

HOUSE BILL REPORT

SSB 5406

As Reported By House Committee On:

Financial Institutions & Insurance

Title: An act relating to continuing market interest rates for consumer credit transactions.

Brief Description: Continuing market interest rates for consumer credit transactions.

Sponsors: Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Sellar and C. Anderson).

Brief History:

Committee Activity:

Financial Institutions & Insurance: 3/16/95, 3/22/95 [DPA].

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass as amended. Signed by 14 members: Representatives L. Thomas, Chairman; Beeksma, Vice Chairman; Smith, Vice Chairman; Wolfe, Ranking Minority Member; Grant, Assistant Ranking Minority Member; Benton; Campbell; Costa; Dellwo; Dyer; Huff; Kessler; Ogden and Pelesky.

Staff: Charlie Gavigan (786-7340).

Background: In 1992, the Legislature temporarily deregulated interest rates for retail sales contracts (both installment and revolving contracts) by amending the Retail Installment Sales Act (RISA). This deregulation of retail sales interest rates expires on June 30, 1995. The statutory rate cap that existed prior to the deregulation of rates in 1992, and arguably will apply after June 30, 1995 if the Legislature does not act this session, limited interest rates on installment contracts to a maximum of 6 percentage points above the average 26-week Treasury Bill rate for the relevant period and limited interest rates on revolving contracts to 18 percent.

The state Supreme Court has held that some pre-1992 contracts violate RISA by purporting to be revolving accounts but are not, therefore charging a higher interest rate than allowed. This issue continues to be litigated. While the general rule in Washington is that usury is determined based on the law at the time the contract is entered into, courts have held that a repeal of a statute sometimes is retroactive.

Summary of Amended Bill: The expiration of retail sales interest rate deregulation on June 30, 1995 is repealed. The deregulation of retail sales contract interest rates that began in 1992 is continued indefinitely.

Clarification is made that the act applies prospectively only. The act applies to contracts entered into on or after the effective date of the act and does not affect rights or obligations that existed prior to the effective date of the act.

Courts are authorized to remedy unconscionable retail financing contracts. A charge or practice expressly permitted by RISA is not in itself unconscionable.

Amended Bill Compared to Substitute Bill: The amendment authorizes a court to provide remedies for unconscionable contracts or clauses.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: Since interest rate caps were lifted in 1992, the free market has worked well. Competition keeps interest rates lower. Used cars are now sold to consumers who would not be able to be served by traditional lenders. There has been growth due to deregulation of interest rates. Under a floating cap, people are rationed out of the market. The interest rate deregulation has provided people with marginal credit the opportunity to purchase goods which were unavailable before deregulation. Since the deregulation, three-fourths of the retailers that were surveyed have not dramatically changed their interest rates.

Testimony Against: While interest rates should be deregulated in most cases, there should be an interest rate cap on the sale of older, higher mileage used cars. There is no competition in this market and, as a result, interest rates are very high. Interest rates for these cars can be as high as 40 percent, and the repossession rates are often 25 percent. These people are paying for cars at a rate of interest that they cannot afford. This is a high price to pay for low quality goods.

Testified: Senators Prentice and Hale, sponsors; Fred Morgan, Consumer Credit Counseling (pro); Jan Gee, Washington Retail Association (pro); Dick Scott, Desco Audio & Video (pro); Susie Tracy, Washington State Financial Services Association (pro); Janet Cunningham, Jim Boldt, Charlie Severe, Howard Sheridan, Washington State Auto Dealers Association (pro); Paula Seles, Office of the Attorney General (con); and Jack Swanberg, Olympic Boat Center (pro).