

716A.14 COMPUTER THEFT IN THE FIFTH DEGREE.

Computer theft is computer theft in the fifth degree when the theft involves or results in a loss of services or property of not more than fifty one hundred dollars. Computer theft in the fifth degree is a simple misdemeanor.

Approved April 13, 1992

CHAPTER 1061**EXEMPTIONS FROM EXECUTION — PENSIONS AND ANNUITIES***S.F. 2275*

AN ACT relating to the exemption from execution for a debtor's rights in a payment under a pension, annuity, or similar plan or contract and providing retroactive and effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 627.6, subsection 8, paragraph e, Code 1991, is amended to read as follows:

e. A payment or a portion of a payment under a pension, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, ~~to the extent reasonably necessary for the support of the debtor and any dependent of the debtor unless the payment or a portion of the payment results from contributions to the plan or contract by the debtor within one year prior to the filing of a bankruptcy petition, which contributions are above the normal and customary contributions under the plan or contract, in which case the portion of the payment attributable to the contributions above the normal and customary rate is not exempt.~~

Sec. 2. **RETROACTIVE APPLICABILITY PROVISION.** This Act applies retroactively to January 1, 1992, and applies to bankruptcy matters pending on or after January 1, 1992.

Approved April 13, 1992

CHAPTER 1062**CONSUMER FRAUD***S.F. 2276*

AN ACT relating to consumer fraud and providing penalties and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 82.6, Code 1991, is amended to read as follows:

82.6 PENALTY.

1. Any seller who violates the provisions of this chapter shall be guilty of a simple misdemeanor.

2. A violation of this chapter is a violation of section 714.16, subsection 2, paragraph "a".

Sec. 2. Section 203B.5, Code 1991, is amended by adding the following new subsection: **NEW SUBSECTION.** 5. A violation of this chapter is a violation of section 714.16, subsection 2, paragraph "a".

Sec. 3. Section 714.16, subsection 7, Code Supplement 1991, is amended to read as follows:

7. A civil action pursuant to this section shall be by equitable proceedings. If it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in a practice declared to be unlawful by this section, the attorney general may seek and obtain in an action in a district court a temporary restraining order, preliminary injunction, or permanent injunction prohibiting the person from continuing the practice or engaging in the practice or doing an act in furtherance of the practice. The court may make orders or judgments as necessary to prevent the use or employment by a person of any prohibited practices, or which are necessary to restore to any person in interest any moneys or property, real or personal, which have been acquired by means of a practice declared to be unlawful by this section, including the appointment of a receiver in cases of substantial and willful violation of this section. If a person has acquired moneys or property by any means declared to be unlawful by this section and if the cost of administering restitution outweighs the benefit to consumers or consumers entitled to the restitution cannot be located through reasonable efforts, the court may order disgorgement of moneys or property acquired by the person by awarding the moneys or property to the state to be used by the attorney general for the administration and implementation of this section. Except in an action for the concealment, suppression, or omission of a material fact with intent that others rely upon it, it is not necessary in an action for restitution or an injunction, to allege or to prove reliance, damages, intent to deceive, or that the person who engaged in an unlawful act had knowledge of the falsity of the claim or ignorance of the truth. A claim for restitution may be proved by any competent evidence, including evidence that would be appropriate in a class action.

In addition to the remedies otherwise provided for in this subsection, the attorney general may request and the court may impose a civil penalty not to exceed forty thousand dollars per violation against a person found by the court to have engaged in a method, act, or practice declared unlawful under this section; provided, however, a course of conduct shall not be considered to be separate and different violations merely because the conduct is repeated to more than one person. In addition, on the motion of the attorney general or its own motion, the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a temporary restraining order, preliminary injunction, or permanent injunction issued under authority of this section. A penalty imposed pursuant to this subsection is in addition to any penalty imposed pursuant to section 537.6113. Civil penalties ordered pursuant to this subsection shall be paid to the treasurer of state to be deposited in the general fund of the state.

Sec. 4. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 13, 1992