

IDENTITY THEFT PROTECTION ACT (EXCERPT)
Act 452 of 2004

***** 445.71.amended THIS AMENDED SECTION IS EFFECTIVE APRIL 1, 2011 *****

445.71.amended Prohibited acts in conduct of trade or commerce; violation as misdemeanor; penalty; civil liability.

Sec. 11. (1) A person shall not do any of the following in the conduct of trade or commerce:

(a) Deny credit or public utility service to or reduce the credit limit of a consumer solely because the consumer was a victim of identity theft, if the person had prior knowledge that the consumer was a victim of identity theft. A consumer is presumed to be a victim of identity theft for the purposes of this subdivision if he or she provides both of the following to the person:

(i) A copy of a police report evidencing the claim of the victim of identity theft.

(ii) Either a properly completed copy of a standardized affidavit of identity theft developed and made available by the federal trade commission under 15 USC 1681g or an affidavit of fact that is acceptable to the person for that purpose.

(b) Solicit to extend credit to a consumer who does not have an existing line of credit, or has not had or applied for a line of credit within the preceding year, through the use of an unsolicited check that includes personal identifying information other than the recipient's name, address, and a partial, encoded, or truncated personal identifying number. In addition to any other penalty or remedy under this act or the Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922, a credit card issuer, financial institution, or other lender that violates this subdivision, and not the consumer, is liable for the amount of the instrument if the instrument is used by an unauthorized user and for any fees assessed to the consumer if the instrument is dishonored.

(c) Solicit to extend credit to a consumer who does not have a current credit card, or has not had or applied for a credit card within the preceding year, through the use of an unsolicited credit card sent to the consumer. In addition to any other penalty or remedy under this act or the Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922, a credit card issuer, financial institution, or other lender that violates this subdivision, and not the consumer, is liable for any charges if the credit card is used by an unauthorized user and for any interest or finance charges assessed to the consumer.

(d) Extend credit to a consumer without exercising reasonable procedures to verify the identity of that consumer. Compliance with regulations issued for depository institutions, and to be issued for other financial institutions, by the United States department of treasury under section 326 of the USA patriot act of 2001, 31 USC 5318, is considered compliance with this subdivision. This subdivision does not apply to a purchase of a credit obligation in an acquisition, merger, purchase of assets, or assumption of liabilities or any change to or review of an existing credit account.

(2) A person who knowingly or intentionally violates subsection (1) is guilty of a misdemeanor punishable as follows:

(a) Except as otherwise provided in subdivisions (b) and (c), by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(b) For a second violation, by imprisonment for not more than 93 days or a fine of not more than \$2,000.00, or both.

(c) For a third or subsequent violation, by imprisonment for not more than 93 days or a fine of not more than \$3,000.00, or both.

(3) Subsection (2) does not prohibit a person from being liable for any civil remedy for a violation of this act, the Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922, or any other state or federal law.

History: 2004, Act 452, Eff. Mar. 1, 2005;—Am. 2010, Act 315, Eff. Apr. 1, 2011.