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INSTALLMENT SALES ACTS

House Bill 4605 (Substitute H-2)
House Bill 4606 (Substitute H-1)
House Bill 4607 (Substitute H-2)
First Analysis (6-8-93)

Sponsor: Rep. Dale Shugars
Committee: Business & Finance

THE APPARENT PROBLEM:

Several acts regulating installment sales contain outdated references to federal law, and are said to need clarifying in other respects, as separate and apparently conflicting opinions of the attorney general over the past fourteen years have raised questions over whether some lenders may charge both interest and late fees on payments past due on certain loans or charge accounts. With efforts to revise usury statutes anticipated in the near future, it has been proposed that three acts, the Motor Vehicle Sales Finance Act, the Home Improvement Finance Act, and the Retail Installment Sales Act, be clarified and updated now so as to prepare the acts for more substantial revisions.

THE CONTENT OF THE BILLS:

House Bill 4605 would amend the Motor Vehicle Sales Finance Act (MCL 492.120 and 492.122a) to specify that a default charge may be charged on a simple interest loan (where interest is charged on the unpaid principal) as well as other types of loans (such as add-on loans, where interest is computed on the principal amount financed), and to update a reference to the federal Truth in Lending Act.

House Bill 4606 would amend the Home Improvement Finance Act (MCL 445.1111) to update a reference to the federal Truth in Lending Act.

House Bill 4607 would amend the Retail Installment Sales Act (MCL 445.851a and 445.859) to specify that a delinquency charge may be collected on a retail charge account as well as a retail installment contract, and to update a reference to the federal Truth in Lending Act.

FISCAL IMPLICATIONS:

There is no fiscal information at present. (6-7-93)

ARGUMENTS:

For:

The bills would update several acts dealing with consumer loans, and would confirm that default charges may be imposed in addition to interest charges on at least two types of loans examined by attorney general opinions but unaddressed by statute: simple interest loans made under the Motor Vehicle Sales Finance Act, and charge accounts subject to the Retail Installment Sales Act. The bills would overrule a largely ignored and unenforced 1979 attorney general opinion (OAG 5486) that said that delinquency charges cannot be charged in addition to interest charges on late payments on simple interest loans made under the Home Improvement Finance Act, the Retail Installment Sales Act, and the Motor Vehicle Sales Finance Act. However, House Bill 4607 would affirm a 1992 attorney general's opinion (OAG 6716) that said that a delinquency charge in addition to the maximum interest allowed by law may be charged on a late payment on a retail charge account.

In addition, the bills would update references to the federal Truth in Lending Act, thus relieving lenders from, technically, having to comply with outdated disclosure requirements of federal law as well as current ones.

POSITIONS:

The Department of Commerce supports the bills. (6-3-93)

The Michigan Bankers Association supports the bills. (6-2-93)

The Michigan Credit Union League supports the bills. (6-7-93)

The Michigan Merchants Council supports the bills. (6-2-93)

House Bills 4605-4607 (6-8-93)