

Adopted	Rejected
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## COMMITTEE REPORT

YES: 9  
NO: 3

**MR. SPEAKER:**

*Your Committee on Judiciary, to which was referred House Bill 1229, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 3, line 20, delete "to develop and implement" and insert "**in the**
- 2 **development and implementation of**".
- 3 Page 3, line 29, after "The" insert "**homeowner protection unit**".
- 4 Page 3, line 30, after "administering the" insert "**homeowner**
- 5 **protection unit**".
- 6 Page 3, line 32, after "in the" insert "**homeowner protection unit**".
- 7 Page 3, line 36, after "the" insert "**homeowner protection unit**".
- 8 Page 3, line 37, after "in the" insert "**homeowner protection unit**".
- 9 Page 9, line 18, after "The" insert "**home ownership training**".
- 10 Page 9, line 19, after "administering the" insert "**home ownership**
- 11 **training**".
- 12 Page 9, line 21, after "in the" insert "**home ownership training**".
- 13 Page 9, line 25, after "the" insert "**home ownership training**".

1 Page 9, line 26, after "in the" insert **"home ownership training"**.  
 2 Page 9, line 27, delete "However, if the amount of money".  
 3 Page 9, delete lines 28 through 31.  
 4 Page 12, delete lines 15 through 23, begin a new paragraph and  
 5 insert:

6 **"Sec. 1. This article does not apply to:**

7 **(1) a loan made or acquired by a person organized or**  
 8 **chartered under the laws of this state, any other state, or the**  
 9 **United States relating to banks, trust companies, savings**  
 10 **associations, saving banks, credit unions, or industrial loan**  
 11 **and investment companies; or**

12 **(2) a loan:**

13 **(A) that can be purchased by the Federal National**  
 14 **Mortgage Association, the Federal Home Loan Mortgage**  
 15 **Association, or the Federal Home Loan Bank;**

16 **(B) to be insured by the United States Department of**  
 17 **Housing and Urban Development;**

18 **(C) to be guaranteed by the United States Department of**  
 19 **Veterans Affairs;**

20 **(D) to be funded by the Indiana housing finance authority;**  
 21 **or**

22 **(E) with a principal amount that exceeds the conforming**  
 23 **loan size limit for a single family dwelling as established**  
 24 **by the Federal National Mortgage Association."**

25 Page 13, delete lines 36 through 42

26 Page 14, delete lines 1 through 15, begin a new paragraph and insert:

27 **Sec. 7. "Deceptive act" means an act or a practice as part of a**  
 28 **consumer credit mortgage transaction involving real property**  
 29 **located in Indiana in which a person:**

30 **(1) knowingly or intentionally makes a material**  
 31 **misrepresentation;**

32 **(2) knowingly or intentionally conceals material information**  
 33 **regarding the terms or conditions of the transaction; or**

34 **(3) knowingly or intentionally consummates the credit**  
 35 **mortgage transaction with the knowledge that the borrower**

1           **will be unable to successfully fulfill the terms or conditions**  
 2           **of the mortgage loan based upon the borrower's finances at**  
 3           **the time of the consummation.**

4           Page 14, line 16, delete "9." and insert "8."

5           Page 14, line 20, delete "10." and insert "9."

6           Page 14, line 20, after "than" insert "**an open end credit plan or**"

7           Page 14, line 31, delete "11." and insert "10."

8           Page 15, delete lines 15 through 38, begin a new paragraph and insert:

9           **"Sec. 11. (a) Except as provided in subsection (b), "points and**  
 10          **fees" means the total of the following:**

11           **(1) Points and fees (as defined in 12 CFR 226.32(b)(1) on**  
 12           **January 1, 2004).**

13           **(2) All compensation paid directly or indirectly to a mortgage**  
 14           **broker, including a broker that originates a loan in the**  
 15           **broker's own name.**

16          **(b) The term does not include the following:**

17           **(1) Not more than two (2) bona fide discount points.**

18           **(2) Interest prepaid by the borrower for the month in which**  
 19           **the home loan is closed."**

20          Page 15, line 39, delete "13." and insert "12."

21          Page 15, line 41, delete "14." and insert "13."

22          Page 15, line 41, delete "means:" and insert "**means**".

23          Page 15, line 42, delete "(1)".

24          Page 15, run in lines 41 through 42

25          Page 16, line 1, delete "loan; or" and insert "**loan**".

26          Page 16, delete lines 2 through 3.

27          Page 16, line 4, delete "15." and insert "**14**".

28          Page 16, line 21, after "insurance;" insert "**or**".

29          Page 16, delete line 22.

30          Page 16, line 23, delete "(6)" and insert "**(5)**".

31          Page 16, delete lines 28 through 38, begin a new paragraph and  
 32          insert:

33           **"Sec. 2. (a) A creditor may not replace or consolidate a zero (0)**  
 34           **interest rate or other subsidized low rate loan made by a**  
 35           **governmental or nonprofit lender with a high cost home loan**

1 within the first ten (10) years of the subsidized low rate loan  
 2 unless the current holder of the loan consents in writing to the  
 3 refinancing.

4 (b) For purposes of this section, a "subsidized low rate loan" is  
 5 a loan that carries a current interest rate of at least two (2)  
 6 percentage points below the current yield on treasury securities  
 7 with a comparable maturity. If the loan's current interest rate is  
 8 either a discounted introductory rate or a rate that automatically  
 9 steps up over time, the fully indexed rate or the fully stepped up  
 10 rate, as appropriate, should be used instead of the current rate to  
 11 determine whether a loan is a subsidized low rate loan."

12 Page 17, line 1, delete "(a) Notwithstanding IC 24-4.5-3-203.5, a  
 13 creditor may"

14 Page 17, delete lines 2 through 25.

15 Page 17, line 26, delete "(b)".

16 Page 17, run in lines 1 and 26.

17 Page 17, line 26, after "payment" insert "**made by a borrower in**  
 18 **regards to a home loan**".

19 Page 17, line 27, delete "date" and insert "**business day**".

20 Page 17, line 32, delete "indebtedness." and insert "**indebtedness**  
 21 **without material cause.**".

22 Page 17, delete lines 41 through 42.

23 Page 18, delete lines 1 through 13.

24 Page 18, line 14, delete "8." and insert "7."

25 Page 18, line 19, after "the" insert "**home**".

26 Page 18, line 24, delete "9." and insert "8."

27 Page 19, between lines 9 and 10, begin a new line block indented and  
 28 insert:

29 "**(5) A creditor making a high cost home loan may not**  
 30 **finance, directly or indirectly, any life or health insurance.**

31 **Sec. 2. A creditor may not knowingly or intentionally:**

32 **(1) refinance a high cost home loan by charging points and**  
 33 **fees on the part of the proceeds of the new high cost home**  
 34 **loan that is used to refinance the existing high cost loan**  
 35 **within four (4) years of the origination of the existing high**  
 36 **cost home loan; or**

1           **(2) divide a home loan transaction into multiple transactions**  
 2           **with the effect of evading this article. Where multiple**  
 3           **transactions are involved, the total points and fees charged**  
 4           **in all transactions shall be considered when determining**  
 5           **whether the protections of this section apply."**

6           Page 19, line 10, delete "2." and insert "3."

7           Page 19, line 21, delete "obligor's" and insert "**borrower's**".

8           Page 19, line 22, delete "3. A" and insert "**4. (a) Except as provided**  
 9           **in subsection (b), a"**.

10          Page 19, between lines 25 and 26, begin a new paragraph and insert:  
 11          **"(b) This section does not apply to a temporary forbearance that**  
 12          **is requested by a borrower regarding a high cost home loan."**

13          Page 19, line 26, delete "4." and insert "5."

14          Page 19, line 32, delete "5." and insert "6."

15          Page 19, line 36, delete "6." and insert "7."

16          Page 20, line 5, delete "7." and insert "8."

17          Page 20, line 22, delete "8." and insert "9."

18          Page 20, line 33, delete "9." and insert "**10**".

19          Page 20, line 37, delete "10." and insert "**11**".

20          Page 21, between lines 37 and 38, begin a new paragraph and insert:  
 21          **"Sec. 12. Without regard to whether a borrower is acting**  
 22          **individually or on behalf of others similarly situated, a provision**  
 23          **of a high cost home loan agreement that:**

24                 **(1) requires arbitration of a claim or defense;**

25                 **(2) allows a party to require a borrower to assert a claim or**  
 26                 **defense in a forum that is:**

27                         **(A) less convenient;**

28                         **(B) more costly; or**

29                         **(C) more dilatory;**

30                 **for the resolution of the dispute than an Indiana court in**  
 31                 **which the borrower may otherwise bring a claim or defense;**

32                 **or**

33                 **(3) limits in any way any claim or defense the borrower may**  
 34                 **have;**

35                 **is unconscionable and void."**

- 1 Page 22, line 35, after "of a" insert "**high cost**".
- 2 Page 22, line 37, delete "IC 24-9-3-2" and insert "**IC 24-9-4-2**".
- 3 Page 23, delete line 36.
- 4 Page 23, line 37, delete "default had not occurred," and insert "**the**
- 5 **original loan terms shall be reinstated,**".
- 6 Page 23, run in lines 35 and 37.
- 7 Page 24, line 15, delete "malicious or" and insert "**malicious.**".
- 8 Page 24, delete line 16.
- 9 Page 24, delete lines 35 through 40, begin a new paragraph and
- 10 insert:
- 11 "**(e) An action under this chapter must be brought within five**
- 12 **(5) years after the date that the borrower knew, or by the exercise**
- 13 **of reasonable diligence should have known, of the violation of this**
- 14 **article.**".
- 15 Page 25, line 11, delete "compliance".
- 16 Page 25, line 13, delete "thirty (30)" and insert "**ninety (90)**".
- 17 Page 25, line 14, delete "closing, makes:" and insert "**closing:**".
- 18 Page 25, line 15, after "(A)" insert "**makes**".
- 19 Page 25, line 17, after "(B)" insert "**takes necessary action to**
- 20 **make**".
- 21 Page 25, line 19, delete "sixty (60)" and insert "**one hundred twenty**
- 22 **(120)**".
- 23 Page 25, line 21, delete "compliance".
- 24 Page 25, line 25, delete "error," and insert "**error of fact or law,**".
- 25 Page 25, line 26, delete "For purposes of this".
- 26 Page 25, delete lines 27 through 31.
- 27 Page 25, line 36, delete "monthly" and insert "**once each calendar**
- 28 **quarter**".
- 29 Page 26, line 27, delete "that fifteen" and insert "**than ten**".
- 30 Page 26, line 28, delete "(\$15,000)" and insert "**(\$10,000)**".
- 31 Page 29, delete lines 32 through 42.
- 32 Page 30, delete lines 1 through 24.
- 33 Renumber all SECTIONS consecutively.  
(Reference is to HB 1229 as introduced.)

**and when so amended that said bill do pass.**

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Representative Lawson L