

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 594

By: Smith

AS INTRODUCED

An Act relating to consumer credit; amending 14A O.S. 1991, Sections 1-106, as amended by Section 2, Chapter 352, O.S.L. 1998, 2-203 and 3-203, as amended by Section 1, Chapter 50, O.S.L. 1997 (14A O.S. Supp. 1998, Sections 1-106 and 3-203), which relate to changes in dollar amounts with respect to certain references and delinquency charges; changing certain statutory reference; modifying contracts to which certain delinquency charges may apply; modifying amount of delinquency charges for certain loans; and declaring an emergency.

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

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

Section 1-106. (1) From time to time the dollar amounts in Sections 2-201(2)(a), (b) and (c), 2-203(1)(a), 2-407(1), 2-413, 3-203(1)~~(a)~~(b), 3-203.1, 3-508A(2)(a), 3-508B(1), 3-510(1), 3-511(1)(a) and (b), 3-514, and 5-103(2) and (3) of the Uniform Consumer Credit Code, are hereby designated as subject to change and shall change, as provided in this section and the rules of the Administrator, according to and to the extent of changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, 1967=100, compiled by the Bureau of Labor Statistics, United States Department of Labor, and hereafter referred to as the Index. The Index for December of the year 1973 shall be deemed the Reference Base Index. The dollar amounts established by rule of the Administrator in Sections 2-104(1)(e),

2-106(1)(b) and 3-104(4) in effect on January 1, 1982, shall remain in full force and effect.

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

- (a) the portion of the percentage change in the Index in excess of a multiple of ten percent (10%) shall be disregarded and the dollar amounts shall change only in multiples of ten percent (10%) of the amounts appearing in this Code on the date of enactment; and
- (b) the dollar amounts shall not change if the amounts required by this section are those currently in effect pursuant to this Code as a result of earlier application of this section.

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

(4) The rules of the Administrator shall:

- (a) include the method for calculating the changes in dollar amounts required by subsection (2) of this section;
- (b) be amended in accordance with the Administrative Procedures Act to include changes in the Index

required by subsection (3) of this section including, if applicable, the numerical equivalent of the Reference Base Index under a revised Reference Base Index and the designation or title of any index superseding the Index; and

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

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

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

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

- (a) an amount, not exceeding Five Dollars (\$5.00), which is five percent (5%) of the unpaid amount of the installment; or
- (b) the deferral charge (subsection (1) of Section 2-204) that would be permitted to defer the unpaid amount of the installment for the period that it is delinquent.

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

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

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

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

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

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

- (a) five percent (5%) of the unpaid amount of the installment,
- (b) Five Dollars (\$5.00), which amount is subject to the dollar amount adjustment provided by rule of the Administrator in effect for this ~~section~~ subsection pursuant to Section 1-106 of this title, or
- (c) the deferral charge (subsection (1) of Section 3-204) that would be permitted to defer the unpaid amount of the installment for the period that it is delinquent.

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

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

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

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

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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