

The Effect of Truth in Lending on Agricultural Transactions

I. SCOPE OF COVERAGE

The Federal Consumer Credit Protection Act was signed into law on May 29, 1968.¹ Title I, commonly referred to as the Truth in Lending Act, requires certain disclosures by creditors involved in a consumer credit transaction, regulates credit advertising, and creates the possibility of rescission in credit transactions involving real property being used by consumers as their principal residence.² The impact of this legislation on our credit-oriented economy has since been realized by the commercial interests in the nation who have had to revise both their business practices and forms.³ This article is an attempt to focus on the Act only as it applies to agricultural transactions.

Agricultural financing is subject to the provisions of Title I of the Consumer Credit Protection Act, the Truth in Lending Act; and to Regulation Z, the basic regulation promulgated by the Board of Governors of the Federal Reserve System under authority of Section 105 of the Truth in Lending Act.⁴ Both the Act and Regulation Z define consumer credit to include credit offered or extended to a natural person for agricultural purposes.⁵ Regulation Z defines agricultural purpose as “. . . a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants,

¹Consumer Credit Protection Act (hereinafter cited as C.C.P.A.), 15 U.S.C. 1601 *et seq.* (Supp. V, 1965-1970).

²15 U.S.C. 1601-1665 (Supp. V, 1965-1970).

³Frank, *Preparation of Bank Forms for Regulation Z*, 87 BANKING L.J. 307 (1970).

⁴Regulation Z is contained in 12 C.F.R. 226.1 *et seq.*

⁵15 U.S.C. 1602 (h) (Supp. V, 1965-1970); 12 C.F.R. 226.2(k).

propagates, or nurtures those agricultural products.”⁶ The Act specifically exempts from its coverage all extensions of credit for business or commercial purposes, other than agricultural purposes, and transactions in which the amount financed exceeds \$25,000.00, except real property transactions.⁷

These pertinent sections indicate the unique die in which agricultural credit transactions have been cast. Credit for agricultural purposes is covered, while credit for all other types of business or commercial purposes is excluded. Transactions in which the amount financed exceeds \$25,000.00 are generally exempt, but not if the transaction involves real property; so that, as to the great number of agricultural loans secured by real property, the over \$25,000.00 exemption is inapplicable. The scope of agricultural transactions covered is thus extensive.

However, the Act applies only when the extension of credit is to a natural person.⁸ Therefore credit extended to a corporation, partnership, cooperative, association, or trust is not covered by Truth in Lending. Furthermore, the natural person must be the one “who cultivates, plants, propagates, or nurtures those agricultural products.”⁹ Thus a farm worker harvesting another’s crops is not under Regulation Z,¹⁰ a sale of agricultural products to a dealer on credit is excluded,¹¹ sawmill operators who do not grow their own trees are not engaged in the business of agriculture,¹² and credit extended to a hauler of livestock would not be for an agricultural purpose.¹³

II. QUESTIONING THE INCLUSION OF AGRICULTURAL TRANSACTIONS

Arguments have been made against this coverage of agricultural transactions.¹⁴ One obvious objection is that farming is itself a busi-

⁶12 C.F.R. 226.2(c).

⁷15 U.S.C. 1603 (Supp. V, 1965-1970).

⁸15 U.S.C. 1602(h) (Supp. V, 1965-1970).

⁹12 C.F.R. 226.2 (c).

¹⁰FTC Informal Staff Opinion of September 9, 1969, by Randall, 3 CCH CONSUMER CREDIT GUIDE, Truth-in-Lending Special Releases Correspondence, ¶ 30, 303.

¹¹FRB Letter of July 10, 1969, No. 39, by Schober, 3 CCH CONSUMER CREDIT GUIDE, Truth-in-Lending Special Releases Correspondence, ¶ 30, 436.

¹²FRB Letter of July 8, 1969, by Schober, 3 CCH CONSUMER CREDIT GUIDE, Truth-in-Lending Special Releases Correspondence, ¶ 30, 105.

¹³FRB Letter of July 15, 1969, by Schober, 3 CCH CONSUMER CREDIT GUIDE, Truth-in-Lending Special Releases Correspondence, ¶ 30, 119.

¹⁴CLONTZ, TRUTH-IN-LENDING MANUAL, 21 (Revised ed., 1970).

ness and as such should be afforded the treatment prescribed for all other business and commercial transactions. Agriculture has developed like other businesses. Over the past decade there has been a 26 percent decline in the number of farms, yet there has been a 29 percent increase in their average size, so that in 1970 an average farm was 389 acres as compared with 297 acres in 1960.¹⁵ At the same time production has increased greatly due to "better management, improved technology, and heavy investments of capital."¹⁶ Thus in the farm sector, just as in the economy generally, the trend is toward larger and more efficient operations with greater productivity.

Not only has farming developed in step with other business, so too has the farmer kept abreast of other businessmen. As stated by Ralph C. Clontz, Jr., author of the *Truth-in-Lending Manual*:

Farmers today are no longer the rugged individualists matching their muscle, mules and numerous children against the elements. In most sections of our country, the small farmer is practically a thing of the past. Today, farming has become "big business," the cost and value of farm personalty, both machinery and livestock, having increased tremendously. With the scarcity of farm labor, farming operations have become more and more automated, with the farm machinery and all other aspects of farming operations becoming more complex and expensive.¹⁷

In his role as an agri-businessman then, the farmer, either individually or collectively, should be as able to conduct his business with as thorough an understanding of its production, market operation, and finances as any other businessman.

Yet the fact remains that the farmer has been extended unique treatment by the Truth in Lending Act. The question arises as to why credit extended for agricultural purposes is included within the Truth in Lending Act and Regulation Z, while credit extended for all other business and commercial purposes is exempt. Further, why is agricultural credit included if made to a natural person relating to his own production but not included if made to an organization? In short, why does the Act equate farmer's with consumers rather than with businessmen?

¹⁵U.S. Department of Agriculture Statistical Reporting Service, Sp Sy 3, Jan. 8, 1971.

¹⁶COCHRANE, *THE CITY MAN'S GUIDE TO THE FARM PROBLEM*, 65-20831, 16 (1965).

¹⁷Clontz, *Financing the Farmer Under the Uniform Commercial Code*, 2 U.C.C.L.J. 119 (1969-70).

III. REASON FOR INCLUSION OF AGRICULTURAL TRANSACTIONS

No express reason is contained in the Truth in Lending Act or Regulation Z for the inclusion of credit extended to natural persons for agricultural purposes. In response to an inquiry on this point, Congressman Howard W. Robison of New York answered that the Department of Justice advised him they could find little basis for the original inclusion of agricultural transactions.¹⁸

The report of the hearings of the Senate Committee on Banking and Currency on the Truth in Lending Act contains information from then Secretary of Agriculture Orville Freeman which may provide some insight. A letter of July 12, 1961, to the Chairman of that committee states:

This Department approves the purposes of this "Truth in Lending Act." Undoubtedly many farmers, as well as others, are uninformed or even misled as to the cost of much of the credit they use. Few people are able to compute the interest-rate equivalent of the cost of installment credit. We believe that it is desirable, as a matter of public policy, that users of credit be provided with a practicable means of comparing the costs of credit available from various sources.¹⁹

In that letter there is no distinction drawn between the nature and needs of farmers engaged in the business of farming and consumers in general. A statement to the Committee by Mr. Freeman in 1962 reaffirmed his support for the bill, and, in expressing its importance to farmers, he cited dollar expenditures by farmers for motor vehicles and household furnishings and equipment.²⁰ Again there is a failure to distinguish between the farmer in his role as a businessman and the farmer as a member of the consuming public. There is a difference. As stated by Peter F. Coogan: "In the late 1960's a relatively small part of farm financing involves a person who, likd the Vermont hill farmer of a century ago, is primarily a 'consumer'."²¹ Of course the farmer would be covered in his transactions as a general consumer without the current differentiation between agriculture and all other business and commercial transactions embodied in

¹⁸Letter from Congressman Howard W. Robison to Dennis Campos, Oct. 28, 1970.

¹⁹*Hearings on S. 1740 Before a Subcommittee of the Senate Committee on Banking and Currency*, 87th Cong., 1st Sess. 14 (1961).

²⁰*Hearings on S. 1740 Before a Subcommittee of the Senate Committee on Banking and Currency*, 87th Cong., 2nd Sess. 412 (1962).

²¹Coogan and Mays, *Crop Financing and Article 9: A Dialogue with Particular Emphasis on the Problems of Florida Citrus Crop Financing*, 22 UNIV. OF MIAMI L.R. 13, 19 (1967-68).

the Truth in Lending Act. This blurring of roles combined with the analysis following may explain the unique treatment of agricultural transactions.

Perhaps the drafters of the Truth in Lending Act had a rather antiquated view of the farmer and considered him to lack the necessary business judgment to comprehend his own financial transactions. While this explanation does not appear in the Act's legislative history, or other official sources, it was judicially expressed in another context in *Cook Grains, Incorporated v. Fallis*,²² in which an Arkansas court dealing with the Uniform Commercial Code held that a farmer marketing his own products could not be considered a "merchant" because that term indicated a certain level of skill and knowledge in dealing with goods.²³ This paternalistic interpretation of the treatment of farmers in the Truth in Lending Act is further supported by the fact that coverage is limited to extensions of credit to natural persons,²⁴ and not to organizations, presumably because if a farmer has organized he has exhibited business acumen commensurate with that possessed by persons engaged in other types of business and commercial transactions. While there appears to be no readily ascertainable reason for the inclusion of agricultural transactions, the problems arising therefrom became manifest almost immediately.

IV. PROBLEMS ARISING FROM COVERAGE

The avowed purpose of the Truth in Lending Act was to require full disclosure of the terms and conditions of finance charges in credit transactions.²⁵ However, both the farmer's credit need and cash flow are tied to factors which are unknown at the time credit arrangements are negotiated. Credit need in terms of time and amount is dictated by weather, labor conditions, market conditions, availability of livestock, and the availability of other factors of production. Similarly, cash flow, which determines ability to repay, varies in time and amount with the date of harvest, processing operations, favorability of markets, and other variables beyond the control of an individual grower. Because the ability to repay is based on these unpredictable

²²239 Ark. 962, 395 S.W. 2d 555 (1965).

²³*Id.* at 965, 395 S.W. 2d at 557.

²⁴15 U.S.C. 1602 (h) (Supp. V, 1965-1970).

²⁵15 U.S.C. 1601 (Supp. V, 1965-1970).

variables, full disclosure of finance terms and charges is not always possible when the loan is consummated. The cost of the loan must often be determined after the fact of the loan because of the uncertainty of the loan period. It would be disadvantageous to any farmer-borrower to agree to a definite term merely for the purpose of avoiding possible delays in financing because such action might very well increase his cost of borrowing by use of a term which later proves to be unnecessarily long. Banks dealing with farm credit have long respected these unique factors and their credit arrangements have reflected, often informally, the uncertainties and unpredictability of agricultural operations.²⁶ Practices evolved which included a commitment at the beginning of a growing season when the dates and amounts of actual advances were unknown, secured by a simple note payable at the time of the sale of crops or livestock rather than on a stated maturity.²⁷ The requirements of the Truth in Lending Act precluded these transactions.²⁸

As stated above, by the terms of the Truth in Lending Act creditors are required to make certain disclosures. Compliance with the Act and Regulation Z has required changes in business forms,²⁹ an increase in time due to the additional compilations required, and therefore an increase in the cost of processing each extension of credit covered by the Act.³⁰ This places farmer-borrowers at a disadvantage to other commercial borrowers for whom lenders need not meet the requirements of the Act.

Problems of inconvenience and delay have also resulted from the right of rescission created by the Truth in Lending Act.³¹ The Act provides that in any consumer credit transaction in which a security interest is retained or acquired in real property that is used or expected to be used as the residence of the borrower, the latter has three days within which he may rescind the transaction.³² Therefore, whenever a farmer sought to secure credit with realty which was used or expected to be used as his place of residence he faced a three-day moratorium during which the creditor could not disburse any money

²⁶Interviews with Frank Perrera, President of the Bank of Alex Brown, Walnut Creek, California, and Robert S. Thomas, loan officer with Wells Fargo Bank, Sacramento, California.

²⁷*Id.*

²⁸15 U.S.C. 1601-1665 (Supp. V, 1965-1970).

²⁹Frank, *supra* note 3.

³⁰Street, *Exemption from Disclosure Law - Is Dim Possibility for Farm Loans*, AMERICAN BANKER, (May 7, 1970).

³¹15 U.S.C. 1635 (Supp. V, 1965-1970).

³²*Id.*

other than in escrow or perform any work or service for the borrower.³³ Conceivably, the three-day delay caused more than inconvenience. As noted above, a farmer's credit need may vary with such unpredictables as the weather or supply prices or machine breakdowns; and like other businessmen, his capital needs are best served as they arise, not three days thereafter.

The farmer may also be at a disadvantage with regard to the general exemption from the Truth in Lending requirements of credit transactions in which the total amount to be financed exceeds \$25,000.00.³⁴ That exemption does not apply to real property transactions.³⁵ Despite great advances in technology, the farmer is still dependent on land to operate his business and all his transactions involving that factor of production are covered by the Act despite the general exemption of transactions over \$25,000.00 applied across the board to other transactions.³⁶ The exemption has also been sought in agricultural transactions not involving real property.

A ruling was sought on an agreement for an agricultural loan which contained the following:

After reviewing your recent financial statement, we have approved a line of credit for \$_____ at the current rate of 7% on feeder cattle and market hogs, 7½% on dairy cattle, 8% on chickens, feed, machinery, and operating expenses. These rates and amounts will be subject to review and change during the year, depending on general economic conditions and your financial statement.³⁷

In response to an inquiry as to whether transactions under this agreement would be exempt assuming the amount of the commitment were greater than \$25,000.00, the answer was no.³⁸ The reason was stated that:

. . . it does appear to us that this agreement is so vague as to the period which it covers and the factors which may entitle the bank not to make advances ("general economic conditions"), that it could not be considered "an express written commitment . . . to extend credit in excess of \$25,000.00."³⁹

It should be noted that this was the type of agreement favored by

³³12 C.F.R. 226.9(c).

³⁴15 U.S.C. 1603 (3) (Supp. V, 1965-1970).

³⁵*Id.*

³⁶*Id.*

³⁷FRB Letter of June 1, 1970, No. 338, by Garwood, 3 CCH CONSUMER CREDIT GUIDE, Truth-in-Lending Special Releases Correspondence, ¶ 30, 393.

³⁸*Id.*

³⁹*Id.*

some local bankers as providing for the flexibility demanded by the farmer's credit needs during his growing season before the Truth in Lending Act was passed.⁴⁰

Criticism has not been limited to questioning the original basis for the inclusion of agricultural financing. Both borrowers and financiers who have felt the unnecessary and adverse effects of Truth in Lending on agricultural credit transactions have called upon the Federal Reserve System's Board of Governors to completely remove such transactions from the scope of the legislation.⁴¹ Staff Attorneys for the Board have taken the position that it is beyond the regulatory power of the Board⁴² to exempt agricultural financing from the Act.⁴³ However, the Board has recognized that treating agricultural transactions as consumer credit may be both unnecessary and burdensome.⁴⁴

V. ACTION TAKEN BY THE BOARD

The Federal Reserve Board has issued two interpretations of Regulation Z of general applicability, thereby effecting a simplification of the general disclosure requirements on time and demand notes. Interpretation Section 226.811, in reference to 12 C.F.R. 226.8, was amended⁴⁵ to provide that the renewal of a time note is not a new transaction and no new disclosures need be made in connection with such renewal, provided: (1) all disclosures were made originally, or at a prior renewal, (2) the amount of the renewal does not exceed the unpaid balance and any accrued finance charge, (3) the annual percentage rate is not increased, and (4) the maturity of the renewal does not exceed the maturity on the original note by more than four days.⁴⁶ Interpretation Section 226.815, relating to demand loans, removes the necessity of disclosing the number, amount or total of payments, or identifying any balloon payment, when the loan is not written with an alternative maturity date.⁴⁷ The creditor need only disclose the due dates or periods of payments and not the exact dollar

⁴⁰*Supra*, note 26.

⁴¹CLONTZ, *supra* note 14.

⁴²15 U.S.C. 1604 (Supp. V, 1965-1970).

⁴³CLONTZ, *supra* note 14.

⁴⁴*See* § V, *infra*.

⁴⁵35 Fed. Reg. 2865 (1970).

⁴⁶12 C.F.R. 226.811 in 35 Fed. Reg. 2865, 2866 (1970).

⁴⁷12 C.F.R. 226.815, in 35 Fed. Reg. 2865, 2867 (1970).

amount of each payment or the total of such payments.⁴⁸ Both interpretations complement earlier action of the Board, discussed *infra*, which dealt with the peculiar problems of agricultural financing and the need for greater flexibility.

On November 6, 1969, the Board of Governors issued an Amendment with Interpretations to Regulation Z which facilitated compliance with the Act and Regulation in agricultural transactions.⁴⁹ The amendment, in the form of the addition of paragraph (p) to 12 C.F.R. 226.8, provides a form of disclosure based on the unique nature of agricultural credit and dealings with agricultural customers.⁵⁰ The amendment excuses disclosure of both the annual percentage rate and total finance charge where there is uncertainty as to dates or amounts of advances or payments resulting from their dependence on agricultural production or seasonal needs.⁵¹ The number, amount, and total of payments need not be given if they are not known at the time of the execution of the agreement; the creditor need only state the method of computing the finance charge, identifying each component part.⁵²

These special disclosure provisions apply only "if the amount or date of any advance or payment in connection with an extension of credit for agricultural purposes under a written agreement is to be determined by production, seasonal needs, or similar operational factors, and is not determinable at the time of execution of the agreement."⁵³ It should be emphasized that the amendment does not apply to loans for agricultural purposes where the dates and amounts of both advances and repayments are known at the time of the transaction.⁵⁴ To the extent known, the number, amount and due dates of the payments and the total amount to be repaid must be disclosed.⁵⁵ Furthermore, the extension of credit for agricultural purposes must be made under a written agreement expressly stating the agricultural uncertainty due to production, seasonal needs and other operational factors as the reason the amounts of payments or advances cannot be determined at that time.⁵⁶ A deterrent to possible abuse is provided in that the amendment may only be used where "it is not for the

⁴⁸*Id.*

⁴⁹34 Fed. Reg. 2002, (1969); 34 Fed. Reg. 5327, (1969), as amended at 34 Fed. Reg. 13410 (1969); 34 Fed. Reg. 18242, (1969).

⁵⁰12 C.F.R. 226.8(p).

⁵¹*Id.*

⁵²*Id.*

⁵³*Id.*

⁵⁴*Id.*

⁵⁵*Id.*

⁵⁶*Id.*

purpose of circumvention or evasion"⁵⁷ of Regulation requirements.

The effect is that creditors may return to their former informal practice of providing the farmer funds as necessary throughout his growing season. The disclosures need only be made on the agreement or on a separate disclosure statement as specified in 12 C.F.R. 226.8(a).⁵⁸ The agreement must show the method of computing the amount of the finance charge, including an identification of each component thereof; the number, amount and due dates of the payments and the total amount to be repaid to the extent known; and the security interest, late payment charges, prepayment penalties and rebate provisions as presently required by the regulation.⁵⁹ In cases of total agricultural uncertainty most of these disclosures can probably be preprinted.

A companion amendment, 12 C.F.R. 226.9(g), deals with problems arising from the right of rescission. As discussed above, rescission is generally applicable where the extension of credit is secured by real property used or expected to be used as the borrower's principal residence. The amendment provides that rescission arises only in connection with the original agreement, and not with each advance under it even though each may be secured by an interest in the farmer's principal residence.⁶⁰ The effect is thus to exempt from the possibility of rescission later advances made pursuant to an agreement in which originally all required disclosures were made and the requisite delay was observed.

A later development concerning the right of rescission in agricultural transactions is reported in the Federal Reserve Press Release of December 10, 1970.⁶¹ At that time the Board proposed an amendment to Regulation Z to aid farmers in obtaining funds, goods or services in agricultural credit transactions without waiting for the expiration of the three-day rescission period when their residence is part of the collateral for credit.⁶² That proposed amendment to Regulation Z became effective April 5, 1971.⁶³ It should be noted that agricultural credit has not been excluded from the right of rescission by the amendment; simply, the creditor need not delay performance until expiration of the three-day rescission period.⁶⁴ Whether a credi-

⁵⁷*Id.*

⁵⁸12 C.F.R. 226.8(a), 226.8(p).

⁵⁹12 C.F.R. 226.8(p).

⁶⁰12 C.F.R. 226.9(g).

⁶¹116 CONG. REC. E 10323 (daily ed. Dec. 11, 1970).

⁶²*Id.*

⁶³Amendment to Reg. Z, Sec. 226.9(c), 36 Fed. Reg. 4113 (1971).

⁶⁴*Id.*

tor will go ahead with performance when faced with the possibility of rescission remains to be seen.

The Board has taken other significant action with respect to agricultural transactions. In its annual report to Congress for the year 1969, the Board recommended that credit primarily for agricultural purposes in excess of an appropriate amount should be exempt from the Act, irrespective of any security interest in real property.⁶⁵ If passed this proposal would join the other actions of the Board which have alleviated some of the major problems in complying with the Truth in Lending Act in agricultural transactions. However, it is not settled whether agricultural transactions should remain within the coverage of the Act.

VI. CONCLUSION — EXEMPTION FROM TRUTH IN LENDING

The actions and recommendations of the Board of Governors have alleviated some of the more burdensome effects of the Truth in Lending Act on agricultural transactions. However, it seems that for the most part the developments have reduced only the creditor's burden of making certain disclosures. Some who opposed the original inclusion of agricultural transactions within the Act have muted their dissent. John Deere and Company, a large farm equipment manufacturer, has stated that it has resolved its initial difficulty in revising forms and operating procedures and that it is not presently interested in initiating any action to exclude agricultural transactions from the coverage of the Act.⁶⁶ Presumably the amended disclosure requirements have lessened opposition. It is probable that so too has the ability to pass on the expenses of compliance to the farming buyer-borrower. Creditors and businesses have experienced added costs in adjusting to Truth in Lending, and in continuing to meet its requirements.⁶⁷ It is an economic fact that such a cost of doing business is generally passed on to the consumer, in this case the farmer-debtor. It is questionable whether the farmer is receiving any benefit for his added cost. The Board of Governors has realized that the initial inclusion of agricultural transactions was both unnecessary and

⁶⁵1969 FRB ANN REP. 315.

⁶⁶Letter from Terry Brueswitz, Law Department of Deere and Co, to Dennis Campos, Nov. 6, 1970.

⁶⁷STREET, *supra* note 29; interview with Robert Barber, partner, Barber-Rowland Co., fertilizer distributor, Woodland, California.

burdensome and has all but excluded agricultural transactions from the usual coverage of the Act.⁶⁸ There are other reasons which suggest the desirability of completely exempting agricultural transactions from Truth in Lending.

As mentioned above, the farmer is at a disadvantage compared to other businessmen to whom the required disclosures need not be made. A creditor with a fixed supply of available credit would conceivably opt in favor of the loan which presented the least administrative complications and time consumption. It would appear the debtor seeking credit for a business or commercial purpose other than agriculture would be preferred. Administrative complications are inherent in the time and inconvenience involved in calculating the disclosures. Perhaps, in some cases, handling an agricultural loan may mean the loss by the lender of a different, particularly attractive, business transaction. Adding further to the delay and inconvenience is the three-day waiting period which stems from the right of rescission.⁶⁹ Regulation Z provides for a waiver of the right of rescission, but the requirements are set forth in such language as to make a determination of effective waiver subject to some guesswork on the part of a creditor when faced with the problem of making such a determination.⁷⁰ The amendment applicable to agricultural credit providing that a creditor need not delay performance until expiration of the three-day rescission period attempts to deal with this latter problem.⁷¹ However, it remains to be seen whether creditors will act prior to the expiration of the three-day period while still faced with the possibility of rescission.

Legislation has been introduced which would have the effect of amending the Truth in Lending Act to eliminate the inclusion of agricultural credit.⁷² Congressman Howard W. Robison of New York, who introduced H.R. 19529 in the 91st Congress, 2nd Sess., lists the Farm Credit Services and the members thereof, the Production Credit Association and the Federal Land Bank Association, as the interests maintaining that the inclusion of agricultural transactions within the Act worked an unnecessary hardship.⁷³ Congressman William V. Alexander of Arkansas, sponsor of H.R. 18035, 91st

⁶⁸12 C.F.R. 226.8(p); amendment to Reg. Z, Sec. 226.9(c), 36 Fed. Reg. 4113 (1971); 1969 FRB ANN. REP. 315.

⁶⁹15 U.S.C. 1635.

⁷⁰12 C.F.R. 226.9(e).

⁷¹Amendment to Reg. Z, Sec. 226.9(c), 36 Fed. Reg. 4113 (1971).

⁷²*E.g.*, H.R. 18035 and H.R. 19529, 91st Cong., 2nd Sess. (1970); H.R. 1446, 92nd Cong., 1st Sess. (1971).

⁷³Letter from Congressman Howard W. Robison to Dennis Campos, Nov. 23, 1970.

Congress, 2nd Sess., introduced his identical bill in the interest of holding down costs of loans to farmers since the Act merely adds to the cost of administration for such associations as the Production Credit Association.⁷⁴ Both bills were referred to the House Committee on Banking and Currency, neither was acted upon.

Recently a similar bill has been introduced into the First Session of the 92nd Congress.⁷⁵ H.R. 1446 introduced by Congressman Robert H. Michel, Illinois, would amend the Truth in Lending Act to eliminate the inclusion of agricultural credit.⁷⁶ The bill was introduced on January 22, 1971, and referred to the Committee on Banking and Currency.⁷⁷ There appears to be little chance for immediate action.⁷⁸ The Administration has taken no public stand on the bill; however, a letter from the Council of Economic Advisors is said to oppose the amendment.⁷⁹ There also appears to be a split among interested organizations in their positions on the bill.⁸⁰ One organization bases its opposition on such considerations as the maintenance of protection for unwary consumers, the possibility of unfavorable riders being added to the bill, and the possibility that states might impose stiffer requirements in the ensuing void.⁸¹ These are not valid objections to the bill. This article has attempted to point up the distinction between a business loan negotiated for the purpose of investment in the business of farming and an ordinary consumer credit loan, and to show that an agri-businessman is not an unwary consumer. Furthermore, it should be generally known that the possibility of unfavorable legislation is not limited to the context of riders, and meritorious legislation should not be impeded by the possibility of a rider. As to the possibility of state action, it appears appropriate to quote Ralph C. Clontz, Jr.: "The State Legislature is closer to the people, and even individual farmers can make their voices heard on the local level, where Washington is completely out of their reach."⁸² Perhaps it is most appropriate to conclude with a further quote from Clontz:

⁷⁴Letter from Congressman William V. Alexander to Dennis Campos, Nov. 17, 1970.

⁷⁵H.R. 1446, 92nd Cong., 1st Sess. (1971).

⁷⁶*Id.*

⁷⁷117 CONG. REC. H 159 (daily ed. Jan. 25, 1971).

⁷⁸Telephone interview with Stephen Adams, aide to Congressman Michel of Illinois.

⁷⁹*Id.*

⁸⁰*Id.*

⁸¹*Id.*

⁸²CLONTZ, *supra* note 13, at 123.

if the bleeding hearts and do-gooders in Congress had taken the trouble to investigate farm financing, as did the writer, they would have excluded such from the Truth in Lending Law, rather than equating farmers with "Consumers" under the Act.

. . . Be that as it may, *if* there is sufficient voter protest, Congress *can* and *will* rectify the error made.⁸³ (Emphasis in original)

Dennis Campos

⁸³*Id.*