

ENROLLED SENATE
BILL NO. 1273

By: Monson of the Senate

and

Blackburn and Phillips of
the House

An Act relating to consumer credit; amending 14A O.S. 2001, Sections 1-106, 2-203 and 3-109, which relate to delinquency charges and definitions; correcting statutory references; modifying amount of delinquency charges for which parties may contract for certain credit transactions; modifying exclusions from certain definition; and providing an effective date.

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

SECTION 1. AMENDATORY 14A O.S. 2001, 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)~~ 3-203(1)(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. 2001, Section 2-203, is amended to read as follows:

Section 2-203. (1) With respect to a consumer credit sale, refinancing, or consolidation, including a revolving charge account, the parties may contract for a delinquency charge on any installment

not paid in full within ten (10) days after its scheduled due date as follows:

- (a) an amount, not exceeding the greater of five percent (5%) of the unpaid portion of the scheduled installment or Five Dollars (\$5.00), subject to adjustment pursuant to Section 1-106 of this title, ~~which is five percent (5%) of the unpaid amount of the installment;~~ or
- (b) the deferral charge, as set forth in subsection (1) of Section 2-204 of this title, that would be permitted to defer the unpaid amount of the installment for the period that it is delinquent.

However, a minimum late fee of Five Dollars (\$5.00) may be contracted for by the parties under either paragraph (a) or (b) of this subsection.

(2) A delinquency charge under paragraph (a) of subsection (1) of this section 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 of this title, 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) With regard to a revolving account, 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 on the billing statement.

SECTION 3. AMENDATORY 14A O.S. 2001, Section 3-109, is amended to read as follows:

Section 3-109.

- (1) (a) "Loan finance charge" means a finance charge composed of the sum of:
 - (i) all charges payable directly or indirectly by the debtor and imposed directly or indirectly by the lender as an incident to the extension of credit, including any of the following types of charges, which are applicable: interest or any amount payable under a point, discount, or other system of charges, however denominated, premium or other charge for any guarantee or insurance protecting the lender against the debtor's default or other credit loss; and

- (ii) charges incurred for investigating the collateral or credit worthiness of the debtor or for commissions or brokerage for obtaining the credit, irrespective of the person to whom the charges are paid or payable unless the lender had no notice of the charges when the loan was made.
- (b) The term does not include charges as a result of default, additional charges under Section 3-202 of this title, delinquency charges under Section 3-203 of this title, over-the-limit charges and returned item charges under Section 3-203.2 of this title, deferral charges under Section 3-204 of this title, charges of a type payable in a comparable cash transaction, or sellers points. The finance charge shall not include fees and amounts imposed by third-party closing agents, including settlement agents, attorneys, and escrow and title companies, if the creditor does not require the imposition of the charges or the services provided and does not retain the charges. Examples of charges which are included in the finance charge include any of the following types of charges which are applicable:
- (i) Interest, time price differential, and any amount payable under a point, discount, or other system of additional charges;
 - (ii) Service or carrying charge;
 - (iii) Loan fee, finder's fee, or similar charge;
 - (iv) Fee for an investigation or credit report;
 - (v) Premium or other charge for any guarantee or insurance protecting the creditor against the obligor's default or other credit loss; and
 - (vi) Borrower-paid mortgage broker fees, including fees paid directly to the broker or the lender, for delivery to the broker, whether such fees are paid in cash or financed.

(2) If a lender makes a loan to a debtor by purchasing or satisfying obligations of the debtor pursuant to a lender credit card or similar arrangement, and the purchase or satisfaction is made at less than the face amount of the obligation, the discount is not part of the loan finance charge.

SECTION 4. This act shall become effective November 1, 2002.

Passed the Senate the 6th day of May, 2002.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of April, 2002.

Presiding Officer of the House
of Representatives