

Consumer protection; unfair trade practices; application of
Michigan consumer protection act to acts permitted by law;
clarify.

CONSUMER PROTECTION: Unfair trade practices; CIVIL PROCEDURE:
Defenses

A bill to amend 1976 PA 331, entitled
"Michigan consumer protection act,"
by amending section 4 (MCL 445.904), as amended by 2000 PA 432.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) This act ~~does not apply to either~~ APPLIES TO
2 ANY UNFAIR, UNCONSCIONABLE, OR DECEPTIVE METHOD, ACT, OR PRACTICE
3 AND CREATES A CAUSE OF ACTION AGAINST A COMPANY WHO ENGAGES IN
4 THAT METHOD, ACT, OR PRACTICE, EXCEPT FOR ANY of the following:
5 (a) A ~~transaction or conduct specifically authorized under~~
6 ~~laws administered by a regulatory board or officer acting under~~
7 ~~statutory authority~~ METHOD, ACT, OR PRACTICE THAT IS EXPRESSLY
8 PERMITTED BY A STATUTE, RULE, OR REGULATION of this state or the
9 United States.
10 (b) An act done by ~~the~~ A publisher, owner, agent, or
11 employee of a newspaper, periodical, directory, radio or

1 television station, or other communications medium in the
2 publication or dissemination of an advertisement unless the pub-
3 lisher, owner, agent, or employee knows or, under the circum-
4 stances, reasonably should know of the false, misleading, or
5 deceptive character of the advertisement or has a direct finan-
6 cial interest in the sale or distribution of the advertised
7 goods, property, or service.

8 (C) ~~-(2)-~~ Except for the purposes of an action filed by a
9 person under section 11, ~~this act does not apply to or create a~~
10 ~~cause of action for~~ an unfair, unconscionable, or deceptive
11 method, act, or practice that is made unlawful by any of the
12 following:

13 (i) ~~-(a)-~~ The banking code of 1999, 1999 PA 276,
14 MCL 487.11101 to 487.15105.

15 (ii) ~~-(b)-~~ 1939 PA 3, MCL 460.1 to 460.10cc.

16 (iii) ~~-(c)-~~ The motor carrier act, 1933 PA 254, MCL 475.1 to
17 479.43.

18 (iv) ~~-(d)-~~ The savings bank act, 1996 PA 354, MCL 487.3101
19 to 487.3804.

20 (v) ~~-(e)-~~ 1925 PA 285, MCL 490.1 to 490.31.

21 (D) ~~-(3)- This act does not apply to or create a cause of~~
22 ~~action for an~~ AN unfair, unconscionable, or deceptive method,
23 act, or practice that is made unlawful by chapter 20 of the
24 insurance code of 1956, 1956 PA 218, MCL 500.2001 to 500.2093.

25 ~~-(4)- The burden of proving an exemption from this act is~~
26 ~~upon the person claiming the exemption.~~

1 (2) A PERSON WHO CLAIMS THIS ACT DOES NOT APPLY TO A METHOD,
2 ACT, OR PRACTICE BECAUSE OF AN EXCEPTION TO SUBSECTION (1) OR ANY
3 OTHER EXEMPTION FROM THIS ACT BEARS THE BURDEN OF PROVING THAT
4 EXCEPTION OR EXEMPTION.

5 (3) AS USED IN THIS SECTION, "COMPANY" MEANS A PERSON
6 ENGAGED IN TRADE OR COMMERCE, INCLUDING, BUT NOT LIMITED TO, A
7 PERSON WHOSE PROFESSION, OCCUPATION, CONDUCT, OR TRANSACTIONS ARE
8 REGULATED BY A STATUTE, RULE, OR REGULATION OF THIS STATE OR THE
9 UNITED STATES.