Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 438 (Substitute S-6 as reported)
Sponsor: Senator Bill Schuette Committee:
Financial Services

Date Completed: 11-22-95

RATIONALE

Public Act 162 of 1995 created the Credit Reform Act, which will take effect on the 91st day following the Legislature's 1995 *sine die* adjournment. The Act 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 does not define "excessive fee or charge", however, and some feel that the Act's definition of "extension of credit" should make it clear that the Credit Reform Act applies only to loans or credit sales made to individuals for personal purposes.

CONTENT

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

The bill would define "excessive fee or charge" as a fee or charge that was grossly in excess of the fee or charge that was then being charged to individuals in Michigan in "similar circumstances", on a majority of extensions of credit of the same type made by any lender who regularly extended credit of the same type to individuals in Michigan. A fee or charge that did not exceed an amount allowed under law would not be considered excessive. "Similar circumstances" would include, without limitation, the rate of interest or finance charge, the term of the extension of credit, and whether the extension of credit was secured or unsecured.

The Act defines "extension of credit" as "a loan or credit sale made by a regulated lender". The bill would add "to an individual for personal, family, or household purposes". An extension of credit would not include an extension of credit for a first mortgage loan.

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. In addition, although the Credit Reform Act applies to various types of consumer loans and credit purchases, the Act's definition of "extension of credit" did not specifically limit that term to loans and credit purchases by an individual for personal, family, or household purposes. The bill would amend the Credit Reform Act to remedy these oversights. Further, the bill would specifically exclude 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 changes included in this bill would not have an impact on the administrative or regulatory workload of the Financial Institutions Bureau of the Department of Commerce. There would be no impact on local governmental units.

Fiscal Analyst: K. Lindquist

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