HOUSE BILL No. 4735

March 31, 2009, Introduced by Reps. Jackson, Sheltrown, Leland, Melton, Durhal, Lori, Meadows and Dean and referred to the Committee on Judiciary.

A bill to amend 2004 PA 452, entitled

"Identity theft protection act,"

(MCL 445.61 to 445.77) by adding section 11a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1   SEC. 11A. (1) IN A CIVIL ACTION BY A VICTIM OF IDENTITY THEFT

2 AGAINST A PERSON THAT VIOLATES SECTION 5 OR 7, HE OR SHE MAY

3 RECOVER ALL OF THE FOLLOWING:

4   (A) HIS OR HER ACTUAL DAMAGES, REASONABLE ATTORNEY FEES, AND

5 COURT COSTS.

6   (B) REASONABLE REIMBURSEMENT FOR HIS OR HER TIME SPENT DOING

7 ANY OF THE FOLLOWING:

8   (*i*) NOTIFYING THIRD PARTIES THAT AN ACT OF IDENTITY THEFT HAS

9 OCCURRED.

1   (*ii*) REPORTING THE IDENTITY THEFT TO LAW ENFORCEMENT AGENCIES.

2   (*iii*) CORRECTING PERSONAL IDENTIFYING INFORMATION OR PROVIDING

3 OTHER INFORMATION TO THIRD PARTIES REQUIRED AS A RESULT OF THE

4 IDENTITY THEFT.

5   (C) RESTITUTION, IN AN AMOUNT THAT COMPENSATES THE VICTIM IN

6 FULL FOR THE WORK DONE BY THE VICTIM OR THE VICTIM'S ATTORNEY, OR

7 BOTH, TO CORRECT THE VICTIM'S FINANCIAL RECORDS AND VITAL RECORDS

8 AND TO AMELIORATE THE EFFECTS OF THE IDENTITY THEFT ON THE VICTIM'S

9 FINANCIAL AFFAIRS, INCLUDING, BUT NOT LIMITED TO, HIS OR HER CREDIT

10 HISTORY, CREDIT RATING, OR CREDIT SCORE.

11   (2) FOR PURPOSES OF THIS SECTION, A PERSON THAT FAILS TO

12 COMPLY WITH THE PROVISIONS OF SECTION 5 OR 7 WHILE ACTING IN GOOD

13 FAITH IS NOT IN VIOLATION OF THAT SECTION IF THE COMPLIANCE FAILURE

14 WAS NOT INTENTIONAL AND RESULTED FROM A BONA FIDE ERROR

15 NOTWITHSTANDING THE MAINTENANCE OF PROCEDURES REASONABLY ADAPTED TO

16 AVOID THOSE ERRORS AND APPROPRIATE RESTITUTION IS MADE TO THE

17 VICTIM OF IDENTITY THEFT.

18   (3) AS USED IN THIS SECTION, A "BONA FIDE ERROR" INCLUDES, BUT

19 IS NOT LIMITED TO, A COMPUTER MALFUNCTION OR A CLERICAL,

20 CALCULATION, COMPUTER PROGRAMMING, OR PRINTING ERROR. AN ERROR OF

21 LEGAL JUDGMENT WITH RESPECT TO A PERSON'S OBLIGATIONS UNDER THIS

22 SECTION IS NOT A BONA FIDE ERROR.

23   Enacting section 1. This amendatory act does not take effect

24 unless all of the following bills of the 95th Legislature are

25 enacted into law:

26   (a) Senate Bill No.____ or House Bill No. 4730(request no.

27 01597'09).

1   (b) Senate Bill No.____ or House Bill No. 4731(request no.

2 01598'09).

3   (c) Senate Bill No.____ or House Bill No. 4732(request no.

4 01599'09).

5   (d) Senate Bill No.____ or House Bill No. 4733(request no.

6 01600'09).

7   (e) Senate Bill No.____ or House Bill No. 4729(request no.

8 01601'09).

9   (f) Senate Bill No.____ or House Bill No. 4734(request no.

10 01602'09).