

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2362/1dn
RJM:jlg:hmh

March 22, 1999

1. Attached is a draft regarding deceptive advertising and false or misleading statements concerning open-end credit plans. Please review the substantive provisions of the draft to ensure that the draft is consistent with your intent. In particular, please note that this draft only applies if a merchant directly communicates or causes a direct communication with a consumer regarding a potential open-end credit plan. You may want to define what "direct communication" is. Does it include television, radio or print advertising? Telemarketing? Direct mail addressed to the consumer?

2. In addition, this draft generally prohibits a merchant from directly communicating rates, terms or conditions that are more favorable than those of the open-end credit plan under which the merchant eventually extends credit. You may want to require the difference in rates, terms or conditions to be material. Please let me know.

3. Rather than creating a presumption of liability, this draft prohibits certain practices by a merchant. The draft also provides an exception if the practices resulted from an adverse change in the consumer's financial condition. This method of drafting is necessary to integrate these provisions into the existing structure of s. 100.18, stats. In addition, I think this method of drafting more clearly expresses your intent. If I am incorrect, please let me know.

4. Under the current s. 100.26 (1), stats., a person who violates the provisions of this bill would be subject to a fine of up to \$200, imprisonment for up to 6 months or both. Other fine and forfeiture provisions exist in s. 100.26, stats., for violations of other marketing and trade practice statutes. If you desire another penalty to apply to this bill, please call me.

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