

Adopted	Rejected
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## COMMITTEE REPORT

YES:	12
NO:	0

### MR. SPEAKER:

*Your Committee on Financial Institutions, to which was referred House Bill 1009, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 2, between lines 10 and 11, begin a new paragraph and insert:
- 2 "SECTION 2. IC 24-4.5-1-301 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 301. General
- 4 Definitions) In addition to definitions appearing in subsequent chapters
- 5 in this article:
- 6 (1) "Agreement" means the bargain of the parties in fact as found in
- 7 their language or by implication from other circumstances, including
- 8 course of dealing or usage of trade or course of performance.
- 9 (2) "Agricultural purpose" means a purpose related to the
- 10 production, harvest, exhibition, marketing, transportation, processing,
- 11 or manufacture of agricultural products by a natural person who
- 12 cultivates, plants, propagates, or nurtures the agricultural products;
- 13 "Agricultural products" includes agricultural, horticultural, viticultural,
- 14 and dairy products, livestock, wildlife, poultry, bees, forest products,
- 15 fish and shellfish, and any and all products raised or produced on farms
- 16 and any processed or manufactured products thereof.

1 (3) "Average daily balance" means the sum of each of the daily  
2 balances in a billing cycle divided by the number of days in the billing  
3 cycle, and if the billing cycle is a month, the creditor may elect to treat  
4 the number of days in each billing cycle as thirty (30).

5 (4) "Closing costs" with respect to a debt secured by an interest in  
6 land includes:

7 (a) fees or premiums for title examination, title insurance, or  
8 similar purposes, including surveys;

9 (b) fees for preparation of a deed, settlement statement, or other  
10 documents;

11 (c) escrows for future payments of taxes and insurance;

12 (d) fees for notarizing deeds and other documents;

13 (e) appraisal fees; and

14 (f) credit reports.

15 (5) "Conspicuous": A term or clause is conspicuous when it is so  
16 written that a reasonable person against whom it is to operate ought to  
17 have noticed it.

18 (6) "Consumer credit" means credit offered or extended to a  
19 consumer primarily for a personal, family, or household purpose.

20 (7) "Credit" means the right granted by a creditor to a debtor to  
21 defer payment of debt or to incur debt and defer its payment.

22 (8) "Creditor" means a person:

23 (a) who regularly engages in the extension of consumer credit that  
24 is subject to a credit service charge or loan finance charge, as  
25 applicable, or is payable in installments; and

26 (b) to whom the obligation is initially payable, either on the face  
27 of the note or contract, or by agreement when there is not a note  
28 or contract.

29 (9) "Earnings" means compensation paid or payable for personal  
30 services, whether denominated as wages, salary, commission, bonus,  
31 or otherwise, and includes periodic payments under a pension or  
32 retirement program.

33 (10) "Lender credit card or similar arrangement" means an  
34 arrangement or loan agreement, other than a seller credit card, pursuant  
35 to which a lender gives a debtor the privilege of using a credit card,  
36 letter of credit, or other credit confirmation or identification in  
37 transactions out of which debt arises:

38 (a) by the lender's honoring a draft or similar order for the

- 1 payment of money drawn or accepted by the debtor;
- 2 (b) by the lender's payment or agreement to pay the debtor's
- 3 obligations; or
- 4 (c) by the lender's purchase from the obligee of the debtor's
- 5 obligations.

6 (11) "Official fees" means:

- 7 (a) fees and charges prescribed by law which actually are or will
- 8 be paid to public officials for determining the existence of or for
- 9 perfecting, releasing, or satisfying a security interest related to a
- 10 consumer credit sale, consumer lease, or consumer loan; or
- 11 (b) premiums payable for insurance in lieu of perfecting a security
- 12 interest otherwise required by the creditor in connection with the
- 13 sale, lease, or loan, if the premium does not exceed the fees and
- 14 charges described in paragraph (a) which would otherwise be
- 15 payable.

16 (12) "Organization" means a corporation, government or

17 governmental subdivision or agency, trust, estate, partnership, limited

18 liability company, cooperative, or association.

19 (13) "Payable in installments" means that payment is required or

20 permitted by written agreement to be made in more than four (4)

21 installments not including a down payment.

22 (14) "Person" includes a natural person or an individual, and an

23 organization.

24 (15) "Person related to" with respect to an individual means:

- 25 (a) the spouse of the individual;
- 26 (b) a brother, brother-in-law, sister, sister-in-law of the individual;
- 27 (c) an ancestor or lineal descendants of the individual or the
- 28 individual's spouse; and
- 29 (d) any other relative, by blood or marriage, of the individual or
- 30 the individual's spouse who shares the same home with the
- 31 individual.

32 "Person related to" with respect to an organization means:

- 33 (a) a person directly or indirectly controlling, controlled by, or
- 34 under common control with the organization;
- 35 (b) an officer or director of the organization or a person
- 36 performing similar functions with respect to the organization or
- 37 to a person related to the organization;
- 38 (c) the spouse of a person related to the organization; and

1 (d) a relative by blood or marriage of a person related to the  
2 organization who shares the same home with him.

3 (16) "Presumed" or "presumption" means that the trier of fact must  
4 find the existence of the fact presumed unless and until evidence is  
5 introduced which would support a finding of its nonexistence.

6 (17) "Mortgage transaction" means a transaction in which a first  
7 mortgage or a land contract which constitutes a first lien is created or  
8 retained against land.

9 (18) "Regularly engaged" means a person who extends consumer  
10 credit more than:

11 (a) twenty-five (25) times; or

12 (b) five (5) times for transactions secured by a dwelling;  
13 in the preceding calendar year. If a person did not meet these numerical  
14 standards in the preceding calendar year, the numerical standards shall  
15 be applied to the current calendar year.

16 (19) "Seller credit card" means an arrangement which gives to a  
17 buyer or lessee the privilege of using a credit card, letter of credit, or  
18 other credit confirmation or identification for the purpose of purchasing  
19 or leasing goods or services from that person, a person related to that  
20 person, or from that person and any other person. The term includes a  
21 card that is issued by a person, that is in the name of the seller, and that  
22 can be used by the buyer or lessee only for purchases or leases at  
23 locations of the named seller.

24 (20) "Supervised financial organization" means a person, other than  
25 an insurance company or other organization primarily engaged in an  
26 insurance business:

27 (a) organized, chartered, or holding an authorization certificate  
28 under the laws of a state or of the United States which authorizes  
29 the person to make loans and to receive deposits, including a  
30 savings, share, certificate, or deposit account; and

31 (b) subject to supervision by an official or agency of a state or of  
32 the United States.

33 **(21) "Mortgage servicer" means the last person to whom a**  
34 **mortgagor or the mortgagor's successor in interest has been**  
35 **instructed by a mortgagee to send payments on a loan secured by**  
36 **a mortgage.**

37 SECTION 3. IC 24-4.5-2-104 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 104. (1) Except as

1 provided in subsection (2), "consumer credit sale" is a sale of goods,  
2 services, or an interest in land in which:

- 3 (a) credit is granted by a person who regularly engages as a seller  
4 in credit transactions of the same kind;  
5 (b) the buyer is a person other than an organization;  
6 (c) the goods, services, or interest in land are purchased primarily  
7 for a personal, family, or household purpose;  
8 (d) either the debt is payable in installments or a credit service  
9 charge is made; and  
10 (e) with respect to a sale of goods or services, either the amount  
11 financed does not exceed fifty thousand dollars (\$50,000) or the  
12 debt is secured by personal property used or expected to be used  
13 as the principal dwelling of the buyer.

14 (2) Unless the sale is made subject to this article by agreement  
15 (IC 24-4.5-2-601), "consumer credit sale" does not include:

- 16 (a) a sale in which the seller allows the buyer to purchase goods  
17 or services pursuant to a lender credit card or similar  
18 arrangement; or  
19 (b) except as provided with respect to disclosure  
20 (IC 24-4.5-2-301), debtors' remedies (IC 24-4.5-5-201),  
21 **providing payoff amounts (IC 24-4.5-3-209)**, and powers and  
22 functions of the department (IC 24-4.5-6-101), a sale of an  
23 interest in land which is a mortgage transaction (as defined in  
24 IC 24-4.5-1-301(17)).

25 SECTION 4. IC 24-4.5-3-105 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 105. Unless the loan is  
27 made subject to IC 24-4.5-3 by agreement (IC 24-4.5-3-601), and  
28 except with respect to disclosure (IC 24-4.5-3-301), debtors' remedies  
29 (IC 24-4.5-5-201), **providing payoff amounts (IC 24-4.5-3-209)**, and  
30 powers and functions of the department (IC 24-4.5-6-101), "consumer  
31 loan" does not include a loan primarily secured by an interest in land  
32 which is a mortgage transaction (as defined in IC 24-4.5-1-301(17)).".

33 Page 2, line 19, after "prepaid credit service charge" delete "," and  
34 insert "**but excluding the loan origination fee allowed under**  
35 **IC 24-4.5-3-201**".

36 Page 2, line 22, after "creditor" insert "**or mortgage servicer**".

37 Page 2, line 24, after "creditor" insert "**or mortgage servicer**".

38 Page 2, line 25, after "creditor" insert "**or mortgage servicer**".

- 1 Page 2, line 29, after "creditor" insert "**or mortgage servicer**".
- 2 Page 2, line 30, after "creditor" insert "**or mortgage servicer**".
- 3 Page 2, line 35, after "creditor" insert "**or mortgage servicer**".
- 4 Page 2, line 39, after "creditor" insert "**or mortgage servicer**".
- 5 Page 2, line 40, after "creditor" insert "**or mortgage servicer**".
- 6 Page 2, line 41, after "creditor" insert "**or mortgage servicer**".
- 7 Page 2, between lines 41 and 42, begin a new line blocked left and
- 8 insert:
- 9 **"A liability under this subsection is an excess charge under**
- 10 **IC 24-4.5-5-202."**
- 11 Page 3, line 17, after "prepaid finance charge" delete "," and insert
- 12 **"but excluding the loan origination fee allowed under**
- 13 **IC 24-4.5-3-201,"**
- 14 Page 3, line 20, after "creditor" insert "**or mortgage servicer**".
- 15 Page 3, line 22, after "creditor" insert "**or mortgage servicer**".
- 16 Page 3, line 23, after "creditor" insert "**or mortgage servicer**".
- 17 Page 3, line 26, after "creditor" insert "**or mortgage servicer**".
- 18 Page 3, line 27, after "creditor" insert "**or mortgage servicer**".
- 19 Page 3, line 32, after "creditor" insert "**or mortgage servicer**".
- 20 Page 3, line 36, after "creditor" insert "**or mortgage servicer**".
- 21 Page 3, line 37, after "creditor" insert "**or mortgage servicer**".
- 22 Page 3, line 38, after "creditor" insert "**or mortgage servicer**".
- 23 Page 3, between lines 38 and 39, begin a new line blocked left and
- 24 insert the following:
- 25 **"A liability under this subsection is an excess charge under**
- 26 **IC 24-4.5-5-202."**
- 27 Page 4, line 25, after "agency" insert "**or criminal history records**
- 28 **repository"**.
- 29 Page 5, line 11, after "the" insert "**later of:**
- 30 **(A) the date the creditor is reasonably satisfied that the**
- 31 **consumer has not rescinded the transaction; or**
- 32 **(B) the"**.
- 33 Page 5, line 26, after "agency" insert "**or criminal history records**
- 34 **repository"**.
- 35 Page 7, line 32, after "agency" insert "**or criminal history records**
- 36 **repository"**.
- 37 Page 8, line 14, after "agency" insert "**or criminal history records**
- 38 **repository"**.

- 1 Page 8, line 27, after "agency" insert "**or criminal history records**
- 2 **repository**".
- 3 Renumber all SECTIONS consecutively.  
(Reference is to HB 1009 as introduced.)

**and when so amended that said bill do pass.**

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Representative Bodiker