

SHORT TITLE: Consumer credit; modifying interest rate charges for credit sales and loans under \$300.00; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 348

By: Monson

AS INTRODUCED

An Act relating to consumer credit; amending 14A O.S. 1991, Sections 2-201, 2-205, 2-210, 2-304 and 3-508A, which relate to the Uniform Consumer Credit Code; clarifying language and modifying statutory references; modifying credit service charge which may be applied to certain sales; modifying loan finance charge which may be applied to certain loans; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 14A O.S. 1991, Section 2-201, is amended to read as follows:

Section 2-201. (1) With respect to a consumer credit sale, other than a sale pursuant to a revolving charge account, a seller may contract for and receive a credit service charge ~~not exceeding that~~ as permitted by this section.

~~(2) The credit service charge, calculated according to the actuarial method, may, not to exceed the equivalent of the greater of either of the following:~~

~~(a) the total of~~

~~(i) thirty percent (30%) per year on that part of the unpaid balances of the amount financed which is Three Hundred Dollars (\$300.00) or less;~~

~~(ii) twenty-one percent (21%) per year on that part of the unpaid balances of the amount financed which is more than Three Hundred Dollars (\$300.00) but does not exceed One Thousand Dollars (\$1,000.00); and~~

~~(iii) fifteen percent (15%) per year on that part of the unpaid balances of the amount financed which is more than One Thousand Dollars (\$1,000.00); or~~

~~(b) twenty-one percent (21%) per year on the unpaid balances of the amount financed.~~

~~(3) (2)~~ This section does not limit or restrict the manner of contracting for the credit service charge, whether by way of add-on, discount, or otherwise, so long as the rate of the credit service charge does not exceed that permitted by this section. If the sale is precomputed:

(a) the credit service charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment ~~is~~ shall be governed by the provisions on rebate upon prepayment ~~(as provided in Section 2-210)~~ of this title.

~~(4) (3)~~ For the purposes of this section, the term of a sale agreement commences with the date the credit is granted or, if goods are delivered or services performed ten (10) days or more after that date, with the date of commencement of delivery or performance. Differences in the lengths of months are disregarded and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the seller may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

~~(5) Subject to classifications and differentiations the seller may reasonably establish, he may make the same credit service charge on all amounts financed within a specified range. A credit service charge so made does not violate subsection (2) if~~

~~(a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (2); and~~

~~(b) when applied to the lowest amount within each range, it does not produce a rate of credit service charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).~~

~~(6) (4) Notwithstanding the provisions of subsection (2) (1) of this section,~~ the seller may contract for and receive a minimum credit service charge of not more than Five Dollars (\$5.00) when the amount financed does not exceed Seventy-five Dollars (\$75.00) or not more than Seven Dollars and fifty cents (\$7.50) when the amount financed exceeds Seventy-five Dollars (\$75.00).

SECTION 2. AMENDATORY 14A O.S. 1991, Section 2-205, is amended to read as follows:

Section 2-205. With respect to a consumer credit sale, refinancing, or consolidation, the seller may by agreement with the buyer refinance the unpaid balance and may contract for and receive a credit service charge based on the amount financed resulting from the refinancing at a rate not exceeding that permitted by the provisions of Section 2-201 of this title on credit service charge for consumer credit sales ~~(Section 2-201)~~. For the purpose of determining the credit service charge permitted, the amount financed resulting from the refinancing ~~comprises~~ shall be the following:

(1) if the transaction was not precomputed, the total of the unpaid balance and accrued charges on the date of refinancing, or, if the transaction was precomputed, the amount which the buyer would

have been required to pay upon prepayment pursuant to the provisions of Section 2-210 of this title on rebate upon prepayment ~~(Section 2-210)~~ on the date of refinancing, except that for the purpose of computing this amount no minimum credit service charge ~~(subsection (6) of Section 2-201)~~ shall be allowed as provided in subsection (4) of Section 2-201 of this title; and

(2) appropriate additional charges ~~(as provided by Section 2-202)~~ of this title, payment of which is deferred.

SECTION 3. AMENDATORY 14A O.S. 1991, Section 2-210, is amended to read as follows:

Section 2-210. (1) Except as provided in subsection (2) of this section, upon prepayment in full of the unpaid balance of a precomputed consumer credit sale, refinancing, or consolidation, an amount not less than the unearned portion of the credit service charge calculated according to this section shall be rebated to the buyer. If the rebate otherwise required is less than One Dollar (\$1.00), no rebate need be made.

(2) Upon prepayment in full of a consumer credit sale, refinancing, or consolidation, other than ~~one~~ pursuant to a revolving charge account, if the credit service charge then earned is less than any permitted minimum credit service charge ~~(subsection (6) of Section 2-201)~~ contracted for as provided in subsection (4) of Section 2-201 of this title, whether or not the sale, refinancing, or consolidation is precomputed, the seller may collect or retain the minimum charge, as if earned, not exceeding the credit service charge contracted for.

(3) Except as otherwise provided in this subsection with respect to a sale of an interest in land or a consumer credit sale secured by an interest in land, the unearned portion of the credit service charge:

- (a) in a consumer credit sale payable according to its original terms in more than sixty-one (61) months shall be determined ~~(i)~~ by:
- (i) applying, according to the actuarial method, the disclosed annual percentage rate to the actual unpaid balances of the amount financed for the actual time that the unpaid balances were outstanding as of the date of prepayment, giving effect to each payment, to determine the earned portion of the credit service charge  $r_i$  and
  - (ii) subtracting that earned portion from the credit service charge to determine the unearned portion of the credit service charge  $r_i$  or
- (b) in a consumer credit sale payable according to its original terms in sixty-one (61) months or less, is a fraction of the credit service charge of which the numerator is the sum of the periodic balances scheduled to follow the computational period in which prepayment occurs, and the denominator is the sum of all periodic balances under either the sale agreement or, if the balance owing resulted from a refinancing ~~under the provisions of Section 2-205~~ of this title or a consolidation ~~under the provisions of Section 2-206~~ of this title, under the refinancing agreement or consolidation agreement. In the case of a sale of an interest in land or a consumer credit sale secured by an interest in land, reasonable sums actually paid or payable to persons not related to the seller for customary closing costs included in the credit service charge ~~are~~ shall be deducted from the credit service charge before the calculation prescribed by this subsection is made.

(4) ~~In~~ As used in this section:

- (a) "periodic balance" means the amount scheduled to be outstanding on the last day of a computational period before deducting the payment, if any, scheduled to be made on that day;
- (b) "computational period" means one (1) month if one-half (1/2) or more of the intervals between scheduled payments under the agreement is one (1) month or more, and otherwise means one (1) week; and
- (c) the "interval" to the due date of the first scheduled installment or the final scheduled payment date is measured from the date of a sale, refinancing, or consolidation, or any later date prescribed for calculating maximum credit service charges ~~pursuant to the provisions of subsection (4) (3) of Section 2-201~~ of this title, and includes either the first or last day of the interval; ~~and.~~
- ~~(d) If~~ If the interval to the due date of the first scheduled installment does not exceed one (1) month by more than fifteen (15) days when the computational period is one (1) month, or eleven (11) days when the computational period is one (1) week, the interval shall be considered as one computational period.

(5) ~~This subsection applies~~ The following provisions shall apply only if the schedule of payments is not regular:

- (a) If the computational period is one (1) month and:
  - (i) if the number of days in the interval to the due date of the first scheduled installment is less than one (1) month by more than five (5) days, or more than one (1) month by more than five (5) but not more than fifteen (15) days, the unearned credit service charge shall be increased by an

adjustment for each day by which the interval is less than one (1) month and, at the option of the seller, may be reduced by an adjustment for each day by which the interval is more than one (1) month; ~~the~~. The adjustment for each day shall be one-thirtieth (1/30) of that part of the credit service charge earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one (1) month; ~~and~~ or

(ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full month, the additional number of days shall be considered a computational period only if sixteen (16) days or more. This subparagraph applies whether or not subparagraph (i) of this paragraph applies; ~~;~~

(b) Notwithstanding paragraph (a) of this subsection, if the computational period is one (1) month, the number of days in the interval to the due date of the first installment exceeds one (1) month by not more than fifteen (15) days, and the schedule of payments is otherwise regular, the seller may, at his option, exclude the extra days and the charge for the extra days in computing the unearned credit service charge; ~~but if he~~ provided, if the seller does so and a rebate is required before the due date of the first scheduled installment, ~~he~~ the seller shall compute the earned charge for each elapsed day as one-thirtieth (1/30) of the amount the earned charge would have been if the first interval had been one (1) month; ~~;~~ and

(c) If the computational period is one (1) week and:

- (i) if the number of days in the interval to the due date of the first scheduled installment is less than five (5) days, or more than nine (9) but not more than eleven (11) days, the unearned credit service charge shall be increased by an adjustment for each day by which the interval is less than seven (7) days and, at the option of the seller, may be reduced by an adjustment for each day by which the interval is more than seven (7) days; ~~the.~~ The adjustment for each day shall be one-seventh (1/7) of that part of the credit service charged earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one (1) week; and
- (ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full week, the additional number of days shall be considered a computational period only if four (4) days or more. This subparagraph applies whether or not subparagraph (i) of this paragraph applies.

(6) If a deferral ~~(Section 2-204)~~ has been agreed to pursuant to the provisions of Section 2-204 of this title, the unearned portion of the credit service charge shall be computed without regard to the deferral. The amount of deferral charge earned at the date of prepayment shall also be calculated. If the deferral charge earned is less than the deferral charge paid, the difference shall be added to the unearned portion of the credit service charge. If any part of a deferral charge has been earned but has not been paid, that part shall be subtracted from the unearned portion of the credit service charge, or shall be added to the unpaid balance.

(7) This section does not preclude the collection or retention by the seller of delinquency charges ~~as provided in Section 2-203~~ of this title.

(8) If the maturity is accelerated for any reason and judgment is obtained, the buyer is entitled to the same rebate as if payment had been made on the date judgment is entered.

(9) Upon prepayment in full of a consumer credit sale by the proceeds of consumer credit insurance ~~as provided in Section 4-103~~ of this title, the buyer or his estate is entitled to the same rebate as though the buyer had prepaid the agreement on the date the proceeds of the insurance are paid to the seller.

SECTION 4. AMENDATORY 14A O.S. 1991, Section 2-304, is amended to read as follows:

Section 2-304. (1) Except as otherwise specifically provided, if a seller is required to give to a buyer a statement of the rate of the credit service charge ~~he~~, the seller shall state the rate in terms of an annual percentage rate as defined in subsection (2) of this section or in terms of a corresponding nominal annual percentage rate as defined in subsection (3) of this section, whichever is appropriate.

(2) ~~"Annual~~ As used in this section, "annual percentage rate":

(a) with respect to a consumer credit sale other than one made pursuant to a revolving charge account, is either:

(i) that nominal annual percentage rate which, when applied to the unpaid balances of the amount financed calculated according to the actuarial method, will yield a sum equal to the amount of the credit service charge; or

(ii) that rate determined by any method prescribed by rule by the Administrator as a method which materially simplifies computation while retaining

reasonable accuracy as compared with the rate determined pursuant to subparagraph (i) of this paragraph; and

(b) with respect to a consumer credit sale made pursuant to a revolving charge account, is the quotient expressed as a percentage of the total credit service charge for the period to which it related divided by the amount upon which the credit service charge for that period is based, multiplied by the number of these periods in a year.

(3) ~~"Corresponding~~ As used in this section, "corresponding nominal annual percentage rate" is the percentage or percentages used to calculate the credit service charge for one billing cycle or other period pursuant to a revolving charge account multiplied by the number of billing cycles or periods in a year.

(4) If a seller is permitted to make the same credit service charge ~~for all amounts financed within a specified range (subsection (5) of Section 2-201) or~~ for all balances within a specified range ~~(as provided in subsection (2) of Section 2-207)~~ of this title, ~~he~~ the seller shall state the annual percentage rate or corresponding nominal annual percentage rate, whichever is appropriate, as applied to the median amount of the range within which the actual amount financed or balance is included.

(5) A statement of rate complies with this ~~part~~ section if it does not vary from the accurately computed rate by more than the following tolerances:

(a) the annual percentage rate may be rounded to the nearest quarter of one percent ( $1/4$  of 1%) or may fall within a tolerance not greater than one-eighth of one percent ( $1/8$  of 1%) more or less than the actual rate for consumer credit sales payable in substantially equal installments when a seller determines the total

credit service charge on the basis of a single add-on, discount, periodic, or other rate, and the rate is converted into an annual percentage rate under procedures prescribed by rule by the Administrator;

- (b) the Administrator may authorize by rule the use of rate tables or charts which may provide for the disclosure of annual percentage rates which vary from the rate determined in accordance with paragraph (a) of this subsection by not more than the tolerances the Administrator may allow; provided, the Administrator may not allow a tolerance greater than eight percent (8%) of that rate except to simplify compliance where irregular payments are involved; and
- (c) in case a seller determines the annual percentage rate in a manner other than as described in paragraph (a) or (b) of this subsection, the Administrator may authorize by rule other reasonable tolerances.

SECTION 5. AMENDATORY 14A O.S. 1991, Section 3-508A, is amended to read as follows:

Section 3-508A. (1) With respect to a supervised loan, including a loan pursuant to a revolving loan account, a supervised lender may contract for and receive a loan finance charge ~~not exceeding that as permitted by this section.~~

~~(2) The loan finance charge, calculated according to the actuarial method, may not to exceed the equivalent of the greater of either of the following:~~

~~(a) the total of~~

- ~~(i) thirty percent (30%) per year on that part of the unpaid balances of the principal which is Three Hundred Dollars (\$300.00) or less;~~
- ~~(ii) twenty-one percent (21%) per year on that part of the unpaid balances of the principal which is~~

~~more than Three Hundred Dollars (\$300.00) but does not exceed One Thousand Dollars (\$1,000.00); and~~

- ~~(iii) fifteen percent (15%) per year on that part of the unpaid balances of the principal which is more than One Thousand Dollars (\$1,000.00); or~~
- ~~(b) twenty-one percent (21%) per year on the unpaid balances of the principal.~~

~~(3) (2)~~ This section does not limit or restrict the manner of contracting for the loan finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the loan finance charge does not exceed that permitted by this section. If the loan is precomputed:

- (a) the loan finance charge may be calculated on the assumption that all scheduled payments will be made when due; and
- (b) the effect of prepayment is governed by the provisions on rebate upon prepayment as provided in Section 3-210 of this title.

~~(4) (3)~~ The term of a loan, for the purpose of this section, commences on the date the loan is made. Differences in the lengths of months are disregarded and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and if that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

~~(5) Subject to classifications and differentiations the lender may reasonably establish, he may make the same loan finance charge on all principal amounts within a specified range. A loan finance charge so made does not violate subsection (2) if~~

- ~~(a) when applied to the median amount within each range, it does not exceed the maximum permitted in subsection (2); and~~
- ~~(b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).~~

SECTION 6. This act shall become effective November 1, 1995.

45-1-0750

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