

1989

## Automobiles, Education, Finance, Health Care, Housing, Telecommunications, Video Rental

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# RECENT LEGISLATIVE ACTIVITY

## Housing

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Proposed legislation in the **House of Representatives** would establish a National Housing Trust. This trust would provide mortgages to low and moderate income home buyers at interest rates of no more than 6%. **H.R. 1, 101st Cong., 1st Sess., 135 Cong. Rec. H36 (daily ed. Jan. 3, 1989).**

A bill intended to permit first-time home buyers to use funds in Individual Retirement Accounts or employer sponsored 401(k) plans was introduced in the Senate. The **National Affordable Housing Act** also decreases the down payment percentage of the loan amount on Federal Housing Administration (FHA) mortgages. The FHA mortgage ceiling amount is also increased. This legislation establishes the Housing Opportunity Partnership Program to provide \$3 billion to state and local authorities to make available more housing to low and middle income Americans. **S. 565, 101st Cong., 1st Sess., 135 Cong. Rec. S2570 (daily ed. Mar. 15, 1989).**

## Health Care

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The **Ethics in Patient Referrals Act** would prohibit Medicare payments to various medical facilities in which the referring physicians have a financial interest other than publicly-traded stock. These facilities include laboratories, magnetic resonance imaging facilities, physical therapy clinics, and home health care services. While physicians cannot receive a direct referral fee under existing law, proposed legislation seeks to prevent the referral physician investor from receiving profits from the facility to which Medicare patients are referred. **H.R. 939, 101st Cong., 1st Sess., 135 Cong. Rec. H240-43 (daily ed. Feb. 9, 1989).**

## Education

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The proposed **Student-Athlete Right-To-Know Act** would require colleges to report annually their student athlete graduation rates. This legislation would require colleges and universities to report to the Department of Education statistics of athletes who earn degrees within 5 years. This information would be provided to the athletes in the college's letter of intent. Graduation rates must be broken down by race, sex, sport, and field of study. Similar statistics for non-athletes are also required for purposes of comparison. **S. 580, 101st Cong., 1st Sess., 135 Cong. Rec. S2668-69 (daily ed. Mar. 15, 1989).**

## Finance

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A **House of Representatives** subcommittee approved a bill which would require banks to make more complete disclosures regarding their interest bearing accounts. Advertisements and other solicitations to consumers would have to include annual percentage yields, minimum balances, fees, and other information relating to conditions on accounts. In addition, banks would be required to provide depositors notice 30 days in advance of any changes in the account relationship. These provisions would be enforced by federal bank regulators but depositors could also sue for damages. **H.R. 736, 101st Cong., 1st Sess., 135 Cong. Rec. H144 (daily ed. Jan. 31, 1989).**

The **Government Check Cashing Act of 1989** would require that all depository institutions cash federal, state and local government checks. Under the proposal an individual would obtain an identification card from a depository institution and be able to cash government checks less than \$1,500 at that institution. The individual would not be required to have any other account relationship with the depository institution, and would have to pay a fee, established by the Board of Governors of the Federal Reserve System, sufficient to cover the institution's related costs, including fraud losses. An exception is made for depository institutions which do not cash checks for any of their customers. **S. 906, 101st Cong., 1st Sess., 135 Cong. Rec. S4729-30 (daily ed. May 3, 1989).**

**Illinois** amended interest rate limitations for revolving credit to encourage credit institutions to maintain their principal office in Illinois. The amendments exclude credit institutions which market revolving credit arrangements from various limits on interest rates and finance charges. The amendments also exclude credit institutions from various statutory provisions which prohibit accelerations and finance charges when there is no outstanding balance. Effective January 10, 1989. **Ill. Ann. Stat. ch. 17, pars. 6405, 7001-7011 (Smith-Hurd 1989).**

**Pennsylvania** amended its retail installment sale contract disclosure provisions. The installment sale confirmation form must now disclose interest rates and charges in a clear and coherent manner using words with common and everyday meanings. The financing agencies or retail sellers which fail to comply with these provisions are subject to penalties for actual damages to the consumer in addition to a fine of \$50.

Penalties in consumer class actions are limited to \$10,000. Where the installment sale contract is fully performed by both the seller and the consumer, consumers cannot bring actions asserting the forms do not comply with these provisions. The failure of a confirmation form to comply with these provisions does not make it void or voidable nor does the noncompliance provide the consumer with a defense to the enforceability of the contract. Effective for confirmations given to consumers after October 1, 1988. **Pa. Stat. Ann. tit. 69, §§ 1901-1904 (Purdon 1989).**

### **Telecommunications**

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Federal legislation to set standards for services provided by alternative telephone operators was approved by the Telecommunications Subcommittee of the **House of Representatives**. The legislation would affect firms that lease long distance telephone lines and charge consumers for accessing their lines. These operators contract with hospitals, hotels, airports and colleges to provide services to callers at these facilities in exchange for providing the host facility a commission on each call. The legislation addresses the problem of undisclosed charges and charges to consumers for unanswered calls. **H.R. 971, 101st Cong., 1st Sess., 135 Cong. Rec. H272 (daily ed. Feb. 9, 1989).**

**Washington** enacted a statute which requires alternative operators for long distance telephone services to disclose their service and their rates or fees. Alternative operator service companies provide connections to long distance telephone lines to consumers at hotels, motels, hospitals and privately-owned pay phones. If the operator fails to disclose the service or its charges, the consumer can bring an action against the operator. Damages to the consumer for violations of these provisions are presumed to be the cost of the service plus \$200. Consumers bear the burden of proving any damages claimed which are in excess of this amount. Effective June 9, 1988. **Wash. Rev. Code Ann. §§ 80.36.510-80.36.530 (1989).**

**Connecticut** enacted a statute to prohibit the use of facsimile machines to transmit unsolicited advertisements for the sale of goods or services. A victim of unsolicited faxes can seek an injunction in state court and can recover the greater of either actual damages plus court costs and attorney's fees or \$200. The sending of faxes with the intent to annoy, harass or alarm is made a misdemeanor. Effective May 16, 1989. **1989 Conn. Legis. Serv. P.A. 89-103 (West).**

### **Automobiles**

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The **Senate Commerce Committee** approved a bill which reauthorizes the National Highway Traffic Safety Administration through 1991. This bill expands safety requirements with respect to light trucks and minivans. It requires more stringent standards to reduce rollover propensity, improves overhead and side protection, and requires lap and shoulder belts for rear seating positions. Increased standards for passenger car crash protection and child car seats are required. In addition, all 1991 vehicles purchased by the federal government would be required to be equipped with airbags. **S. 673, 101st Cong., 1st Sess., 135 Cong. Rec. S3035 (daily ed. Mar. 17, 1989).**

**Minnesota** enacted legislation to protect auto dealers from liability on manufacturers' warranties. This statute provides that consumers do not have a cause of action against dealers based on manufacturers' warranties. Manufacturers are also prohibited from seeking reimbursements from dealers for warranty repairs or other costs to comply with Minnesota lemon laws. However, a dealer would only be liable to a manufacturer if the manufacturer incurred warranty-related expenses as a result of a dealer's failure to perform proper and timely repairs. Dealers remain liable on any express warranty which they provide to the consumer. Effective April 19, 1989. **To be codified at Minn. Stat. Ann. § 325F.665(13), 1989 Minn. Sess. Law Serv. 77 (West).**

### **Video Rental**

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**Minnesota** enacted a law to protect the privacy of those who purchase or rent videos, and those who purchase or borrow sound recordings or books. The law prohibits anyone engaged in renting, lending or selling at retail any of the above items from disclosing the purchaser's or renter's identity. The consumer's identity can only be disclosed where the consumer gives written permission; pursuant to a court order, search warrant, or subpoena; in a collection action against the consumer, or in marketing activities directed to that consumer. Violations are misdemeanors. Effective December 21, 1988. **Minn. Stat. Ann. §§ 445.1711-1714 (West 1989).**

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