

HR 1054 IH

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

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**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.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Truth in Lending Modernization Act of 2001'.

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

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

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

### SEC. 3. AMENDMENTS RELATING TO RIGHT OF RESCISSION.

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

(1) by striking '(a) Except as otherwise provided' and inserting '(a)

RIGHT ESTABLISHED-

(1) IN GENERAL- Except as otherwise provided'; and

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

(2) TIMING OF ELECTION OF WAIVER BY CONSUMER- No election by a consumer to waive the right established under paragraph (1) to rescind a transaction shall be effective if--

(A) the waiver was required by the creditor as a condition for the transaction;

(B) the creditor advised or encouraged the consumer to waive such right of the consumer; or

(C) the creditor had any discussion with the consumer about a waiver of such right during the period beginning when the consumer provides written acknowledgement of the receipt of the disclosures and the delivery of forms and information required to be provided to the consumer under paragraph (1) and ending at such time as the Board determines, by regulation, to be appropriate.'

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

### SEC. 4. CIVIL LIABILITY.

(a) IN GENERAL- Section 130(a)(2)(A) of the Consumer Credit Protection Act (15 U.S.C. 1640(a)(2)(A)) is amended--

(1) in clause (ii)--

(A) by striking '\$100' and inserting '\$200'; and

(B) by striking '\$1,000' and inserting '\$5,000'; and

(2) in clause (iii), by striking '\$2,000' and inserting '\$10,000'.

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

`(i) the amount determined by multiplying the maximum amount of liability under subparagraph (A) for such failure to comply in an individual action by the number of members in the certified class; or  
` (ii) the amount equal to 2 percent of the net worth of the creditor.'.

## SEC. 5. USE OF RULE OF 78s PROHIBITED.

Section 933(b) of the Housing and Community Development Act of 1992 (15 U.S.C. 1615(b)) is amended--

- (1) by striking `of a term exceeding 61 months'; and
- (2) by striking `September 30, 1993' and inserting `September 30, 1999'.

## SEC. 6. ACCESS TO COURT PROVISION.

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

`(i) AVAILABILITY OF STATUTORY REMEDIES-

`(1) IN GENERAL- No provision of any agreement or contract between a consumer and any creditor which requires binding arbitration or any other nonjudicial procedure to resolve any controversy or settle any claim arising out of such contract or any transaction covered by the contract, or the refusal to perform the whole or any part of the transaction, shall be enforceable to the extent that the construction or application of such provision with respect to such controversy, claim, or refusal would deny the consumer the right to bring any action under this section or any other provision of this title for any liability of the creditor to the consumer under this title.

`(2) RULE OF CONSTRUCTION- Paragraph (1) shall not be construed as creating any inference that any provision of any contract or agreement described in such paragraph could be construed so as to deny any consumer the right to bring an action under this title absent this subsection.'.

## SEC. 7. REGULATIONS.

Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall issue regulations in final form to implement the amendments made by this Act.

*END*