

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1229 be amended to read as follows:

- 1 Page 2, line 26, delete "to implement this chapter." and insert "**to the**
- 2 **extent necessary to organize the unit.**".
- 3 Page 2, line 27, delete "shall" and insert "**may**".
- 4 Page 2, after line 42 begin a new line block indented and insert:
- 5 "**(10) Local law enforcement agencies.**".
- 6 Page 3, delete lines 22 through 25.
- 7 Page 3, line 26, delete "10." and insert "**9.**".
- 8 Page 3, line 30, delete "IC 24-9-8." and insert "**IC 24-9-9.**".
- 9 Page 9, line 21, delete "IC 24-9-8." and insert "**IC 24-9-9.**".
- 10 Page 12, line 15, delete "This" and insert "**Except for the provisions**
- 11 **of IC 24-9-3-7(3), this**".
- 12 Page 12, between line 28 and 29, begin a new line double block
- 13 indented and insert:
- 14 "**(D) to be made or guaranteed by the United States**
- 15 **Department of Agriculture Rural Housing Service;**".
- 16 Page 12, line 29, delete "(D)" and insert "**(E)**".
- 17 Page 12, line 31, delete "(E)" and insert "**(F)**".
- 18 Page 14, line 4, after "7." insert "**(a)**".
- 19 Page 14, line 6, delete "person:" and insert "**person at the time of**
- 20 **the transaction knowingly or intentionally:**".
- 21 Page 14, line 7, delete "knowingly or intentionally".
- 22 Page 14, line 8, after ";" insert "**or**".
- 23 Page 14, line 9, delete "knowingly or intentionally".

- 1 Page 14, line 10, delete "; or" and insert ".".
- 2 Page 14, delete lines 11 through 15, begin a new paragraph and  
3 insert:
- 4 **"(b) For purposes of this section, "knowingly" means having**  
5 **actual knowledge at the time of the transaction."**
- 6 Page 14, line 21, after "by a" delete ":".
- 7 Page 14, line 22, delete "(1)".
- 8 Page 14, run in lines 21 through 22.
- 9 Page 14, line 25, delete "(A)", begin a new line block indented and  
10 insert **"(1)"**.
- 11 Page 14, line 27, delete "(B)", begin a new line block indented and  
12 insert **"(2)"**.
- 13 Page 14, line 28, delete "dwelling; or" and insert **"dwelling."**
- 14 Page 14, delete lines 29 through 42.
- 15 Page 15, delete lines 1 through 14.
- 16 Page 15, line 15, delete "11." and insert **"10."**
- 17 Page 15, line 21, after "name." insert **"As used in this subdivision,**  
18 **"compensation" does not include a payment included in**  
19 **subdivision (1)."**
- 20 Page 15, between lines 25 and 26, begin a new line block indented  
21 and insert:
- 22 **"(3) Reasonable fees paid to an affiliate of the creditor.**
- 23 **Sec. 11. "Political subdivision" means a municipality, school**  
24 **district, public library, local housing authority, fire protection**  
25 **district, public transportation corporation, local building authority,**  
26 **local hospital authority or corporation, local airport authority,**  
27 **special service district, special taxing district, or any other type of**  
28 **local governmental corporate entity."**
- 29 Page 16, line 12, after "not" insert **"knowingly or intentionally"**.
- 30 Page 16, between lines 25 and 26, begin a new paragraph and insert:
- 31 **"(c) Each mortgage or deed of trust securing a zero (0) interest**  
32 **rate or other subsidized low rate loan executed after January 1,**  
33 **2005, must prominently display the following on the face of the**  
34 **instrument:**
- 35 **"This instrument secures a zero (0) interest rate or other**  
36 **subsidized low rate loan subject to IC 24-9-3-2."**
- 37 **(d) A creditor may reasonably rely on the presence or absence**  
38 **of the statement described in subsection (c) on the face of an**  
39 **instrument executed after January 1, 2005, as conclusive proof of**  
40 **the existence or nonexistence of a zero (0) interest rate or other**  
41 **subsidized low rate loan."**
- 42 Page 16, line 41, after "6." insert **"(a)"**.
- 43 Page 17, between lines 3 and 4, begin a new paragraph and insert:
- 44 **"(b) For purposes of this section, "fee" does not include actual**

1 **charges incurred by a creditor for express or priority delivery**  
2 **requested by the borrower of home loan documents to the**  
3 **borrower."**

4 Page 17, line 4, delete "creditor" and insert **"person"**.

5 Page 17, line 11, delete "when making" and insert **"in connection**  
6 **with"**.

7 Page 17, delete lines 12 through 13, begin a new paragraph and  
8 insert:

9 **"Sec. 8. A person, in seeking to enforce the person's rights**  
10 **under this article, may not knowingly or intentionally intimidate,**  
11 **coerce, or harass another person."**

12 Page 17, line 14, delete "8." and insert **"9."**

13 Page 17, between lines 41 and 42, begin a new line block indented  
14 and insert:

15 **"(5) A creditor shall not sell or other otherwise assign a high**  
16 **cost home loan without furnishing the following statement to**  
17 **the purchaser or assignee:**

18 **"NOTICE: This is a loan subject to special rules under**  
19 **IC 24-9. Purchasers or assignees may be liable for all**  
20 **claims and defenses with respect to the loan that the**  
21 **borrower could assert against the lender."**

22 **(6) A mortgage or deed of trust that secures a high cost**  
23 **home loan at the time the mortgage or deed of trust is**  
24 **recorded must prominently display the following on the face**  
25 **of the instrument:**

26 **"This instrument secures a high cost home loan as**  
27 **defined in IC 24-9-2-8."."**

28 Page 17, line 42, delete "(5) and insert **"(7)"**.

29 Page 23, line 28, delete "the".

30 Page 23, line 29, delete "borrower" and insert **"a person who is a**  
31 **party to the home loan transaction that gave rise to the violation"**.

32 Page 23, line 30, delete "The".

33 Page 23, line 31, delete "borrower" and insert **"A person"**.

34 Page 23, line 37, delete "borrower" and insert **"person"**.

35 Page 23, line 41, delete "borrower" and insert **"person"**.

36 Page 24, line 4, delete "borrower's" and insert **"person's"**.

37 Page 24, line 7, delete "borrower" and insert **"person"**.

38 Page 24, line 9, delete "consumer." and insert **"person."**

39 Page 24, line 10, delete "A consumer" and insert **"Except as**  
40 **provided in subsection (e), a person"**.

41 Page 24, between lines 11 and 12, begin a new paragraph and insert:

42 **"(e) Before bringing an action regarding an alleged deceptive**  
43 **act under this chapter, a person must:**

- 1           **(1) notify the homeowner protection unit established by**
- 2           **IC 4-6-12-2 of the alleged violation giving rise to the action;**
- 3           **and**
- 4           **(2) allow the homeowner protection unit at least ninety (90)**
- 5           **days to institute appropriate administrative and civil action**
- 6           **to redress a violation."**

7           Page 24, line 12, delete "(e)" and insert "(f)".  
 8           Page 24, line 13, delete "borrower" and insert "person".  
 9           Page 24, line 16, delete "(f)" and insert "(g)".  
 10          Page 25, between lines 13 and 14, begin a new paragraph and insert:

11          **"Chapter 7. State Power to Regulate Lending**  
 12          **Sec. 1. The state solely shall regulate the business of**  
 13          **originating, granting, servicing, and collecting loans and other**  
 14          **forms of credit in Indiana and the manner in which any business**  
 15          **is conducted. This regulation preempts all other regulation of**  
 16          **these activities by any political subdivision.**

17          **Sec. 2. Political subdivisions may not:**  
 18          **(1) enact, issue, or enforce ordinances, resolutions,**  
 19          **regulations, orders, requests for proposals, or requests for**  
 20          **bids pertaining to financial or lending activities, including**  
 21          **ordinances, resolutions, and rules disqualifying persons from**  
 22          **doing business with a municipality that are based upon**  
 23          **lending terms or practices; or**

24          **(2) impose reporting requirements or any other obligations**  
 25          **upon persons regarding financial services or lending practices**  
 26          **or upon subsidiaries or affiliates that:**

27                 **(A) are subject to the jurisdiction of the department of**  
 28                 **financial institutions;**

29                 **(B) are subject to the jurisdiction or regulatory**  
 30                 **supervision of the Board of Governors of the Federal**  
 31                 **Reserve System, the Office of the Comptroller of the**  
 32                 **Currency, the Office of Thrift Supervision, the National**  
 33                 **Credit Union Administration, the Federal Deposit**  
 34                 **Insurance Corporation, the Federal Trade Commission, or**  
 35                 **the United States Department of Housing and Urban**  
 36                 **Development;**

37                 **(C) are chartered by the United States Congress to engage**  
 38                 **in secondary market mortgage transactions;**

39                 **(D) are created by the Indiana housing finance authority;**  
 40                 **or**

41                 **(E) originate, purchase, sell, assign, securitize, or service**  
 42                 **property interests or obligations created by financial**  
 43                 **transactions or loans made, executed, originated, or**

- 1                   **purchased by persons referred to in clauses (A), (B), (C),**
- 2                   **or (D).".**
- 3           Page 25, line 14, delete "7." and insert "8."
- 4           Page 25, delete lines 30 through 31.
- 5           Page 25, line 32, delete "(4)" and insert "**(3)**".
- 6           Page 25, line 35, delete "(5)" and insert "**(4)**".
- 7           Page 25, line 35, delete "fifteen" and insert "**ten**".
- 8           Page 25, line 36, delete "(\$15,000)" and insert "**(\$10,000)**".
- 9           Page 26, line 3, delete "8." and insert "9."
- 10          Page 26, line 23, delete "IC 4-6-12-10" and insert "**IC 4-6-12-9**".
- 11          Page 28, line 17, delete "IC 24-9-8-4." and "insert "**IC 24-9-9-3**".
- 12          Page 29, between lines 14 and 15, begin a new paragraph and insert:
- 13          "SECTION 13. [EFFECTIVE UPON PASSAGE] **Notwithstanding**
- 14          **IC 24-9-3 and IC 24-9-4, as added by this act, a person is not**
- 15          **subject to a prohibition or requirement of IC 24-9-3 and IC 24-9-4,**
- 16          **as added by this act, before January 1, 2005.**".
- 17          Renumber all SECTIONS consecutively.  
(Reference is to HB 1229 as printed January 30, 2004.)

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Representative Bardon