

1/27/49

(Draft of Consumer Credit Bill)

A B I L L

To regulate consumer instalment credit, to aid in the protection of interstate and foreign commerce and of the monetary, banking and credit structure of the nation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Reserve Act is amended by inserting therein the following new section 20A between sections 20 and 21 thereof:

"SECTION 20A. CONSUMER INSTALMENT CREDIT

"(a) Purposes of Section. For the reasons hereinafter enumerated and in the light of which this section shall be interpreted and applied, the use of instalment credit is affected with a national public interest which makes it necessary to provide for appropriate regulation of such credit:

"Instalment credit is an important factor in financing the purchase of large volumes of goods and services, particularly consumers' durable goods, that move through the channels of interstate commerce. The terms and conditions on which instalment credit is available have a direct and important effect on changes in the amount of such credit and on the volume and timing of demand for, and flow in interstate commerce of, not only consumers' durable goods and related components and manufacturing equipment but also goods and services in general.

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ALTERNATE PAGE 1

(For use if consumer credit provisions
are incorporated in a section of
another bill.)

Sec. _____. The Federal Reserve Act is amended by inserting therein the following new section 20A, which shall not be subject to Title I of the Economic Stability Act of 1949:

"SECTION 20A. CONSUMER INSTALMENT CREDIT

"(a) Purpose of Section. For the reasons hereinafter enumerated and in the light of which this section shall be interpreted and applied, the use of instalment credit is affected with a national public interest which makes it necessary to provide for appropriate regulation of such credit:

"Instalment credit is an important factor in financing the purchase of large volumes of goods and services, particularly consumers' durable goods, that move through the channels of interstate commerce. The terms and conditions on which instalment credit is available have a direct and important effect on changes in the amount of such credit and on the volume and timing of demand for, and flow in interstate commerce of, not only consumers' durable goods and related components and manufacturing equipment but also goods and services in general.

"Because of the place of instalment credit in the national economy, the nature of such credit and the purposes for which it is largely used, (1) such credit has a tendency, if unregulated, to expand unduly in certain periods and to contract unduly at other periods, and (2) such over-expansion and over-contraction are of material importance in causing and intensifying excessive fluctuations and dislocations in national levels of purchasing power, prices, credit and interstate commerce.

"Both directly and through their impact on interstate commerce and the national economy, excessive or untimely fluctuations in instalment credit tend to interfere with the maintenance of high and stable levels of production and employment, burden interstate and foreign commerce, interfere with the power of Congress to regulate the value of money, threaten the stability of the nation's monetary, banking and credit structure, hamper the Federal Reserve System in maintaining sound credit conditions, and aggravate the causes of emergencies which put the Federal Government to great expense and burden the national credit.

"The purposes of this section are to provide appropriate regulation of instalment credit and thereby to aid in preventing, so far as practicable by this means, excessive or untimely fluctuations of such credit and the resulting national dangers and burdens mentioned above.

"(b) Definitions. - For the purposes of this section, unless the context otherwise requires, the following terms shall have the following meanings, but the Board of Governors of the Federal Reserve System (hereinafter called the Board) may in its regulations further define

such terms and, in addition, may define technical, trade, and accounting terms, in so far as any such definitions are not inconsistent with the provisions of this section:

"(1) 'Instalment credit' means credit which the obligor undertakes to repay in two or more payments, or as to which he undertakes to make two or more payments or deposits usable to liquidate the credit, or which has a similar purpose or effect: Provided, however, That it shall not include (i) any credit to finance or refinance the construction or purchase of an entire residential or nonresidential building, (ii) any credit extended to a business enterprise to finance the purchase of goods for resale, or (iii) any other credit extended to a business or agricultural enterprise for any business or agricultural purpose unless the credit is secured by or is for the purpose of purchasing or carrying consumers' durable goods.

"(2) 'Consumers' durable goods' means any good which is durable or semi-durable and is used or usable for personal, family, or household purposes, and any service connected with the acquisition of any such good or any interest therein.

"(3) 'Credit' means any loan, advance, or discount; any conditional sale contract; any sale of property or services or contract of such sale, either for present or future delivery, under which part or all of the price is payable subsequent to the making of such sale or contract; any rental-purchase contract, or any contract for the bailment or leasing of property under which the bailee or lessee has the option of becoming the owner thereof, obligates himself to pay as compensation a sum substantially

equivalent to or in excess of the value thereof, or has the right to have all or part of the payments required by such contract applied to the purchase price of such property or similar property; any option, demand, lien, pledge or similar claim against, or for the delivery of property or money; any purchase, discount, or other acquisition of, or any credit upon the security of, any obligation or claim arising out of any of the foregoing; and any transaction or series of transactions having a similar purpose or effect.

"(4) 'Person' means any individual, partnership, association, business trust, corporation, or unincorporated organization; and, except that the criminal penalties shall not be applicable thereto, it includes the United States, any State or subdivision thereof, and any agency or instrumentality of one or more such authorities.

"(c) Regulations. - The Board of Governors of the Federal Reserve System is authorized from time to time by regulation to prescribe maximum maturities, minimum down payments, maximum loan values, and amounts and intervals of payments, for such kind or kinds of instalment credit as it may in the judgment of the Board be necessary to regulate in order to prevent or reduce excessive or untimely use of or fluctuations in such credit. Such regulations may classify transactions and may apply different maximum maturities, minimum down payments, maximum loan values, or amounts and intervals of payments thereto. Such regulations may contain such administrative provisions as in the judgment of the Board are reasonably necessary in order to effectuate the purposes of this section or to prevent evasions thereof.

"In prescribing such regulations, including changes from time to time to take account of changing conditions, the Board shall consider, among other factors, (1) the level and trend of instalment credit and the various kinds thereof, (2) the effect of fluctuations in such credit upon (i) the purchasing power of consumers and (ii) the demand for and the production of consumers' durable and other goods which move in interstate commerce, and (3) the need in the national economy for the maintenance of sound credit conditions.

(d) Compliance, Records, Reports. - No person engaged as principal, agent, broker, or otherwise, whether or not in connection with the selling of goods or any other business, in the business of extending or maintaining instalment credit, or of refinancing purchasing, selling, discounting, or lending on, any obligation arising out of any such credit, shall extend or maintain any credit, or renew, revise, consolidate, refinance, purchase, sell, discount, or lend on, any obligation, in contravention of any regulation prescribed by the Board pursuant to this section. Every person so engaged in such business shall make, keep, and preserve for such periods, such accounts, correspondence, memoranda, papers, books, and other records, and make such reports, under oath or otherwise, as the Board may by regulation require as necessary or appropriate in order to effectuate the purposes of this section; and such accounts, correspondence, memoranda, papers, books, and other records shall be subject at any time or from time to time to such reasonable periodic, special, or other examinations by examiners or other representatives of the Board as the Board may deem necessary or appropriate in order to effectuate the purposes of this section.

"(e) Penalties. - Any person who wilfully violates any provision of this section or any regulation thereunder the observance of which is required

under the terms of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$5,000, or imprisoned not more than one year, or both; but no person shall be subject to imprisonment under this section for the violation of any regulation if he proves that he had no actual knowledge of such regulation.

"(f) Investigations, Enforcement, Administration. - All the present provisions of sections 21 and 27 of the Securities Exchange Act of 1934, as amended (relating to investigations, injunctions, jurisdictions, and other matters), shall be as fully applicable with respect to the exercise by the Board of its functions under this section as they are now applicable with respect to the exercise by the Securities and Exchange Commission of its functions under that Act, and the Board shall have the same powers in the exercise of its functions under this section as the Commission now has under sections 21 and 27 of that Act. In order to aid in effectuating the purposes of this section, the Board by regulation may require transactions or persons or classes thereof subject to this section to be registered or licensed; and, after notice and opportunity for hearing, the Board may suspend any such registration or license for violation of this section or any regulation prescribed by the Board pursuant to this section. In administering this section, the Board may act through its duly designated representatives and may utilize the services of the Federal Reserve Banks and any other agencies, Federal or State, which are available and appropriate.

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