

107TH CONGRESS
1ST SESSION

H. R. 1054

To amend the Truth in Lending Act to expand protections for consumers by adjusting statutory exemptions and civil penalties to reflect inflation, to eliminate the Rule of 78s accounting for interest rebates in consumer credit transactions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2001

Mr. LAFALCE (for himself, Mr. GUTIERREZ, Ms. LEE, Mrs. JONES of Ohio, Mr. CAPUANO, Mr. CLAY, Mr. HINCHEY, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Truth in Lending Act to expand protections for consumers by adjusting statutory exemptions and civil penalties to reflect inflation, to eliminate the Rule of 78s accounting for interest rebates in consumer credit transactions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Truth in Lending Mod-
5 ernization Act of 2001”.

1 **SEC. 2. APPLICABLE CONSUMER CREDIT AND LEASE**
2 **TRANSACTIONS.**

3 (a) CREDIT TRANSACTIONS.—Section 104(3) of the
4 Consumer Credit Protection Act (15 U.S.C. 1603(3)) is
5 amended by striking “\$25,000” and inserting “\$75,000”.

6 (b) LEASE TRANSACTIONS.—Section 181(1) of the
7 Consumer Credit Protection Act (15 U.S.C. 1667(1)) is
8 amended by striking “\$25,000” and inserting “\$75,000”.

9 **SEC. 3. AMENDMENTS RELATING TO RIGHT OF RESCIS-**
10 **SION.**

11 (a) TIMING OF WAIVER BY CONSUMER.—Section
12 125(a) of the Truth in Lending Act (15 U.S.C. 1635(a))
13 is amended—

14 (1) by striking “(a) Except as otherwise pro-
15 vided” and inserting “(a) RIGHT ESTABLISHED.—

16 “(1) IN GENERAL.—Except as otherwise pro-
17 vided”; and

18 (2) by adding at the end the following new
19 paragraph:

20 “(2) TIMING OF ELECTION OF WAIVER BY CON-
21 SUMER.—No election by a consumer to waive the
22 right established under paragraph (1) to rescind a
23 transaction shall be effective if—

24 “(A) the waiver was required by the cred-
25 itor as a condition for the transaction;

1 “(B) the creditor advised or encouraged
2 the consumer to waive such right of the con-
3 sumer; or

4 “(C) the creditor had any discussion with
5 the consumer about a waiver of such right dur-
6 ing the period beginning when the consumer
7 provides written acknowledgement of the receipt
8 of the disclosures and the delivery of forms and
9 information required to be provided to the con-
10 sumer under paragraph (1) and ending at such
11 time as the Board determines, by regulation, to
12 be appropriate.”.

13 (b) NONCOMPLIANCE WITH REQUIREMENTS AS
14 RECOUPMENT IN FORECLOSURE PROCEEDING.—Section
15 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e))
16 is amended by inserting after the 2d sentence the following
17 new sentence: “This subsection also does not bar a person
18 from asserting a rescission under section 125, in an action
19 to collect the debt as a defense to a judicial or nonjudicial
20 foreclosure after the expiration of the time periods for af-
21 firmative actions set forth in this section and section
22 125.”.

1 **SEC. 4. CIVIL LIABILITY.**

2 (a) IN GENERAL.—Section 130(a)(2)(A) of the Con-
3 sumer Credit Protection Act (15 U.S.C. 1640(a)(2)(A))
4 is amended—

5 (1) in clause (ii)—

6 (A) by striking “\$100” and inserting
7 “\$200”; and

8 (B) by striking “\$1,000” and inserting
9 “\$5,000”; and

10 (2) in clause (iii), by striking “\$2,000” and in-
11 serting “\$10,000”.

12 (b) MAXIMUM AMOUNT.—Section 130(a)(2)(B) (15
13 U.S.C. 1640(a)(2)(B)) is amended by striking “lesser of
14 \$500,000 or 1 percentum of the net worth of the creditor”
15 and inserting “the greater of—

16 “(i) the amount determined by multi-
17 plying the maximum amount of liability
18 under subparagraph (A) for such failure to
19 comply in an individual action by the num-
20 ber of members in the certified class; or

21 “(ii) the amount equal to 2 percent of
22 the net worth of the creditor.”.

23 **SEC. 5. USE OF RULE OF 78s PROHIBITED.**

24 Section 933(b) of the Housing and Community De-
25 velopment Act of 1992 (15 U.S.C. 1615(b)) is amended—

1 (1) by striking “of a term exceeding 61
2 months”; and

3 (2) by striking “September 30, 1993” and in-
4 sserting “September 30, 1999”.

5 **SEC. 6. ACCESS TO COURT PROVISION.**

6 (a) IN GENERAL.—Section 130(i) of the Truth in
7 Lending Act (15 U.S.C. 1640(i)) is amended to read as
8 follows:

9 “(i) AVAILABILITY OF STATUTORY REMEDIES.—

10 “(1) IN GENERAL.—No provision of any agree-
11 ment or contract between a consumer and any cred-
12 itor which requires binding arbitration or any other
13 nonjudicial procedure to resolve any controversy or
14 settle any claim arising out of such contract or any
15 transaction covered by the contract, or the refusal to
16 perform the whole or any part of the transaction,
17 shall be enforceable to the extent that the construc-
18 tion or application of such provision with respect to
19 such controversy, claim, or refusal would deny the
20 consumer the right to bring any action under this
21 section or any other provision of this title for any li-
22 ability of the creditor to the consumer under this
23 title.

24 “(2) RULE OF CONSTRUCTION.—Paragraph (1)
25 shall not be construed as creating any inference that

1 any provision of any contract or agreement described
2 in such paragraph could be construed so as to deny
3 any consumer the right to bring an action under this
4 title absent this subsection.”.

5 **SEC. 7. REGULATIONS.**

6 Before the end of the 6-month period beginning on
7 the date of the enactment of this Act, the Board of Gov-
8 ernors of the Federal Reserve System shall issue regula-
9 tions in final form to implement the amendments made
10 by this Act.

○