

Section 206(a) requires a plaintiff seeking recovery of a civil penalty to show that an offending creditor "knowingly" failed to disclose required information. The requirement of proof of specific knowledge, which the Department does not believe is required in a criminal proceeding, is certainly not required by fairness in a civil proceeding. The burden of proving specific knowledge by an offending creditor might frustrate prospective plaintiffs, and thereby weaken the enforcement provisions of the act.

The Bureau of the Budget has advised that enactment of legislation to provide full disclosure of credit charges would be in accord with the Program of the President.

Sincerely,

WARREN CHRISTOPHER,
Deputy Attorney General.

FEDERAL HOME LOAN BANK BOARD,
Washington, D.C., September 1, 1967.

HON. WRIGHT PATMAN,
*Chairman, Committee on Banking and Currency,
House of Representatives.*

DEAR MR. CHAIRMAN: In response to your request, the Federal Home Loan Bank Board submits this report on H.R. 11601 of the present Congress, which if enacted would become the Consumer Credit Protection Act.

This report is presented from the point of view of the functions now vested in the Board under Federal statute. The Board supervises the Federal Home Loan Banks, twelve in number, which provide reserve credit for their member institutions. All Federal savings and loan associations, which are chartered and supervised by the Board, are required to be members, and membership is extended on an optional basis to State-chartered associations and to savings banks and insurance companies engaged in making long-term home mortgage loans. The Board also administers the Federal Savings and Loan Insurance Corporation, which insures up to a statutory limit of \$15,000 savings in all Federal savings and loan associations and in such State-chartered associations as apply and are admitted to insurance.

(1) Disclosure of Finance Charges. The bill would add to the Federal Reserve Act a new title II requiring disclosure of finance charges where credit is granted by a creditor to a person other than an organization and the debt is contracted by the obligor primarily for personal, family, household, or agricultural purposes. The Board strongly urges the enactment of legislation along the lines of these provisions.

It is desirable that there be clarity as to the effect of those provisions on loans by the institutions which are supervised by the Federal Home Loan Bank Board to individuals where the amount or rate of the finance charge may be uncertain. Although the incidence of these examples is small in relation to the total number of transactions affected by this legislation, an example of a loan having an uncertain amount or rate of finance charge would be construction loans which are to be disbursed in progress payments that can vary in timing with weather conditions and other factors, or loans which have an interest-rate adjustment or escalation clause. We are not entirely certain that the provisions of subsection (c) of the proposed new section 204 of the Federal Reserve Act are fully adequate for this purpose. We therefore suggest that at page 20, line 2, immediately before the period, language such as the following be added:

" , or in the judgment of the Board are necessary or appropriate to accommodate the requirements of section 203 to the characteristics of the class of transactions dealt with".

We note that H.R. 11601 does not contain a provision analogous to subdivision (4) of section 8 of the Senate bill (S. 5) as passed by the Senate, which provides that the provisions of the act shall not apply to "transactions involving extensions of credit secured by first mortgages on real estate", the term "first mortgage" being defined in subdivision (i) of section 3 of that bill as meaning "such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located". While the Board sees no impelling need for the inclusion of such mortgages in the disclosure provisions, it recognizes that such coverage is not unreasonable.