

HOUSE BILL No. 5378

February 27, 2014, Introduced by Reps. Singh, Irwin, Schor, Zemke, Lipton, Cavanagh, McCann, Kandrevas, Rutledge, Durhal, Dillon, Robinson, Roberts, Tlaib, Stallworth, Hobbs, Switalski, Yanez, Knezek, Abed and Oakes and referred to the Committee on Commerce.

A bill to amend 1976 PA 331, entitled "Michigan consumer protection act," by amending section 4 (MCL 445.904), as amended by 2003 PA 216.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) This act ~~does not apply to either~~ **APPLIES TO ANY**
2 **UNFAIR, UNCONSCIONABLE, OR DECEPTIVE METHOD, ACT, OR PRACTICE**
3 **DESCRIBED IN SECTION 3 AND CREATES A CAUSE OF ACTION AGAINST A**
4 **COMPANY WHO ENGAGES IN THAT METHOD, ACT, OR PRACTICE, EXCEPT FOR**
5 **ANY** of the following:

6 (a) A ~~transaction or conduct specifically authorized under~~
7 ~~laws administered by a regulatory board or officer acting under~~
8 ~~statutory authority~~ **METHOD, ACT, OR PRACTICE THAT IS EXPRESSLY**
9 **PERMITTED BY A STATUTE, RULE, OR REGULATION** of this state or the
10 United States.

1 (b) An act done by ~~the~~ **A** publisher, owner, agent, or employee
2 of a newspaper, periodical, directory, radio or television station,
3 or other communications medium in the publication or dissemination
4 of an advertisement unless the publisher, owner, agent, or employee
5 knows or, under the circumstances, reasonably should know of the
6 false, misleading, or deceptive character of the advertisement or
7 has a direct financial interest in the sale or distribution of the
8 advertised goods, property, or service.

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

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

15 (ii) ~~(b)~~ 1939 PA 3, MCL 460.1 to ~~460.1000~~ **460.11**.

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 to
19 487.3804.

20 (v) ~~(e)~~ The credit union act, **2003 PA 215, MCL 490.101 TO**
21 **490.601**.

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

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

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

5 (3) AS USED IN THIS SECTION, "COMPANY" MEANS A PERSON THAT IS
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.