

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0827/5dn
RJM:wlj:hmh

October 18, 1999

1. This redraft, based upon the instructions of Tom Hansen, eliminates the provisions regarding repossession of collateral. Please let me know if you do not approve. The remainder of this drafter's note is taken from the previous version of this draft (LRB-0827/4).

2. Under this draft, as with the previous version, the definition of "precomputed loan" is based on the aggregate total of additional charges a lender assesses. Thus, 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.

Because of this issue and because this draft makes other changes to this highly technical area of the law, you may want to have the Department of Financial Institutions review this draft before introduction.

3. With the permission of your office, I completed the attached redraft upon the request of Walt Stewart. I received a fax from Walt Stewart requesting that the draft be changed to allow a creditor to calculate any rebate of consumer credit insurance premiums by using the rule of 78 rather than the actuarial method. In completing this draft, I discovered a few other necessary changes which are noted below. Please review these changes and let me know if the draft is not consistent with your intent.

4. In order to avoid confusion, this draft uses the term "prepaid charge" rather than "prepaid finance charge." See, for example, proposed s. 138.09 (7) (a) 1. b. and 1m., stats. I incorporated this change into this draft because, as previously drafted, the term "prepaid finance charge" included certain charges that were normally excluded from the definition of "finance charge." Please let me know if you do not approve of this clarification.

5. In proposed ss. 138.09 (7) (gm) (intro.) and 422.209 (1), stats., this draft uses a cross-reference to the applicable portion of the definition of "prepaid charge" rather than referring to "that portion of any prepaid charge . . . that is greater than one-half of the total scheduled finance charge applicable to the transaction." Please review this change and let me know if it is not consistent with your intent.

6. This draft clarifies the meaning of proposed s. 138.09 (7) (jm) 3., stats., by specifying how s. 138.09 (7) (gm), stats., affects the earning of a loan administration

fee. Also, this draft removes the statement that a licensed lender that charges a loan administration fee under s. 138.09, stats., may not also assess a loan administration fee under the Consumer Act. This language is no longer necessary because proposed s. 138.09 (7) (i) 1., stats., only permits a licensed lender to assess those additional charges allowed under the Consumer Act. Again, let me know if you do not approve.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us