

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0827/6dn
RJM:wlj:jf

January 4, 2000

1. I have redrafted this bill per the instructions of Tom Hanson. If you have any questions about the bill's effect, please feel free to call me.

2. Mr. Hanson requested that the draft cap the points that a lender may charge under proposed s. 422.202 (2m) (a) at 5% of the amount financed. However, a portion of the charges assessed under proposed s. 422.202 (2m) (a) is included in calculating the total amount financed. See proposed s. 421.301 (5). It was unclear to me whether the points that a lender charges under proposed s. 422.202 (2m) (a) should be included in the amount financed for the purpose of calculating this 5% cap. Under this draft, the points are included in the amount financed for the purpose of calculating the 5% cap. Thus, this draft allows somewhat higher points to be charged than would be permitted if the points were excluded from the amount financed for the purpose of calculating the 5% cap. Please let me know if you do not approve.

3. 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.

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