



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4614 (Substitute H-7 as reported without amendment)

Sponsor: Representative Gary L. Randall

House Committee: Commerce

Senate Committee: Financial Services

CONTENT

The bill would create the "Credit Reform Act" to allow a regulated lender to charge, collect, and receive any rate of interest or finance charge up to 25% per year for an extension of credit, and allow a depository institution to charge *any* rate of interest or finance charge on a credit card arrangement.

Except for a depository institution and as otherwise provided by law, a regulated lender could require a borrower to pay a processing fee in connection with an extension of credit and/or charge the borrower a late fee for an installment payment that was received by the regulated lender after the expiration of an agreed-upon grace period. A processing fee could not exceed 2% of the amount of the extension of credit, and a late fee could not exceed \$15 or 5% of the installment payment, whichever was greater. A regulated lender could not require, as a condition of approving a loan, that the borrower contract for one or more additional financial services.

The Attorney General, the prosecuting attorney for the county in which an alleged violation occurred, or a borrower could bring an action against a regulated lender to obtain a declaratory judgment that a regulated lender was in violation of the bill; enjoin a regulated lender that was in violation; recover damages; recover reasonable attorney fees and costs; and/or recover a civil fine. Except for an unintentional and bona fide error or a violation that the lender had corrected, a regulated lender who violated the bill in the extension of credit to a borrower or buyer could not recover any interest or other charges in connection with that extension of credit. A regulated lender would not be liable for a violation of the bill if the lender had fully complied with the Federal Truth-In-Lending Act and showed that the violation was an unintentional and bona fide error. A regulated lender would not be liable for a violation of the bill if, within 60 days after discovering the violation and before the institution of an enforcement action, the regulated lender notified the borrower or buyer of the violation and corrected it in a manner that restored the borrower or buyer to the position in which he or she would have been if the violation had not occurred. The regulated lender would have the burden of proving that a violation was an unintentional and bona fide error.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The Financial Institutions Bureau, Department of Commerce, would not be required to make significant changes in support activities for loan practices of regulated lending institutions. There would be no fiscal impact on the Department of Commerce or on local governmental units.

Date Completed: 9-15-95

Fiscal Analyst: K. Lindquist

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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.