

HOUSE OF REPRESENTATIVES

Unofficial Engrossment

House Engrossment of a Senate File

EIGHTY-SEVENTH SESSION

S. F. No. 1268

Senate Author(s): Thompson

House Action

05/20/2011 Companion to House File No. 1195. (Authors:Anderson, S.; Hoppe; Sanders and Beard)

Read First Time and Sent for Comparison

05/21/2011 R/S Substituted for H. F. No. 1195 and Read Second Time

05/23/2011 Pursuant to Rule 4.20, re-referred to the Committee on Commerce and Regulatory Reform

02/08/2012 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act
1.2 relating to commerce; authorizing the imposition of certain fees in connection
1.3 with certain loan transactions; amending Minnesota Statutes 2010, section 47.59,
1.4 subdivision 6.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2010, section 47.59, subdivision 6, is amended to read:

1.7 Subd. 6. Additional charges. (a) For purposes of this subdivision, "financial
1.8 institution" includes a person described in subdivision 4, paragraph (a). In addition to the
1.9 finance charges permitted by this section, a financial institution may contract for and
1.10 receive the following additional charges that may be included in the principal amount
1.11 of the loan or credit sale unpaid balances:

- 1.12 (1) official fees and taxes;
1.13 (2) charges for insurance as described in paragraph (b);
1.14 (3) with respect to a loan or credit sale contract secured by real estate, the following
1.15 "closing costs," if they are bona fide, reasonable in amount, and not for the purpose of
1.16 circumvention or evasion of this section:
1.17 (i) fees or premiums for title examination, abstract of title, title insurance, surveys,
1.18 or similar purposes;
1.19 (ii) fees for preparation of a deed, mortgage, settlement statement, or other
1.20 documents, if not paid to the financial institution;
1.21 (iii) escrows for future payments of taxes, including assessments for improvements,
1.22 insurance, and water, sewer, and land rents;
1.23 (iv) fees for notarizing deeds and other documents;
1.24 (v) appraisal and credit report fees; and

2.1 (vi) fees for determining whether any portion of the property is located in a flood  
2.2 zone and fees for ongoing monitoring of the property to determine changes, if any,  
2.3 in flood zone status;

2.4 (4) a delinquency charge on a payment, including the minimum payment due in  
2.5 connection with open-end credit, not paid in full on or before the tenth day after its due  
2.6 date in an amount not to exceed five percent of the amount of the payment or \$5.20,  
2.7 whichever is greater;

2.8 (5) for a returned check or returned automatic payment withdrawal request, an  
2.9 amount not in excess of the service charge limitation in section 604.113, except that, on  
2.10 a loan transaction that is a consumer small loan as defined in section 47.60, subdivision  
2.11 1, paragraph (a), in which cash is advanced in exchange for a personal check, the civil  
2.12 penalty provisions of section 604.113, subdivision 2, paragraph (b), may not be demanded  
2.13 or assessed against the borrower; ~~and~~

2.14 (6) charges for other benefits, including insurance, conferred on the borrower that  
2.15 are of a type that is not for credit; and

2.16 (7) except on an unsecured loan transaction that is either a consumer small loan,  
2.17 as defined in section 47.60, subdivision 1, paragraph (a), or a loan transaction that is a  
2.18 consumer short-term loan, as defined in section 47.601, subdivision 1, paragraph (d),  
2.19 the following reasonable fees and charges that are contracted for between a financial  
2.20 institution organized under chapter 53 and a borrower with respect to a non-recourse  
2.21 collateralized loan: fees for transporting, storing, securing, insuring, and maintaining  
2.22 the collateral for the loan.

2.23 (b) An additional charge may be made for insurance written in connection with the  
2.24 loan or credit sale contract, which may be included in the principal amount of the loan or  
2.25 credit sale unpaid balances:

2.26 (1) with respect to insurance against loss of or damage to property, or against  
2.27 liability arising out of the ownership or use of property, if the financial institution furnishes  
2.28 a clear, conspicuous, and specific statement in writing to the borrower setting forth the  
2.29 cost of the insurance if obtained from or through the financial institution and stating that  
2.30 the borrower may choose the person through whom the insurance is to be obtained;

2.31 (2) with respect to credit insurance or mortgage insurance providing life, accident,  
2.32 health, or unemployment coverage, if the insurance coverage is not required by the  
2.33 financial institution, and this fact is clearly and conspicuously disclosed in writing to  
2.34 the borrower, and the borrower gives specific, dated, and separately signed affirmative  
2.35 written indication of the borrower's desire to do so after written disclosure to the borrower  
2.36 of the cost of the insurance; and

3.1 (3) with respect to the vendor's single interest insurance, but only (i) to the extent  
3.2 that the insurer has no right of subrogation against the borrower; and (ii) to the extent that  
3.3 the insurance does not duplicate the coverage of other insurance under which loss is  
3.4 payable to the financial institution as its interest may appear, against loss of or damage  
3.5 to property for which a separate charge is made to the borrower according to clause (1);  
3.6 and (iii) if a clear, conspicuous, and specific statement in writing is furnished by the  
3.7 financial institution to the borrower setting forth the cost of the insurance if obtained from  
3.8 or through the financial institution and stating that the borrower may choose the person  
3.9 through whom the insurance is to be obtained.

3.10 (c) In addition to the finance charges and other additional charges permitted by  
3.11 this section, a financial institution may contract for and receive the following additional  
3.12 charges in connection with open-end credit, which may be included in the principal  
3.13 amount of the loan or balance upon which the finance charge is computed:

3.14 (1) annual charges, not to exceed \$50 per annum, payable in advance, for the  
3.15 privilege of opening and maintaining open-end credit;

3.16 (2) charges for the use of an automated teller machine;

3.17 (3) charges for any monthly or other periodic payment period in which the borrower  
3.18 has exceeded or, except for the financial institution's dishonor would have exceeded,  
3.19 the maximum approved credit limit, in an amount not in excess of the service charge  
3.20 permitted in section 604.113;

3.21 (4) charges for obtaining a cash advance in an amount not to exceed the service  
3.22 charge permitted in section 604.113; and

3.23 (5) charges for check and draft copies and for the replacement of lost or stolen  
3.24 credit cards.

3.25 (d) In addition to the finance charges and other additional charges permitted by this  
3.26 section, a financial institution may contract for and receive a onetime loan administrative  
3.27 fee not exceeding \$25 in connection with closed-end credit, which may be included in the  
3.28 principal balance upon which the finance charge is computed. This paragraph applies only  
3.29 to closed-end credit in an original principal amount of \$4,320 or less. The determination  
3.30 of an original principal amount must exclude the administrative fee contracted for and  
3.31 received according to this paragraph.

3.32 (e) Upon written request by a borrower, the lender shall within seven days produce  
3.33 to the borrower documentation showing the fees that have been paid by the lender for  
3.34 transporting, storing, securing, insuring, and maintaining the collateral for the loan,  
3.35 including to whom the fees have been paid, the date, the amount, and the reason. Failure  
3.36 to produce said documentation shall result in a forfeiture of said fees.