

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0827/3dn
RJM:wlj&jlg:mrc

July 23, 1999

1. With the permission of your office, I completed the attached redraft upon the request of Walt Stewart. I received three faxes from Walt Stewart requesting various changes and additions to the original draft and I have attempted to incorporate the intent of those changes and additions into this draft. Please review the draft carefully and let me know if the draft is not consistent with your intent.

2. Walt Stewart requested an amendment to the definition of the term "precomputed." This amendment resulted in a need to amend the definition of the phrase "other than open-end credit" in order to preserve the current meaning. Please review this change and let me know if it is not consistent with your intent. See proposed s. 421.301 (29).

3. This bill makes changes to ch. 138 in order to maintain consistency between the consumer act and the licensed lender law. Please let me know if you do not intend to make these changes to ch. 138.

4. Walt Stewart requested that s. 422.202 (2m), stats., be amended to specify that a fee collected under that subsection is generally not subject to rebate upon prepayment. However, this change is unnecessary and I did not include it. Section 422.209, stats., requires a rebate of unearned finance charges upon prepayment. The definition of the term "finance charge" in s. 421.301 already excludes charges under s. 422.202.

Furthermore, it is my understanding that this draft actually should require the rebate of certain charges assessed under s. 422.202 (2m). See proposed s. 422.209 (1). Please let me know if I have misunderstood the instructions.

5. This draft expands the definition of "precomputed loan," based on the aggregate total of additional charges a lender assesses. This, if the total amount of additional charges for a loan exceeds 50% of the total scheduled interest charged, the loan is a precomputed loan. Because additional charges may be assessed sporadically over the term of a loan, it is possible that a loan, over time, may become a precomputed loan. This possibility may create difficulties in enforcing s. 138.09, stats., and the consumer act. You may want to contact the department of financial institutions regarding this issue.

6. Please note that I have clarified the definition of "prepaid finance charge" in s. 421.301 (36), stats., to charges paid from proceeds of credit extended or charges

withheld from proceeds of credit extended. This clarification does not change current law. Please let me know if you do not approve.

7. I have provided a "/3" draft because I used the "/1" and "/2" drafts as working copies. Thus, other than this draft, you should only have received a "/P1." Please let me know if you have any questions.

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