Kelly, Hardman, Toy, Kowall, DeVuyst, Faunce, Bishop, Jamnick, Minore, Neumann, Baird, Price, Birkholz, Cassis, Vear, Clarke, O'Neil, Jacobs, Dennis, Switalski and Lemmons and referred to the Committee on Insurance and Financial Services.

A bill to amend 1984 PA 379, entitled

"An act to define and regulate certain credit card transactions, agreements, charges, and disclosures; to prescribe the powers and duties of the financial institutions bureau and certain state agencies; to provide for the promulgation of rules; and to provide for fines and penalties,"

by amending section 12 (MCL 493.112).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        Sec. 12. (1) ~~Any~~ A licensee who ~~wilfully~~ WILLFULLY and  
2 intentionally violates this act ~~shall be~~ IS guilty of a  
3 misdemeanor.

4        (2) ~~Any~~ A licensee who enters into a credit card arrange-  
5 ment ~~which does not comply with sections 10 and 11 or who~~ THAT  
6 violates section 10 or 11 ~~, except as a result of accidental or~~  
7 ~~bona fide error,~~ is barred from ~~the recovery of any~~ RECOVERING  
8 interest or other charges, INCLUDING attorney fees ~~, or~~ AND

1 court costs, and the consumer ~~shall be~~ IS entitled to recover  
2 reasonable attorney fees and court costs from the licensee.

3 (3) IN ADDITION TO THE PENALTIES UNDER SUBSECTION (2), A  
4 PERSON WHO VIOLATES SECTION 11(3) IS SUBJECT TO A CIVIL FINE OF  
5 NOT LESS THAN \$1,000.00 OR MORE THAN \$10,000.00.

6 (4) ~~(3) Whether or not he or she seeks damages or has an~~  
7 ~~adequate remedy at law, a~~ A person, a county prosecutor, or the  
8 attorney general may bring an action ~~to~~ IN A COURT OF COMPETENT  
9 JURISDICTION FOR 1 OR MORE OF THE FOLLOWING:

10 (a) ~~Obtain~~ TO OBTAIN a declaratory judgment that a method,  
11 act, or practice is a violation of this act.

12 (b) ~~Enjoin in accordance with the principal of equity a~~ TO  
13 ENJOIN A person who is engaging or is about to engage in a  
14 method, act, or practice ~~which~~ THAT violates this act.

15 (c) ~~Except as limited by subdivision (d),~~ TO recover  
16 actual damages resulting from a violation of this act, or  
17 \$250.00, whichever is greater, together with reasonable  
18 ~~attorneys'~~ ATTORNEY fees and the costs of bringing the action.  
19 Recovery in class actions shall be limited to actual damages  
20 without ~~attorneys'~~ ATTORNEY fees and the cost of bringing the  
21 action.

22 ~~(d) If the licensee establishes by a preponderance of the~~  
23 ~~evidence that the failure to comply with sections 10 and 11 or~~  
24 ~~the violation of section 10 or 11 was not wilful and intentional,~~  
25 ~~the amount recovered pursuant to subdivision (c) shall not exceed~~  
26 ~~actual damages.~~