

Adopted	Rejected
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COMMITTEE REPORT

YES:	7
NO:	0

MR. SPEAKER:

Your Committee on Financial Institutions, to which was referred Senate Bill 390, 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 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 24-5-15-7 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) **Except as**
- 5 **provided in subsection (d), a** contract between a consumer and a
- 6 credit services organization concerning the purchase of the services of
- 7 the credit services organization must be in writing, be dated and signed
- 8 by both the consumer and the credit services organization, and include
- 9 all of the following:
- 10 (1) A statement in at least 10 point boldface type in immediate
- 11 proximity to the space reserved for the signature of the buyer that
- 12 reads:
- 13 "You, the buyer, may cancel this contract at any time before
- 14 midnight of the third business day after the date of the
- 15 transaction. See the attached notice of cancellation form for an
- 16 explanation of this right."

1 (2) The terms and conditions of payment, including the total
2 amount of all payments to be made by the buyer to the credit
3 services organization or to another person.

4 (3) A complete and detailed description of the services to be
5 performed and the results to be achieved by the credit services
6 organization for or on behalf of the buyer, including all
7 guarantees and all promises of full or partial refunds and a list of
8 the adverse information appearing on the consumer's credit report
9 that the credit services organization expects to have modified and
10 the estimated date by which each modification will occur.

11 (4) The principal business address of the credit services
12 organization and the name and address of the credit services
13 organization's agent in Indiana authorized to receive service of
14 process.

15 (b) A contract shall be accompanied by two (2) copies of a form
16 captioned "NOTICE OF CANCELLATION" attached to the contract
17 and that contains the following statement in at least 10 point boldface
18 type:

19 NOTICE OF CANCELLATION

20 You may cancel this contract, without any penalty or obligation, at any
21 time before midnight of the third business day after the date the
22 contract is signed.

23 If you cancel, any payment made by you under this contract will be
24 returned within ten days following receipt by the seller of your
25 cancellation notice, or any other written notice, to

26 _____
27 (name of seller)

28 _____
29 (address of seller) (place of business)

30 not later than midnight _____
31 (date)

32 "I hereby cancel this transaction". _____
33 (date)

34 _____
35 (buyer's signature)

36 (c) A credit services organization shall give a copy of the completed
37 contract and all other documents required by the credit services
38 organization to the buyer at the time the contract and the documents are

1 signed.

2 **(d) If a contract is subject to this chapter and to IC 24-5.5,**
3 **IC 24-5.5-4 applies to the contract."**

4 Page 2, line 16, delete "sale;" and insert "**proceeding;**".

5 Page 2, line 22, delete "sale." and insert "**proceeding.**".

6 Page 3, between lines 7 and 8, begin a new paragraph and insert:

7 **"Sec. 7. For purposes of this chapter, a homeowner is "subject**
8 **to a foreclosure proceeding" if a person who holds a mortgage or**
9 **deed of trust on residential real property owned by the homeowner**
10 **has filed a legal action in a court with jurisdiction to foreclose the**
11 **mortgage or deed of trust held on the homeowner's residential real**
12 **property."**

13 Page 3, line 20, delete "attorney general's office." and insert
14 **"housing and community development authority."**

15 Page 3, line 27, delete "tenth" and insert "**seventh**".

16 Page 3, line 27, delete "any conveyance or" and insert "**the**
17 **homeowner's**".

18 Page 3, line 28, delete "real property." and insert "**the interest in**
19 **the real property that is the subject of the agreement, as described**
20 **in section 4(1) of this chapter."**

21 Page 3, line 38, delete "when" and insert "**three (3) days after**".

22 Page 4, line 1, before "If" insert "**(a)**".

23 Page 4, line 2, after "or" insert "**a**".

24 Page 4, line 3, delete "sixty (60)" and insert "**thirty (30)**".

25 Page 4, between lines 9 and 10, begin a new paragraph and insert:

26 **"(b) A rescission by a homeowner under this chapter is void if**
27 **the payments required under this section are not made within the**
28 **time set forth in subsection (a)."**

29 **Sec. 5. If a homeowner rescinds a contract with a foreclosure**
30 **consultant, not less than ten (10) days following the effective date**
31 **of the rescission, the consultant shall return to the homeowner any**
32 **payments made by the homeowner, less any amounts for actual**
33 **services rendered."**

34 Page 4, line 24, delete "A" and insert "**In addition to any**
35 **prohibitions that apply under IC 24-5-15-1 through IC 24-5-15-8,**
36 **a**".

37 Page 4, line 28, delete "perform;" and insert "**perform, unless the**
38 **foreclosure consultant complies with the security requirements**

- 1 **under IC 24-5-15-8;**".
- 2 Page 5, line 14, delete "and".
- 3 Page 5, line 17, delete "property." and insert "**property; and**"
- 4 **(3) foreclosure purchaser complies with the security**
- 5 **requirements under IC 24-5-15-8.**".
- 6 Page 5, line 25, delete "eighty-two percent (82%)" and insert
- 7 "**sixty-six percent (66%)**".
- 8 Page 6, line 15, delete "The attorney general may seek an injunction
- 9 to prohibit" and insert "**A person who violates this article commits**
- 10 **a deceptive act that is actionable by the attorney general under**
- 11 **IC 24-5-0.5-4 and is subject to the penalties and remedies available**
- 12 **to the attorney general under IC 24-5-0.5.**".
- 13 Page 6, delete lines 16 through 25.
- 14 Page 6, line 26, delete "4." and insert "**2.**".
- 15 Page 6, line 32, delete "5." and insert "**3.**".
- 16 Page 6, line 32, delete "4(b)" and insert "**2(b)**".
- 17 Page 6, line 37, delete "6." and insert "**4.**".
- 18 Page 6, line 38, after "commits" insert "**mortgage rescue**
- 19 **protection fraud,**".
- 20 Page 6, line 39, delete "7." and insert "**5.**".
- 21 Page 6, line 39, delete "attorney general" and insert "**Indiana**
- 22 **housing and community development authority**".
- 23 Page 6, line 40, delete "certified by the Indiana housing and
- 24 community".
- 25 Page 6, line 41, delete "development authority".
- 26 Page 7, line 4, delete "attorney general" and insert "**Indiana**
- 27 **housing and community development authority**".
- 28 Page 7, line 7, delete "8." and insert "**6.**".
- 29 Page 7, after line 8, begin a new paragraph and insert:
- 30 "**Sec. 7. This article may not be construed to preempt the**
- 31 **provisions of IC 24-5-15-1 through IC 24-5-15-11.**
- 32 SECTION 3. IC 25-1-11-13 IS AMENDED TO READ AS
- 33 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. **(a)** The board may
- 34 summarily suspend a practitioner's license for ninety (90) days before
- 35 a final adjudication or during the appeals process if the board finds that
- 36 a practitioner represents a clear and immediate danger to the public's
- 37 health, safety, or property if the practitioner is allowed to continue to
- 38 practice. The summary suspension may be renewed upon a hearing

1 before the board, and each renewal may be for not more than ninety
2 (90) days.

3 **(b) The board may summarily suspend the license of a real**
4 **estate appraiser for ninety (90) days before a final adjudication or**
5 **during the appeals process if the board finds that the licensed real**
6 **estate license appraiser has engaged in material and intentional**
7 **misrepresentations or omissions in the preparation of three (3) or**
8 **more written appraisal reports that were submitted by a person to**
9 **obtain a loan. The summary suspension may be renewed after a**
10 **hearing before the board. Each renewal may be for not more than**
11 **ninety (90) days.**

12 **(c) Before the board may summarily suspend a license under**
13 **this section, the consumer protection division of the office of the**
14 **attorney general must make a reasonable attempt to notify a**
15 **practitioner of:**

- 16 **(1) a hearing by the board to suspend a practitioner's license;**
17 **and**
18 **(2) information regarding the allegation against the**
19 **practitioner.**

20 **The consumer protection division of the office of the attorney**
21 **general must also notify the practitioner that the practitioner may**
22 **provide a written or an oral statement to the board on the**
23 **practitioner's behalf before the board issues an order for summary**
24 **suspension. A reasonable attempt to reach the practitioner is made**
25 **if the consumer protection division of the office of the attorney**
26 **general attempts to reach the practitioner by telephone or facsimile**
27 **at the last telephone number of the practitioner on file with the**
28 **board."**

29 Renumber all SECTIONS consecutively.

(Reference is to SB 390 as printed February 20, 2007.)

and when so amended that said bill do pass.

Representative Bardon