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REQUIRE CREDITORS TO NOTIFY COSIGNERS

House Bill 4354

Sponsor: Rep. Alma Stallworth
Committee: Consumers

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A SUMMARY OF HOUSE BILL 4354 AS INTRODUCED 3-7-89

The bill would create an act to require creditors to notify a cosigner before informing a credit agency that the cosigner had not complied with the contractual provisions of an obligation. Under the bill, a "cosigner" would be defined as a person who rendered himself or herself liable for the obligation of another person without compensation (a person who did not receive goods, services or money in return for a credit obligation would be defined under the bill as "not receiving compensation"). The term would include one whose signature had been requested as a condition to granting credit to another person, or as a condition for forbearance on collection of another person's obligation that was in default. The term would not include a spouse whose signature was required on a credit obligation to perfect a security interest under state law, or a person who had executed a guarantee. A person who met the definition of "cosigner" would be considered a cosigner under the bill whether or not he or she were designated as a cosigner on a credit obligation.

Before reporting information about a cosigner to a consumer reporting agency concerning an obligation that was cosigned, or before providing any information to a collection agency or taking any collection action on the obligation, the bill would require that a creditor -- other than orally communicating information on the delinquency -- do both of the following:

a) Send a notice to the cosigner by first class mail, indicating that the primary obligor had become delinquent, or had defaulted on the obligation, and that the cosigner was responsible for payment;

b) Allow the cosigner not less than 15 days from the date the notice was sent to respond by either paying the amount due, or by making other arrangements that were satisfactory to the creditor.

Under the bill, a creditor could not report adverse credit information regarding a cosigner who had responded to a notice under the above terms. A cosigner who suffered loss as a result of a violation of the act could bring an action to recover actual damages or \$250, whichever was greater, together with reasonable attorney's fees.

House Bill 4354 (3-14-89)