Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 438 (as enrolled)
Sponsor: Senator Bill Schuette Senate
Committee: Financial Services House
Committee: Commerce

PUBLIC ACT 85 of 1996

Date Completed: 9-10-96

RATIONALE

Public Act 162 of 1995 created the Credit Reform Act, which sets a maximum of 25% on the rate of interest or finance charge that a regulated lender may collect for an "extension of credit" and prohibits regulated lenders and depository institutions from requiring a borrower or buyer to pay an "excessive fee or charge". The Act did not define "excessive fee or charge", however, and some felt that the Act's definition of "extension of credit" should make it clear that the term does not include first mortgage loans, which, under Federal law, are not subject to state interest rate restrictions.

CONTENT

The bill amended the Credit Reform Act to define "excessive fee or charge" and to revise the definition of "extension of credit".

The bill defines "excessive fee or charge" as a fee or charge that exceeds the amount specifically allowed under the Credit Reform Act or any other law or statute.

The Act defines "extension of credit" as "a loan or credit sale made by a regulated lender". The bill specifies that an extension of credit regulated under the Credit Reform Act does not include an extension of credit for a first mortgage loan.

The bill took effect on March 28, 1996.

MCL 445.1852

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Provisions prohibiting a regulated lender or depository institution from requiring a borrower or buyer to pay an "excessive fee or charge" were added to House Bill 4614, which created the Credit Reform Act, by an amendment in the House of Representatives, but that term was not defined in the legislation. The bill remedies that oversight. Further, the bill specifically excludes from an extension of credit regulated under the Act first mortgage loans, which Federal law preempts from state usury law restrictions.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill will not have an impact on the administrative or regulatory workload of the Financial Institutions Bureau of the Department of Consumer and Industry Services. There will be no impact on local governmental units.

Fiscal Analyst: M. Tyszkiewicz

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