

CONFERENCE COMMITTEE REPORT DIGEST FOR HB 1186

Citations Affected: IC 24-4.5-2-201.

Synopsis: Consumer sales and credit. Conference committee report for EHB 1186. Consumer sales and credit. Adds license revocation by the department of financial institutions to the list of items that require notice to parties involved. Changes the reference date to federal law from December 31, 1996, to December 31, 1997. Provides that the date of sale for a consumer credit sale other than a revolving charge account sale is the date that credit is granted unless the delivery of goods is more than 30 days after the date that the credit is granted, except: (1) when the delay beyond 30 days is attributable to the customer, or (2) when a partial delivery of the goods occurs. (Current law provides the date of the sale is the date that credit is granted unless the delivery of goods, or the performance of services commences more than ten days after the date that credit is granted. Provides for the collection of certain charges, notwithstanding provisions of the Federal Consumer Credit Protection Act concerning disclosure. Allows the director of the department of financial institutions to require continuing proof that a licensee meets the requirements for a license issued by the department of financial institutions. Allows the director of the department of financial institutions to proceed with the revocation of a license under the Uniform Consumer Credit Code to protect the public in an emergency or if the license was obtained for a person who would not qualify for the license. Requires the department of financial institutions to determine the financial responsibility, character, and fitness of an applicant for licensure as a budget service company. Requires the department of financial institutions to conduct an investigation of a check cashing service before issuing a license. (Current law only requires that an investigation be done.) Eliminates the requirement that a check cashing service have \$10,000 in operating funds before a license to operate may be issued. Eliminates the requirement that pawnbrokers have \$75,000 in assets for a location before the department of financial institutions issues a license. Requires the date of birth of a person for certain transactions involving pawnbrokers. Requires pawnbrokers to mail a notice of pending sale separate from other materials. Provides that for the purposes of financial services a check cashing transaction is a transaction in which there is no written or implied agreement to hold the check for more than three days. Prohibits the writing of multiple checks for purposes of collecting multiple or increased fees for cashing the checks. (This conference committee report makes the following change: Provides that the date of sale for a consumer credit sale other than a revolving charge account sale is the date that credit is granted unless the delivery of goods is more than 30 days after the date that the credit is granted, except: (1) when the delay beyond 30 days is attributable to the customer, or (2) when a partial delivery of the goods occurs.)

Effective: July 1, 1998.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1186 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Page 5, between lines 11 and 12, begin a new paragraph and
2 insert:
3 "SECTION 4. IC 24-4.5-2-201 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 201. Credit Service
5 Charge for Consumer Credit Sales other than Revolving Charge
6 Accounts-(1) With respect to a consumer credit sale, other than a sale
7 pursuant to a revolving charge account, a seller may contract for and
8 receive a credit service charge not exceeding that permitted by this
9 section.
10 (2) The credit service charge, calculated according to the actuarial
11 method, may not exceed the equivalent of the greater of either of the
12 following:
13 (a) the total of:
14 (i) thirty-six percent (36%) per year on that part of the
15 unpaid balances of the amount financed which is three
16 hundred dollars (\$300) or less;
17 (ii) twenty-one percent (21%) per year on that part of the
18 unpaid balances of the amount financed which is more than
19 three hundred dollars (\$300) but does not exceed one
20 thousand dollars (\$1,000); and
21 (iii) fifteen percent (15%) per year on that part of the unpaid
22 balances of the amount financed which is more than one
23 thousand dollars (\$1,000); or
24 (b) twenty-one percent (21%) per year on the unpaid balances of
25 the amount financed.
26 (3) This section does not limit or restrict the manner of contracting
27 for the credit service charge, whether by way of add-on, discount, or

1 otherwise, so long as the rate of the credit service charge does not
2 exceed that permitted by this section. If the sale is precomputed:

3 (a) the credit service charge may be calculated on the
4 assumption that all scheduled payments will be made when due;
5 and

6 (b) the effect of prepayment is governed by the provisions on
7 rebate upon prepayment (IC 24-4.5-2-210).

8 (4) For the purposes of this section, the term of a sale agreement
9 commences with the date the credit is granted or, if goods are delivered
10 or services performed ~~ten (10) days or more~~ **than thirty (30) days** after
11 that date, with the date of commencement of delivery or performance
12 **except as set forth below:**

13 **(a) Delays attributable to the customer. Where the customer**
14 **requests delivery after the thirty (30) day period or where**
15 **delivery occurs after the thirty (30) day period for a reason**
16 **attributable to the customer (including but not limited to**
17 **failure to close on a residence or failure to obtain lease**
18 **approval), the term of the sale agreement shall commence**
19 **with the date credit is granted.**

20 **(b) Partial Deliveries. Where any portion of the order has**
21 **been delivered within the thirty (30) day period, the term of**
22 **the sale agreement shall commence with the date credit is**
23 **granted.**

24 Differences in the lengths of months are disregarded and a day may be
25 counted as one-thirtieth (1/30) of a month. Subject to classifications
26 and differentiations the seller may reasonably establish, a part of a
27 month in excess of fifteen (15) days may be treated as a full month if
28 periods of fifteen (15) days or less are disregarded and that procedure
29 is not consistently used to obtain a greater yield than would otherwise
30 be permitted.

31 (5) Subject to classifications and differentiations the seller may
32 reasonably establish, he may make the same credit service charge on
33 all amounts financed within a specified range. A credit service charge
34 so made does not violate subsection (2) if:

35 (a) when applied to the median amount within each range, it
36 does not exceed the maximum permitted by subsection (2); and

37 (b) when applied to the lowest amount within each range, it does
38 not produce a rate of credit service charge exceeding the rate
39 calculated according to paragraph (a) by more than eight percent
40 (8%) of the rate calculated according to paragraph (a).

41 (6) Notwithstanding subsection (2), the seller may contract for and
42 receive a minimum credit service charge of not more than thirty dollars
43 (\$30).

44 (7) The amounts of three hundred dollars (\$300) and one thousand
45 dollars (\$1,000) in subsection (2) are subject to change pursuant to the
46 provisions on adjustment of dollar amounts (IC 24-4.5-1-106).

47 (8) The amount of thirty dollars (\$30) in subsection (6) is subject
48 to change under the provisions on adjustment of dollar amounts (IC
49 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the
50 Reference Base Index to be used under this subsection is the Index for
51 October 1992."

- 1 Renumber all SECTIONS consecutively.
(Reference is to EHB 1186 as printed February 13, 1998.)

Conference Committee Report
on
House Bill 1186

Signed by:

Senator Lanane

Representative Tabaczynski

Senator Paul

Representative Ruppel

Senate Conferees

House Conferees