

By Ms. Pines, petition (accompanied by bill, Senate, No. 36) of Lois G. Pines for legislation relative to finance charges under open-end credit plans. Banks and Banking.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT REGULATING FINANCE CHARGES ON OPEN-END-CREDIT PLANS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 140D of the General Laws, as appearing in the 1988
2 Official Edition, is hereby amended by inserting after Section 4
3 the following new section: —
4 Section 4A. The parties to any open-end-credit plan may agree
5 to and stipulate for any finance charge, that does not exceed:
6 (1) A quarterly ceiling determined by the commissioner, which
7 shall be computed as follows: (a) The commissioner shall compute
8 on the computation dates of December first, March first, June
9 first, and September first, the quarterly ceilings for the next
10 succeeding quarters beginning January first, April first, July first,
11 and October first; (b) For each computation date, the indicated
12 rate ceiling shall be determined from the average from all auctions
13 during the quarter preceding the computation date of twenty-six
14 week treasury bills quoted on a bank discount basis and issued
15 by the United States government as published by the Federal
16 Reserve Board. The indicated rate ceiling shall be this average plus
17 five percentage points; (c) If the indicated rate ceiling is less than
18 sixteen per cent a year, the quarter ceiling for the succeeding
19 quarter shall be sixteen per cent a year; (d) If the indicated rate
20 ceiling is more than sixteen per cent a year, but less than eighteen
21 per cent a year, the quarterly rate ceiling for the succeeding quarter
22 shall be eighteen per cent a year; (e) If the indicated rate ceiling
23 is greater than eighteen per cent a year, the quarterly ceiling for

24 the succeeding quarter shall be twenty per cent a year. The
25 quarterly ceiling shall not exceed twenty per cent a year.

26 The commissioner shall cause the quarterly ceilings on finance
27 charges to be published in the Massachusetts Register before the
28 eleventh day after the day on which they are to be computed. If
29 furnishing of any of the information required to compute the
30 ceilings is discontinued so that it is no longer available to the
31 commissioner from the Federal Reserve Board on a timely basis,
32 the commissioner shall obtain the information from reliable
33 sources satisfactory to the commissioner. If the information
34 required to compute the quarterly ceilings is not available, the
35 ceiling remains at the level at which it was when the information
36 became unavailable until the information again becomes
37 available. Any court may take judicial notice of the quarterly
38 ceilings, and related information, caused to be published in the
39 Massachusetts Register by the commissioner pursuant to this
40 section. The maximum finance charge on any open-end-credit
41 plan which is originated, renewed or extended is the applicable
42 quarterly ceiling allowable under this section at the time of such
43 origination, extension or renewal.

44 Unless otherwise agreed, when the parties have agreed to a rate,
45 they are considered to have agreed to any lesser rate that the
46 creditor may elect, or that is required by the quarterly ceilings on
47 finance charges. Notice to the consumer of lower rates is not
48 necessary. If the agreement of the parties so provides, a creditor
49 in an open-end-credit plan may implement any rate increase
50 permitted under the quarterly ceiling as to any future balances
51 by giving notice to the consumer of the finance charge increase.
52 Notice shall be given at any time after the computation date, and
53 before the last day preceding the next quarter. The creditor may
54 implement a rate not exceeding the quarterly ceiling for a three
55 month period from the date it becomes effective as to the
56 consumers' account. At the end of the three month period the
57 creditor may leave the rate in effect for the succeeding three
58 months as long as the rate then in effect is less than the current
59 quarterly ceiling. No further notice of the renewal, or of successive
60 renewals is required if the creditor has previously disclosed to the
61 consumer that the election may be renewed in accordance with

62 this section, and the rate does not exceed the rate previously
63 agreed to by the consumer. In any open-end-credit plan, the
64 creditor may provide in the agreement or by amendment that the
65 finance charge will be subject to increases as to future balances.
66 The creditor shall not increase finance charges as to current
67 balances, which shall continue to be charged at the rate agreed
68 to when the balance was incurred. Increased finance charges may
69 be assessed as to future balances only if the following notice
70 requirements are fully complied with.

71 The notice shall contain: (i) the new finance charge; (ii) the date
72 on which it shall become effective; (iii) the period for which it will
73 apply; (iv) the address to which the consumer may send
74 notification of the consumers' election to cancel the open-end-
75 credit agreement; (v) the following printed in not less than ten
76 point type or computer equivalent:

77 "YOU MAY TERMINATE THIS AGREEMENT IF YOU
78 DO NOT WISH TO PAY THE NEW RATE."

