

March 7, 1967

Passed on File

Commerce 3-8 Pass as Amended 4-26

By FLY

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

An Act to require the disclosure of finance charges in connection with extensions of credit.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. As used in this Act, unless the context other-
2 wise requires:

3 1. "Base amount" means the amount in a credit transaction
4 in dollars of which the debtor will have the actual use, or
5 which will be or is paid to the debtor or to another person
6 on behalf of the debtor or from which additional costs,
7 charges, and fees are computed.

8 2. "Closed end credit" means a credit for a specified
9 amount which constitutes a combination of the base amount,
10 permitted charges which are charged to the debtor, and the
11 precomputed finance charge, and is payable in installments.
12 The term does not include home mortgage or other credits in
13 which the finance charge is not precomputed and stated as a
14 dollar amount but is determined by the periodic application
15 of a rate of finance charge to outstanding balances of the
16 credit.

17 3. "Superintendent" means the superintendent of banking.

18 4. "Credit transaction" means an extension of credit or a
19 loan evidenced by an agreement, promissory note or other in-
20 strument, whether secured or not, under the terms of which a
21 debtor undertakes or agrees to pay the debt at a stated time
22 or over a period of time and for which the debtor pays or
23 agrees to pay a finance, carrying, or other charge.

24 5. "Creditor" means the person who extends credit in a
25 credit transaction either as principal or as agent and who re-
26 quires, as an incident to the extension of credit, the payment
27 of a finance charge.

28 6. "Debtor" means a person to whom or on behalf of whom
29 credit is primarily granted or who is primarily obligated to
30 pay debt.

31 7. "Finance charge" means a charge made by a creditor,
32 other than permitted charges, paid or payable directly or in-
33 directly by the debtor to or for the account of the creditor
34 and incurred solely because the transaction is a credit trans-
35 action and includes:

36 a. All charges which are not permitted charges and which
37 are designed primarily to increase the gross yield to a credi-
38 tor in a credit transaction.

39 b. Charges for investigating the credit or collateral and
40 for commissions or brokerage for obtaining the credit paid or
41 payable by the debtor irrespective of the person to whom they
42 are paid or payable.

43 c. Charges for the cost of a credit transaction including
44 interest, discount, or add-on, however such charges may be
45 designated.

46 8. "Official fees" mean the fees and charges prescribed by
47 law for perfecting, releasing, or satisfying a security in-
48 terest in property related to a credit transaction which will
49 actually be paid to public officials.

50 9. "Organization" means a corporation, business trust,
51 estate, trust, partnership or association or any other legal
52 entity but not a natural person.

53 10. "Percent per annum rate disclosure" means the disclo-
54 sure required or made under the provisions of this Act.

55 11. "Permitted charges" mean charges for services, expenses
56 or the like related to a credit transaction, not in excess of
57 amounts permitted by applicable law, if any, which are requested,
58 agreed to or approved by the debtor for official fees or taxes:

59 for insurance; for delinquency or collection or which otherwise
60 arise by reason of action or default of the debtor; in home
61 mortgage credits, customary brokers' fees and reasonable charges
62 incurred for appraisal of the property, examination of title
63 and the marketability of security, drafting of security instru-
64 ments or documents and other customary closing costs; or which
65 are of value to the debtor separate and apart from the granting
66 of credit, are reasonable in relation to benefits to the debtor
67 and constitute a type of charge or actual charges which have
68 been filed with the superintendent and as to which the superin-
69 tendent has failed to notify the creditor in writing of objec-
70 tion within sixty (60) days after the filing. If paid, incurred,
71 or financed by the creditor and not otherwise charged to or
72 paid by the debtor, permitted charges may be added to or in-
73 cluded in the principal of the debt.

74 12. "Principal balance" means the sum of the base amount
75 and permitted charges, if any, charged to the debtor.

76 13. "Revolving credit" means credit granted pursuant to
77 an agreement related to a loan of money in which the debtor
78 incurs from time to time debt which may be payable in install-
79 ments and in which the debts are debited to a running account.

80 14. "Total loan balance" means the sum of the base amount,
81 permitted charges charged to the debtor, if any, and the
82 finance charge.

1 Sec. 2. Except as otherwise provided in section three (3)
2 of this Act, this Act applies to any credit transaction in
3 which:

4 1. The debt incurred or to be incurred arises from a loan
5 of money or the rewriting or refinancing of a loan or loans.

6 2. A finance charge is or may be payable.

7 3. The principal balance of the debt at the inception of
8 the transaction is twenty-five thousand (25,000) dollars or
9 less.

10 4. The creditor is in the business or makes a practice of
11 extending credit.

12 5. The debtor is a natural person and not an organization.

1 Sec. 3. Notwithstanding the provisions of section two (2)
2 of this Act, the provisions of this Act shall not apply to
3 credit transactions with respect to which the debt is secured
4 by collateral consisting of accounts receivable, business
5 equipment or inventory and the value of the collateral is equal
6 to a substantial part of the amount of the debt secured.

1 Sec. 4. Unless the context otherwise requires, information
2 required to be given to the debtor shall be in writing. In
3 a loan transaction in which there is more than one (1) debtor,
4 the obligation of the creditor to furnish information to the
5 debtor shall be satisfied if the information is supplied to
6 only one (1) of the debtors. The creditor may give the debtor
7 the information required by this Act in a sequence other than
8 that stated. If information to be given under section five
9 (5) of this Act is not available to the creditor at the time
10 of the consummation of the transaction, the creditor shall
11 give to the debtor:

12 1. Prior to or as part of the consummation of the trans-
13 action, the information that is available and a reasonable
14 estimate of the percent per annum rate disclosure and either
15 a reasonable estimate of the dollar amount of the finance charge
16 or a simple statement of the method by which the amount of the
17 finance charge will be calculated and a reasonable estimate of
18 the amount of the finance charge produced by that method on
19 typical principal balances.

20 2. On or before the due date of the first installment, all
21 of such information.

1 Sec. 5. In a closed end credit transaction in which a loan
2 is made or is to be made, the creditor shall furnish to the
3 debtor prior to or as a part of the consummation of the trans
4 action, a clear statement in writing setting forth, to the
5 extent applicable and in accordance with such additional rules
6 and regulations as may be prescribed by the superintendent,
7 the following information:

- 10 1. The base amount.
- 11 2. The aggregate charge to the debtor for insurance with
12 a description of the type or types of coverage in simple terms.
- 13 3. The amount of official fees.
- 14 4. The amount of other permitted charges, if any, added
15 to or included in the principal of the debt with an itemiza-
16 tion of each.
- 17 5. The principal balance owed which is the sum of items
18 one (1), two (2), three (3), and four (4).
- 19 6. The total finance charge.
- 20 7. The percentage that the finance charge bears to the
21 principal balance, computed in accordance with the annual
22 finance charge formula or a formula approved by the superin-
23 tendent upon application of a creditor.
- 24 8. The total loan balance owed by the debtor to the credi-
25 tor which is the sum of items five (5) and six (6), the number
26 and amount of weekly, monthly or other installment payments
27 and the time of each payment, in which information the amount
28 and times of installment payments need not be separately
29 stated if amounts of and time between payments are substan-
30 tially equal and the amount of the scheduled final installment
31 payment may be stated as the remaining unpaid balance.

1 Sec. 6. The printed material explaining the percent per
2 annum rate disclosure required to be given to the debtor by
3 the provisions of section five (5), subsection seven (7) of
4 this Act shall be printed in twelve (12) point bold face type.

5 1. In a closed end credit transaction in which the due
6 date of all or part of one (1) or more instalments is de-
7 ferred or extended or in which the unpaid installments are
8 restated or rescheduled to reduce or rearrange the install-
9 ment payments, the creditor shall give the debtor the following
10 information at or before the time the extension or deferment
11 is made:

12 a. The amount of the deferment or extension charge, if any.

13 b. A description of the additional permitted charges, if
14 any, incident thereto and an itemization of such charges.

15 c. The revised installment payment dates, if any, and the
16 revised amount, if any, of each installment.

1 Sec. 7. In any revolving credit transaction in which a
2 loan is made or is to be made, if during a billing cycle debt
3 is incurred, payment is made by the debtor, or liability to
4 pay a finance or other charge is incurred, the creditor shall
5 furnish to the debtor within a reasonable time after the end
6 of the billing cycle and in accordance with such additional
7 rules and regulations as may be prescribed by the superinten-
8 dent, the following information:

9 1. The outstanding balance at the beginning of the billing
10 cycle.

11 2. Entries during the billing cycle, exclusive of finance
12 charge or other charges.

13 3. A brief description of the transactions giving rise to
14 accounting entries in a statement or in accompanying sales
15 slips, cancelled checks or the like.

16 4. The amount of finance charge and other charges debited
17 during the billing cycle.

18 5. The outstanding balance at the end of the billing cycle.

19 6. The amount which must currently be paid by the debtor
20 and when the amount must be paid in order to avoid delinquency.

1 Sec. 8. In a revolving credit transaction involving a loan
2 of money under this Act, there shall appear in twelve (12) point
3 boldface type on the agreement and every statement of account
4 a recitation of the simple interest per annum rate that approxi-
5 mates most closely any finance charge rate or rates imposed.
6 Such percentage rate shall be computed either by multiplying
7 the periodic rate of charge by the number of payment periods
8 in a year or by a formula approved by the superintendent upon
9 application by a creditor. In the case of any agreement in
10 existence on the effective date of this Act the percent per

11 annum rate disclosure required as to agreements by this section
12 may be made in a separate notice mailed or delivered to the
13 debtor.

1 Sec. 9. If a credit transaction subject to this Act is
2 neither a closed end nor a revolving credit transaction, the
3 creditor shall furnish to the debtor prior to or as a part of
4 the consummation of the transaction a disclosure of the finance
5 charge rate in terms of a simple annual interest rate. If the
6 creditor states or calculates the finance charge by a method
7 other than a simple annual interest rate, the simple annual
8 interest rate shall be computed either in accordance with the
9 annual finance charge formula, or by multiplying the periodic
10 rate of charge by the number of payment periods in a year, or
11 by a formula approved by the superintendent upon application
12 by a creditor.

1 Sec. 10. No creditor shall in any advertisement, publica-
2 tion, display, broadcast, solicitation, or representation,
3 make any false, misleading or deceptive statement concerning
4 any finance, delinquency, or extension charge, or rate, or the
5 security interest, collateral, terms, or conditions upon which
6 it will make any credit agreement or finance the same. Any
7 advertisement, publication, display, solicitation or represen-
8 tation containing a statement of a rate or rates of a finance
9 charge, with respect to transactions subject to section nine
10 (9) of this Act as well as closed end and revolving credits,
11 shall be expressed in terms of a simple annual interest rate.
12 The simple annual interest rate shall be computed:

13 1. In the case of a closed end credit, in accordance with
14 the annual finance charge formula.

15 2. In the case of a revolving credit, by multiplying the
16 periodic rate of charge by the number of payment periods in
17 a year.

18 3. In either case, by a formula approved by the superinten-
19 dent upon application by a creditor.

1 Sec. 11. The superintendent may prescribe from time to time
2 such rules and regulations as may be necessary or proper in
3 carrying out the provisions of this Act. In prescribing rules
4 and regulations with respect to any particular type of credit
5 transaction, the superintendent shall consider whether in such
6 transactions compliance with the disclosure requirements of
7 this Act is being achieved under any other law.

1 Sec. 12. The failure of any creditor to disclose the in-
2 formation required by this Act shall bar his recovery of any
3 finance, delinquency, collection or refinancing charge, but
4 shall not bar his right to recover from the debtor an amount
5 equal to the unpaid principal balance or to realize upon the
6 security and recover from the debtor an amount equal to the
7 unpaid principal balance less the net proceeds of any disposi-
8 tion of such security.

9 The provisions of this section shall not apply to any vio-
10 lation which any creditor shall establish by a preponderance
11 of the evidence to be the result of accident or bona fide
12 error in:

13 1. Any mathematical computation.

14 2. The layout or format, size of type or order of clauses
15 contained in any credit agreement.

16 3. The failure to furnish to the debtor any statement re-
17 quired by this Act.

1 Sec. 13. Any person who violates any provision of this
2 Act shall, upon conviction, be subject to a fine of not more
3 than five hundred (500) dollars or imprisonment for not more
4 than six (6) months, or both such fine and imprisonment.

1 Amend Senate File 430 as follows:
2 1. Amend Section four (4) by striking from line fourteen
3 (14) the word "and" and inserting in lieu thereof the word
4 "or".
5 2. Amend section five (5) by inserting in line nineteen
6 (19) after the word "charge" the words "or the percentage that
7 the finance charge bears to the principal balance, computed in
8 accordance with the annual finance charge formula or a formula
9 approved by the superintendent upon application of a creditor".
10 3. Amend section five (5) by striking all of subsection
11 seven (7).
12 4. Amend section five (5) by striking the figure eight
13 (8) in line twenty-four (24) and inserting in lieu thereof
14 the figure seven (7).
15 5. Amend section six (6) by striking from line two (2)
16 the words "required to be" and inserting in lieu thereof the
17 word "when".
18 6. By striking section eight (8).
19 7. Amend section nine (9) by inserting in line five (5)
20 after the word "charge" the words "or the finance charge".
21 8. Amend section nine (9) by striking from line six (6)
22 the words "states or".
23 9. Further amend by renumbering the remaining sections
24 in conformity with this amendment.

Filed
March 15, 1967

By REPERT

1 Amend Senate File 430 as follows:
2 1. By striking from line fourteen (14) of section four (4) the
3 word "and" and inserting in lieu thereof the word "or".
4 2. By inserting in line nineteen (19) of section five (5) after
5 the word "charge" the words "or the percentage that the finance
6 charge bears to the principal balance, computed in accordance with
7 the annual finance charge formula or a formula approved by the
8 superintendent upon application of a creditor".
9 3. By striking all of subsection seven (7) of section five (5),
10 and renumbering the remaining subsection.
11 4. By striking from line two (2) of section six (6) the words
12 "required to be" and inserting in lieu thereof the word "when".
13 5. By striking section eight (8).
14 6. By inserting in line five (5) of section nine (9) after the
15 word "charge" the words "or the finance charge".
16 7. By striking from line six (6) of section nine (9) the words
17 "states or".
18 8. By renumbering the sections in conformity with this amendment.

Filed
April 25, 1967

By REPERT

1 Amend Senate File 430 as follows:

2 1. Strike all of Section 1, subsection 2, and substitute
3 in lieu thereof the follow:

4 "2. "Closed end credit" means a credit transaction
5 in which the base amount and the maturity of the debt are
6 determined at the time of the extension of credit and the
7 debt is payable in installments."

8 2. Amend Section 1 by adding the following additional
9 subsection:

10 "15. "Annual finance charge formula" means the

11 method for converting a dollar finance charge into a percentage
12 rate. The formula assumes that (a) all scheduled installments
13 of a credit transaction are equal, payable at equal intervals,
14 and fall on due dates which are the same day of each month or
15 other payment period as that on which the agreement is entered
16 into and (b) the debtor makes all payments at the times and
17 in the amounts scheduled. Based upon these assumptions, the
18 "annual finance charge formula" is:
$$R = \frac{2 PC}{A (N + 1)}$$

19
20
21 R equals the percentage rate. P equals the number of payment
22 periods in one year (always twelve if monthly payments, four if
23 quarterly payments, and fifty-two if weekly payments). C equals
24 the finance charge. A equals the principal balance to be paid
25 by the debtor. N equals the number of installments. Except as
26 otherwise provided, a variance tolerance of one percent per
27 annum in the percentage rate is hereby authorized in computa-
28 tions under this formula."

29 3. Strike all of Section 5, subsection 6, and substitute
30 in lieu thereof the following: "6. The total finance charge
31 or planned finance charge."

32 4. Amend Section 5, subsection 8, by inserting the fol-
33 lowing after the word "balance" in line 24: "or planned total
34 loan balance".

35 5. Amend Section 9 by striking the words "or by multiplying
36 the periodic rate of charge by the number of payment periods in
37 a year," in lines 9 and 10.

Filed
April 26, 1967

By COMMERCE COMMITTEE