

SUBSTITUTE FOR
HOUSE BILL NO. 4729

(As amended September 9, 2009)

A bill to amend 2004 PA 452, entitled
"Identity theft protection act,"
(MCL 445.61 to 445.77) by adding section 14; and to repeal acts and
parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 14. (1) THE IDENTITY THEFT PROTECTION COMMISSION IS
2 ESTABLISHED IN THE DEPARTMENT OF INFORMATION TECHNOLOGY AND, EXCEPT
3 AS PROVIDED IN SUBSECTION (10), IS 1 OF THE ADVISORY WORKGROUPS OF
4 THE INFORMATION PRIVACY PROTECTION COUNCIL AS AUTHORIZED UNDER
5 SECTION VI-E OF EXECUTIVE REORGANIZATION ORDER NO. 2009-18.

6 (2) THE IDENTITY THEFT COMMISSION SHALL CONSIST OF [11] MEMBERS
7 AS FOLLOWS:

House Bill No. 4729 (H-2) as amended September 9, 2009

(A) THE DIRECTOR OF THE DEPARTMENT OF INFORMATION TECHNOLOGY OR HIS OR HER DESIGNATED REPRESENTATIVE, WHO SHALL SERVE AS CHAIRPERSON OF THE COMMISSION.

(B) THE DIRECTOR OF THE DEPARTMENT OF STATE POLICE OR HIS OR HER DESIGNATED REPRESENTATIVE.

(C) THE COMMISSIONER OF THE OFFICE OF FINANCIAL AND INSURANCE REGULATION OR HIS OR HER DESIGNATED REPRESENTATIVE.

(D) THE STATE TREASURER OR HIS OR HER DESIGNATED REPRESENTATIVE.

(E) THREE MEMBERS OF THE GENERAL PUBLIC TO REPRESENT THE INTERESTS OF CONSUMERS, 1 APPOINTED BY THE GOVERNOR, 1 APPOINTED BY THE GOVERNOR FROM A LIST OF 3 OR MORE NOMINEES SUBMITTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND 1 APPOINTED BY THE GOVERNOR FROM A LIST OF 3 OR MORE NOMINEES SUBMITTED BY THE MAJORITY LEADER OF THE SENATE.

(F) TWO MEMBERS OF THE BUSINESS COMMUNITY, [1 APPOINTED BY THE GOVERNOR FROM A LIST OF 3 OR MORE NOMINEES SUBMITTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND 1 APPOINTED BY THE GOVERNOR FROM A LIST OF 3 OR MORE NOMINEES SUBMITTED BY THE MAJORITY LEADER OF THE SENATE.]

(G) TWO MEMBERS OF THE NONPROFIT COMMUNITY FROM ORGANIZATIONS WHOSE MISSIONS DEAL SUBSTANTIALLY WITH PROTECTING CONSUMER PRIVACY, 1 APPOINTED BY THE GOVERNOR FROM A LIST OF 3 OR MORE NOMINEES SUBMITTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND 1 APPOINTED BY THE GOVERNOR FROM A LIST OF 3 OR MORE NOMINEES SUBMITTED BY THE MAJORITY LEADER OF THE SENATE.]

(3) BY SEPTEMBER 30, 2011, THE IDENTITY THEFT COMMISSION SHALL DO ALL OF THE FOLLOWING:

(A) ORGANIZE AND ADOPT STANDARDS GOVERNING THE COMMISSION'S FORMAL AND INFORMAL PROCEDURES.

(B) KEEP A RECORD OF THE PROCEEDINGS AND ACTIVITIES OF THE COMMISSION.

(C) REVIEW AND PROVIDE RECOMMENDATIONS TO THE GOVERNOR AND TO THE INFORMATION PRIVACY PROTECTION COUNCIL CONCERNING STATE RULES, GUIDELINES, OR PROCEDURES RELATED TO IDENTITY THEFT PROTECTION AND PREVENTION.

1 (D) REVIEW AND PROVIDE RECOMMENDATIONS TO THE LEGISLATURE AND
2 TO THE INFORMATION PRIVACY PROTECTION COUNCIL CONCERNING
3 LEGISLATIVE ACTION RELATED TO IDENTITY THEFT PROTECTION AND
4 PREVENTION.

5 (E) PROVIDE RECOMMENDATIONS TO THE PUBLIC AND TO THE
6 INFORMATION PRIVACY PROTECTION COUNCIL CONCERNING BUSINESS
7 PRACTICES RELATED TO IDENTITY THEFT PROTECTION AND PREVENTION.

8 (F) PROVIDE RECOMMENDATIONS TO STATE AGENCIES AND DEPARTMENTS
9 AND TO THE INFORMATION PRIVACY PROTECTION COUNCIL ON REDUCING THE
10 USE OF SOCIAL SECURITY NUMBERS BY THOSE AGENCIES OR DEPARTMENTS.

11 (G) ESTABLISH A PROCESS FOR RECOGNIZING PERSONS OR AGENCIES
12 THAT HAVE EXEMPLARY BUSINESS PRACTICES IN IDENTITY THEFT PROTECTION
13 AND PREVENTION.

14 (H) MAKE RECOMMENDATIONS TO THE DEPARTMENT OF INFORMATION
15 TECHNOLOGY AND TO THE INFORMATION PRIVACY PROTECTION COUNCIL
16 CONCERNING THE DESIGN AND CONTENT OF THE IDENTITY THEFT INFORMATION
17 WEBSITE DESCRIBED IN SUBSECTION (9).

18 (I) PERFORM ANY OTHER DUTIES THE COMMISSION DETERMINES ARE
19 APPROPRIATE RELATED TO IDENTITY THEFT PROTECTION AND PREVENTION.

20 (4) A MAJORITY OF THE MEMBERS OF THE IDENTITY THEFT COMMISSION
21 CONSTITUTE A QUORUM FOR THE PURPOSE OF CONDUCTING BUSINESS AND
22 EXERCISING THE POWERS OF THE IDENTITY THEFT COMMISSION. OFFICIAL
23 ACTION OF THE IDENTITY THEFT COMMISSION MAY BE TAKEN UPON A VOTE OF
24 A MAJORITY OF THE MEMBERS OF THE IDENTITY THEFT COMMISSION.

25 (5) THE IDENTITY THEFT COMMISSION MAY ADOPT, AMEND, AND
26 RESCIND BYLAWS, RULES, AND REGULATIONS FOR THE CONDUCT OF ITS
27 BUSINESS.

1 (6) MEMBERS OF THE IDENTITY THEFT COMMISSION SHALL SERVE
2 WITHOUT COMPENSATION, BUT ARE ENTITLED TO ACTUAL AND NECESSARY
3 EXPENSES INCURRED IN THE PERFORMANCE OF OFFICIAL DUTIES UNDER THIS
4 SECTION.

5 (7) THE COMMISSION SHALL CONDUCT ITS BUSINESS AT PUBLIC
6 MEETINGS HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA
7 267, MCL 15.261 TO 15.275. A WRITING PREPARED, OWNED, USED, IN THE
8 POSSESSION OF, OR RETAINED BY THE COMMISSION IN THE PERFORMANCE OF
9 AN OFFICIAL FUNCTION SHALL BE AVAILABLE TO THE PUBLIC IN COMPLIANCE
10 WITH THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO
11 15.246.

12 (8) THE DEPARTMENT OF INFORMATION TECHNOLOGY SHALL PROVIDE
13 STAFF ASSISTANCE TO THE IDENTITY THEFT COMMISSION AS NECESSARY TO
14 CARRY OUT THE COMMISSION'S DUTIES UNDER THIS SECTION.

15 (9) THE DEPARTMENT OF INFORMATION TECHNOLOGY SHALL ESTABLISH
16 AND MAINTAIN AN IDENTITY THEFT INFORMATION WEBSITE. THE DEPARTMENT
17 OF INFORMATION TECHNOLOGY SHALL CONSIDER THE RECOMMENDATIONS OF THE
18 IDENTITY THEFT COMMISSION IN SELECTING THE DESIGN AND CONTENT OF
19 THE WEBSITE.

20 (10) IF THE INFORMATION PRIVACY PROTECTION COUNCIL CREATED
21 UNDER SECTION VI OF EXECUTIVE REORGANIZATION ORDER NO. 2009-18 IS
22 NOT FULLY OPERATIONAL WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF
23 THIS ACT, THE IDENTITY THEFT PROTECTION COMMISSION CREATED IN
24 SUBSECTION (1) SHALL NOT BE 1 OF THE ADVISORY WORKGROUPS OF THE
25 INFORMATION PROTECTION PRIVACY COUNCIL BUT SHALL INSTEAD EXIST AS A
26 SEPARATE COMMISSION WITHIN THE DEPARTMENT OF INFORMATION
27 TECHNOLOGY. FOR PURPOSES OF THIS SUBSECTION, THE INFORMATION

1 PRIVACY PROTECTION COUNCIL IS FULLY OPERATIONAL WHEN ALL OF ITS
2 MEMBERS HAVE BEEN APPOINTED, AND AT LEAST 1 MEETING OF THE COUNCIL
3 HAS BEEN HELD. IF THE IDENTITY THEFT PROTECTION COMMISSION DOES
4 BECOME 1 OF THE ADVISORY WORKGROUPS OF THE INFORMATION PROTECTION
5 SECURITY COUNCIL, BUT THE INFORMATION PROTECTION SECURITY COUNCIL
6 SUBSEQUENTLY IS ABOLISHED BY LAW OR EXECUTIVE ORDER, THE IDENTITY
7 THEFT PROTECTION COMMISSION SHALL CONTINUE ITS EXISTENCE AS A
8 SEPARATE COMMISSION WITHIN THE DEPARTMENT OF INFORMATION
9 TECHNOLOGY.

10 Enacting section 1. Section 14 of the identity theft
11 protection act, 2004 PA 452, MCL 445.74, is repealed effective
12 December 31, 2011.

13 Enacting section 2. This amendatory act does not take effect
14 unless all of the following bills of the 95th Legislature are
15 enacted into law:

16 (a) House Bill No. 4730.

17 (b) House Bill No. 4731.

18 (c) House Bill No. 4732.

19 (d) House Bill No. 4733.

20 (e) House Bill No. 4734.