

# SENATE BILL No. 843

March 3, 2016, Introduced by Senator ROBERTSON and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1994 PA 160, entitled "Credit services protection act," by amending sections 2 and 3 (MCL 445.1822 and 445.1823), section 2 as amended by 2009 PA 97, and by adding section 3a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 2. As used in this act:

2       (a) "Buyer" means a person ~~who~~ **THAT** is solicited to purchase  
3 or who purchases the services of a credit services organization.

4       (b) "Credit services organization" means, except as otherwise  
5 provided in subdivision (c), a person ~~who~~, **THAT**, in return for  
6 consideration, ~~attempts to sell, provide, or perform~~ **PERFORMS**  
7 **SERVICES THAT DO OR ATTEMPT TO DO** 1 or more of the following:

8       (i) ~~The improvement of~~ **IMPROVE** a person's credit record,  
9 history, or rating **OR OTHERWISE ENHANCE A PERSON'S**  
10 **CREDITWORTHINESS.**

1           (ii) ~~The obtainment of~~ **OBTAIN** an extension of credit **TO A**  
2 **BUYER FROM A THIRD PARTY.**

3           (iii) ~~Advice or assistance~~ **ADVISE OR ASSIST A BUYER** regarding  
4 the improvement or repair of a person's credit record, history, or  
5 rating.

6           (iv) ~~Advice or assistance regarding the obtainment of~~ **ADVISE**  
7 **OR ASSIST A BUYER CONCERNING** an extension of credit.

8           (v) ~~Advice or assistance~~ **ADVISE OR ASSIST A BUYER** regarding  
9 foreclosure of a real estate mortgage.

10          (vi) ~~Serve~~ **AUTHORIZE THE CREDIT SERVICES ORGANIZATION TO ACT**  
11 as an ~~intermediate~~ **INTERMEDIARY** between a debtor and a creditor on  
12 behalf of the debtor regarding credit that was extended ~~prior to~~  
13 **BEFORE** any agreement to have the credit services organization serve  
14 as an ~~intermediate~~ **INTERMEDIARY.**

15          (c) Credit services organization does not include any of the  
16 following:

17          ~~(i) A person who is licensed in this state or otherwise~~  
18 ~~authorized to make loans or extend credit under any state statute~~  
19 ~~while engaged in the regular course of business under that state~~  
20 ~~statute, other than 1966 PA 326, MCL 438.31 to 438.33.~~

21          (i) ~~(ii)~~ A federal or state chartered bank, credit union,  
22 savings bank, or savings and loan institution, an entity of the  
23 federally chartered ~~farm credit system,~~ **FARM CREDIT SYSTEM,** or any  
24 ~~solely~~ **WHOLLY** owned subsidiary thereof. **OF THAT BANK, CREDIT UNION,**  
25 **INSTITUTION, OR ENTITY.**

26          (ii) ~~(iii)~~ A person **THAT IS** licensed under the occupational  
27 code, 1980 PA 299, MCL 339.101 to ~~339.2919,~~ **339.2677,** when engaged

1 in the regular course of business.

2 (iii) ~~(iv) A person~~ **AN INDIVIDUAL WHO IS** licensed to practice  
3 law in this state if the ~~person~~ **INDIVIDUAL** renders services within  
4 the course of that ~~person's~~ **INDIVIDUAL'S** practice as an attorney  
5 and does not engage in the business of a credit services  
6 organization on a regular and continuing basis.

7 (iv) ~~(v)~~ A judicial officer or other person **THAT IS** acting  
8 under court order.

9 (v) ~~(vi)~~ A consumer reporting agency, as defined in section  
10 603 of the fair credit reporting act, 15 USC 1681a, while engaged  
11 in the regular course of the credit reporting business.

12 (vi) ~~(vii)~~ A debt management business licensed under the debt  
13 management act, 1975 PA 148, MCL 451.411 to 451.437, while engaged  
14 in the regular course of business under that act.

15 (vii) ~~(viii)~~ An investment adviser or broker-dealer registered  
16 under ~~the uniform securities act, 1964 PA 265, MCL 451.501 to~~  
17 ~~451.818, or~~ the uniform securities act (2002), 2008 PA 551, MCL  
18 451.2101 to 451.2703.

19 (viii) ~~(ix)~~ A nonprofit corporation that is exempt from  
20 taxation under section 501c(3) of the internal revenue code **OF**  
21 **1986**, 26 USC 501c(3).

22 (ix) ~~(x)~~ A finance subsidiary of a manufacturing corporation.

23 (d) "Extension of credit" means the right to defer payment of  
24 debt or to incur debt.

25 (e) "Person" means an individual, partnership, corporation,  
26 limited liability company, association, or other legal entity.

27 **(F) "RETAIL SELLER" MEANS THAT TERM AS DEFINED IN SECTION 2 OF**

1 **THE RETAIL INSTALLMENT SALES ACT, 1966 PA 224, MCL 445.852.**

2       Sec. 3. A credit services organization, a salesperson, agent,  
3 or representative of a credit services organization, or an  
4 independent contractor ~~who~~**THAT** sells or attempts to sell the  
5 services of a credit services organization shall not do any of the  
6 following:

7       (a) Charge or receive from a buyer who is seeking a loan or  
8 extension of credit any money or other valuable consideration  
9 before the closing of the loan or extension of credit.

10       (b) Charge a buyer or receive from a buyer of services money  
11 or other valuable consideration before completing performance of  
12 all services the credit services organization has agreed to perform  
13 for the buyer.

14       (c) Charge a buyer or receive from a buyer money or other  
15 valuable consideration solely for referral to a retail seller ~~who~~  
16 **THAT** will or may extend credit to the buyer if the credit that is  
17 or may be extended to the buyer is substantially the same as that  
18 available to the general public. **HOWEVER, A CREDIT SERVICES**  
19 **ORGANIZATION'S CHARGES FOR PROVIDING ANY OF THE SERVICES DESCRIBED**  
20 **IN SECTION 2(B) (i) TO (vi) ARE NOT CONSIDERED TO BE MONEY OR OTHER**  
21 **CONSIDERATION CHARGED TO OR RECEIVED FROM A BUYER SOLELY FOR A**  
22 **REFERRAL DESCRIBED IN THIS SUBDIVISION.**

23       (d) Make or use a false or misleading representation in the  
24 offer or sale of the services of a credit services organization.

25       (e) Engage, directly or indirectly, in a fraudulent or  
26 deceptive act, practice, or course of business in connection with  
27 the offer or sale of the services of a credit services organization

1 including, but not limited to, ~~both~~ **ANY** of the following:

2 (i) Guaranteeing or otherwise stating that the organization is  
3 able to delete an adverse credit history unless the representation  
4 clearly discloses, in a manner equally as conspicuous as the  
5 guarantee, that this can be done only if the credit history is  
6 inaccurate or obsolete and is not claimed to be accurate by the  
7 creditor who submitted the information.

8 (ii) Guaranteeing or otherwise stating that the organization  
9 is able to obtain an extension of credit regardless of the buyer's  
10 previous credit problems or credit history unless the  
11 representation clearly discloses, in a manner equally as  
12 conspicuous as the guarantee, the eligibility requirements for  
13 obtaining an extension of credit.

14 (f) Fail to perform the agreed services within 90 days  
15 following the date the buyer signs the contract for services.

16 (g) Counsel or advise a buyer to make a statement that is  
17 known, or should be known, to be untrue or misleading to a consumer  
18 credit reporting agency, a person who has extended credit to a  
19 buyer, or to a person to whom the buyer is applying for an  
20 extension of credit.

21 (h) Remove, assist, or advise the buyer to remove adverse  
22 information from the buyer's credit record ~~which~~ **THAT** is accurate  
23 and not obsolete.

24 (i) Create, assist, or advise the buyer to create a new credit  
25 record by using a different name, address, social security number,  
26 or employer identification number.

27 (j) Submit a buyer's dispute to a consumer credit reporting

1 agency without the buyer's knowledge.

2 (k) Provide a service to a buyer that is not pursuant to a  
3 written contract that complies with this section.

4 (l) MAKE A LOAN OR EXTEND CREDIT TO A PERSON UNDER ANOTHER  
5 STATUTE OF THIS STATE AND RECEIVE COMPENSATION FOR MAKING THAT LOAN  
6 OR EXTENSION OF CREDIT UNDER THIS ACT.

7 (M) ACCEPT CONSIDERATION FOR PROVIDING ANY OF THE SERVICES  
8 DESCRIBED IN SECTION 2(B) (i) TO (vi) THAT IS NOT AUTHORIZED UNDER  
9 SECTION 3A(1) .

10 SEC. 3A. (1) A CREDIT SERVICES ORGANIZATION MAY ACCEPT FEES OR  
11 CHARGES AS CONSIDERATION IN RETURN FOR PROVIDING ANY OF THE  
12 SERVICES DESCRIBED IN SECTION 2(B) (i) TO (vi) .

13 (2) NOTHING IN THIS ACT SHALL CREATE AN INFERENCE THAT THE  
14 CONSIDERATION RECEIVED BY A CREDIT SERVICES ORGANIZATION FOR ITS  
15 SERVICES IS TO BE CONSIDERED INTEREST OR CHARGES ON ANY LOAN THAT  
16 MAY BE RELATED TO THE SERVICES PROVIDED BY THE CREDIT SERVICES  
17 ORGANIZATION.

18 Enacting section 1. This amendatory act takes effect 90 days  
19 after the date it is enacted into law.