

Legislative Analysis



THIRD-PARTY ONLINE SERVICES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4015 (proposed substitute H-3)

Sponsor: Rep. Sarah L. Lightner

Committee: Regulatory Reform

Complete to 2-23-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4015 would amend the Michigan Consumer Protection Act to impose notification requirements on certain nonstate entities that offer online services that are performed by the state and to provide that failure to comply with those requirements is an unfair trade practice in violation of the act.

Specifically, the bill would add section 3m to the act to provide that if a **third party** offers **online services** that are performed by an agency, department, or division of the state and that third party is not affiliated or under contract to perform those online services for an agency, department, or division of the state, the third party must do all of the following:

- Have a **conspicuous notification** on its website stating:
 - That it is not an agency, department, or division of the state.
 - That its services are not endorsed or approved by an agency, department, or division of the state.
 - That it is not affiliated or under contract to perform online services for an agency, department, or division of the state.
- Provide a link on its website to the website of the state agency, department, or division where a person can use the online service.
- Before a transaction for an online service is completed, ensure that there is a conspicuous notification of any fee it will charge for the online service.

Third party would mean a person that is not an agency, department, or division of the state.

Online services would not include the sharing of public information that is otherwise accessible and does not require consumers to provide payment or personal information to access it.

Conspicuous notification would mean, at a minimum, for a notification that is on a website, a notification that is on the opening page of that website, is in a type size that is the same as or larger than the largest type size on that website, and is in boldface, capital letters.

Failure to comply with the above requirements would be a violation of section 3m.

The Michigan Consumer Protection Act states that unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce are unlawful, and it lists activities that constitute those methods, acts, or practices.

The bill would add a violation of the new section 3m to that list.

Generally speaking, a person who suffers loss as a result of a violation of the act regarding an unfair, unconscionable, or deceptive method, act, or practice in the conduct of trade or commerce may bring a civil action to recover actual damages or \$250, whichever is greater, along with reasonable attorney fees. A person may also bring an action to obtain a declaratory judgment that a method, act, or practice is unlawful under the act or an injunction against a person who is engaging or is about to engage in a method, act, or practice that is unlawful under the act. The act also provides for a class action to be brought under certain circumstances.

The bill would take effect 90 days after its enactment.

MCL 445.903 and proposed MCL 445.903m

FISCAL IMPACT:

The bill would not have a direct fiscal impact on the state or on local units of government.

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