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BILL ANALYSIS



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Senate Bill 843 (as introduced 3-3-16)
Sponsor: Senator Dave Robertson
Committee: Banking and Financial Institutions

Date Completed: 3-8-16

CONTENT

The bill would amend the Credit Services Protection Act to do the following:

- **Allow a credit services organization to accept fees or charges as consideration in return for providing any of the permitted services described in the Act.**
- **Specify that a credit services organization's charge for providing any of the permitted services would not be considered money or other consideration charged to or received from a buyer solely for a referral.**
- **Prohibit a credit services organization from making a loan for compensation to a person under another State statute, or accepting unauthorized consideration for a permitted service.**
- **Modify the Act's definition of "credit services organization".**

The bill would take effect 90 days after its enactment.

"Credit Services Organization"

Under the Act, "credit services organization" means, except as otherwise provided, a person who, in return for consideration, attempts to sell, provide, or perform one or more of the following: a) the improvement of a person's credit record, history, or rating; b) the obtainment of an extension of credit; c) advice or assistance regarding the improvement or repair of a person's credit record, history, or rating; d) advice or assistance regarding the obtainment of an extension of credit; e) advice or assistance regarding foreclosure of a real estate mortgage; or f) service as an intermediate between a debtor and a creditor on behalf of the debtor regarding credit that was extended before any agreement to have the credit services organization serve as an intermediate.

Under the bill, that term would mean a person that, in return for consideration, performs services that do or attempt to do one or more of the following: a) improve a person's credit record, history, or rating or otherwise enhance a person's creditworthiness; b) obtain an extension of credit to a buyer from a third party; c) advise or assist a buyer regarding the improvement or repair of a person's credit record, history, or rating; d) advise or assist a buyer concerning an extension of credit; e) advise or assist a buyer concerning foreclosure of a real estate mortgage; or f) authorize the credit services organization to act as an intermediary between a debtor and a creditor on behalf of the debtor regarding credit that was extended before any agreement to have the credit services organization serve as an intermediary.

The bill would eliminate language under which a person who is licensed in this State or otherwise authorized to make loans or extend credit under any State statute while engaged in the regular course of business is not a credit services organization.

Permitted & Prohibited Acts

The bill would allow a credit services organization to accept fees or charges as consideration in return for providing any of the permitted services described in the Credit Services Protection Act. The bill specifies that nothing in the Act would create an inference that the consideration received by a credit services organization for its services would be considered interest or charges on any loan that could be related to the services provided by the credit services organization.

Currently, a credit services organization, a salesperson, agent, or representative of a credit services organization, or an independent contractor who sells or attempts to sell the services of a credit services organization is prohibited from, among other things, charging a buyer or receiving from a buyer money or other consideration solely for referral to a retail seller that may extend credit to the buyer if the credit is substantially the same as that available to the general public. Under the bill, a credit services organization's charge for providing any of the services within the definition of "credit services organization" would not be considered to be money or other consideration charged to or received from a buyer solely for a referral.

The bill would prohibit the same entities and individuals from making a loan or extending credit to a person under another State statute and receiving compensation for making that loan or extension of credit. The bill also would prohibit those entities and individuals from accepting consideration for providing any of the permitted services that would not be authorized under the bill.

The bill would define "retail seller" as that term is defined in the Retail Installment Sales Act: a person regularly and principally engaged in the business of selling goods or services to retail buyers, not including the services of a professional person licensed by the State to perform legal or dental services or medical services as a medical doctor or a doctor of osteopathy.

MCL 445.1822 & 445.1823

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. A violation of the Credit Services Protection Act is a misdemeanor punishable by up to 90 days' imprisonment, a maximum fine of \$1,000, or both. It is unknown whether the bill would lead to a net increase or decrease in misdemeanor arrests and convictions. An increase could place incremental resource demands on local court systems, law enforcement, and jails. Any associated increase in fine revenue would be dedicated to public libraries.

Conversely, a decrease in misdemeanor arrests and convictions could lead to decreased demands on local court systems, law enforcement, and jails, as well as decreased fine revenue dedicated to public libraries.

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.