

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 558

By: Smith of the Senate

and

Weaver of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to credit transactions; amending 12A
12 O.S. 1991, Section 9-402, which relates to financing
13 statements; providing for construction of certain
14 provisions with respect to paper or electronic
15 filings; specifying intent and application of certain
16 provisions; amending 14A O.S. 1991, Section 1-106, as
17 amended by Section 2, Chapter 352, O.S.L. 1998 (14A
18 O.S. Supp. 1998, Section 1-106), which relates to
19 change in dollar amounts used under certain sections
20 of the Uniform Consumer Credit Code; changing
21 statutory reference; amending 14A O.S. 1991, Section
22 2-203, which relates to delinquency charges; deleting
23 reference to precomputed consumer credit sale,
24 refinancing, or consolidation; amending 14A O.S.
25 1991, Section 3-203, as amended by Section 1, Chapter
26 50, O.S.L. 1997 (14A O.S. Supp. 1998, Section 3-203),
27 which relates to delinquency charges; modifying
28 certain delinquency charges; and providing an
29 effective date.

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

31 SECTION 1. AMENDATORY 12A O.S. 1991, Section 9-402, is
32 amended to read as follows:

Section 9-402. Formal Requisites of Financing Statement;
Amendments; Mortgage as Financing Statement.

(1) A financing statement is sufficient if it gives the names
of the debtor and the secured party, is signed by the debtor, gives
an address of the secured party from which information concerning
the security interest may be obtained, gives a mailing address of

1 the debtor and contains a statement indicating the types, or
2 describing the items, of collateral. A financing statement may be
3 filed before a security agreement is made or a security interest
4 otherwise attaches. When the financing statement covers crops
5 growing or to be grown, the statement must also contain a
6 description of the real estate concerned. When the financing
7 statement covers timber to be cut or covers minerals or the like,
8 including oil and gas, or accounts subject to subsection (5) of
9 Section 9-103.1 of this title, or when the financing statement is
10 filed as a fixture filing (Section 9-313 of this title) and the
11 collateral is goods which are or are to become fixtures, the
12 statement must also comply with subsection (5) of this section, as
13 applicable, and Section 9-401A of this title. A copy of the
14 security agreement is sufficient as a financing statement if it
15 contains the above information and is signed by the debtor. A
16 carbon, photographic, or other reproduction of a security agreement
17 or a financing statement is sufficient as a financing statement if
18 the security agreement so provides or if the original has been filed
19 in this state.

20 (2) A financing statement which otherwise complies with
21 subsection (1) is sufficient when it is signed by the secured party
22 instead of the debtor if it is filed to perfect a security interest
23 in:

24 (a) collateral already subject to a security interest in
25 another jurisdiction when it is brought into this
26 state, or when the debtor's location is changed to
27 this state. Such a financing statement must state
28 that the collateral was brought into this state or
29 that the debtor's location was changed to this state
30 under such circumstances; or

31 (b) proceeds under Section 9-306 of this title if the
32 security interest in the original collateral was

1 perfected. Such a financing statement must describe
2 the original collateral; or
3 (c) collateral ~~as to~~ for which the filing has lapsed; or
4 (d) collateral acquired after a change of name, identity,
5 or corporate structure of the debtor (subsection (7)
6 of this section).

7 (3) A form substantially as follows is sufficient to comply
8 with subsection (1):

9 Name of debtor (or assignor).....
10 Address.....
11 Name of secured party (or assignee).....
12 Address.....

13 1. This financing statement covers the following types (or
14 items) of property:
15 (Describe).....

16 2. (If collateral is crops) The above described crops are
17 growing or are to be grown on:
18 (Describe Real Estate).....

19 3. (If applicable) The above (goods are to become fixtures
20 on) (timber is standing on) (minerals or the like
21 (including oil and gas) or accounts will be financed at the
22 wellhead or minehead of the well or mine located on):
23 (Describe Real Estate).....

24 and this financing statement is to be filed against the
25 tract index in the real estate records.

26 4. (If products of collateral are claimed) Products of
27 the collateral are also covered.
28

29 Signature of Debtor (or Assignor).....
30
31 Signature of Secured Party (or Assignee).....

32 (Use whichever signature is applicable)

1 (4) A financing statement may be amended by filing a writing
2 signed by both the debtor and the secured party. An amendment does
3 not extend the period of effectiveness of a financing statement. If
4 any amendment adds collateral, it is effective as to the added
5 collateral only from the filing date of the amendment. In this
6 article, unless the context otherwise requires, the term "financing
7 statement" means the original financing statement and any
8 amendments.

9 (5) When a writing constituting a mortgage upon lands, or
10 interests in lands such as oil and gas leasehold estates, also
11 covers minerals to be severed from such lands, equipment used in
12 mining, storing, treating, and marketing such minerals and the
13 accounts and proceeds to be derived from disposition of such
14 minerals contains a legal description of such lands sufficient to
15 comply with Sections 287, 291 and 298 of Title 19 of the Oklahoma
16 Statutes, as amended, has been validly executed, acknowledged, and
17 recorded in the office of the county clerk for the county in which
18 ~~such the~~ lands are located, ~~such the~~ mortgage shall constitute a
19 financing statement covering ~~such the~~ collateral and no other filing
20 or recording shall be required to perfect the security interests in
21 ~~such the~~ collateral covered by the mortgage. The mortgage shall
22 remain effective to perfect ~~such the~~ security interests until it
23 shall be released or satisfied of record or its effectiveness as to
24 the lands or interests in lands described therein shall be otherwise
25 effectively terminated. A financing statement covering timber to be
26 cut or covering minerals or the like (including oil and gas) or
27 accounts subject to subsection (5) of Section 9-103.1 of this title,
28 or a financing statement filed as a fixture filing (Section 9-313 of
29 this title) where the debtor is not a transmitting utility, that is
30 not a mortgage as set out in the first sentence of this subsection,
31 must show that it covers this type of collateral, must recite that
32 it is to be filed against the tract index in the real estate records

1 and must comply with Section 9-401A of this title, but may be
2 recorded and shall be effective as a financing statement even though
3 it does not comply with the execution and acknowledgement
4 requirements of Sections 15, 26, 93, 94, or 95 of Title 16 of the
5 Oklahoma Statutes, as amended, or other statutes, if any, of like
6 import that would impose requirements beyond those of the kind
7 encompassed in this title.

8 (6) A mortgage is effective as a financing statement filed as a
9 fixture filing from the date of its recording if it complies with
10 subsection (5) of this section or if:

11 (a) the goods are described in the mortgage by item or
12 type;

13 (b) the goods are or are to become fixtures related to the
14 real estate described in the mortgage;

15 (c) the mortgage complies with the requirements for a
16 financing statement in this section other than a
17 recital that it is to be filed against the tract
18 index; and

19 (d) the mortgage is duly recorded. No fee with reference
20 to the financing statement is required other than the
21 regular recording and satisfaction fees with respect
22 to the mortgage.

23 (7) A financing statement sufficiently shows the name of the
24 debtor if it gives the individual, partnership, or corporate name of
25 the debtor, whether or not it adds other trade names or the names of
26 partners. Where the debtor so changes ~~his~~ the debtor's name, or in
27 the case of an organization, its name, identity, or corporate
28 structure, that a filed financing statement becomes seriously
29 misleading, the filing is not effective to perfect a security
30 interest in collateral acquired by the debtor more than four (4)
31 months after the change, unless a new appropriate financing
32 statement is filed before the expiration of that time. A filed

1 financing statement remains effective with respect to collateral
2 transferred by the debtor even though the secured party knows of or
3 consents to the transfer.

4 (8) A financing statement substantially complying with the
5 requirements of this section is effective even though it contains
6 minor errors which are not seriously misleading.

7 (9) This title does not require that a financing statement or
8 other filing made under its provisions be created or transmitted to
9 the filing office on paper. A financing statement or other filing
10 made in accordance with procedures adopted by the filing office is
11 not ineffective or insufficient because the financing statement or
12 other filing is generated or transmitted electronically. The
13 provisions of this subsection are intended to clarify law existing
14 before the effective date of this act, and the authority expressed
15 herein is within the authority of the filing office to control its
16 records. This act applies to the filing of a financing statement or
17 other filing made before, on, or after the effective date of this
18 act.

19 SECTION 2. AMENDATORY 14A O.S. 1991, Section 1-106, as
20 amended by Section 2, Chapter 352, O.S.L. 1998 (14A O.S. Supp. 1998,
21 Section 1-106), is amended to read as follows:

22 Section 1-106. (1) From time to time the dollar amounts in
23 Sections 2-201(2)(a), (b) and (c), 2-203(1)(a), 2-407(1), 2-413,
24 ~~3-203(1)(a)~~ 3-203(1)(b), 3-203.1, 3-508A(2)(a), 3-508B(1), 3-510(1),
25 3-511(1)(a) and (b), 3-514, and 5-103(2) and (3) of the Uniform
26 Consumer Credit Code, are hereby designated as subject to change and
27 shall change, as provided in this section and the rules of the
28 Administrator, according to and to the extent of changes in the
29 Consumer Price Index for Urban Wage Earners and Clerical Workers:
30 U.S. City Average, All Items, 1967=100, compiled by the Bureau of
31 Labor Statistics, United States Department of Labor, and hereafter
32 referred to as the Index. The Index for December of the year 1973

1 shall be deemed the Reference Base Index. The dollar amounts
2 established by rule of the Administrator in Sections 2-104(1)(e),
3 2-106(1)(b) and 3-104(4) in effect on January 1, 1982, shall remain
4 in full force and effect.

5 (2) The designated dollar amounts shall change on July 1 of
6 each year if the percentage of change, calculated to the nearest
7 whole percentage point, between the Index at the end of the
8 preceding year and the Reference Base Index is ten percent (10%) or
9 more, but:

10 (a) the portion of the percentage change in the Index in
11 excess of a multiple of ten percent (10%) shall be
12 disregarded and the dollar amounts shall change only
13 in multiples of ten percent (10%) of the amounts
14 appearing in this Code on the date of enactment; and

15 (b) the dollar amounts shall not change if the amounts
16 required by this section are those currently in effect
17 pursuant to this Code as a result of earlier
18 application of this section.

19 (3) If the Index is revised, the percentage of change pursuant
20 to this section shall be calculated on the basis of the revised
21 Index. If a revision of the Index changes the Reference Base Index,
22 a revised Reference Base Index shall be determined by multiplying
23 the Reference Base Index then applicable by the rebasing factor
24 furnished by the United States Bureau of Labor Statistics. If the
25 Index is superseded, the Index referred to in this section shall be
26 the one represented by the United States Bureau of Labor Statistics
27 as reflecting most accurately changes in the purchasing power of the
28 dollar for consumers.

29 (4) The rules of the Administrator shall:

30 (a) include the method for calculating the changes in
31 dollar amounts required by subsection (2) of this
32 section;

1 (b) be amended in accordance with the Administrative
2 Procedures Act to include changes in the Index
3 required by subsection (3) of this section including,
4 if applicable, the numerical equivalent of the
5 Reference Base Index under a revised Reference Base
6 Index and the designation or title of any index
7 superseding the Index; and

8 (c) provide for appropriate notice to licensees and other
9 interested persons of any changes in the dollar
10 amounts which result from changes required by
11 subsection (2) of this section no later than April 30
12 of each year. Each dollar amount subject to change as
13 provided in this section shall be listed in an
14 appendix to the rules of the Administrator and shall
15 be published in the Oklahoma Administrative Code.
16 Changes to the appendix shall be submitted to the
17 Secretary of State prior to the annual deadline for
18 submitting material for publication in the Code.
19 Changes in the appendix shall not be construed as
20 rulemaking.

21 (5) A person does not violate this act with respect to a
22 transaction otherwise complying with this act if he relies on dollar
23 amounts either determined according to subsection (2) of this
24 section or appearing in the last rule of the Administrator
25 announcing the then current dollar amounts.

26 SECTION 3. AMENDATORY 14A O.S. 1991, Section 2-203, is
27 amended to read as follows:

28 Section 2-203. (1) With respect to a ~~precomputed~~ consumer
29 credit sale, refinancing, or consolidation, the parties may contract
30 for a delinquency charge on any installment not paid in full within
31 ten (10) days after its scheduled due date in an amount not
32 exceeding the greater of:

1 (a) an amount, not exceeding Five Dollars (\$5.00), which
2 is five percent (5%) of the unpaid amount of the
3 installment; or

4 (b) the deferral charge (subsection (1) of Section 2-204)
5 that would be permitted to defer the unpaid amount of
6 the installment for the period that it is delinquent.

7 (2) A delinquency charge under paragraph (a) of subsection (1)
8 may be collected only once on an installment however long it remains
9 in default. No delinquency charge may be collected if the
10 installment has been deferred and a deferral charge (Section 2-204)
11 has been paid or incurred. A delinquency charge may be collected at
12 the time it accrues or at any time thereafter.

13 (3) No delinquency charge may be collected on an installment
14 which is paid in full within ten (10) days after its scheduled
15 installment due date even though an earlier maturing installment or
16 a delinquency charge on an earlier installment may not have been
17 paid in full. For purposes of this subsection payments are applied
18 first to current installments and then to delinquent installments.

19 (4) The parties to a revolving charge account accessed by a
20 seller credit card or similar arrangement may contract for a
21 delinquency charge with respect to a payment due in connection with
22 a billing cycle, to be payable if the payment is not made in full
23 within ten (10) days after its due date. The delinquency charge may
24 not exceed the greater of five percent (5%) of the unpaid amount of
25 the payment or the dollar amount provided by the rule of the
26 Administrator in effect for this section pursuant to Section 1-106
27 of this title. No more than one delinquency charge may be imposed
28 in each billing cycle and it may be collected at any time after it
29 accrues either independently of any payment made on the account or
30 from a payment made if the seller discloses delinquency charges to
31 the buyer as they are imposed and informs the buyer of the full
32

1 amount that the buyer must pay for the applicable period in order to
2 remain current on the account.

3 SECTION 4. AMENDATORY 14A O.S. 1991, Section 3-203, as
4 amended by Section 1, Chapter 50, O.S.L. 1997 (14A O.S. Supp. 1998,
5 Section 3-203), is amended to read as follows:

6 Section 3-203. (1) With respect to a precomputed consumer
7 loan, refinancing, or consolidation, the parties may contract for a
8 delinquency charge on any installment not paid in full within ten
9 (10) days after its scheduled due date in an amount not less than
10 Five Dollars (\$5.00) nor more than any of the following, whichever
11 is greater:

12 (a) five percent (5%) of the unpaid amount of the
13 installment,

14 (b) Five Dollars (\$5.00), which amount is subject to the
15 dollar amount adjustment provided by rule of the
16 Administrator in effect for this ~~section~~ subsection
17 pursuant to Section 1-106 of this title, or

18 (c) the deferral charge (subsection (1) of Section 3-204)
19 that would be permitted to defer the unpaid amount of
20 the installment for the period that it is delinquent.

21 (2) A delinquency charge under paragraph (a) of subsection (1)
22 may be collected only once on an installment however long it remains
23 in default. No delinquency charge may be collected if the
24 installment has been deferred and a deferral charge (Section 3-204)
25 has been paid or incurred. A delinquency charge may be collected at
26 the time it accrues or at any time thereafter.

27 (3) No delinquency charge may be collected on an installment
28 which is paid in full within ten (10) days after its scheduled
29 installment due date even though an earlier maturing installment or
30 a delinquency charge on an earlier installment may not have been
31 paid in full. For purposes of this subsection payments are applied
32 first to current installments and then to delinquent installments.

1 (4) If two installments or parts thereof of a precomputed loan
2 are in default for ten (10) days or more, the lender may elect to
3 convert the loan from a precomputed loan to one in which the loan
4 finance charge is based on unpaid balances. In this event he shall
5 make a rebate pursuant to the provisions on rebate upon prepayment
6 (Section 3-210) as of the maturity date of the first delinquent
7 installment, and thereafter may make a loan finance charge as
8 authorized by the provisions on loan finance charge for consumer
9 loans (Section 3-201) or the provisions on loan finance charge for
10 supervised loans (Section 3-508A), whichever is appropriate. The
11 amount of the rebate shall not be reduced by the amount of any
12 permitted minimum charge (Section 3-210). If the lender proceeds
13 under this subsection, any delinquency or deferral charges made with
14 respect to installments due at or after the maturity date of the
15 first delinquent installment shall be rebated, and no further
16 delinquency or deferral charges shall be made.

17 (5) With respect to a consumer loan, refinancing or
18 consolidation, which is not precomputed, including a revolving loan
19 account accessed by lender credit card or similar arrangement, the
20 parties may contract for a delinquency charge on any installment not
21 paid in full within ten (10) days after its scheduled due date in an
22 amount not less than Five Dollars (\$5.00) nor more than the greater
23 of five percent (5%) of the unpaid amount of the payment or the
24 dollar amount provided by the rule of the Administrator in effect
25 for this section pursuant to Section 1-106 of this title. No more
26 than one delinquency charge may be imposed in each billing cycle and
27 it may be collected at any time after it accrues either
28 independently of any payment made on the account or from a payment
29 made if the lender discloses delinquency charges to the debtor as
30 they are imposed and informs the debtor of the full amount that the
31 debtor must pay for the applicable period in order to remain current
32 on the account.

SECTION 2. This act shall become effective November 1, 1999.

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