

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 300 be amended to read as follows:

- 1 Page 2, between lines 2 and 3, begin a new paragraph and insert:
2 "SECTION 2. IC 24-4.4-2-201, AS AMENDED BY HEA
3 1528-2011, SECTION 5, IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2011]: Sec. 201. (1) A creditor or mortgage
5 servicer shall provide, in writing, an accurate payoff amount for a first
6 lien mortgage transaction to the debtor not later than seven (7) business
7 days (excluding legal public holidays, Saturdays, and Sundays) after
8 the creditor or mortgage servicer receives the debtor's written request
9 for the accurate payoff amount. A payoff statement provided by a
10 creditor or mortgage servicer under this subsection must include the
11 date the statement was prepared and the payoff amount as of that date,
12 including an itemization of **the payoff amount, including the unpaid**
13 **principal balance and** each **other** fee, charge, or other sum included
14 within the payoff amount. A creditor or mortgage servicer who fails to
15 provide an accurate payoff amount is liable for:
16 (a) one hundred dollars (\$100) if an accurate payoff amount is not
17 provided by the creditor or mortgage servicer not later than seven
18 (7) business days (excluding legal public holidays, Saturdays, and
19 Sundays) after the creditor or mortgage servicer receives the
20 debtor's first written request; and
21 (b) the greater of:
22 (i) one hundred dollars (\$100); or
23 (ii) the loan finance charge that accrues on the first lien
24 mortgage transaction from the date the creditor or mortgage

1 servicer receives the first written request until the date on
2 which the accurate payoff amount is provided;
3 if an accurate payoff amount is not provided by the creditor or
4 mortgage servicer not later than seven (7) business days
5 (excluding legal public holidays, Saturdays, and Sundays) after
6 the creditor or mortgage servicer receives the debtor's second
7 written request, and the creditor or mortgage servicer fails to
8 comply with subdivision (a).

9 (2) This subsection applies to a first lien mortgage transaction, or
10 the refinancing or consolidation of a first lien mortgage transaction,
11 that:

- 12 (a) is closed after June 30, 2009; and
13 (b) has an interest rate that is subject to change at one (1) or more
14 times during the term of the first lien mortgage transaction.

15 A creditor in a transaction to which this subsection applies may not
16 contract for and may not charge the debtor a prepayment fee or penalty.

17 (3) This subsection applies to a first lien mortgage transaction with
18 respect to which any installment or minimum payment due is
19 delinquent for at least sixty (60) days. The creditor, servicer, or the
20 creditor's agent shall acknowledge a written offer made in connection
21 with a proposed short sale not later than five (5) business days
22 (excluding legal public holidays, Saturdays, and Sundays) after the date
23 of the offer if the offer complies with the requirements for a qualified
24 written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor,
25 servicer, or creditor's agent is required to acknowledge a written offer
26 made in connection with a proposed short sale from a third party acting
27 on behalf of the debtor only if the debtor has provided written
28 authorization for the creditor, servicer, or creditor's agent to do so. Not
29 later than thirty (30) business days (excluding legal public holidays,
30 Saturdays, and Sundays) after receipt of an offer under this subsection,
31 the creditor, servicer, or creditor's agent shall respond to the offer with
32 an acceptance or a rejection of the offer. The thirty (30) day period
33 described in this subsection may be extended for not more than fifteen
34 (15) business days (excluding legal public holidays, Saturdays, and
35 Sundays) if, before the end of the thirty (30) day period, the creditor,
36 the servicer, or the creditor's agent notifies the debtor of the extension
37 and the reason the extension is needed. Payment accepted by a creditor,
38 servicer, or creditor's agent in connection with a short sale constitutes
39 payment in full satisfaction of the first lien mortgage transaction unless
40 the creditor, servicer, or creditor's agent obtains:

- 41 (a) the following statement: "The debtor remains liable for any
42 amount still owed under the first lien mortgage transaction."; or
43 (b) a statement substantially similar to the statement set forth in
44 subdivision (a);

45 acknowledged by the initials or signature of the debtor, on or before the
46 date on which the short sale payment is accepted. As used in this

1 subsection, "short sale" means a transaction in which the property that
 2 is the subject of a first lien mortgage transaction is sold for an amount
 3 that is less than the amount of the debtor's outstanding obligation under
 4 the first lien mortgage transaction. A creditor or mortgage servicer that
 5 fails to respond to an offer within the time prescribed by this subsection
 6 is liable in accordance with 12 U.S.C. 2605(f) in any action brought
 7 under that section.

8 SECTION 3. IC 24-4.5-2-209, AS AMENDED BY HEA
 9 1528-2011, SECTION 15, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2011]: Sec. 209. (1) Subject to the provisions
 11 on rebate upon prepayment (section 210 of this chapter), the buyer may
 12 prepay in full the unpaid balance of a consumer credit sale, refinancing,
 13 or consolidation at any time without penalty.

14 (2) At the time of prepayment of a credit sale not subject to the
 15 provisions of rebate upon prepayment (section 210 of this chapter), the
 16 total credit service charge, including the prepaid credit service charge,
 17 may not exceed the maximum charge allowed under this chapter for the
 18 period the credit sale was in effect.

19 (3) The creditor or mortgage servicer shall provide, in writing, an
 20 accurate payoff amount for the consumer credit sale to the debtor
 21 within seven (7) business days (excluding legal public holidays,
 22 Saturdays, and Sundays) after the creditor or mortgage servicer
 23 receives the debtor's written request for the accurate consumer credit
 24 sale payoff amount. A payoff statement provided by a creditor or
 25 mortgage servicer under this subsection must include the date the
 26 statement was prepared and the payoff amount as of that date,
 27 including an itemization of **the payoff amount, including the unpaid**
 28 **principal balance and** each **other** fee, charge, or other sum included
 29 within the payoff amount. A creditor or mortgage servicer who fails to
 30 provide the accurate consumer credit sale payoff amount is liable for:

31 (A) one hundred dollars (\$100) if an accurate consumer credit
 32 sale payoff amount is not provided by the creditor or mortgage
 33 servicer within seven (7) business days (excluding legal public
 34 holidays, Saturdays, and Sundays) after the creditor or mortgage
 35 servicer receives the debtor's first written request; and

36 (B) the greater of:

37 (i) one hundred dollars (\$100); or

38 (ii) the credit service charge that accrues on the sale from the
 39 date the creditor or mortgage servicer receives the first written
 40 request until the date on which the accurate consumer credit
 41 sale payoff amount is provided;

42 if an accurate consumer credit sale payoff amount is not
 43 provided by the creditor or mortgage servicer within seven (7)
 44 business days (excluding legal public holidays, Saturdays, and
 45 Sundays) after the creditor or mortgage servicer receives the
 46 debtor's second written request, and the creditor or mortgage

1 servicer failed to comply with clause (A).
2 A liability under this subsection is an excess charge under
3 IC 24-4.5-5-202.

4 (4) As used in this subsection, "mortgage transaction" does not
5 include a land contract and means a consumer credit sale in which a
6 mortgage (or another equivalent consensual security interest) that
7 constitutes a lien is created or retained against land upon which there
8 is constructed or intended to be constructed a dwelling that is or will be
9 used by the debtor primarily for personal, family, or household
10 purposes. This subsection applies to a mortgage transaction with
11 respect to which any installment or minimum payment due is
12 delinquent for at least sixty (60) days. The creditor, servicer, or the
13 creditor's agent shall acknowledge a written offer made in connection
14 with a proposed short sale not later than five (5) business days
15 (excluding legal public holidays, Saturdays, and Sundays) after the date
16 of the offer if the offer complies with the requirements for a qualified
17 written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor,
18 servicer, or creditor's agent is required to acknowledge a written offer
19 made in connection with a proposed short sale from a third party acting
20 on behalf of the debtor only if the debtor has provided written
21 authorization for the creditor, servicer, or creditor's agent to do so. Not
22 later than thirty (30) business days (excluding legal public holidays,
23 Saturdays, and Sundays) after receipt of an offer under this subsection,
24 the creditor, servicer, or creditor's agent shall respond to the offer with
25 an acceptance or a rejection of the offer. The thirty (30) day period
26 described in this subsection may be extended for not more than fifteen
27 (15) business days (excluding legal public holidays, Saturdays, and
28 Sundays) if, before the end of the thirty (30) day period, the creditor,
29 the servicer, or the creditor's agent notifies the debtor of the extension
30 and the reason the extension is needed. Payment accepted by a creditor,
31 servicer, or creditor's agent in connection with a short sale constitutes
32 payment in full satisfaction of the mortgage transaction unless the
33 creditor, servicer, or creditor's agent obtains:

34 (a) the following statement: "The debtor remains liable for any
35 amount still owed under the mortgage transaction."; or
36 (b) a statement substantially similar to the statement set forth in
37 subdivision (a);
38 acknowledged by the initials or signature of the debtor, on or before the
39 date on which the short sale payment is accepted. As used in this
40 subsection, "short sale" means a transaction in which the property that
41 is the subject of a mortgage transaction is sold for an amount that is
42 less than the amount of the debtor's outstanding obligation under the
43 mortgage transaction. A creditor or mortgage servicer that fails to
44 respond to an offer within the time prescribed by this subsection is
45 liable in accordance with 12 U.S.C. 2605(f) in any action brought
46 under that section.

1 SECTION 4. IC 24-4.5-3-209, AS AMENDED BY HEA
 2 1528-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2011]: Sec. 209. Right to Prepay - (1) Subject
 4 to the provisions on rebate upon prepayment (section 210 of this
 5 chapter), the debtor may prepay in full the unpaid balance of a
 6 consumer loan, refinancing, or consolidation at any time without
 7 penalty. With respect to a consumer loan that is primarily secured by
 8 an interest in land, a lender may contract for a penalty for prepayment
 9 of the loan in full, not to exceed two percent (2%) of any amount
 10 prepaid within sixty (60) days of the date of the prepayment in full,
 11 after deducting all refunds and rebates as of the date of the prepayment.
 12 However, the penalty may not be imposed:

- 13 (a) if the loan is refinanced or consolidated with the same
- 14 creditor;
- 15 (b) for prepayment by proceeds of any insurance or acceleration
- 16 after default; or
- 17 (c) after three (3) years from the contract date.

18 (2) At the time of prepayment of a consumer loan not subject to the
 19 provisions of rebate upon prepayment (section 210 of this chapter), the
 20 total finance charge, including the prepaid finance charge but
 21 excluding the loan origination fee allowed under section 201 of this
 22 chapter, may not exceed the maximum charge allowed under this
 23 chapter for the period the loan was in effect. For the purposes of
 24 determining compliance with this subsection, the total finance charge
 25 does not include the following:

- 26 (a) The loan origination fee allowed under section 201 of this
- 27 chapter.
- 28 (b) The debtor paid mortgage broker fee, if any, paid to a person
- 29 who does not control, is not controlled by, or is not under
- 30 common control with, the creditor holding the loan at the time a
- 31 consumer loan is prepaid.

32 (3) The creditor or mortgage servicer shall provide, in writing, an
 33 accurate payoff amount for the consumer loan to the debtor within
 34 seven (7) business days (excluding legal public holidays, Saturdays,
 35 and Sundays) after the creditor or mortgage servicer receives the
 36 debtor's written request for the accurate consumer loan payoff amount.
 37 A payoff statement provided by a creditor or mortgage servicer under
 38 this subsection must include the date the statement was prepared and
 39 the payoff amount as of that date, including an itemization of **the**
 40 **payoff amount, including the unpaid principal balance and** each
 41 **other** fee, charge, or other sum included within the payoff amount. A
 42 creditor or mortgage servicer who fails to provide the accurate
 43 consumer loan payoff amount is liable for:

- 44 (a) one hundred dollars (\$100) if an accurate consumer loan
- 45 payoff amount is not provided by the creditor or mortgage
- 46 servicer within seven (7) business days (excluding legal public

1 holidays, Saturdays, and Sundays) after the creditor or mortgage
 2 servicer receives the debtor's first written request; and

3 (b) the greater of:

4 (i) one hundred dollars (\$100); or

5 (ii) the loan finance charge that accrues on the loan from the
 6 date the creditor or mortgage servicer receives the first written
 7 request until the date on which the accurate consumer loan
 8 payoff amount is provided;

9 if an accurate consumer loan payoff amount is not provided by the
 10 creditor or mortgage servicer within seven (7) business days
 11 (excluding legal public holidays, Saturdays, and Sundays) after
 12 the creditor or mortgage servicer receives the debtor's second
 13 written request, and the creditor or mortgage servicer failed to
 14 comply with subdivision (a).

15 A liability under this subsection is an excess charge under
 16 IC 24-4.5-5-202.

17 (4) As used in this subsection, "mortgage transaction" means a
 18 consumer credit loan in which a mortgage (or another equivalent
 19 consensual security interest) that constitutes a lien is created or
 20 retained against land upon which there is constructed or intended to be
 21 constructed a dwelling that is or will be used by the debtor primarily
 22 for personal, family, or household purposes. This subsection applies to
 23 a mortgage transaction with respect to which any installment or
 24 minimum payment due is delinquent for at least sixty (60) days. The
 25 creditor, servicer, or the creditor's agent shall acknowledge a written
 26 offer made in connection with a proposed short sale not later than five
 27 (5) business days (excluding legal public holidays, Saturdays, and
 28 Sundays) after the date of the offer if the offer complies with the
 29 requirements for a qualified written request set forth in 12 U.S.C.
 30 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to
 31 acknowledge a written offer made in connection with a proposed short
 32 sale from a third party acting on behalf of the debtor only if the debtor
 33 has provided written authorization for the creditor, servicer, or
 34 creditor's agent to do so. Not later than thirty (30) business days
 35 (excluding legal public holidays, Saturdays, and Sundays) after receipt
 36 of an offer under this subsection, the creditor, servicer, or creditor's
 37 agent shall respond to the offer with an acceptance or a rejection of the
 38 offer. The thirty (30) day period described in this subsection may be
 39 extended for not more than fifteen (15) business days (excluding legal
 40 public holidays, Saturdays, and Sundays) if, before the end of the thirty
 41 (30) day period, the creditor, the servicer, or the creditor's agent
 42 notifies the debtor of the extension and the reason the extension is
 43 needed. Payment accepted by a creditor, servicer, or creditor's agent in
 44 connection with a short sale constitutes payment in full satisfaction of
 45 the mortgage transaction unless the creditor, servicer, or creditor's
 46 agent obtains:

- 1 (a) the following statement: "The debtor remains liable for any
2 amount still owed under the mortgage transaction."; or
3 (b) a statement substantially similar to the statement set forth in
4 subdivision (a);
5 acknowledged by the initials or signature of the debtor, on or before the
6 date on which the short sale payment is accepted. As used in this
7 subsection, "short sale" means a transaction in which the property that
8 is the subject of a mortgage transaction is sold for an amount that is
9 less than the amount of the debtor's outstanding obligation under the
10 mortgage transaction. A creditor or mortgage servicer that fails to
11 respond to an offer within the time prescribed by this subsection is
12 liable in accordance with 12 U.S.C. 2605(f) in any action brought
13 under that section."
- 14 Page 2, line 29, delete "section," and insert "**chapter**,"
15 Page 3, line 1, after "means" insert "**an agreement**".
16 Page 3, line 12, delete "enter into a contract with a" and insert "**a**
17 **consumer to enter into a contract that includes an automatic**
18 **renewal clause**".
19 Page 3, delete line 13.
20 Page 3, line 33, after "the" insert "**automatic renewal until the date**
21 **of the next**".
22 Renumber all SECTIONS consecutively.
(Reference is to ESB 300 as printed April 15, 2011.)

Representative Speedy