

SENATE JOINT RESOLUTION NO. 384

Requesting the Department of Agriculture and Consumer Services and the Bureau of Financial Institutions of the State Corporation Commission to determine whether consumer protection problems exist because of procedures followed by creditors in applying and calculating late fees or charges on accounts delayed in the mail.

Agreed to by the Senate, February 23, 1995
Agreed to by the House of Delegates, February 22, 1995

WHEREAS, the citizens of the Commonwealth, particularly low and moderate income citizens, find it increasingly difficult to avoid the payment of late fees and charges on debts owed; and

WHEREAS, notwithstanding good faith attempts to make timely payments, it is impossible to guarantee that a payment mailed by a debtor, prior to the due date, will be received by the creditor in a timely fashion; and

WHEREAS, intervening holidays, other weekdays on which mail is not delivered, and other postal problems further exacerbate the dilemma for many consumers; and

WHEREAS, many entities will begin to assess late fees and charges immediately upon the due date, although it is apparent from the postmark that the payment was delayed through no fault of the debtor; and

WHEREAS, the accrual of additional charges on a debt where the delay is not in any way attributable to or preventable by the debtor is unfair; and

WHEREAS, in the opinion of many persons, the procedures followed by some creditors in applying and calculating late fees or charges on accounts which have been delayed in the mail, to which additional charges are imposed when such payments are received after the due date, is particularly burdensome for poor consumers, and that such procedures may not afford consumers the protection and consideration they seek from creditors to resolve this predicament; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Department of Agriculture and Consumer Services and the Bureau of Financial Institutions of the State Corporation Commission be requested to determine whether consumer protection problems exist because of procedures followed by creditors in applying and calculating late fees or charges on accounts delayed in the mail. The department and the bureau are requested to (i) determine whether such problems exist and the magnitude and prevalence of such problems; (ii) identify the factors which contribute to the problems, if any, including the means of determining or calculating late fees or charges vis-a-vis the payment of debts by mail; (iii) determine the feasibility and appropriateness of requiring that postmarks be considered when imposing late fees and charges; (iv) review the relevant federal and state laws pertaining to the levying of late charges and consumer protection relative to the issues noted herein and determine the feasibility and advisability of recommending modifications or changes; and (v) recommend such remedy as may be necessary and appropriate within the parameters established by federal and state laws.

All agencies of the Commonwealth shall provide assistance to the department and the bureau, upon request.

The Department of Agriculture and Consumer Services and the Bureau of Financial Institutions of the State Corporation Commission shall complete their work in time to submit their findings and recommendations to the Governor and the 1996 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.