

SENATE FILE 1405
By COMMITTEE ON COMMERCE

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Vote: Ayes 33 Nays 16 Vote: Ayes 72 Nays 22
Approved 6-3-74

House receded from amend. and reported
5-4-74 (2514)
54-40

A BILL FOR

1 An Act relating to credit related transactions, acts, prac-
2 tices and conduct, enacting the Iowa Consumer Credit Code,
3 making coordinating amendments to the Code, and providing
4 civil remedies and criminal penalties for violations.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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ARTICLE ONE

GENERAL PROVISIONS AND DEFINITIONS

PART 1

SHORT TITLE, CONSTRUCTION, GENERAL PROVISIONS

Section 1.101. NEW SECTION. SHORT TITLE. Articles one (1) through seven (7) of this Act shall be known and may be cited as the Iowa Consumer Credit Code.

Sec. 1.102. NEW SECTION. PURPOSES--RULES OF CONSTRUCTION.

1. This Act shall be liberally construed and applied to promote its underlying purposes and policies.

2. The underlying purposes and policies of this Act are to:

a. Simplify, clarify and modernize the law governing retail installment sales, and other consumer credit.

b. Provide rate ceilings for certain creditors in order to assure an adequate supply of credit to consumers.

c. Further consumer understanding of the terms of credit transactions and foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost.

d. Protect consumers against unfair practices by some suppliers, solicitors, or collectors of consumer credit, having due regard for the interests of legitimate and scrupulous creditors.

e. Permit and encourage the development of fair and economically sound consumer credit practices.

f. Conform the regulation of disclosure in consumer credit transactions to the Truth in Lending Act.

g. Make the law, including administrative rules, more uniform among the various jurisdictions.

3. A reference to a requirement imposed by this Act includes reference to a related rule of the administrator adopted pursuant to this Act.

Sec. 1.103. NEW SECTION. LAW APPLICABLE. Unless displaced by the particular provisions of this Act, the Uniform

1 Commercial Code and the principles of law and equity, includ-
2 ing the law relative to capacity to contract, principal and
3 agent, estoppel, fraud, misrepresentation, duress, coercion,
4 mistake, bankruptcy, or other validating or invalidating cause
5 supplement its provisions.

6 Sec. 1.104. NEW SECTION. CONSTRUCTION. This Act being
7 a general Act intended as a unified coverage of its subject
8 matter, no part of it shall be deemed to be impliedly repealed
9 by subsequent legislation if such construction can reasonably
10 be avoided.

11 Sec. 1.105. NEW SECTION. SEVERABILITY. The provisions
12 of section four point twelve (4.12) of the Code are applicable
13 to this Act.

14 Sec. 1.106. Reserved for future use.

15 Sec. 1.107. NEW SECTION. WAIVER--AGREEMENT--SETTLEMENT.

16 1. Except in settlement of a bona fide dispute, a consumer
17 may not waive or agree to forego rights or benefits under
18 this Act.

19 2. A claim by a consumer against a creditor relating to
20 an excess charge, any other civil violation of this Act, or
21 a civil penalty, or a claim by a creditor against a consumer
22 for default or breach of a civil duty imposed by this Act,
23 may be settled by agreement if the claim is disputed in good
24 faith.

25 3. A claim against a consumer, whether or not disputed,
26 may be settled for less value than the amount claimed.

27 4. A settlement in which the consumer waives or agrees
28 to forego rights or benefits under this Act is invalid if
29 the court as a matter of law finds the settlement to have
30 been unconscionable at the time it was made. The competence
31 of the consumer, any deception or coercion practiced upon
32 him, the nature and extent of the legal advice received by
33 him, and the value of the consideration may be considered,
34 among other factors, with respect to the issue of uncon-
35 scionability.

1 evidencing the transaction or made, in face to face solici-
2 tation, a written or oral offer to enter into the transaction,

3 (2) If the transaction or acts, practices or conduct with
4 respect to the transaction were not in violation of law in
5 the state in which the buyer, lessee or debtor was physically
6 located, and

7 (3) If, with respect to charges and agreements, the per-
8 son does not collect or enforce that transaction except to
9 the extent permitted by this Act.

10 b. A transaction, or acts, practices or conduct with re-
11 spect to a transaction, if it is modified in this state, with-
12 out regard to where the transaction is entered into, except
13 that acts, practices, conduct, disclosures, charges or pro-
14 visions of agreements not in violation of law in the state
15 where they occurred or were entered into, shall not subject
16 any person to damages or penalty under article five (5) of
17 this Act or administrative enforcement under part one (1)
18 of article six (6), if, with respect to acts, practices, con-
19 duct or disclosures, they occurred outside this state and
20 before a modification in this state, and if, with respect
21 to charges and agreements, they are not collected or enforced
22 by that person except to the extent permitted by this Act.
23 A person shall not be required to obtain a license under sec-
24 tion two point three hundred one (2.301) of this Act solely
25 because the person modifies a transaction in this state.

26 c. Acts, practices or conduct in this state in the soli-
27 citation, inducement, negotiation, collection or enforcement
28 of a transaction, without regard to where it is entered into
29 or modified; including, but not limited to, acts, practices
30 or conduct in violation of sections three point two hundred
31 nine (3.209), three point two hundred ten (3.210), three point
32 three hundred eleven (3.311), three point five hundred one
33 (3.501), article five (5), parts one (1) and three (3), and
34 article seven (7) of this Act.

35 2. For the purposes of this section, a transaction is

1 entered into or modified in this state if any of the follow-
2 ing apply:

3 a. In a transaction involving other than open end credit:

4 (1) If the buyer, lessee or debtor is a resident of this
5 state at the time the person extending credit solicits the
6 transaction or modification, whether personally, by mail or
7 by telephone, unless the parties have agreed that the law
8 of the residence of the buyer, lessee or debtor applies, in
9 which case that law applies.

10 (2) If the buyer, lessee or debtor is a resident of this
11 state at the time the person extending credit receives either
12 a signed writing evidencing the transaction or modification,
13 or a written or oral offer of the buyer, lessee or debtor
14 to enter into or modify the transaction.

15 (3) If the transaction otherwise has significant con-
16 tacts with this state, unless the buyer, lessee or debtor
17 is not a resident of this state at the times designated in
18 subsection two (2), paragraph a, subparagraphs one (1) and
19 two (2) of this section and the parties have agreed that the
20 law of his residence applies. A person shall not be required
21 to obtain a license under section two point three hundred
22 one (2.301) of this Act solely because this Act applies to
23 a transaction pursuant to this subparagraph.

24 b. In an open end credit transaction:

25 (1) If the buyer, lessee or debtor is a resident of this
26 state either at the time the buyer, lessee or debtor forwards
27 or otherwise gives to the person extending credit a written
28 or oral communication of his intention to establish the open
29 end transaction, or at the time the person extending credit
30 forwards or otherwise gives to the buyer, lessee or debtor
31 a written or oral communication giving notice to the buyer,
32 lessee or debtor of the right to enter into open end trans-
33 actions with such person, unless the parties have agreed that
34 the law of the residence of the buyer, lessee or debtor ap-
35 plies in which case that law shall apply.

1 (2) If the transaction otherwise has significant con-
2 tacts with this state, unless the buyer, lessee or debtor
3 is not a resident of this state at the times designated in
4 subsection two (2), paragraph a, subparagraph one (1), of
5 this section and the parties have agreed that the law of his
6 residence applies. A person shall not be required to obtain
7 a license under section two point three hundred one (2.301)
8 of this Act solely because this Act applies to a transaction
9 pursuant to this subparagraph.

10 c. In any credit transaction, if the parties have agreed
11 that the law of the residence of the buyer, lessee or debtor
12 applies and the buyer, lessee or debtor is a resident of this
13 state at any time designated, with respect to a transaction
14 other than open end, in subsection two (2), paragraph a, sub-
15 paragraphs one (1) and two (2) of this section or, with re-
16 spect to an open end credit transaction, in subsection two
17 (2), paragraph b, subparagraph one (1) of this section.

18 3. For the purposes of this section, "modification" shall
19 include, but not be limited to, any alteration in the ma-
20 turity, schedule of payments, amount financed, rate of fi-
21 nance charge or other term of a transaction.

22 4. For the purposes of this Act, the residence of a buyer,
23 lessee or debtor is the address given by him as his residence
24 in a writing signed by him in connection with a transaction
25 until he notifies the person extending credit of a different
26 address as his residence, and it is then the different address.

27 5. Except as provided in subsection one (1), paragraph
28 c, and subsection six (6) of this section, a transaction
29 entered into or modified in another jurisdiction is valid
30 and enforceable in this state according to its terms to the
31 extent that it is valid and enforceable under the laws of
32 the other jurisdiction.

33 6. A provision of an agreement made by a buyer, lessee
34 or debtor is invalid:

35 a. Which provides, if the buyer, lessee or debtor is a

1 resident of this state at the times designated in subsection
2 two (2), paragraph a, subparagraphs one (1) and two (2) of
3 this section and subsection two (2), paragraph b, subparagraph
4 one (1) of this section:

5 (1) That the law of another jurisdiction shall apply,
6 except as provided in subsection two (2), paragraph a,
7 subparagraph one (1) of this section and in subsection two
8 (2), paragraph b, subparagraph one (1) of this section.

9 (2) That the buyer, lessee or debtor consents to be sub-
10 ject to the process of another jurisdiction.

11 (3) That the buyer, lessee or debtor appoints an agent
12 to receive service of process.

13 (4) That venue is fixed at a particular place.

14 (5) That the consumer consents to the jurisdiction of
15 a court that does not otherwise have jurisdiction.

16 b. If a provision would negate subsection one (1),
17 paragraph b of this section.

18 7. The following provisions of this Act specify the ap-
19 plicable law governing certain cases:

20 a. Section six point one hundred two (6.102) of this Act
21 specifies the applicability of part one (1) of article six
22 (6) of this Act.

23 b. Section six point two hundred one (6.201) of this Act
24 specifies the applicability of part two (2) of article six
25 (6) of this Act.

26 Sec. 1.202. NEW SECTION. EXCLUSIONS. This Act does not
27 apply to:

28 1. Extensions of credit to government or governmental
29 agencies or instrumentalities.

30 2. Except as otherwise provided in article four (4) of
31 this Act, the sale of insurance if the insured is not obligated
32 to pay installments of the premium and the insurance may ter-
33 minate or be cancelled after nonpayment of an installment
34 of the premium.

35 3. Transactions under public utility or common carrier

1 tariffs if a subdivision or agency of this state or of the
2 United States regulates the charges for the services involved,
3 the charges for delayed payment, and any discount allowed
4 for early payment.

5 4. Transactions in securities or commodities accounts
6 with a broker-dealer registered with the securities and
7 exchange commission.

8 5. Pawnbrokers who are licensed and whose rates and charges
9 are regulated under or pursuant to ordinances of cities or
10 towns or statutes of this state, except with respect to the
11 provisions on compliance with the Truth in Lending Act in
12 section three point two hundred one (3.201) of this Act, civil
13 liability for violation of disclosure provisions in section
14 five point two hundred three (5.203) of this Act, criminal
15 penalties for disclosure violations in section five point
16 three hundred two (5.302) of this Act, and powers and functions
17 of the administrator with respect to disclosure violations.

18 Sec. 1.203. NEW SECTION. JURISDICTION--SERVICE OF PROCESS.

19 1. The district court of this state may exercise juris-
20 diction over any person with respect to any conduct in this
21 state governed by this Act or with respect to any claim aris-
22 ing from a transaction subject to this Act. In addition to
23 any other method provided by rule or by statute, personal
24 jurisdiction over a person may be acquired in a civil ac-
25 tion or proceeding instituted in the district court by the
26 service of process in the manner provided by this section.

27 2. If a person is not a resident of this state or is a
28 corporation not authorized to do business in this state and
29 engages in any conduct in this state governed by this Act,
30 or engages in a transaction subject to this Act, he may
31 designate an agent upon whom service of process or original
32 notice may be made in this state. The agent shall be a
33 resident of this state or a corporation authorized to do
34 business in this state. The designation shall be in a writing
35 and filed with the secretary of state. If no designation

1 is made and filed or if process or original notice cannot
2 be served in this state upon the designated agent, process
3 or original notice may be served upon the secretary of state,
4 in the manner provided in section six hundred seventeen point
5 three (617.3) of the Code for service upon nonresident persons
6 and foreign corporations which have made contracts with
7 residents of Iowa, and the provisions of that section relating
8 to the service of process or original notice apply.

9 PART 3

10 DEFINITIONS

11 Sec. 1.301. NEW SECTION. GENERAL DEFINITIONS. As used
12 in this Act, unless otherwise required by the context:

13 1. "Actuarial method" means the method of allocating
14 payments made on a debt between the amount financed and the
15 finance charge, pursuant to which a payment is applied first
16 to the accumulated finance charge and any remainder is
17 subtracted from, or any deficiency is added to, the unpaid
18 balance of the amount financed. The administrator may adopt
19 rules not inconsistent with the Truth in Lending Act further
20 defining the term and prescribing its application.

21 2. "Administrator" means the administrator designated
22 in section six point one hundred three (6.103) of this Act.

23 3. "Agreement" means the oral or written bargain of the
24 parties in fact as found in their language or by implication
25 from other circumstances including course of dealing or usage
26 of trade or course of performance.

27 4. "Agricultural purpose" means a purpose related to the
28 production, harvest, exhibition, marketing, transportation,
29 processing, or manufacture of agricultural products by a nat-
30 ural person who cultivates, plants, propagates, or nurtures
31 the agricultural products. "Agricultural products" includes
32 agricultural, horticultural, viticultural, and dairy products,
33 livestock, wildlife, poultry, bees, forest products, fish
34 and shellfish, and any products thereof, including processed
35 and manufactured products, and any and all products raised

1 or produced on farms and any processed or manufactured pro-
2 ducts thereof.

3 5. "Amount financed" means:

4 a. In the case of a sale, the cash price of the goods,
5 services, or interest in land, plus the amount actually paid
6 or to be paid by the seller pursuant to an agreement with
7 the buyer to discharge a security interest in, a lien on,
8 or a debt with respect to property traded in, less the amount
9 of any down payment whether made in cash or in property traded
10 in, plus additional charges if permitted under paragraph c
11 of this subsection.

12 b. In the case of a loan, the net amount paid to, re-
13 ceivable by, or paid or payable for the account of the debtor,
14 plus the amount of any discount excluded from the finance
15 charge under subsection twenty (20), paragraph b, subparagraph
16 three (3), of this section, plus additional charges if
17 permitted under paragraph c of this subsection.

18 c. In the case of a sale or loan, additional charges
19 permitted under section two point five hundred one (2.501)
20 of this Act, to the extent that payment is deferred, that
21 the charge is not otherwise included, in the amount permitted
22 respectively in paragraph a or b of this subsection, and that
23 the charge is authorized by and disclosed to the consumer
24 as required by law.

25 6. "Billing cycle" means the time interval between peri-
26 odic billing statement dates.

27 7. "Card issuer" means a person who issues a credit card.

28 8. "Cardholder" means a person to whom a credit card is
29 issued or who has agreed with the card issuer to pay
30 obligations arising from the issuance or use of the card to
31 or by another person.

32 9. "Cash price" of goods, services, or an interest in
33 land means the price at which they are sold by the seller
34 to cash buyers in the ordinary course of business, and may
35 include the cash price of accessories or services related

1 to the sale, such as delivery, installation, alterations,
2 modifications, and improvements, and taxes to the extent
3 imposed on a cash sale of the goods, services, or interest
4 in land.

5 10. "Conspicuous". A term or clause is conspicuous when
6 it is so written that a reasonable person against whom it
7 is to operate ought to have noticed it. Whether or not a
8 term or clause is conspicuous is for decision by the court.

9 11. "Consumer" means the buyer, lessee, or debtor to whom
10 credit is granted in a consumer credit transaction.

11 12. "Consumer credit transaction" means a consumer credit
12 sale or consumer loan, or a refinancing or consolidation
13 thereof, or a consumer lease.

14 13. "Consumer credit sale".

15 a. Except as provided in paragraph b of this subsection,
16 a "consumer credit sale" is a sale of goods, services, or
17 an interest in land in which all of the following are
18 applicable:

19 (1) Credit is granted either pursuant to a seller credit
20 card or by a seller who regularly engages as a seller in
21 credit transactions of the same kind.

22 (2) The buyer is a person other than an organization.

23 (3) The goods, services, or interest in land are pur-
24 chased primarily for a personal, family, household or
25 agricultural purpose.

26 (4) Either the debt is payable in installments or a fi-
27 nance charge is made.

28 (5) With respect to a sale of goods or services, the
29 amount financed does not exceed thirty-five thousand dollars.

30 b. A "consumer credit sale" does not include:

31 (1) A sale in which the seller allows the buyer to purchase
32 goods or services pursuant to a lender credit card.

33 (2) A sale of an interest in land if the finance charge
34 does not exceed twelve percent per year calculated on the
35 actuarial method on the assumption that the debt will be paid

1 according to the agreed terms and will not be paid before
2 the end of the agreed term.

3 14. "Consumer lease". A "consumer lease" is a lease of
4 goods in which all of the following are applicable:

5 a. The lessor is regularly engaged in the business of
6 leasing.

7 b. The lessee is a person other than an organization.

8 c. The lessee takes under the lease primarily for a
9 personal, family, household or agricultural purpose.

10 d. The amount payable under the lease does not exceed
11 thirty-five thousand dollars.

12 e. The lease is for a term exceeding four months.

13 15. "Consumer loan".

14 a. Except as provided in paragraph b of this subsection,
15 a "consumer loan" is a loan in which all of the following
16 are applicable:

17 (1) The person is regularly engaged in the business of
18 making loans.

19 (2) The debtor is a person other than an organization.

20 (3) The debt is incurred primarily for a personal, family,
21 household or agricultural purpose.

22 (4) Either the debt is payable in installments or a fi-
23 nance charge is made.

24 (5) Either the amount financed does not exceed thirty-
25 five thousand dollars, or the debt is not incurred primarily
26 for an agricultural purpose and is secured by an interest
27 in land.

28 b. A "consumer loan" does not include:

29 (1) A sale or lease in which the seller or lessor allows
30 the buyer or lessee to purchase or lease pursuant to a seller
31 credit card.

32 (2) A loan secured by an interest in land if the security
33 interest is bona fide and not for the purpose of circumven-
34 tion or evasion of this Act and the finance charge does not
35 exceed twelve percent per year calculated according to the

1 actuarial method on the assumption that the debt will be paid
2 according to the agreed terms and will not be paid before
3 the end of the agreed term.

4 16. "Credit" means the right granted by a person extending
5 credit to a person to defer payment of debt, to incur debt
6 and defer its payment, or to purchase property or services
7 and defer payment therefor.

8 17. "Credit card" means a card or device issued under
9 an arrangement pursuant to which a card issuer gives a
10 cardholder the privilege of purchasing or leasing property
11 or purchasing services, obtaining loans, or otherwise obtaining
12 credit from the card issuer or other persons. A transaction
13 is "pursuant to a credit card" if credit is obtained according
14 to the terms of the arrangement by transmitting information
15 contained on the card or device orally, in writing, by
16 mechanical or automated methods, or in any other manner.
17 A transaction is not "pursuant to a credit card" if the card
18 or device is used solely to identify the cardholder and credit
19 is not obtained according to the terms of the arrangement.

20 18. "Creditor" means the person who grants credit in a
21 consumer credit transaction or, except as otherwise provided,
22 an assignee of a creditor's right to payment, but use of the
23 term does not in itself impose on an assignee any obligation
24 of his assignor. In the case of credit granted pursuant to
25 a credit card, the "creditor" is the card issuer and not
26 another person honoring the credit card.

27 19. "Earnings" means compensation paid or payable to an
28 individual or for his account for personal services rendered
29 or to be rendered by him, whether denominated as wages, sal-
30 ary, commission, bonus, or otherwise, and includes periodic
31 payments pursuant to a pension, retirement, or disability
32 program.

33 20. "Finance charge".

34 a. Except as otherwise provided in subsection b of this
35 section, "finance charge" means the sum of all charges payable

1 directly or indirectly by the consumer and imposed directly
2 or indirectly by the creditor as an incident to or as a
3 condition of the extension of credit, including any of the
4 following types of charges which are applicable:

5 (1) Interest or any amount payable under a point, discount
6 or other system of charges, however denominated, except that,
7 with respect to a consumer loan secured by a first lien on
8 a dwelling of the debtor given to finance the acquisition
9 of that dwelling, points, consisting of a charge paid in cash
10 at the time of commitment or closing of a loan transaction,
11 shall not be part of the finance charge for the purpose of
12 determining maximum charges pursuant to section two point
13 four hundred one (2.401) of this Act and chapters five hundred
14 twenty-four (524), five hundred thirty-four (534), and five
15 hundred thirty-five (535) of the Code.

16 (2) Time price differential, credit service, service,
17 carrying or other charge, however denominated.

18 (3) Premium or other charge for any guarantee or insurance
19 protecting the creditor against the consumer's default or
20 other credit loss.

21 (4) Charges incurred for investigating the collateral
22 or credit-worthiness of the consumer or for commissions or
23 brokerage for obtaining the credit, irrespective of the per-
24 son to whom the charges are paid or payable, unless the
25 creditor had no notice of the charges when the credit was
26 granted.

27 b. "Finance charge" does not include:

28 (1) Charges as a result of default or delinquency if made
29 for actual unanticipated late payment, delinquency, default,
30 or other like occurrence unless the parties agree that these
31 charges are finance charges. A charge is not made for actual
32 unanticipated late payment, delinquency, default or other
33 like occurrence if imposed on an account which is or may be
34 debited from time to time for purchases or other debts and,
35 under its terms, payment in full or at a specified amount

1 is required when billed, and in the ordinary course of business
2 the consumer is permitted to continue to have purchases or
3 other debts debited to the account after the imposition of
4 the charge.

5 (2) Additional charges as defined in section two point
6 five hundred one (2.501) of this Act, or deferral charges
7 as defined in section two point five hundred three (2.503)
8 of this Act.

9 (3) A discount, if a creditor purchases or satisfies
10 obligations of a cardholder pursuant to a credit card and
11 the purchase or satisfaction is made at less than the face
12 amount of the obligation.

13 21. "Gift certificate" means a merchandise certificate
14 conspicuously designated as a gift certificate, and purchased
15 by a buyer for use by a person other than the buyer.

16 22. a. "Goods" includes, but is not limited to:

17 (1) "Goods" as described in section five hundred fifty-
18 four point two thousand one hundred five (554.2105), subsection
19 one (1), of the Code.

20 (2) Goods not in existence at the time the transaction
21 is entered into.

22 (3) Things in action.

23 (4) Investment securities.

24 (5) Mobile homes regardless of whether they are affixed
25 to the land.

26 (6) Gift certificates.

27 b. "Goods" excludes money, chattel paper, documents of
28 title, instruments and merchandise certificates other than
29 gift certificates.

30 23. "Insurance premium loan" means a consumer loan that
31 is made for the sole purpose of financing the payment by or
32 on behalf of an insured of the premium on one or more policies
33 or contracts issued by or on behalf of an insurer, is secured
34 by an assignment by the insured to the lender of the unearned
35 premium on the policy or contract, and contains an authoriza-

1 tion to cancel the policy or contract financed.

2 24. "Lender" means a person who makes a loan or, except
3 as otherwise provided in this Act, a person who takes an
4 assignment of a lender's right to payment, but use of the
5 term does not in itself impose on an assignee any obligation
6 of the lender.

7 25. "Lender credit card" means a credit card issued by
8 a lender.

9 26. a. "Loan" means any of the following, except as
10 provided in paragraph b of this subsection:

11 (1) The creation of debt by the lender's payment of or
12 agreement to pay money to the debtor or to a third person
13 for the account of the debtor.

14 (2) The creation of debt by a credit to an account with
15 the lender upon which the debtor is entitled to draw immedi-
16 ately.

17 (3) The creation of debt pursuant to a lender credit card
18 in any manner, including a cash advance or the card issuer's
19 honoring a draft or similar order for the payment of money
20 drawn or accepted by the debtor, paying or agreeing to pay
21 the debtor's obligation, or purchasing or otherwise acquiring
22 the debtor's obligation from the obligee or his assignees.

23 (4) The creation of debt by a cash advance to a debtor
24 pursuant to a seller credit card.

25 (5) The forbearance of debt arising from a loan.

26 b. "Loan" does not include:

27 (1) A card issuer's payment or agreement to pay money
28 to a third person for the account of a debtor if the debt
29 of the debtor arises from a sale or lease and results from
30 use of a seller credit card.

31 (2) The forbearance of debt arising from a sale or lease.

32 27. "Merchandise certificate" means a writing not
33 redeemable in cash and usable in its face amount in lieu of
34 cash in exchange for goods or services. Sale of a merchandise
35 certificate on credit is a credit sale beginning at the time

1 the certificate is redeemed.

2 28. "Official fees" means:

3 a. Fees and charges prescribed by law which actually are
4 or will be paid to public officials for determining the ex-
5 istence of or for perfecting, releasing, terminating, or
6 satisfying a security interest related to a consumer credit
7 transaction.

8 b. Premiums payable for insurance in lieu of perfecting
9 a security interest otherwise required by the creditor in
10 connection with the transaction, if the premium does not
11 exceed the fees and charges described in paragraph a of this
12 subsection which would otherwise be payable.

13 29. "Open end credit" means an arrangement pursuant to
14 which all of the following are applicable:

15 a. A creditor may permit a consumer, from time to time,
16 to purchase or lease on credit from the creditor or pursuant
17 to a credit card, or to obtain loans from the creditor or
18 pursuant to a credit card.

19 b. The amounts financed and the finance and other
20 appropriate charges are debited to an account.

21 c. The finance charge, if made, is computed on the account
22 periodically.

23 d. Either the consumer has the privilege of paying in
24 full or in installments or the creditor periodically imposes
25 charges computed on the account for delaying payment of it
26 and permits the consumer to continue to purchase or lease
27 on credit.

28 30. "Organization" means a corporation, government or
29 governmental subdivision or agency, trust, estate, partner-
30 ship, cooperative, or association.

31 31. "Payable in installments" means that payment is re-
32 quired or permitted by agreement to be made in more than four
33 periodic payments, excluding a down payment. If any periodic
34 payment other than the down payment under an agreement
35 requiring or permitting two or more periodic payments is more

1 than twice the amount of any other periodic payment excluding
2 the down payment, a transaction is "payable in installments".

3 32. "Person" means:

4 a. A natural person or an individual.

5 b. An organization.

6 33. a. "Person related to" with respect to a natural
7 person or an individual means any of the following:

8 (1) The spouse of the individual.

9 (2) A brother, brother-in-law, sister, or sister-in-law
10 of the individual.

11 (3) An ancestor or lineal descendant of the individual
12 or his spouse.

13 (4) Any other relative, by blood or marriage, of the
14 individual or his spouse, if the relative shares the same
15 home with the individual.

16 b. "Person related to" with respect to an organization
17 means:

18 (1) A person directly or indirectly controlling, con-
19 trolled by or under common control with the organization.

20 (2) An officer or director of the organization or a person
21 performing similar functions with respect to the organization
22 or to a person related to the organization.

23 (3) The spouse of a person related to the organization.

24 (4) A relative by blood or marriage of a person related
25 to the organization who shares the same home with him.

26 34. A "precomputed consumer credit transaction" is a
27 consumer credit transaction, other than a consumer lease,
28 in which the debt is a sum comprising the amount financed
29 and the amount of the finance charge computed in advance.
30 A disclosure required by the Truth in Lending Act does not
31 in itself make a finance charge or transaction precomputed.

32 35. "Presumed" or "presumption" means that the trier of
33 fact must find the existence of the fact presumed unless and
34 until evidence is introduced which would support a finding
35 of its nonexistence.

1 36. "Sale of goods" includes, but is not limited to, any
2 agreement in the form of a bailment or lease of goods if the
3 bailee or lessee pays or agrees to pay as compensation for
4 use a sum substantially equivalent to or in excess of the
5 aggregate value of the goods involved and it is agreed that
6 the bailee or lessee will become, or for no other or a nominal
7 consideration has the option to become, the owner of the goods
8 upon full compliance with the terms of the agreement.

9 37. "Sale of an interest in land" includes, but is not
10 limited to, a lease in which the lessee has an option to
11 purchase the interest, by which all or a substantial part
12 of the rental or other payments previously made by him are
13 applied to the purchase price.

14 38. "Sale of services" means furnishing or agreeing to
15 furnish services for a consideration and includes making
16 arrangements to have services furnished by another.

17 39. "Seller" means a person who makes a sale or, except
18 as otherwise provided in this Act, a person who takes an
19 assignment of the seller's right to payment, but use of the
20 term does not in itself impose on an assignee any obliga-
21 tion of the seller.

22 40. "Seller credit card" means either of the following:

23 a. A credit card issued primarily for the purpose of
24 giving the cardholder the privilege of using the credit card
25 to purchase or lease property or services from the card issuer,
26 persons related to the card issuer, persons licensed or
27 franchised to do business under the card issuer's business
28 or trade name or designation, or from any of these persons
29 and from other persons as well.

30 b. A credit card issued by a person other than a supervised
31 lender primarily for the purpose of giving the cardholder
32 the privilege of using the credit card to purchase or lease
33 property or services from at least one hundred persons not
34 related to the card issuer.

35 41. "Services" includes, but is not limited to:

1 a. Work, labor, and other personal services.

2 b. Privileges or benefits with respect to transporta-
3 tion, hotel and restaurant accommodations, education, enter-
4 tainment, recreation, physical culture, hospital accommoda-
5 tions, funerals, cemetery accommodations, and the like.

6 c. Insurance.

7 42. "Supervised financial organization" means a person,
8 other than an insurance company or other organization pri-
9 marily engaged in an insurance business, which is organized,
10 chartered, or holding an authorization certificate pursuant
11 to chapter five hundred twenty-four (524), five hundred thirty-
12 three (533), or five hundred thirty-four (534) of the Code,
13 or pursuant to the laws of the United States which authorizes
14 the person to make loans and to receive deposits, including
15 a savings, share, certificate or deposit account, and which
16 is subject to supervision by an official or agency of this
17 state or of the United States.

18 43. "Supervised loan" means a consumer loan, including
19 a loan made pursuant to open end credit, in which the rate
20 of the finance charge, calculated according to the actuarial
21 method, exceeds the rate of finance charge permitted in chap-
22 ter five hundred thirty-five (535) of the Code.

23 With respect to a consumer loan made pursuant to open end
24 credit, the finance charge shall be deemed not to exceed the
25 rate permitted in chapter five hundred thirty-five (535) of
26 the Code if the finance charge contracted for and received
27 does not exceed a charge for each monthly billing cycle which
28 is one-twelfth of that rate multiplied by the average daily
29 balance of the open end account in the billing cycle for which
30 the charge is made. The average daily balance of the open
31 end account is the sum of the amount unpaid each day during
32 that cycle divided by the number of days in the cycle. The
33 amount unpaid on a day is determined by adding to the balance,
34 if any, unpaid as of the beginning of that day all purchases
35 and other debits and deducting all payments and other credits

1 made or received as of that day. If the billing cycle is
2 not monthly, the finance charge shall be deemed not to ex-
3 ceed that rate per year if the finance charge contracted for
4 and received does not exceed a percentage which bears the
5 same relation to that rate as the number of days in the bill-
6 ing cycle bears to three hundred sixty-five. A billing cycle
7 is monthly if the closing date of the cycle is the same date
8 each month or does not vary by more than four days from the
9 regular date.

10 Sec. 1.302. NEW SECTION. DEFINITION--TRUTH IN LENDING
11 ACT. As used in this Act, "Truth in Lending Act" means title
12 one (1) of the Consumer Credit Protection Act, in subchapter
13 one (1) of chapter forty-one (41) of title fifteen of the
14 United States Code, as amended to and including July 1, 1974,
15 and includes regulations issued pursuant to that Act prior
16 to that date.

17 Sec. 1.303. NEW SECTION. OTHER DEFINED TERMS. Other
18 defined terms in this Act and the sections in which they
19 appear are:

20 1. "Closing costs". Section two point five hundred one
21 (2.501), subsection one (1), paragraph e.

22 2. "Computational period". Section two point five hun-
23 dred ten (2.510), subsection six (6), paragraph c.

24 3. "Debt". Section seven point one hundred two (7.102),
25 subsection one (1).

26 4. "Debt collection". Section seven point one hundred
27 two (7.102), subsection two (2).

28 5. "Debt collector". Section seven point one hundred
29 two (7.102), subsection three (3).

30 6. "Disposable earnings". Section five point one hundred
31 five (5.105), subsection one (1), paragraph a.

32 7. "Garnishment". Section five point one hundred five
33 (5.105), subsection one (1), paragraph b.

34 8. "Interval". Section two point five hundred ten (2.510),
35 subsection six (6), paragraph d.

1 9. "Location". Section two point three hundred ten
2 (2.310), subsection one (1).

3 10. "Pursuant to a credit card". Section one point three
4 hundred one (1.301), subsection seventeen (17).

5 11. "Residence". Section one point two hundred one
6 (1.201), subsection four (4).

7 ARTICLE TWO

8 FINANCE CHARGES AND RELATED PROVISIONS

9 PART 1

10 GENERAL PROVISIONS

11 Sec. 2.101. NEW SECTION. SHORT TITLE. This article shall
12 be known and may be cited as the Iowa Consumer Credit Code-
13 -Finance Charges and Related Provisions.

14 Sec. 2.102. NEW SECTION. SCOPE. Part two (2) of this
15 article applies to consumer credit sales. Parts three (3)
16 and four (4) apply to consumer loans. Part five (5) applies
17 to other charges and modifications with respect to consumer
18 credit transactions. Part six (6) applies to other credit
19 transactions.

20 PART 2

21 CONSUMER CREDIT SALES:

22 MAXIMUM FINANCE CHARGES

23 Sec. 2.201. NEW SECTION. FINANCE CHARGE FOR CONSUMER
24 CREDIT SALES NOT PURSUANT TO OPEN END CREDIT.

25 1. With respect to a consumer credit sale, other than
26 a sale pursuant to open end credit, a creditor may contract
27 for and receive a finance charge not exceeding the maximum
28 charge permitted by the law of this state or the United States
29 for similar creditors. In addition, with respect to a con-
30 sumer credit sale of goods or services, other than a sale
31 pursuant to open end credit or a sale of a motor vehicle,
32 a creditor may contract for and receive a finance charge not
33 exceeding that permitted in subsections two (2) through six
34 (6) of this section. With respect to a consumer credit sale
35 of a motor vehicle, a creditor may contract for and receive

1 a finance charge as provided in section three hundred twenty-
2 two point nineteen (322.19) of the Code, and a finance charge
3 in excess of that provided in section three hundred twenty-
4 two point nineteen (322.19) of the Code, is an excess charge
5 in violation of this Act.

6 2. The finance charge, calculated according to the ac-
7 tuarial method, may not exceed fifteen percent per year on
8 the unpaid balances of the amount financed.

9 3. This section does not limit or restrict the manner
10 of calculating the finance charge whether by way of add-on,
11 discount, or otherwise, so long as the rate of the finance
12 charge does not exceed that permitted by this section. If
13 the sale is a precomputed consumer credit transaction, the
14 finance charge may be calculated on the assumption that all
15 scheduled payments will be made when due, and the effect of
16 prepayment is governed by the provisions on rebate upon
17 prepayment contained in section two point five hundred ten
18 (2.510) of this Act.

19 4. For the purposes of this section, the term of a sale
20 agreement commences with the date the credit is granted or,
21 if goods are delivered or services performed ten days or more
22 after that date, with the date of commencement of delivery
23 or performance. Any month may be counted as one-twelfth of
24 a year, but a day is counted as one-three hundred sixty-fifth
25 of a year. Subject to classifications and differentiations
26 the seller may reasonably establish, a part of a month in
27 excess of fifteen days may be treated as a full month if
28 periods of fifteen days or less are disregarded and that
29 procedure is not consistently used to obtain a greater yield
30 than would otherwise be permitted. The administrator may adopt
31 rules not inconsistent with the Truth in Lending Act with
32 respect to treating as regular other minor irregularities
33 in amount or time.

34 5. Subject to classifications and differentiations the
35 seller may reasonably establish, he may make the same fi-

1 nance charge on all amounts financed within a specified range.
2 A finance charge so made does not violate subsection two (2)
3 of this section if both of the following are applicable:

4 a. When applied to the median amount within each range,
5 it does not exceed the maximum rate permitted by subsection
6 one (1) of this section.

7 b. When applied to the lowest amount within each range,
8 it does not produce a rate of finance charge exceeding the
9 rate calculated according to paragraph a of this subsection
10 by more than eight percent of the rate calculated according
11 to paragraph a of this subsection.

12 6. Regardless of subsection two (2) of this section, the
13 seller may contract for and receive a minimum finance charge
14 of not more than five dollars when the amount financed does
15 not exceed seventy-five dollars, or seven dollars and fifty
16 cents when the amount financed exceeds seventy-five dollars.

17 Sec. 2.202. NEW SECTION. FINANCE CHARGE FOR CONSUMER
18 CREDIT SALES PURSUANT TO OPEN END CREDIT.

19 1. With respect to a consumer credit sale made pursuant
20 to open end credit, a creditor may contract for and receive
21 a finance charge not exceeding that permitted in this section.

22 2. For each billing cycle, a charge may be made which
23 is a percentage of an amount not exceeding the greatest of
24 the following:

25 a. The average daily balance of the open end account in
26 the billing cycle for which the charge is made, which is the
27 sum of the amount unpaid each day during that cycle, divided
28 by the number of days in that cycle. The amount unpaid on
29 a day is determined by adding to the balance, if any, unpaid
30 as of the beginning of that day all purchases and other debits
31 and deducting all payments and other credits made or received
32 as of that day.

33 b. The balance of the open end account at the beginning
34 of the first day of the billing cycle, after deducting all
35 payments and credits made in the cycle except credits

1 attributable to purchases charged to the account during the
2 cycle.

3 c. The median amount within a specified range including
4 the balance of the open end account not exceeding that
5 permitted by paragraph a or b of this subsection. A charge
6 may be made pursuant to this paragraph only if the creditor,
7 subject to classifications and differentiations he may
8 reasonably establish, makes the same charge on all balances
9 within the specified range and if the percentage when applied
10 to the median amount within the range does not produce a
11 charge exceeding the charge resulting from applying that
12 percentage to the lowest amount within the range by more than
13 eight percent of the charge on the median amount.

14 3. If the billing cycle is monthly, the charge may not
15 exceed an amount equal to one and one-half percent of that
16 part of the maximum amount pursuant to subsection two (2)
17 of this section which is five hundred dollars or less and
18 one and one-fourth percent of that part of the maximum amount
19 which is more than five hundred dollars. If the billing cycle
20 is not monthly, the maximum charge for the billing cycle shall
21 bear the same relation to the applicable monthly maximum
22 charge as the number of days in the billing cycle bears to
23 three hundred sixty-five divided by twelve. A billing cycle
24 is monthly if the closing date of the cycle is the same date
25 each month or does not vary by more than four days from the
26 regular date.

27 4. If the charge determined pursuant to subsection three
28 (3) of this section is less than fifty cents, a charge may
29 be made which does not exceed fifty cents if the billing cycle
30 is monthly or longer, or the pro rata part of fifty cents
31 which bears the same relation to fifty cents as the number
32 of days in the billing cycle bears to three hundred sixty-
33 five divided by twelve if the billing cycle is shorter than
34 monthly.

35

PART 3

1 CONSUMER LOANS: SUPERVISED LOANS

2 Sec. 2.301. NEW SECTION. AUTHORITY TO MAKE SUPERVISED
3 LOANS.

4 1. As used in this part, "licensing authority" means the
5 agency designated in chapter five hundred twenty-four (524),
6 five hundred thirty-three (533), five hundred thirty-four
7 (534), five hundred thirty-six (536), or five hundred thirty-
8 six A (536A) of the Code to issue licenses or otherwise
9 authorize the conduct of business pursuant to the respective
10 chapter or this Act, and "licensee" includes any person subject
11 to regulation by a licensing authority. "License" includes
12 the authorization, of whatever form, to engage in the conduct
13 regulated under those chapters.

14 2. A person who is not authorized to make supervised loans
15 as provided herein shall not engage in the business of making
16 supervised loans or undertaking direct collection of pay-
17 ments from or enforcement of rights against consumers arising
18 from supervised loans, but he may collect and enforce for
19 three months without a license if he promptly applies for
20 a license and his application has not been denied.

21 3. The following persons are authorized to make super-
22 vised loans:

23 a. A person which is a supervised financial organization.

24 b. A person which has obtained a license pursuant to
25 either chapter five hundred thirty-six (536) or five hun-
26 dred thirty-six A (536A) of the Code.

27 c. A person which enters into less than ten supervised
28 loans per year in this state and has neither an office phy-
29 sically located in this state nor engages in face to face
30 solicitation in this state.

31 4. This section shall not affect dollar amount, purpose,
32 or rate of finance charge restrictions imposed by any statute
33 of this state or of the United States with respect to which
34 a person is authorized to make loans at a rate of finance
35 charge in excess of that permitted by chapter five hundred

1 thirty-five (535) of the Code or pursuant to which a person
2 is licensed.

3 Sec. 2.302. Reserved for future use.

4 Sec. 2.303. NEW SECTION. REVOCATION OR SUSPENSION OF
5 LICENSE.

6 1. The licensing authority may issue to a person subject
7 to regulation by that authority an order to show cause why
8 the person's license with respect to one or more specific
9 places of business should not be suspended for a period not
10 in excess of six months, or revoked. The order shall set
11 the place for a hearing and set a time for the hearing that
12 is not less than ten days from the date of the order. After
13 the hearing, if the licensing authority finds that the licensee
14 has intentionally violated this Act, or any rule or order
15 made pursuant to law, including an order of discontinuance,
16 or if facts or conditions exist which would clearly have
17 justified the licensing authority in refusing to grant a
18 license for that place or those places of business had these
19 facts or conditions been known to exist at the time the
20 application for the license was made, he shall revoke or
21 suspend the license or, if there are mitigating circumstances,
22 may accept an assurance of discontinuance as provided in
23 section six point one hundred nine (6.109) of this Act, and
24 allow retention of the license.

25 2. No revocation or suspension of a license is lawful
26 unless prior to institution of proceedings by the licensing
27 authority notice is given to the licensee of the facts or
28 conduct which warrant the intended action, and the licensee
29 is given an opportunity to show compliance with all lawful
30 requirements for retention of the license.

31 3. If the licensing authority finds that probable cause
32 for revocation of a license exists and that enforcement of
33 the law requires immediate suspension of the license pending
34 investigation, he may, after a hearing upon five days' written
35 notice, enter an order suspending the license for not more

1 than thirty days.

2 4. Whenever the licensing authority revokes or suspends
3 a license, he shall enter an order to that effect and forthwith
4 notify the licensee of the revocation or suspension. With-
5 in five days after the entry of the order he shall deliver
6 to the licensee a copy of the order and the findings support-
7 ing the order.

8 5. Any person holding a license to make supervised loans
9 may relinquish the license by notifying the licensing authority
10 in writing of its relinquishment, but this relinquishment
11 does not affect his liability for acts previously committed.

12 6. No revocation, suspension, or relinquishment of a li-
13 cense impairs or affects the obligation of any preexisting
14 lawful contract between the licensee and any consumer.

15 7. The licensing authority may reinstate a license,
16 terminate a suspension, or grant a new license to a person
17 whose license has been revoked or suspended if no fact or
18 condition then exists which clearly would justify the licensing
19 authority in refusing to grant a license.

20 Sec. 2.304. NEW SECTION. RECORDS--ANNUAL REPORTS.

21 1. Every licensee shall maintain records in conformity
22 with generally accepted accounting principles and practices
23 in a manner that will enable the licensing authority to
24 determine whether the licensee is complying with the provisions
25 of law. The record keeping system of a licensee is sufficient
26 if he makes the required information reasonably available.
27 The records need not be kept in the place of business where
28 supervised loans are made, if the licensing authority is given
29 free access to the records wherever located.

30 2. On or before April fifteenth each year every licensee
31 shall file with the licensing authority a composite annual
32 report in the form prescribed by that authority relating to
33 all supervised loans made by him. The licensing authority
34 shall consult with comparable officials in other states for
35 the purpose of making the kinds of information required in

1 annual reports uniform among the states. Information contained
2 in annual reports shall be confidential and may be published
3 only in composite form. The licensing authority shall assess
4 against a licensee who fails to file the prescribed report
5 on or before April fifteenth a penalty of ten dollars for
6 each day the report is overdue, up to a maximum of thirty
7 days. When an annual report is overdue for more than thirty
8 days, the licensing authority may institute proceedings under
9 section two point three hundred three (2.303) of this Act
10 for revocation of the licenses held by the licensee.

11 Sec. 2.305. NEW SECTION. EXAMINATIONS AND INVESTIGA-
12 TIONS.

13 1. For the purpose of discovering violations of this Act
14 or securing information lawfully required, the licensing
15 authority shall examine periodically at intervals he deems
16 appropriate, but not less than annually, the loans, business,
17 and records of every licensee, except a licensee which has
18 no office physically located in this state and engages in
19 no face to face solicitation in this state. In addition,
20 the licensing authority may at any time investigate the loans,
21 business, and records of any lender. For these purposes the
22 licensing authority shall be given free and reasonable access
23 to the offices, places of business, and records of the lender.

24 2. If the lender's records are located outside this state,
25 the lender at his option shall make them available to the
26 licensing authority at a convenient location within this
27 state, or pay the reasonable and necessary expenses for the
28 licensing authority or his representative to examine them
29 at the place where they are maintained. The licensing
30 authority may designate representatives, including comparable
31 officials of the state in which the records are located, to
32 inspect them on his behalf.

33 3. For the purposes of this section, the licensing
34 authority may administer oaths or affirmations, and upon his
35 own motion or upon request of any party may subpoena witnesses,

1 compel their attendance, adduce evidence, and require the
2 production of any matter which is relevant to the investi-
3 gation, including the existence, description, nature, custody,
4 condition, and location of any books, documents, or other
5 tangible things and the identity and location of persons hav-
6 ing knowledge of relevant facts, or any other matter reason-
7 ably calculated to lead to the discovery of admissible evi-
8 dence.

9 4. Upon failure without lawful excuse to obey a subpoena
10 or to give testimony and upon reasonable notice to all per-
11 sons affected thereby, the licensing authority may apply to
12 the district court for an order compelling compliance.

13 Sec. 2.306. Reserved for future use.

14 Sec. 2.307. NEW SECTION. RESTRICTIONS ON INTEREST IN
15 LAND AS SECURITY. With respect to a supervised loan in which
16 the rate of finance charge is in excess of fifteen percent
17 computed according to the actuarial method, and the amount
18 financed is two thousand dollars or less, a lender may not
19 contract for a security interest in real property used as
20 a residence for the consumer or his dependents. A security
21 interest taken in violation of this section is void.

22 Sec. 2.308. NEW SECTION. REGULAR SCHEDULE OF PAYMENTS-
23 -MAXIMUM LOAN TERM. Supervised loans, not made pursuant to
24 open end credit and in which the amount financed is one
25 thousand dollars or less, shall be scheduled to be payable
26 in substantially equal installments at substantially equal
27 periodic intervals except to the extent that the schedule
28 of payments is adjusted to the seasonal or irregular income
29 of the debtor, and over a period of not more than thirty-seven
30 months if the amount financed is more than three hundred
31 dollars, or over a period of not more than twenty-five months
32 if the amount financed is three hundred dollars or less.

33 Sec. 2.309. NEW SECTION. NO OTHER BUSINESS FOR PURPOSE
34 OF EVASION. A lender may not carry on other business for
35 the purpose of evasion or violation of this Act at a location

1 where he makes supervised loans.

2 Sec. 2.310. NEW SECTION. CONDUCT OF BUSINESS OTHER THAN
3 MAKING LOANS.

4 1. Except as provided in subsection two (2) of this sec-
5 tion, a licensee authorized to make supervised loans pur-
6 suant to section two point three hundred one (2.301) of this
7 Act may not engage in the business of selling or leasing
8 tangible goods at a location where supervised loans are made.
9 In this section, "location" means the entire space in which
10 supervised loans are made and the location must be separated
11 from any space where goods are sold or leased by walls which
12 may be broken only by a passageway to which the public is
13 not admitted.

14 2. This section does not apply to:

15 a. Occasional sales of property used in the ordinary
16 course of business of the licensee.

17 b. Sales of items of collateral of which the licensee
18 has taken possession.

19 c. Sales of items by a licensee who is also authorized
20 by law to operate as a pawnbroker.

21 PART 4

22 CONSUMER LOANS: MAXIMUM FINANCE CHARGES

23 Sec. 2.401. NEW SECTION. FINANCE CHARGE FOR CONSUMER
24 LOANS NOT PURSUANT TO OPEN END CREDIT.

25 1. Except as provided with respect to a finance charge
26 for loans pursuant to open end credit under section two point
27 four hundred two (2.402) of this Act, a lender may contract
28 for and receive a finance charge not exceeding the maximum
29 charge permitted by the laws of this state or of the United
30 States for similar lenders, and, in addition, with respect
31 to a consumer loan not secured by a first lien on a dwelling
32 of the debtor given to finance the acquisition of that
33 dwelling, a supervised financial organization other than an
34 organization authorized by the laws of this state or the
35 United States to transact business in this state as a credit

1 union may contract for and receive a finance charge, calculated
2 according to the actuarial method, not exceeding fifteen
3 percent per year on the unpaid balance of the amount financed.

4 2. This section does not limit or restrict the manner
5 of calculating the finance charge, whether by way of add-on,
6 discount, or otherwise, so long as the rate of the finance
7 charge does not exceed that permitted by this section or the
8 laws of this state or of the United States. The finance
9 charge permitted by this section or the laws of this state
10 or of the United States may be calculated by determining the
11 single annual percentage rate as required to be disclosed
12 to the consumer pursuant to section three point two hundred
13 one (3.201) of this Act which, when applied according to the
14 actuarial method to the unpaid balances of the amount financed,
15 will yield the finance charge for that transaction which would
16 result from applying any graduated rates permitted by this
17 section or the laws of this state or of the United States
18 to the transaction on the assumption that all scheduled
19 payments will be made when due. If the loan is a precomputed
20 consumer credit transaction, the finance charge may be
21 calculated on the assumption that all scheduled payments will
22 be made when due, and the effect of prepayment is governed
23 by section two point five hundred ten (2.510) of this Act.

24 3. Except as provided in subsection six (6) of this
25 section, the term of a loan for the purposes of this section
26 commences on the date the loan is made. Any month may be
27 counted as one-twelfth of a year but a day is counted as one-
28 three hundred sixty-fifth of a year. Subject to
29 classifications and differentiations the lender may reasonably
30 establish, a part of a month in excess of fifteen days may
31 be treated as a full month if periods of fifteen days or less
32 are disregarded and that procedure is not consistently used
33 to obtain a greater yield than would otherwise be permitted.
34 The administrator may adopt rules not inconsistent with the
35 Truth in Lending Act with respect to treating as regular other

1 minor irregularities in amount or time.

2 4. Subject to classifications and differentiations the
3 lender may reasonably establish, he may make the same finance
4 charge on all amounts financed within a specified range.

5 A finance charge so made does not violate subsection one
6 (1) of this section, if both of the following are applicable:

7 a. When applied to the median amount within each range,
8 it does not exceed the maximum permitted by that subsection.

9 b. When applied to the lowest amount within each range,
10 it does not produce a rate of finance charge exceeding the
11 rate calculated according to paragraph a of this subsection
12 by more than eight percent of the rate calculated according
13 to paragraph a of this subsection.

14 5. With respect to an insurance premium loan, the term
15 of the loan commences on the earliest inception date of a
16 policy or contract of insurance for which the premium is
17 financed.

18 Sec. 2.402. NEW SECTION. FINANCE CHARGE FOR CONSUMER
19 LOANS PURSUANT TO OPEN END CREDIT.

20 1. If authorized to make supervised loans, a creditor
21 other than an organization authorized by the laws of this
22 state or of the United States to transact business in this
23 state as a credit union may contract for and receive a finance
24 charge with respect to a loan pursuant to open end credit
25 not exceeding that permitted in this section.

26 2. For each billing cycle, a charge may be made which
27 is a percentage of an amount not exceeding the greatest of
28 the following:

29 a. The average daily balance of the open end account in
30 the billing cycle for which the charge is made, which is the
31 sum of the amount unpaid each day during that cycle, divided
32 by the number of days in that cycle. The amount unpaid on
33 a day is determined by adding to the balance, if any, unpaid
34 as of the beginning of that day all purchases and other debits
35 and deducting all payments and other credits made or received

1 as of that day.

2 b. The balance of the open end account at the beginning
3 of the first day of the billing cycle, after deducting all
4 payments and credits made in the cycle except credits attri-
5 butable to purchases charged to the account during the cycle.

6 c. The median amount within a specified range including
7 the balance of the open end account not exceeding that per-
8 mitted by paragraph a or b of this subsection. A charge may
9 be made pursuant to this paragraph only if the organization,
10 subject to classifications and differentiations it may rea-
11 sonably establish, makes the same charge on all balances with-
12 in the specified range and if the percentage when applied
13 to the median amount within the range does not produce a
14 charge exceeding the charge resulting from applying that
15 percentage to the lowest amount within the range by more than
16 eight percent of the charge on the median amount.

17 3. If the billing cycle is monthly, the charge may not
18 exceed an amount equal to one and one-half percent of that
19 part of the maximum amount pursuant to subsection two (2)
20 of this section which is five hundred dollars or less and
21 one and one-fourth percent of that part of the maximum amount
22 which is more than five hundred dollars. If the billing cycle
23 is not monthly, the maximum charge for the billing cycle shall
24 bear the same relation to the applicable monthly maximum
25 charge as the number of days in the billing cycle bears to
26 three hundred sixty-five divided by twelve. A billing cycle
27 is monthly if the closing date of the cycle is the same date
28 each month or does not vary by more than four days from the
29 regular date.

30 4. If the charge determined pursuant to subsection three
31 (3) of this section is less than fifty cents, a charge may
32 be made which does not exceed fifty cents if the billing cycle
33 is monthly or longer, or the pro rata part of fifty cents
34 which bears the same relation to fifty cents as the number
35 of days in the billing cycle bears to three hundred sixty-

1 five divided by twelve if the billing cycle is shorter than
2 monthly.

3 PART 5

4 CONSUMER CREDIT TRANSACTIONS:

5 OTHER CHARGES AND MODIFICATIONS

6 Sec. 2.501. NEW SECTION. ADDITIONAL CHARGES.

7 1. In addition to the finance charge permitted by parts
8 two (2) and four (4) of this article, a creditor may contract
9 for and receive the following additional charges:

10 a. Official fees and taxes.

11 b. Charges for insurance as described in subsection two
12 (2) of this section.

13 c. Amounts actually paid or to be paid by the creditor
14 for registration, certificate of title, or license fees.

15 d. Annual charges, payable in advance, for the privilege
16 of using a credit card which entitles the cardholder to
17 purchase or lease goods or services from at least one hundred
18 persons not related to the card issuer, under an arrangement
19 pursuant to which the debts resulting from the purchases or
20 leases are payable to the card issuer.

21 e. With respect to a debt secured by an interest in land,
22 the following "closing costs," provided they are bona fide,
23 reasonable in amount, and not for the purpose of circumvention
24 or evasion of this Act:

25 (1) Fees or premiums for title examination, abstract of
26 title, title insurance, or similar purposes including surveys.

27 (2) Fees for preparation of a deed, settlement statement,
28 or other documents, if not paid to the creditor or a person
29 related to the creditor.

30 (3) Escrows for future payments of taxes, including assess-
31 ments for improvements, insurance and water, sewer and land
32 rents.

33 (4) Fees for notarizing deeds and other documents, if
34 not paid to the creditor or a person related to the creditor.

35 f. Charges for other benefits, including insurance, con-

1 ferred on the consumer, if the benefits are of value to him
2 and if the charges are reasonable in relation to the bene-
3 fits, are of a type which is not for credit, and are authorized
4 as permissible additional charges by rule adopted by the
5 administrator.

6 2. An additional charge may be made for insurance written
7 in connection with the transaction, as follows:

8 a. With respect to insurance against loss of or damage
9 to property, or against liability arising out of the ownership
10 or use of property, if the creditor furnishes a clear,
11 conspicuous and specific statement in writing to the consumer
12 setting forth the cost of the insurance if obtained from or
13 through the creditor and stating that the consumer may choose
14 the person through whom the insurance is to be obtained.

15 b. With respect to consumer credit insurance providing
16 life, accident, or health coverage, if the insurance cover-
17 age is not required by the creditor, and this fact is clearly
18 and conspicuously disclosed in writing to the consumer, and
19 if, in order to obtain the insurance in connection with the
20 extension of credit, the consumer gives specific dated and
21 separately signed affirmative written indication of his desire
22 to do so after written disclosure to him of the cost.

23 Sec. 2.502. NEW SECTION. DELINQUENCY CHARGES.

24 1. With respect to a precomputed consumer credit trans-
25 action, the parties may contract for a delinquency charge
26 on any installment not paid in full within ten days after
27 its due date, as originally scheduled or as deferred, in an
28 amount not exceeding the greater of either of the following:

29 a. One and one-half percent of the unpaid amount of the
30 installment, or a maximum of five dollars.

31 b. The deferral charge that would be permitted to defer
32 the unpaid amount of the installment for the period that it
33 is delinquent.

34 2. A delinquency charge under paragraph a of subsection
35 one (1) of this section may be collected only once on an

1 installment however long it remains in default. No delin-
2 quency charge may be collected with respect to a deferred
3 installment unless the installment is not paid in full within
4 ten days after its deferred due date. A delinquency charge
5 may be collected at the time it accrues or at any time
6 afterward.

7 3. No delinquency charge may be collected under para-
8 graph a of subsection one (1) of this section on an install-
9 ment which is paid in full within ten days after its scheduled
10 or deferred installment due date even though an earlier ma-
11 turing installment or a delinquency or deferral charge on
12 an earlier installment may not have been paid in full. For
13 purposes of this subsection payments are applied first to
14 current installments and then to delinquent installments.

15 Sec. 2.503. NEW SECTION. DEFERRAL CHARGES.

16 1. Before or after default in payment of a scheduled
17 installment of a precomputed consumer credit transaction,
18 the parties to the transaction may agree in writing to a de-
19 ferral of all or part of one or more unpaid installments and
20 the creditor may make at the time of deferral and receive
21 at that time or at any time thereafter a deferral charge which
22 is not in excess of one and one-half percent per month for
23 the period of time for which it is deferred, but not to exceed
24 the rate of finance charge which was required to be disclosed
25 in the transaction to the consumer pursuant to section three
26 point two hundred one (3.201) of this Act applied to each
27 amount deferred for the period for which it is deferred.
28 In computing a deferral charge for one or more months, any
29 month may be counted as one-twelfth of a year and in computing
30 a deferral charge for part of a month, a day shall be counted
31 as one three hundred sixty-fifth of a year.

32 2. In addition to the deferral charge permitted by this
33 section, a creditor may make and receive appropriate additional
34 charges as permitted under section two point five hundred
35 one (2.501) of this Act, and the amount of these charges which

1 is not paid may be added to the amount deferred for the purpose
2 of computing the deferral charge according to subsection one
3 (1) of this section.

4 3. The parties may agree in writing at the time of a pre-
5 computed consumer credit transaction that if an installment
6 is not paid within ten days after its due date, the creditor
7 may unilaterally grant a deferral and make charges as pro-
8 vided in this section. No deferral charge may be made for
9 a period after the date that the creditor elects to accelerate
10 the maturity of the transaction.

11 4. A delinquency charge made by the creditor on an
12 installment may not be retained if a deferral charge is made
13 pursuant to this section with respect to the period of
14 delinquency.

15 Sec. 2.504. NEW SECTION. FINANCE CHARGE ON REFINANCING.
16 With respect to a consumer credit transaction in which the
17 rate of finance charge required to be disclosed in the trans-
18 action pursuant to section three point two hundred one (3.201)
19 of this Act does not exceed eighteen percent per year, other
20 than a consumer lease, the creditor may, by agreement with
21 the consumer, refinance the unpaid balance and may contract
22 for and receive a finance charge based on the amount financed
23 resulting from the refinancing at a rate not exceeding that
24 permitted by the provisions on finance charge for consumer
25 credit sales other than open end credit in section two point
26 two hundred one (2.201) of this Act if a consumer credit sale
27 is refinanced, the provisions on finance charge for a consumer
28 loan other than a supervised loan in section two point four
29 hundred one (2.401), subsection one (1) of this Act, or the
30 provisions on finance charge for a supervised loan not pursuant
31 to open end credit in section two point four hundred one
32 (2.401), subsection two (2) of this Act, as applicable, if
33 a consumer loan is refinanced. With respect to a consumer
34 credit transaction in which the rate of finance charge required
35 to be disclosed in the transaction to the consumer pursuant

1 to section three point two hundred one (3.201) of this Act
2 exceeds eighteen percent per year, other than a consumer
3 lease, the creditor may by agreement with the consumer,
4 refinance the unpaid balance and may contract for and receive
5 a finance charge based on the amount financed resulting from
6 the refinancing at a rate of finance charge not to exceed
7 that which was required to be disclosed in the original
8 transaction to the consumer pursuant to section three point
9 two hundred one (3.201) of this Act. For the purpose of
10 determining the finance charge permitted, the amount financed
11 resulting from the refinancing consists of:

12 1. If the transaction was not precomputed, the total of
13 the unpaid balance of the amount financed and the accrued
14 charges, including finance charges, on the date of the re-
15 financing, or, if the transaction was precomputed, the amount
16 determined by deducting the unearned portion of the finance
17 charge and any other unearned charges, including charges for
18 insurance or deferral charges, from the unpaid balance on
19 the date of refinancing. For the purposes of this section,
20 the unearned portion of the finance charge and deferral charge,
21 if any, shall be determined as provided in section two point
22 five hundred ten (2.510), subsection two (2) of this Act,
23 but without allowing any minimum charge.

24 2. Appropriate additional charges as permitted under
25 section two point five hundred one (2.501) of this Act, pay-
26 ment of which is deferred.

27 Sec. 2.505. NEW SECTION. FINANCE CHARGE ON CONSOLIDA-
28 TION.

29 1. In this section, "consumer credit transaction" does
30 not include a consumer lease.

31 2. If a consumer owes an unpaid balance to a creditor
32 with respect to a consumer credit transaction and becomes
33 obligated on another consumer credit transaction with the
34 same creditor, the parties may agree to a consolidation re-
35 sulting in a single schedule of payments. If the previous

1 consumer credit transaction was not precomputed, the parties
2 may agree to add the unpaid amount of the amount financed
3 and accrued charges including finance charges on the date
4 of consolidation to the amount financed with respect to the
5 subsequent consumer credit transaction. If the previous
6 consumer credit transaction was precomputed, the parties may
7 agree to refinance the unpaid balance pursuant to section
8 two point five hundred four (2.504) of this Act, and to
9 consolidate the amount financed resulting from the refinancing
10 by adding it to the amount financed with respect to the subse-
11 quent consumer credit transaction. In either case the cred-
12 itor may contract for and receive a finance charge as pro-
13 vided in subsection three (3) of this section, based on the
14 aggregate amount financed resulting from the consolidation.

15 3. If all debts consolidated arise exclusively from con-
16 sumer loans, the creditor may contract for and receive the
17 finance charge permitted by the provisions on finance charge
18 for consumer loans pursuant to section two point four hundred
19 one (2.401) of this Act. If the debts consolidated include
20 a debt arising from a consumer credit sale, including a trans-
21 action pursuant to a lender credit card, the amount of the
22 finance charge is governed by the provisions on finance charge
23 for consumer credit sales in section two point two hundred
24 one (2.201) of this Act.

25 4. If a consumer owes an unpaid balance to a creditor
26 with respect to a consumer credit transaction arising out
27 of a consumer credit sale, and becomes obligated on another
28 consumer credit transaction arising out of another consumer
29 credit sale by the same seller, the parties may agree to a
30 consolidation resulting in a single schedule of payments
31 either pursuant to subsection two (2) of this section or by
32 adding together the unpaid balances with respect to the two
33 sales.

34 Sec. 2.506. NEW SECTION. ADVANCES TO PERFORM COVENANTS
35 OF CONSUMER.

1 1. If the agreement with respect to a consumer credit
2 transaction other than a consumer lease contains covenants
3 by the consumer to perform certain duties pertaining to
4 insuring or preserving collateral and the creditor pursuant
5 to the agreement pays for performance of the duties on behalf
6 of the consumer, he may add the amounts paid to the debt.
7 Within a reasonable time after advancing any sums, he shall
8 state to the consumer in writing the amount of the sums
9 advanced, any charges with respect to this amount, and any
10 revised payment schedule and, if the duties of the consumer
11 performed by the creditor pertain to insurance, a brief
12 description of the insurance paid for by the creditor including
13 the type and amount of coverages. No further information
14 need be given.

15 2. A finance charge may be made for sums advanced pur-
16 suant to subsection one (1) of this section at a rate not
17 exceeding the rate of finance charge required to be stated
18 to the consumer pursuant to law in the disclosure statement
19 required by this Act and the Truth in Lending Act, except
20 that with respect to open end credit the amount of the advance
21 may be added to the unpaid balance of the debt and the creditor
22 may make a finance charge not exceeding that permitted by
23 section two point two hundred two (2.202) or two point four
24 hundred two (2.402) of this Act, as applicable.

25 Sec. 2.507. NEW SECTION. ATTORNEY'S FEES. With respect
26 to a consumer credit transaction, the agreement may not provide
27 for the payment by the consumer of attorney's fees. A pro-
28 vision in violation of this subsection is unenforceable.

29 Sec. 2.508. NEW SECTION. CONVERSION TO OPEN END CREDIT.
30 The parties may agree at or within ten days prior to the time
31 of conversion to add the unpaid balance of a consumer credit
32 transaction, other than a consumer lease, not made pursuant
33 to open end credit to the consumer's open end credit account
34 with the creditor. The unpaid balance so added is an amount
35 equal to the amount financed determined according to the

1 provisions on finance charge on refinancing under section
2 two point five hundred four (2.504) of this Act.

3 Sec. 2.509. NEW SECTION. RIGHT TO PREPAY. Subject to
4 the provisions on prepayment and minimum charge under section
5 two point five hundred ten (2.510) of this Act, the consumer
6 may prepay in full the unpaid balance of a consumer credit
7 transaction, other than a consumer lease, at any time.

8 Sec. 2.510. NEW SECTION. REBATE UPON PREPAYMENT.

9 1. Except as provided in this section, upon prepayment
10 in full of a precomputed consumer credit transaction, the
11 creditor shall rebate to the consumer an amount not less than
12 the amount of rebate provided in paragraph a of subsection
13 two (2) of this section, or redetermine the earned finance
14 charge as provided in paragraph b of subsection two (2) of
15 this section, and rebate any other unearned charges includ-
16 ing charges for insurance. If the rebate otherwise required
17 is less than one dollar, no rebate need be made.

18 2. The amount of rebate and the redetermined earned fi-
19 nance charge shall be as follows:

20 a. The amount of rebate shall be determined by apply-
21 ing the rate of finance charge which was required to be dis-
22 closed in the transaction pursuant to section three point
23 two hundred one (3.201) of this Act, according to the actuarial
24 method,

25 (1) If no deferral charges have been made in a transac-
26 tion, to the unpaid balances and time remaining as originally
27 scheduled for the period following prepayment.

28 (2) If a deferral charge has been made, to the unpaid
29 balances and time remaining as deferred for the period
30 following prepayment.

31 The time remaining for the period following prepayment
32 shall be either the full days following the prepayment; or
33 both the full days, counting the date of prepayment, between
34 the prepayment date and the end of the computational period
35 in which the prepayment occurs, and the full computational

1 periods following the date of prepayment to the scheduled
2 due date of the final installment of the transaction.

3 b. The redetermined earned finance charge shall be de-
4 termined by applying, according to the actuarial method, the
5 rate of finance charge which was required to be disclosed
6 in the transaction pursuant to section three point two hun-
7 dred one (3.201) of this Act to the actual unpaid balances
8 of the amount financed for the actual time the unpaid balances
9 were outstanding as of the date of prepayment. Any delin-
10 quency or deferral charges collected before the date of pre-
11 payment shall be applied to reduce the amount financed as
12 of the date collected.

13 3. Upon prepayment, but not otherwise, of a consumer
14 credit transaction whether or not precomputed, other than
15 a consumer lease or one pursuant to open end credit:

16 a. If the prepayment is in full, the creditor may col-
17 lect or retain a minimum charge not exceeding five dollars
18 in a transaction which had an amount financed of seventy-five
19 dollars or less, or not exceeding seven dollars and fifty
20 cents in a transaction which had an amount financed of more
21 than seventy-five dollars, if the minimum charge was con-
22 tracted for, and the finance charge earned at the time of
23 prepayment is less than the minimum charge contracted for.

24 b. If the prepayment is in part, the creditor may not
25 collect or retain a minimum charge.

26 4. For the purposes of this section, the following de-
27 fined terms apply:

28 a. "Computational period" means the interval between
29 scheduled due dates of installments under the transaction
30 if the intervals are substantially equal or, if the inter-
31 vals are not substantially equal, one month if the smallest
32 interval between the scheduled due dates of installments under
33 the transaction is one month or more, and otherwise one week.

34 b. The "interval" between specified dates means the in-
35 terval between them including one or the other but not both

1 of them. If the interval between the date of a transaction
2 and the due date of the first scheduled installment does not
3 exceed one month by more than fifteen days when the
4 computational period is one month, or eleven days when the
5 computational period is one week, the interval may be con-
6 sidered by the creditor as one computational period.

7 5. This section does not preclude the collection or re-
8 tention by the creditor of delinquency charges under section
9 two point five hundred two (2.502) of this Act.

10 6. If the maturity is accelerated for any reason and judg-
11 ment is obtained, the consumer is entitled to the same rebate
12 as if payment had been made on the date maturity is
13 accelerated.

14 7. Upon prepayment in full of a precomputed consumer
15 credit transaction by the proceeds of consumer credit
16 insurance, the consumer or his estate is entitled to the same
17 rebate as though the consumer had prepaid the agreement on
18 the date the proceeds of the insurance are paid to the
19 creditor, but no later than ten business days after
20 satisfactory proof of loss is furnished to the creditor.

21 PART 6

22 OTHER CREDIT TRANSACTIONS

23 Sec. 2.601. NEW SECTION. CHARGES FOR OTHER CREDIT
24 TRANSACTIONS.

25 1. Except as provided in subsection two (2) of this
26 section, with respect to a credit transaction other than a
27 consumer credit transaction, the parties may contract for
28 the payment by the debtor of any finance or other charge.
29 Except with respect to debt obligations issued by a govern-
30 ment, governmental agency or instrumentality, in calculating
31 any finance charge contracted for, any month may be counted
32 as one-twelfth of a year, but a day is to be counted as one
33 three-hundred sixty-fifth of a year.

34 2. With respect to a credit transaction which would be
35 a consumer credit transaction if a finance charge were made,

1 a charge for delinquency may not exceed amounts allowed for
2 finance charges for consumer credit sales pursuant to open
3 end credit.

4 ARTICLE 3

5 REGULATION OF AGREEMENTS AND PRACTICES

6 PART 1

7 GENERAL PROVISIONS

8 Sec. 3.101. NEW SECTION. SHORT TITLE. This article shall
9 be known and may be cited as the Iowa Consumer Credit Code-
10 -Regulation of Agreements and Practices.

11 Sec. 3.102. NEW SECTION. SCOPE. Part two (2) of this
12 article applies to disclosure with respect to consumer credit
13 transactions, and the provision in section three point two
14 hundred one (3.201) of this Act applies to a sale of an in-
15 terest in land or a loan secured by an interest in land,
16 without regard to the rate of finance charge, if the sale
17 or loan is otherwise a consumer credit sale or consumer loan.
18 Parts three (3) and four (4) of this article apply,
19 respectively, to disclosure, limitations on agreements and
20 practices, and limitations on consumer's liability with respect
21 to certain consumer credit transactions. Part five (5) applies
22 to home solicitation sales.

23 PART 2

24 DISCLOSURE

25 Sec. 3.201. NEW SECTION. COMPLIANCE WITH TRUTH IN LENDING
26 ACT. A person upon whom the Truth in Lending Act imposes
27 duties or obligations shall make or give to the consumer the
28 disclosures, information and notices required of him by that
29 Act and in all respects shall comply with that Act. To the
30 extent the Truth in Lending Act does not impose duties or
31 obligations upon a person in a credit transaction, other than
32 a consumer lease, which is a consumer credit transaction under
33 this Act, the person shall make or give to the consumer dis-
34 closures, information and notices in accordance with the Truth
35 in Lending Act, with respect to the credit transaction.

1 Sec. 3.202. NEW SECTION. CONSUMER LEASES.

2 1. With respect to a consumer lease the lessor shall give
3 to the consumer the following information:

4 a. Brief description or identification of the goods.

5 b. Amount of any payment required at the inception of
6 the lease.

7 c. Amount paid or payable for official fees, registra-
8 tion, certificate of title, or license fees or taxes.

9 d. Amount of other charges not included in the periodic
10 payments and a brief description of the charges.

11 e. Brief description of insurance to be provided or paid
12 for by the lessor, including the types and amounts of the
13 coverages.

14 f. Except with respect to a consumer lease made pursuant
15 to a lender credit card, the number of periodic payments,
16 the amount of each payment, the due date of the first payment,
17 the due dates of subsequent payments or interval between
18 payments, and the total amount payable by the consumer.

19 g. Statement of the conditions under which the consumer
20 may terminate the lease prior to the end of the term.

21 h. Statement of the liabilities the lease imposes upon
22 the consumer at the end of the term.

23 2. The disclosures required by this section are subject
24 to the following:

25 a. They shall be made clearly and conspicuously in writing,
26 a copy of which shall be delivered to the lessee.

27 b. They may be supplemented by additional information
28 or explanations supplied by the lessor but none shall be
29 stated, utilized or placed so as to mislead or confuse the
30 lessee or contradict, obscure, or detract attention from the
31 information required to be disclosed by this section.

32 c. They need be made only to the extent applicable.

33 d. They shall be made on the assumption that all scheduled
34 payments will be made when due and will comply with this sec-
35 tion, although the assumption may be rendered inaccurate by

1 an act, occurrence, or agreement subsequent to the required
2 disclosure.

3 e. They shall be made before the lease transaction is
4 consummated but may be made in the lease to be signed by the
5 lessee.

6 Sec. 3.203. NEW SECTION. NOTICE TO CONSUMER. The creditor
7 shall give to the consumer a copy of any writing evidencing
8 a consumer credit transaction, other than one pursuant to
9 open end credit, if the writing requires or provides for
10 signature of the consumer. The writing evidencing the
11 consumer's obligation to pay under a consumer credit
12 transaction, other than one pursuant to open end credit, shall
13 contain a clear and conspicuous notice to the consumer that
14 he should not sign it before reading it, that he is entitled
15 to a copy of it, and, except in the case of a consumer lease,
16 that he is entitled to prepay the unpaid balance at any time
17 with such penalty and minimum charges as the agreement and
18 section two point five hundred ten (2.510) of this Act may
19 permit, and may be entitled to receive a refund of unearned
20 charges in accordance with law. The following notices if
21 clear and conspicuous comply with this section:

22 1. In all transactions to which this section applies:
23 NOTICE TO CONSUMER: 1. Do not sign this paper before
24 you read it. 2. You are entitled to a copy of this paper.
25 3. You may prepay the unpaid balance at any time without
26 penalty and may be entitled to receive a refund of unearned
27 charges in accordance with law.

28 2. In addition, in a transaction in which a minimum charge
29 will be collected or retained, the notice to consumer shall
30 state "4. If you prepay the unpaid balance, you may have
31 to pay a minimum charge not greater than seven dollars and
32 fifty cents."

33 Sec. 3.204. NEW SECTION. NOTICE OF ASSIGNMENT. A con-
34 sumer is authorized to pay the original creditor until he
35 receives notification of assignment of rights to payment pur-

1 suant to a consumer credit transaction and that payment is
2 to be made to the assignee. A notification which does not
3 reasonably identify the rights assigned is ineffective. If
4 requested by the consumer, the assignee must seasonably fur-
5 nish reasonable proof that the assignment has been made and
6 unless he does so the consumer may pay the original creditor.

7 Sec. 3.205. NEW SECTION. CHANGE IN TERMS OF OPEN END
8 CREDIT ACCOUNTS.

9 1. Whether or not a change is authorized by prior agree-
10 ment, a creditor may make a change in the terms of an open
11 end credit account applying to any balance whether incurred
12 before or after the effective date of the change. If the
13 change increases the rate of the finance charge or of addi-
14 tional charges, changes the method of determining the balance
15 upon which charges are made so that increased charges may
16 result, or imposes or increases minimum charges, the change
17 is effective with respect to a balance incurred before the
18 effective date of the change only if either the consumer after
19 receiving disclosure of the change agrees to it in writing or
20 the creditor delivers or mails to the consumer two written
21 disclosures of the change, the first at least three months
22 before the effective date of the change and the second at
23 a later time before the effective date of the change.

24 2. A disclosure provided for in subsection one (1) of
25 this section is mailed to the consumer when mailed to him
26 at his address used by the creditor for mailing him periodic
27 billing statements.

28 3. If a creditor attempts to make a change in the terms
29 of an open end credit account without complying with this
30 section, any additional cost or charge to the consumer
31 resulting from the change is an excess charge and is subject
32 to the remedies available to the consumer under section five
33 point two hundred one (5.201) and to the administrator under
34 section six point one hundred thirteen (6.113) of this Act.

35 Sec. 3.206. NEW SECTION. RECEIPT--STATEMENTS OF ACCOUNT--

1 -EVIDENCE OF PAYMENT.

2 1. The creditor shall deliver or mail to the consumer,
3 without request, a written receipt for each payment by coin
4 or currency on an obligation pursuant to a consumer credit
5 transaction. A periodic statement for a computational period
6 showing a payment received by mail complies with this
7 subsection.

8 2. Upon written request of a consumer, the person to whom
9 an obligation is owed pursuant to a consumer credit agreement
10 shall provide a written statement of the dates and amounts
11 of payments made within the twelve months preceding the month
12 in which the request is received and the total amount unpaid
13 as of the end of the period covered by the statement. The
14 statement shall be provided without charge once during each
15 year of the term of the obligation. If additional statements
16 are requested the creditor may charge not in excess of three
17 dollars for each additional statement.

18 3. After a consumer has fulfilled all obligations with
19 respect to a consumer credit transaction, other than one
20 pursuant to open end credit, the person to whom the obligation
21 was owed shall, upon request of the consumer, deliver or mail
22 to the consumer written evidence acknowledging payment in
23 full of all obligations with respect to the transaction.

24 Sec. 3.207. NEW SECTION. FORM OF INSURANCE PREMIUM LOAN
25 AGREEMENT. An agreement pursuant to which an insurance premium
26 loan is made shall contain the names of the insurance agent
27 or broker negotiating each policy or contract and of the
28 insurer issuing each policy or contract, the number and
29 inception date of, and premium for, each policy or contract,
30 the date on which the term of the loan begins, and a clear
31 and conspicuous notice that each policy or contract may be
32 cancelled if payment is not made in accordance with the
33 agreement. If a policy or contract has not been issued when
34 the agreement is signed, the agreement may provide that the
35 insurance agent or broker may insert the appropriate

1 information in the agreement and, if he does so, shall furnish
2 the information promptly in writing to the insured.

3 Sec. 3.208. NEW SECTION. NOTICE TO CO-SIGNERS AND SIMILAR
4 PARTIES.

5 1. No natural person, other than the spouse of the
6 consumer, is obligated as a co-signer, co-maker, guarantor,
7 endorser, surety, or similar party with respect to a consumer
8 credit transaction, unless before or contemporaneously with
9 signing any separate agreement of obligation or any writing
10 setting forth the terms of the debtor's agreement, the person
11 receives a separate written notice that contains a completed
12 identification of the debt he may have to pay and reasonably
13 informs him of his obligation with respect to it.

14 2. A clear and conspicuous notice in substantially the
15 following form complies with this section:

16 NOTICE

17 You agree to pay the debt identified below although you
18 may not personally receive any property, services, or money.
19 You may be sued for payment although the person who receives
20 the property, services, or money is able to pay. This notice
21 is not the contract that obligates you to pay the debt. Read
22 the contract for the exact terms of your obligation.

23 IDENTIFICATION OF DEBT YOU MAY HAVE TO PAY

24 _____

25 (Name of Debtor)

26 _____

27 (Name of Creditor)

28 _____

29 (Date)

30 _____

31 (Kind of Debt)

32 I have received a copy of this notice.

33 _____

34 (Date)

(Signed)

35 3. The notice required by this section need not be given

1 to a seller, lessor, or lender who is obligated to an assignee
2 of his rights.

3 4. A person entitled to notice under this section shall
4 also be given a copy of any writing setting forth the terms
5 of the debtor's agreement and of any separate agreement of
6 obligation signed by the person entitled to the notice.

7 Sec. 3.209. NEW SECTION. ADVERTISING.

8 1. A seller, lessor, or lender shall not advertise, print,
9 display, publish, distribute, utter or broadcast, or cause
10 to be advertised, printed, displayed, published, distributed,
11 uttered or broadcast in any manner, any false, misleading,
12 or deceptive statement or representation with regard to the
13 rates, terms or conditions of credit with respect to a consumer
14 credit transaction.

15 2. Advertising that complies with the Truth in Lending
16 Act does not violate this section.

17 3. This section does not apply to the owner or person-
18 nel, as such, of any medium in which an advertisement appears
19 or through which it is disseminated.

20 Sec. 3.210. NEW SECTION. PROHIBITED STATEMENTS RELATING
21 TO RATES. A creditor shall not state the rate of a finance
22 charge to a consumer, in response to any inquiry, or in any
23 advertisement, in the form of an add-on or discount rate,
24 or in any form other than the rate calculated according to
25 the actuarial method as a percent per year on the unpaid
26 balances of the amount financed, or the annual percentage
27 rate required to be disclosed under the Truth in Lending Act.

28 Sec. 3.211 NEW SECTION. NOTICE OF CONSUMER PAPER. Every
29 note which is a negotiable instrument pursuant to section
30 five hundred fifty-four point three thousand one hundred four
31 (554.3104) of the Code taken in a consumer credit transaction,
32 if the writing requires or provides for a signature of the
33 consumer, shall conspicuously show on its face the following:
34 "This is a consumer credit transaction."

35 PART 3

LIMITATIONS ON AGREEMENTS AND PRACTICES

1 Sec. 3.301. NEW SECTION. SECURITY IN CONSUMER CREDIT
2
3 TRANSACTIONS.

4 1. With respect to a consumer credit sale, a seller may
5 take a security interest in the property sold. In addition,
6 a seller may take a security interest in goods upon which
7 services are performed or in which goods sold are installed
8 or to which they are annexed, or in land to which the goods
9 are affixed or which is maintained, repaired or improved as
10 a result of the sale of the goods or services, if in the case
11 of a security interest in land the amount financed is one thousand
12 dollars or more, or in the case of a security interest in
13 goods if either the amount financed is three hundred dollars
14 or more, or if the goods are household goods, or motor vehicles
15 used by a consumer, his dependents, or the family with which
16 the consumer resides, as transportation to and from a place
17 of employment, one hundred dollars or more. The seller may
18 also take a security interest in property which is itemized
19 in the security agreement, to secure the debt arising from
20 a consumer credit sale primarily for an agricultural purpose.
21 Except as provided with respect to cross-collateral under
22 section three point three hundred two (3.302) of this Act,
23 a seller may not otherwise take a security interest in property
24 to secure the debt arising from a consumer credit sale.

25 2. With respect to a consumer lease other than a lease
26 primarily for an agricultural purpose, a lessor may not take
27 a security interest in property to secure the debt arising
28 from the lease. This subsection does not apply to a security
29 deposit for a consumer lease.

30 3. With respect to a supervised loan, a lender may not
31 take a security interest, other than a purchase money se-
32 curity interest, in the clothing, one dining table and set
33 of chairs, one refrigerator, one heating stove, one cooking
34 stove, one radio, beds and bedding, one couch, two living-
35 room chairs, cooking utensils, or kitchenware used by the

1 consumer, his dependents, or the family with which the con-
2 sumer resides.

3 4. A security interest taken in violation of this sec-
4 tion is void.

5 Sec. 3.302. NEW SECTION. CROSS-COLLATERAL.

6 1. In addition to contracting for a security interest
7 pursuant to the provisions on security in consumer credit
8 transactions under section three point three hundred one
9 (3.301) of this Act, a seller in a consumer credit sale may
10 secure the debt arising from the sale by contracting for a
11 security interest in other property if as a result of a prior
12 sale the seller has an existing security interest in the other
13 property. The seller may also contract for a security interest
14 in the property sold in the subsequent sale as security for
15 the previous debt.

16 2. If the seller contracts for a security interest in
17 other property pursuant to this section, the rate of finance
18 charge thereafter on the aggregate unpaid balances so secured
19 may not exceed that permitted if the balances so secured were
20 consolidated pursuant to the provisions on finance charge
21 on consolidation under section two point five hundred five
22 (2.505) of this Act. The seller has a reasonable time after
23 so contracting to make any adjustments required by this
24 section.

25 Sec. 3.303. NEW SECTION. DEBT SECURED BY CROSS-COLLATERAL.

26 1. If debts arising from two or more consumer credit
27 sales, other than sales primarily for an agricultural purpose
28 or pursuant to open end credit, are secured by cross-collateral
29 or consolidated into one debt payable on a single schedule
30 of payments, and the debt is secured by security interests
31 taken with respect to one or more of the sales, payments
32 received by the seller after the taking of the cross-collateral
33 or the consolidation are deemed, for the purpose of determining
34 the amount of the debt secured by the various security
35 interests, to have been first applied to the payment of the

1 debts arising from the sales first made. To the extent debts
2 are paid according to this section, security interests in
3 items of property terminate as the debt originally incurred
4 with respect to each item is paid.

5 2. Payments received by the seller upon an open end credit
6 account are deemed, for the purpose of determining the amount
7 of the debt secured by the various security interests, to
8 have been applied first to the payment of finance charges
9 in the order of their entry to the account and then to the
10 payment of debts in the order in which the entries to the
11 account showing the debts were made.

12 3. If the debts consolidated arose from two or more sales
13 made on the same day, payments received by the seller are
14 deemed, for the purpose of determining the amount of the debt
15 secured by the various security interests, to have been ap-
16 plied first to the payment of the smallest debt.

17 Sec. 3.304. NEW SECTION. USE OF MULTIPLE AGREEMENTS.

18 1. With respect to a sale or loan other than a supervised
19 loan, a creditor may not use multiple agreements in what is
20 in substance a single transaction, with intent to obtain a
21 higher finance charge than would otherwise be permitted by
22 the provisions of article two (2) of this Act.

23 2. With respect to a supervised loan, a lender may not
24 use multiple agreements with intent to obtain a higher finance
25 charge than would otherwise be permitted. For the purposes
26 of this subsection, multiple agreements are used if a lender
27 allows any person, or husband and wife, to become obligated
28 in any way under more than one loan agreement with the lender
29 or with a person related to the lender.

30 3. The excess amount of finance charge obtained in
31 violation of this section is an excess charge for the purposes
32 of the provisions on rights of parties in section five point
33 two hundred one (5.201) of this Act and the provisions on
34 civil actions by the administrator in section six point one
35 hundred thirteen (6.113) of this Act.

1 Sec. 3.305. NEW SECTION. NO ASSIGNMENT OF EARNINGS.

2 1. A creditor may not take an assignment of earnings of
3 the consumer for payment or as security for payment of a debt
4 arising out of a consumer credit transaction. An assignment
5 of earnings in violation of this section is unenforceable
6 by the assignee of the earnings and revocable by the con-
7 sumer. This section does not prohibit a consumer from
8 authorizing deductions in favor of his creditor if the
9 authorization is revocable, the consumer is given a complete
10 copy of the writing evidencing the authorization at the time
11 he signs it, and the writing contains on its face a conspicuous
12 notice of the consumer's right to revoke the authorization.

13 2. A sale of unpaid earnings made in consideration of
14 the payment of money to or for the account of the seller of
15 the earnings is deemed to be a loan to him secured by an as-
16 signment of earnings.

17 Sec. 3.306. NEW SECTION. AUTHORIZATION TO CONFESS JUDG-
18 MENT PROHIBITED. Unless executed after default on a claim
19 arising out of a consumer credit transaction, authorization
20 for a judgment by confession on that claim pursuant to chap-
21 ter six hundred seventy-six (676) of the Code is void. Any
22 other authorization by a consumer for any person to confess
23 judgment on the claim, whenever executed, is void.

24 Sec. 3.307. NEW SECTION. CERTAIN NEGOTIABLE INSTRUMENTS
25 PROHIBITED. With respect to a consumer credit sale or con-
26 sumer lease, other than a sale or lease primarily for an
27 agricultural purpose, the creditor may not take a negotiable
28 instrument other than a check dated not later than ten days
29 after its issuance as evidence of the obligation of the
30 consumer.

31 Sec. 3.308. NEW SECTION. BALLOON PAYMENTS.

32 1. Except as provided in subsection two (2) of this sec-
33 tion, if any scheduled payment of a consumer credit trans-
34 action is more than twice as large as the average of earlier
35 scheduled payments, the consumer has the right to refinance

1 the amount of that payment at the time it is due without pen-
2 alty, as provided in section two point five hundred four
3 (2.504) of this Act. The terms of the refinancing shall be
4 no less favorable to the consumer than the terms of the orig-
5 inal transaction.

6 2. This section does not apply to any of the following:

7 a. A consumer lease.

8 b. A transaction pursuant to open end credit.

9 c. A transaction primarily for an agricultural purpose.

10 d. A transaction to the extent that the payment schedule
11 is adjusted to the seasonal or irregular income or scheduled
12 payments of obligations of the consumer.

13 e. A transaction of a class defined by rule of the
14 administrator as not requiring for the protection of the
15 consumer his right to refinance as provided in this section.

16 Sec. 3.309. NEW SECTION. REFERRAL SALES AND LEASES.

17 A practice unlawful under section seven hundred thirteen point
18 twenty-four (713.24), subsection two (2), paragraph b, of
19 the Code, if done in connection with a consumer credit sale
20 or consumer lease, is a violation of this Act for which the
21 consumer has a cause of action under section five point two
22 hundred one (5.201), subsection one (1) of this Act. The
23 administrator has all powers granted under article six (6),
24 part one (1) of this Act, to enforce the provisions of section
25 seven hundred thirteen point twenty-four (713.24), subsection
26 two (2), paragraph b of the Code. If a consumer is induced
27 by a violation of section seven hundred thirteen point twenty-
28 four (713.24), subsection two (2), paragraph b of the Code
29 to enter into a consumer credit sale or consumer lease, the
30 agreement is unenforceable by the seller or lessor and the
31 consumer, at his option, in addition to other remedies, may
32 rescind the agreement or retain the goods delivered and the
33 benefit of any services performed, without any obligation
34 to pay for them.

35 Sec. 3.310. NEW SECTION. LIMITATIONS ON EXECUTORY TRANS-

1 ACTIONS.

2 1. In a consumer credit transaction, if performance by
3 a creditor is by delivery of goods, services or both, in four
4 or more installments, either on demand of the consumer or
5 by prearranged scheduled performance, the consumer shall have
6 the right to cancel the obligation with respect to that part
7 which has not been performed on the date of cancellation.

8 2. If the consumer exercises his right to cancel or, in
9 any event, if the creditor attempts to exercise a right to
10 accelerate, the creditor is entitled to recover only that
11 part of the cash price and charges attributable to the part
12 of the creditor's obligation which has been performed.

13 3. Cancellation under this section shall be effective
14 when the consumer mails or delivers a written notice of
15 cancellation.

16 4. Notwithstanding an agreement to the contrary, a creditor
17 may not exercise a right to accelerate beyond the amount set
18 forth in subsection two (2) of this section.

19 Sec. 3.311. NEW SECTION. DISCRIMINATION PROHIBITED.
20 A creditor shall not refuse to enter into a consumer credit
21 transaction or impose finance charges or other terms or con-
22 ditions more onerous than those regularly extended by that
23 creditor to consumers of similar economic backgrounds because
24 of the age, color, creed, national origin, political affilia-
25 tion, race, religion, sex; martial status or disability of
26 the consumer, or because the consumer receives public as-
27 sistance, social security benefits, pension benefits or the
28 like, or because of the exercise by the consumer of rights
29 pursuant to this Act or other provisions of law.

30 PART 4

31 LIMITATIONS ON CONSUMER'S LIABILITY

32 Sec. 3.401. NEW SECTION. RESTRICTION ON LIABILITY IN
33 CONSUMER LEASE. The obligation of a lessee upon expiration
34 of a consumer lease other than one primarily for an
35 agricultural purpose, may not exceed twice the average payment

1 allocable to a monthly period under the lease. This limitation
2 does not apply to charges for damages to the leased property
3 or for other default.

4 Sec. 3.402. NEW SECTION. LIMITATION ON DEFAULT CHARGES.
5 Except for reasonable expenses incurred in realizing on a
6 security interest, the agreement with respect to a consumer
7 credit transaction other than a consumer lease may not provide
8 for any charges as a result of default by the consumer other
9 than those authorized by this Act. A provision in violation
10 of this section is unenforceable.

11 Sec. 3.403. NEW SECTION. CARD ISSUER SUBJECT TO CLAIMS
12 AND DEFENSES.

13 1. This section neither limits the liability of nor imposes
14 liability on a card issuer as a manufacturer, supplier, seller,
15 or lessor of property or services sold or leased pursuant
16 to the credit card. This section may subject a card issuer
17 to claims and defenses of a cardholder against a seller or
18 lessor arising from sales or leases made pursuant to the
19 credit card.

20 2. A card issuer is subject to claims and defenses of
21 a cardholder against the seller or lessor arising from the
22 sale or lease of property or services by a seller or lessor
23 licensed, franchised, or permitted by the card issuer or a
24 person related to the card issuer to do business under the
25 trade name or designation of the card issuer or a person
26 related to the card issuer, to the extent of the original
27 amount owing to the card issuer with respect to the sale or
28 lease of the property or services as to which the claim or
29 defense arose.

30 3. Except as otherwise provided in subsection two (2)
31 of this section, a card issuer, including a lender credit
32 card issuer, is subject to all claims and defenses of a card-
33 holder against the seller or lessor arising from the sale
34 or lease of property or services pursuant to the credit card
35 only if all of the following apply:

1 a. The original amount owing to the card issuer with
2 respect to the sale or lease of the property or services as
3 to which the claim or defense arose exceeds fifty dollars.

4 b. The residence of the cardholder and the place where
5 the sale or lease occurred are in the same state or within
6 one hundred miles of each other.

7 c. The cardholder has made a good faith attempt to obtain
8 satisfaction from the seller or lessor with respect to the
9 claim or defense.

10 4. Except as otherwise provided in subsection two (2)
11 of this section, a card issuer, including a lender credit
12 card issuer, is subject to claims and defenses only to the
13 extent of the amount owing to the card issuer with respect
14 to the sale or lease of the property or services as to which
15 the claim or defense arose at the time the card issuer has
16 notice of the claim or defense. Notice of the claim or defense
17 may be given prior to the attempt to obtain satisfaction
18 specified in subsection three (3) of this section. Written
19 notice is effective when mailed or delivered.

20 5. For the purpose of determining the amount owing to
21 the card issuer with respect to the sale or lease upon an
22 open end credit account, payments received for the account
23 are deemed to have been first applied to the payment of finance
24 charges in the order of their entry to the account and then
25 to the payment of debts in the order in which the entries
26 of the debts are made to the account.

27 6. Except as provided in section one point one hundred
28 seven (1.107) of this Act, an agreement may not contain a
29 provision to limit or waive the claims or defenses of a
30 cardholder under this section. A provision in violation of
31 this subsection is unenforceable.

32 Sec. 3.404. NEW SECTION. ASSIGNEE SUBJECT TO CLAIMS AND
33 DEFENSES.

34 1. With respect to a consumer credit sale or consumer
35 lease, other than one primarily for an agricultural purpose,

1 an assignee of the rights of the seller or lessor is subject
2 to all claims and defenses of the consumer against the seller
3 or lessor arising from the sale or lease of property or
4 services, notwithstanding that the assignee is a holder in
5 due course of a negotiable instrument issued in violation
6 of the provisions prohibiting certain negotiable instruments
7 in section three point three hundred seven (3.307) of this
8 Act; unless the consumer has agreed in writing not to assert
9 against an assignee a claim or defense arising out of such
10 sale, and the consumer's contract has been assigned to an
11 assignee not related to the seller who acquired the consumer's
12 contract in good faith and for value and who gives the con-
13 sumer notice of the assignment as provided in this subsec-
14 tion and who within thirty days after the mailing of the no-
15 tice receives no written notice of the facts giving rise to
16 the consumer's claim or defense. Such agreement not to as-
17 sert a claim or defense is not valid if the assignee receives
18 such written notice from the consumer within such thirty-day
19 period. The notice of assignment shall be in writing and
20 addressed to the consumer at his address as stated in the
21 contract, identify the contract, describe the property pur-
22 chased by the consumer, state the names of the seller and
23 consumer, the name and address of the assignee, the amount
24 payable by the consumer and the number, amounts and due dates
25 of the installments, and contain a conspicuous notice to the
26 consumer that he has thirty days from the date of the mail-
27 ing of the notice to him within which to notify the assignee
28 in writing of any claims or defenses he may have against the
29 seller and that if written notification of any such claims
30 or defenses is not received by the assignee within such thirty-
31 day period, the assignee will have the right to enforce the
32 contract free of any claims or defenses the consumer may have
33 against the seller. An assignee does not acquire a consumer's
34 contract in good faith within the meaning of this subsection
35 if the assignee has knowledge or, from his course of dealing

1 with the seller or his records, notice of substantial
2 complaints by other consumers of the seller's failure or re-
3 fusal to perform his contracts with them and of the seller's
4 failure to remedy his defaults within a easonable time after
5 the assignee notifies him of the complaints.

6 2. A claim or defense of a consumer specified in subsection
7 one (1) of this section may be asserted against the assignee
8 under this section only if the consumer has made a good faith
9 attempt to obtain satisfaction from the seller or lessor with
10 respect to the claim or defense, and only to the extent of
11 the amount owing to the assignee with respect to the sale
12 or lease of the property or services as to which the claim
13 or defense arose, at the time the assignee has notice of the
14 claim or defense. Notice of the claim or defense may be
15 given prior to the attempt specified in this subsection.
16 Written notice is effective when mailed or delivered.

17 3. For the purpose of determining the amount owing to
18 the assignee with respect to the sale or lease:

19 a. Payments received by the assignee after the
20 consolidation of two or more consumer credit sales, other
21 than pursuant to open end credit, are deemed to have been
22 first applied to the payment of the sales first made, and
23 if the sales consolidated arose from sales made on the same
24 day, payments are deemed to have been first applied to the
25 smaller or smallest sale or sales.

26 b. Payments received upon an open end credit account are
27 deemed to have been first applied to the payment of finance
28 charges in the order of their entry to the account and then
29 to the payment of debts in the order in which the entries
30 of the debts are made to the account.

31 4. Except as provided in section one point one hundred
32 seven (1.107) of this Act, an agreement may not contain a
33 provision to limit or waive the claims or defenses of a con-
34 sumer under this section. A provision in violation of this
35 subsection is unenforceable.

1 Sec. 3.405. NEW SECTION. LENDER SUBJECT TO DEFENSES
2 ARISING FROM SALES AND LEASES.

3 1. A lender, other than the issuer of a lender credit
4 card, who, with respect to a particular transaction, makes
5 a consumer loan for the purpose of enabling a consumer to
6 buy or lease from a particular seller or lessor property or
7 services, other than for use primarily for an agricultural
8 purpose, is subject to all claims and defenses of the consumer
9 against the seller or lessor arising from that sale or lease
10 of the property or services if any of the following are
11 applicable:

12 a. The lender knows that the seller or lessor arranged
13 for a commission, brokerage, or referral fee, for the ex-
14 tension of credit by the lender.

15 b. The lender is a person related to the seller or lessor,
16 unless the relationship is remote or is not a factor in the
17 transaction.

18 c. The seller or lessor guarantees the loan or otherwise
19 assumes the risk of loss by the lender upon the loan.

20 d. The lender directly supplies the seller or lessor with
21 the contract document used by the consumer to evidence the
22 loan, and the seller or lessor has knowledge of the credit
23 terms and participates in the preparation of the document.

24 e. The loan is conditioned upon the consumer's purchase
25 or lease of the property or services from the particular
26 seller or lessor, but the lender's payment of proceeds of
27 the loan to the seller or lessor does not in itself establish
28 that the loan was so conditioned.

29 f. The lender otherwise knowingly participates with the
30 seller in the sale. The fact that the lender takes a security
31 interest in property sold in that sale, or makes the proceeds
32 of the loan payable to the seller does not in itself consti-
33 tute knowing participation in the sale.

34 2. A claim or defense of a consumer specified in subsection
35 one (1) of this section may be asserted against the lender

1 under this section only if the consumer has made a good faith
2 attempt to obtain satisfaction from the seller or lessor with
3 respect to the claim or defense and only to the extent of
4 the amount owing to the lender with respect to the sale or
5 lease of the property or services as to which the claim or
6 defense arose at the time the lender has notice of the claim
7 or defense. Notice of the claim or defense may be given prior
8 to the attempt specified in this subsection. Written notice
9 is effective when mailed or delivered.

10 3. For the purpose of determining the amount owing to
11 the lender with respect to the sale or lease:

12 a. Payments received by the lender after the consolidation
13 of two or more consumer loans, other than pursuant to open
14 end credit, are deemed to have been first applied to the
15 payment of the loans first made, and if the loans consolidated
16 arose from loans made on the same day, payments are deemed
17 to have been first applied to the smaller or smallest loan
18 or loans.

19 b. Payments received upon an open end credit account are
20 deemed to have been first applied to the payment of finance
21 charges in the order of their entry to the account and then
22 to the payment of debts in the order in which the entries
23 of the debts are made to the account.

24 4. Except as provided in section one point one hundred
25 seven (1.107) of this Act, an agreement may not contain a
26 provision to limit or waive the claims or defenses of a con-
27 sumer under this section. A provision in violation of this
28 section is unenforceable.

29 PART 5

30 HOME SOLICITATION SALES

31 Sec. 3.501. NEW SECTION. DOOR-TO-DOOR SALES. In a
32 consumer credit sale or a sale in which the goods or services
33 are paid for in whole or in part by a lender credit card or
34 a consumer loan in which the lender is subject to defenses
35 arising from the sale under section three point four hundred

1 five (3.405) of this Act, other than a transaction for an
 2 agricultural purpose, a consumer has, in addition to all the
 3 rights and remedies provided by Acts of the Sixty-fifth General
 4 Assembly, 1973 Session, chapter two hundred ninety-one (291),
 5 a cause of action under section five point two hundred one
 6 (5.201), subsection one (1) of this Act, and the administrator
 7 has all powers granted under article six (6), part one (1)
 8 of this Act, to enforce the provisions of Acts of the Sixty-
 9 fifth General Assembly, 1973 Session, chapter two hundred
 10 ninety-one (291).

11 ARTICLE 4

12 INSURANCE

13 Sec. 4.101. NEW SECTION. SCOPE--EXCESS CHARGES.

14 1. This article applies to insurance provided in rela-
 15 tion to a consumer credit transaction.

16 2. A charge for insurance in excess of the rates promul-
 17 gated by the commissioner of insurance, or otherwise made
 18 in violation of the law, including this Act, or the rules
 19 promulgated by the commissioner of insurance, is an excess
 20 charge for purposes of determining rights of parties under
 21 section five point two hundred one (5.201) of this Act, and
 22 authority of the administrator to bring civil action under
 23 section six point one hundred thirteen (6.113) of this Act.

24 ARTICLE 5

25 REMEDIES AND PENALTIES

26 PART 1

27 LIMITATIONS ON CREDITORS' REMEDIES

28 Sec. 5.101. NEW SECTION. SHORT TITLE. This article shall
 29 be known and may be cited as the Iowa Consumer Credit Code-
 30 -Remedies and Penalties.

31 Sec. 5.102. NEW SECTION. SCOPE. This part applies to
 32 actions or other proceedings to enforce rights arising from
 33 consumer credit transactions, to extortionate or unlawful
 34 extensions of credit, and to unconscionability.

35 Sec. 5.103. NEW SECTION. CREDITOR'S OBLIGATIONS ON

1 REPOSSESSION--RESTRICTION ON DEFICIENCY JUDGMENTS.

2 1. This section applies to a consumer credit sale of goods
3 or services and a consumer loan. A consumer is not liable
4 for a deficiency unless the creditor has disposed of repos-
5 sessed or surrendered goods in good faith and in a commer-
6 cially reasonable manner.

7 2. If the seller repossesses or voluntarily accepts sur-
8 render either of goods which were the subject of the sale
9 and in which he has a security interest, or of goods which
10 were not the subject of the sale but in which he has a se-
11 curity interest to secure a debt arising from a sale of goods
12 or services or a combined sale of goods and services, the
13 seller's duty to dispose of the collateral is governed by
14 the provisions on disposition of collateral in sections five
15 hundred fifty-four point nine thousand five hundred one
16 (554.9501) through five hundred fifty-four point nine thousand
17 five hundred seven (554.9507) of the Code.

18 3. If a lender takes possession or voluntarily accepts
19 surrender of goods in which he has a security interest to
20 secure a debt arising from a consumer loan, the lender's duty
21 to dispose of the collateral is governed by the provisions
22 on disposition of collateral in sections five hundred fifty-
23 four point nine thousand five hundred one (554.9501) through
24 five hundred fifty-four point nine thousand five hundred seven
25 (554.9507) of the Code.

26 Sec. 5.104. NEW SECTION. NO GARNISHMENT BEFORE JUDGMENT.
27 Prior to entry of judgment in an action against the consumer
28 arising from a consumer credit transaction, the creditor may
29 not attach unpaid earnings of the consumer, or earnings
30 deposited in a financial institution by the consumer, by
31 garnishment, attachment, proceedings under chapter six hundred
32 thirty (630) of the Code.

33 Sec. 5.105. NEW SECTION. LIMITATION ON GARNISHMENT.

34 1. For the purposes of this part:

35 a. "Disposable earnings" means that part of the earnings

1 of an individual remaining after the deduction from those
2 earnings of amounts required by law to be withheld.

3 b. "Garnishment" means any legal or equitable procedure
4 through which the earnings of an individual are required to
5 be withheld for payment of a debt.

6 2. In addition to the provisions of section six hundred
7 forty-two point twenty-one (642.21) of the Code, the maximum
8 part of the aggregate disposable earnings of an individual
9 for any workweek which is subjected to garnishment to en-
10 force payment of a judgment arising from a consumer credit
11 transaction may not exceed the lesser of twenty-five percent
12 of his disposable earnings for that week, or the amount by
13 which his disposable earnings for that week exceed forty times
14 the federal minimum hourly wage prescribed by the Fair Labor
15 Standards Act of 1938, United States Code, title twenty-nine
16 (29), section two hundred six (206), subsection a, paragraph
17 one (1), in effect at the time the earnings are payable.

18 In the case of earnings for a pay period other than a week,
19 the administrator shall prescribe by rule a multiple of the
20 federal minimum hourly wage equivalent in effect to that set
21 forth for a pay period of a week.

22 3. No court may make, execute, or enforce an order or
23 process in violation of this section.

24 4. At any time after the entry of a judgment in favor
25 of a creditor in an action against a consumer for debt aris-
26 ing from a consumer credit transaction, the consumer may file
27 with the court his verified application for an order exempt-
28 ing from garnishment pursuant to that judgment for an appro-
29 priate period of time a greater portion or all of his aggre-
30 gate disposable earnings for a workweek or other applicable
31 pay period than is provided for in subsection two (2) of this
32 section. The application shall designate the portion of his
33 earnings which are not exempt from garnishment under this
34 section and other law, shall specify the period of time for
35 which the additional exemption is sought, shall describe the

1 judgment with respect to which the application is made, and
2 shall state that the designated portion in addition to earnings
3 that are exempt by law is necessary for the maintenance of
4 the consumer or a family supported wholly or partly by the
5 earnings. Upon the filing of a sufficient application under
6 this subsection, the court may issue any temporary order
7 staying enforcement of the judgment by garnishment that may
8 be necessary under the circumstances, shall set a hearing
9 on the application not less than five nor more than ten days
10 from the date of the filing of the application, and shall
11 cause notice of the application and the hearing date to be
12 served on the judgment creditor or his attorney of record.
13 At the hearing, if it appears to the court that all or any
14 portion of the earnings sought to be additionally exempted
15 are necessary for the maintenance of the consumer or a family
16 supported wholly or partly by the earnings of the consumer
17 for all or any part of the time requested in the application,
18 the court shall issue an order granting the application to
19 that extent, otherwise it shall deny the application. The
20 order is subject to modification or vacation upon the further
21 application of any party to it upon a showing of changed
22 circumstances after a hearing upon notice to all interested
23 parties.

24 Sec. 5.106. NEW SECTION. NO DISCHARGE FROM EMPLOYMENT
25 FOR GARNISHMENT. The administrator has all powers granted
26 under article six (6), part one (1) of this Act, to enforce
27 the provisions of section six hundred forty-two point twenty-
28 one (642.21) of the Code, in relation to a garnishment arising
29 from a consumer credit transaction.

30 Sec. 5.107. NEW SECTION. EXTORTIONATE OR UNLAWFUL
31 EXTENSIONS OF CREDIT. If it is the understanding of the
32 creditor and the debtor at the time an extension of credit
33 is made that delay in making repayment or failure to make
34 repayment could result in the use of violence or other criminal
35 means to cause harm to the person, reputation, or property

1 of any person, the repayment of the extension of credit is
2 unenforceable through civil judicial processes against the
3 consumer.

4 Sec. 5.108. NEW SECTION. UNCONSCIONABILITY--INDUCEMENT
5 BY UNCONSCIONABLE CONDUCT--UNCONSCIONABLE DEBT COLLECTION.

6 1. With respect to a transaction that is, gives rise to,
7 or leads the debtor to believe it will give rise to a consumer
8 credit transaction, in an action other than a class action,
9 if the court as a matter of law finds the agreement or
10 transaction to have been unconscionable at the time it was
11 made, or to have been induced by unconscionable conduct, the
12 court may refuse to enforce the agreement, or if the court
13 finds any term or part of the agreement or transaction to
14 have been unconscionable at the time it was made, the court
15 may refuse to enforce the agreement, or may enforce the
16 remainder of the agreement without the unconscionable term
17 or part, or may so limit the application of any unconscionable
18 term or part as to avoid any unconscionable result.

19 2. With respect to a consumer credit transaction, or a
20 transaction which would have been a consumer credit trans-
21 action if a finance charge was made or the obligation was
22 payable in installments, if the court as a matter of law finds
23 in an action other than a class action, that a person has
24 engaged in, is engaging in, or is likely to engage in
25 unconscionable conduct in collecting a debt arising from that
26 transaction, the court may grant an injunction and award the
27 consumer any actual damages he has sustained.

28 3. If it is claimed or appears to the court that the
29 agreement or transaction or any term or part of it may be
30 unconscionable, or that a person has engaged in, is engaging
31 in, or is likely to engage in unconscionable conduct in
32 collecting a debt, the parties shall be afforded a reasonable
33 opportunity to present evidence as to the setting, purpose,
34 and effect of the agreement or transaction or term or part
35 thereof, or of the conduct, to aid the court in making the

1 determination.

2 4. In applying subsection one (1) of this section, con-
3 sideration shall be given to each of the following factors,
4 among others, as applicable:

5 a. Belief by the seller, lessor, or lender at the time
6 a transaction is entered into that there is no reasonable
7 probability of payment in full of the obligation by the con-
8 sumer or debtor.

9 b. In the case of a consumer credit sale or consumer
10 lease, knowledge by the seller or lessor at the time of the
11 sale or lease of the inability of the consumer to receive
12 substantial benefits from the property or services sold or
13 leased.

14 c. In the case of a consumer credit sale or consumer
15 lease, gross disparity between the price of the property or
16 services sold or leased and the value of the property or
17 services measured by the price at which similar property or
18 services are readily obtainable in credit transactions by
19 like consumers.

20 d. The fact that the creditor contracted for or received
21 separate charges for insurance with respect to a consumer
22 credit sale or consumer loan with the effect of making the
23 sale or loan, considered as a whole, unconscionable.

24 e. The fact that the seller, lessor, or lender has know-
25 ingly taken advantage of the inability of the consumer or
26 debtor reasonably to protect his interests by reason of
27 physical or mental infirmities, ignorance, illiteracy or in-
28 ability to understand the language of the agreement, or similar
29 factors.

30 f. The fact that the seller, lessor or lender has en-
31 gaged in conduct with knowledge or reason to know that like
32 conduct has been restrained or enjoined by a court in a civil
33 action by the administrator against any person pursuant to
34 the provisions on injunctions against fraudulent or uncon-
35 scionable agreements or conduct in section six point one hun-

1 dred eleven (6.111) of this Act.

2 5. In applying subsection two (2) of this section, vio-
3 lations of section seven point one hundred three (7.103) of
4 this Act shall be considered, among other factors, as ap-
5 plicable.

6 6. If in an action in which unconscionability is claimed
7 the court finds unconscionability pursuant to subsections
8 one (1) or two (2) of this Act, the court shall award
9 reasonable fees to the attorney for the consumer or debtor.
10 If the court does not find unconscionability and the consumer
11 or debtor claiming unconscionability has brought or maintained
12 an action he knew to be groundless, the court shall award
13 reasonable fees to the attorney for the party against whom
14 the claim is made. Reasonable attorney's fees shall be
15 determined by the value of the time reasonably expended by
16 the attorney on the unconscionability issue and not by the
17 amount of the recovery on behalf of the prevailing party.

18 7. The remedies of this section are in addition to remedies
19 otherwise available for the same conduct under law other than
20 this Act, but no double recovery of actual damages may be
21 had.

22 8. For the purpose of this section, a charge or practice
23 expressly permitted by this Act is not in itself unconscion-
24 able.

25 Sec. 5.109. NEW SECTION. DEFAULT. "Default" with re-
26 spect to a consumer credit transaction and for the purposes
27 of this article, means either of the following, if without
28 justification under any law:

29 1. Failure to make a payment within ten days of the time
30 required by agreement.

31 2. Failure to observe any other covenant of the trans-
32 action, breach of which materially impairs the condition,
33 value or protection of or the creditor's right in any col-
34 lateral securing the transaction, or materially impairs the
35 consumer's prospect to pay amounts due under the transaction.

1 The burden of establishing material impairment is on the
2 creditor.

3 Sec. 5.110. NEW SECTION. CURE OF DEFAULT.

4 1. Notwithstanding any term or agreement to the contrary,
5 the obligation of a consumer in a consumer credit transaction
6 is enforceable by a creditor only after compliance with this
7 section.

8 2. A creditor who believes in good faith that a consumer
9 is in default may give the consumer written notice of the
10 alleged default, and, if the consumer has a right to cure
11 the default, shall give the consumer the notice of right to
12 cure provided in section five point one hundred eleven (5.111)
13 of this Act before exercising any right he may have to enforce.

14 3. A consumer has a right to cure the default unless,
15 in other than an insurance premium loan transaction, the
16 creditor has given the consumer a proper notice of right to
17 cure with respect to a prior default which occurred within
18 three hundred sixty-five days of the present default, or the
19 consumer has voluntarily surrendered possession of goods that
20 are collateral and the creditor has accepted them in full
21 satisfaction of any debt owing on the transaction in default.

22 4. If the consumer has a right to cure a default:

23 a. A creditor shall not accelerate the maturity of the
24 unpaid balance of the obligation, demand or take possession
25 of collateral, otherwise than by accepting a voluntary sur-
26 render of it, or otherwise attempt to enforce the obligation
27 until twenty days after a proper notice of right to cure is
28 given.

29 b. With respect to an insurance premium loan, a creditor
30 shall not give notice of cancellation as provided in subsec-
31 tion six (6) of this section until thirteen days after a
32 proper notice of right to cure is given.

33 c. Until the expiration of the minimum applicable period
34 after the notice is given, the consumer may cure the default
35 by tendering either the amount of all unpaid installments

1 due at the time of the tender, without acceleration, plus
2 any unpaid delinquency or deferral charges, or the amount
3 stated in the notice of right to cure, whichever is less,
4 or by tendering any performance necessary to cure any de-
5 fault other than nonpayment of amounts due, which is described
6 in the notice of right to cure. The act of curing a default
7 restores to the consumer his rights under the agreement as
8 though no default had occurred, except as provided in
9 subsection three (3) of this section.

10 5. This section and the provisions on waiver, agreements
11 to forego rights, and settlement of claims under section one
12 point one hundred seven (1.107) of this Act do not prohibit
13 a consumer from voluntarily surrendering possession of goods
14 which are collateral and do not prohibit the creditor from
15 thereafter enforcing his security interest in the goods at
16 any time after default.

17 6. If a default on an insurance premium loan is not cured,
18 the lender may give notice of cancellation of each insurance
19 policy or contract to be cancelled. If given, the notice
20 of cancellation shall be in writing and given to the insurer
21 that issued the policy or contract and to the insured. The
22 insurer, within two business days after receipt of the no-
23 tice of cancellation together with a copy of the insurance
24 premium loan agreement if not previously given to him, shall
25 give any notice of cancellation required by the policy or
26 contract or by law and, within ten business days after the
27 effective date of the cancellation, pay to the lender any
28 premium unearned on the policy or contracts as of that ef-
29 fective date. Within ten business days after receipt of the
30 unearned premium, the lender shall pay to the consumer in-
31 debted upon the insurance premium loan any excess of the
32 unearned premium received over the amount owing by the con-
33 sumer upon the insurance premium loan.

34 Sec. 5.111. NEW SECTION. NOTICE OF RIGHT TO CURE.

35 1. The notice of right to cure shall be in writing and

1 shall conspicuously state the name, address, and telephone
2 number of the creditor to which payment is to be made, a brief
3 identification of the credit transaction and of the consumer's
4 right to cure the default, a statement of the nature of the
5 right to cure the default, a statement of the nature of the
6 alleged default, a statement of the total payment, including
7 an itemization of any delinquency or deferral charges, or
8 other performance necessary to cure the alleged default, and
9 the exact date by which the amount must be paid or performance
10 tendered.

11 2. Except as provided in subsection four (4) of this
12 section, a notice in substantially the following form com-
13 plies with this section:

14 _____
15 (name, address, and telephone number of creditor)

16 _____
17 (account number, if any)

18 _____
19 (brief identification of credit transaction)

20 You are now in default on this credit transaction. You have
21 a right to correct this default until (date) . If you
22 do so, you may continue with the contract as though you did
23 not default. Your default consists of (describe default
24 alleged) . Correction of the Default: Before (date) ,
25 (describe the acts necessary for cure) . If you do not
26 correct your default by the date stated above, we may exer-
27 cise rights against you under the law.

28 If you default again in the next year, we may exercise
29 our rights without sending you another notice like this one.
30 If you have questions, write or telephone (the creditor)
31 promptly.

32 3. A creditor gives notice to the consumer under this
33 part when he delivers the notice to the consumer or mails
34 the notice to him at his residence as defined in section one
35 point two hundred one (1.201), subsection four (4) of this

1 Act.

2 4. If the consumer credit transaction is an insurance
3 premium loan, the notice shall conform to the requirements
4 of subsection two (2) of this section, and a notice in sub-
5 stantially the form specified in that subsection complies
6 with this subsection except for the following:

7 a. In lieu of a brief identification of the credit trans-
8 action, the notice shall identify the transaction as an in-
9 surance premium loan and each insurance policy or contract
10 that may be cancelled.

11 b. In lieu of the statement in the form of notice speci-
12 fied in subsection two (2) of this section that the creditor
13 may exercise his rights under the law, the statement that
14 each policy or contract identified in the notice may be can-
15 celled.

16 c. The last paragraph of the form of notice specified
17 in subsection two (2) of this section shall be omitted.

18 Sec. 5.112. Reserved for future use.

19 Sec. 5.113. NEW SECTION. VENUE. An action by a creditor
20 against a consumer arising from a consumer credit transaction
21 shall be brought in the county of the consumer's residence
22 as defined in section one point two hundred one (1.201),
23 subsection four (4) of this Act, unless an action is brought
24 to enforce an interest in land securing the consumer's
25 obligation, in which case the action shall be brought in the
26 county in which the land or a part of it is located. If the
27 county of the consumer's residence has changed, the consumer
28 upon motion may have the action removed to the county of his
29 current residence. If the residence of the consumer is not
30 within this state, the action may be brought in the county
31 in which the sale, lease, or loan was made. If the initial
32 papers offered for filing in the action on their face show
33 noncompliance with this section, they shall not be accepted
34 by the clerk of the court.

35 Sec. 5.114. NEW SECTION. COMPLAINT--PROOF.

1 1. In an action brought by a creditor against a consumer
2 arising from a consumer credit transaction, the complaint
3 shall allege the facts of the consumer's default, the amount
4 to which the creditor is entitled, and an indication of how
5 that amount was determined.

6 2. No default judgment shall be entered in the action
7 in favor of the creditor unless the complaint is verified
8 by the creditor or sworn testimony, by affidavit or other-
9 wise, is adduced showing that the creditor is entitled to
10 the relief demanded.

11 Sec. 5.115. Reserved for future use.

12 PART 2

13 CONSUMERS' REMEDIES

14 Sec. 5.201. NEW SECTION. EFFECT OF VIOLATIONS ON RIGHTS
15 OF PARTIES.

16 1. The consumer has a cause of action to recover actual
17 damages and in addition a right in an action other than a
18 class action to recover from the person violating this Act
19 a penalty in an amount determined by the court not less than
20 one hundred dollars nor more than one thousand dollars, if
21 a creditor has violated the provisions of this Act relating
22 to:

23 a. Authority to make supervised loans under section two
24 point three hundred one (2.301).

25 b. Restrictions on interests in land as security under
26 section two point three hundred seven (2.307).

27 c. Limitations on the schedule of payments or loan terms
28 for supervised loans under section two point three hundred
29 eight (2.308).

30 d. Attorney's fees under section two point five hundred
31 seven (2.507).

32 e. Charges for other credit transactions under section
33 two point six hundred one (2.601).

34 f. Disclosure with respect to consumer leases under sec-
35 tion three point two hundred two (3.202).

- 1 g. Notice to consumers under section three point two hun-
2 dred three (3.203).
- 3 h. Receipts, statements of account and evidences of pay-
4 ment under section three point two hundred six (3.206).
- 5 i. Form of insurance premium loan agreement under sec-
6 tion three point two hundred seven (3.207).
- 7 j. Notice to co-signers and similar parties under section
8 three point two hundred eight (3.208).
- 9 k. Restrictions on rates stated to the consumer under
10 section three point two hundred ten (3.210).
- 11 l. Security in consumer credit transactions under section
12 three point three hundred one (3.301).
- 13 m. Prohibition against assignments of earnings under
14 section three point three hundred five (3.305).
- 15 n. Authorizations to confess judgment under section three
16 point three hundred six (3.306).
- 17 o. Certain negotiable instruments prohibited under sec-
18 tion three point three hundred seven (3.307).
- 19 p. Referral sales and leases under section three point
20 three hundred nine (3.309).
- 21 q. Limitations on executory transactions under section
22 three point three hundred ten (3.310).
- 23 r. Prohibition against discrimination under section three
24 point three hundred eleven (3.311).
- 25 s. Limitations on default charges under section three
26 point four hundred two (3.402).
- 27 t. Card issuer subject to claims and defenses under section
28 three point four hundred three (3.403).
- 29 u. Assignees subject to claims and defenses under section
30 three point four hundred four (3.404).
- 31 v. Lenders subject to claims and defenses arising from
32 sales and leases, under section three point four hundred five
33 (3.405).
- 34 w. Door-to-door sales under section three point five hun-
35 dred one (3.501).

1 x. Assurance of discontinuance under section six point
2 one hundred nine (6.109).

3 y. Prohibitions against unfair debt collection practices
4 under section seven point one hundred three (7.103).

5 z. Failure to provide a proper notice of cure or right
6 to cure under sections five point one hundred ten (5.110)
7 and five point one hundred eleven (5.111).

8 aa. Failure to provide a notice of consumer paper under
9 section three point two hundred eleven (3.211).

10 With respect to violations arising from sales or loans
11 made pursuant to open end credit, no action pursuant to this
12 subsection may be brought more than two years after the
13 violations occurred. With respect to violations arising from
14 other consumer credit transactions, no action pursuant to
15 this subsection may be brought more than one year after the
16 due date of the last scheduled payment of the agreement.

17 2. A consumer is not obligated to pay a charge in excess
18 of that allowed by this Act, and has a right of refund of
19 any excess charge paid. A refund may not be made by reducing
20 the consumer's obligation by the amount of the excess charge
21 unless the creditor has notified the consumer that the consumer
22 may request a refund and the consumer has not so requested
23 within thirty days thereafter. If the consumer has paid an
24 amount in excess of the lawful obligation under the agreement,
25 the consumer may recover the excess amount either from the
26 person who made the excess charge or from an assignee of that
27 person's rights who undertakes direct collection of payments
28 from or enforcement of rights against consumers arising from
29 the debt.

30 3. If a creditor has contracted for or received a charge
31 in excess of that allowed by this Act, or if a consumer is
32 entitled to a refund and a person liable to the consumer re-
33 fuses to make a refund within a reasonable time after demand,
34 the consumer may recover from the creditor or the person
35 liable, in an action other than a class action, the excess

1 charge or refund and a penalty in an amount determined by
2 the court not less than one hundred dollars or more than one
3 thousand dollars. With respect to excess charges arising
4 from sales or loans made pursuant to open end credit, no
5 action pursuant to this subsection may be brought more than
6 two years after the time the excess charge was made. With
7 respect to excess charges arising from other consumer credit
8 transactions no action pursuant to this subsection may be
9 brought more than one year after the due date of the last
10 scheduled payment of the agreement pursuant to which the
11 charge was made. For purposes of this subsection, a reasonable
12 time is presumed to be thirty days.

13 4. Except as otherwise provided in this Act, no violation
14 of this Act impairs rights on a debt.

15 5. If an employer discharges an employee in violation
16 of the provisions prohibiting discharge in section six hundred
17 forty-two point twenty-one (642.21), subsection two (2),
18 paragraph c, of the Code, the employee may within ninety days
19 bring a civil action for recovery of wages lost as a result
20 of the violation and for an order requiring the reinstatement
21 of the employee. Damages recoverable shall not exceed lost
22 wages for six weeks.

23 6. A creditor is not liable for a penalty under subsection
24 one (1) or three (3) of this section if he notifies the
25 consumer of an error before the creditor receives from the
26 consumer written notice of the error or before the consumer
27 has brought an action under this section, and the creditor
28 corrects the error within forty-five days after notifying
29 the consumer. If the violation consists of a prohibited
30 agreement, giving the consumer a corrected copy of the writing
31 containing the error is sufficient notification and correction.
32 If the violation consists of an excess charge, correction
33 shall be made by an adjustment or refund as provided in
34 subsection two (2) of this section. The administrator, and
35 any official or agency of this state having supervisory

1 authority over a creditor, shall give prompt notice to a
2 creditor of any errors discovered pursuant to an examination
3 or investigation of the transactions, business, records and
4 acts of the creditor.

5 7. A creditor may not be held liable in any action brought
6 under this section for a violation of this Act if the creditor
7 shows by a preponderance of evidence that the violation was
8 not intentional and resulted from a bona fide error
9 notwithstanding the maintenance of procedures reasonably
10 adapted to avoid the error.

11 8. In an action in which it is found that a creditor has
12 violated this Act, the court shall award to the consumer the
13 costs of the action and to his attorneys their reasonable
14 fees. Reasonable attorney's fees shall be determined by the
15 value of the time reasonably expended by the attorney and
16 not by the amount of the recovery on behalf of the consumer.

17 Sec. 5.202. NEW SECTION. DAMAGES OR PENALTIES AS SETOFF
18 TO OBLIGATION. Damages or penalties to which a consumer is
19 entitled pursuant to this part may be setoff against the
20 consumer's obligation, and may be raised as a defense to a
21 suit on the obligation without regard to the time limita-
22 tions prescribed by this part.

23 Sec. 5.203. NEW SECTION. CIVIL LIABILITY FOR VIOLATION
24 OF DISCLOSURE PROVISIONS.

25 1. Except as otherwise provided in this section, a creditor
26 who, in violation of the provisions of the Truth in Lending
27 Act other than its provisions concerning advertising of credit
28 terms, fails to disclose information to a person entitled
29 to the information under this Act is liable to that person,
30 in other than a class action, in an amount equal to the sum
31 of the following:

32 a. Twice the amount of the finance charge in connection
33 with the transaction, but the liability pursuant to this
34 paragraph shall be not less than one hundred dollars or more
35 than one thousand dollars.

1 b. In the case of a successful action to enforce the lia-
2 bility under paragraph a of this subsection, the costs of
3 the action together with reasonable attorney's fees as de-
4 termined by the court.

5 2. A creditor has no liability under this section if
6 within fifteen days after discovering an error, and prior
7 to the institution of an action under this section or the
8 receipt of written notice of the error, the creditor notifies
9 the person concerned of the error and makes whatever adjust-
10 ments in the appropriate account are necessary to assure that
11 the person will not be required to pay a finance charge in
12 excess of the amount or percentage rate actually disclosed.
13 The administrator, and any official or agency of this state
14 having supervisory authority over a creditor, shall give
15 prompt notice to a creditor of any errors discovered pursuant
16 to an examination or investigation of the transactions,
17 business, records and acts of the creditor.

18 3. A creditor may not be held liable in any action brought
19 under this section for a violation of this Act if the creditor
20 shows by a preponderance of evidence that the violation was
21 not intentional and resulted from a bona fide error notwith-
22 standing the maintenance of procedures reasonably adapted
23 to avoid the error.

24 4. Any action which may be brought under this section
25 against the original creditor in any credit transaction in-
26 volving a security interest in land may be maintained against
27 any subsequent assignee of the original creditor where the
28 assignee, its subsidiaries, or affiliates were in a continu-
29 ing business relationship with the original creditor either
30 at the time the credit was extended or at the time of the
31 assignment, unless the assignment was involuntary, or the
32 assignee shows by a preponderance of evidence that it did
33 not have reasonable grounds to believe that the original
34 creditor was engaged in violations of this Act and that it
35 maintained procedures reasonably adapted to apprise it of

1 the existence of the violations.

2 5. An obligor or consumer has all rights under this Act
3 that he has under the provisions of the Truth in Lending Act
4 concerning a right of rescission as to certain transactions,
5 and a creditor or other person has all liabilities and defenses
6 under this section that he has under the Truth in Lending
7 Act.

8 6. No action pursuant to this section may be brought more
9 than one year after the date of the occurrence of the vio-
10 lation.

11 7. In this section, creditor includes a person who in
12 the ordinary course of business regularly extends or arranges
13 for the extension of credit, or offers to arrange for the
14 extension of credit, and includes the seller of an interest
15 in land and the lender who makes a loan secured by an interest
16 in land if, but for the rate of the finance charge made in
17 the transaction, the sale or loan would be a consumer credit
18 sale or consumer loan.

19 8. The liability of a creditor under this section is in
20 lieu of and not in addition to his liability under the Truth
21 in Lending Act. An action by a person with respect to a
22 violation may not be maintained pursuant to this section if
23 a final judgment has been rendered for or against that person
24 with respect to the same violation pursuant to the Truth in
25 Lending Act, and if a final judgment has been rendered in
26 favor of a person pursuant to this section and thereafter
27 a final judgment with respect to the same violation is rendered
28 in favor of the same person pursuant to the Truth in Lending
29 Act, a creditor liable under both judgments has a cause of
30 action against that person for appropriate relief to the
31 extent necessary to avoid double liability with respect to
32 the same violation.

33 9. The administrator shall adopt rules to keep this section
34 in harmony with the Truth in Lending Act. These rules
35 supersede any provisions of this section which are inconsistent

1 with the Truth in Lending Act as adopted by section one point
2 three hundred two (1.302) of this Act.

3 PART 3

4 CRIMINAL PENALTIES

5 Sec. 5.301. NEW SECTION. WILLFUL VIOLATIONS.

6 1. A person who willfully and knowingly makes charges
7 in excess of those permitted by the provisions of article
8 two (2), part four (4) of this Act, applying to supervised
9 loans, is guilty of a misdemeanor and upon conviction may
10 be sentenced to pay a fine not exceeding one thousand dollars,
11 or to imprisonment not exceeding one year, or both.

12 2. A person who, in violation of the provisions of this
13 Act applying to authority to make supervised loans under
14 section two point three hundred one (2.301), willfully and
15 and knowingly engages without a license in the business of
16 making supervised loans, or of taking assignments of and
17 undertaking direct collection of payments from and enforcement
18 of rights against consumers arising from supervised loans,
19 is guilty of a misdemeanor and upon conviction may be sentenced
20 to pay a fine not exceeding one thousand dollars, or to
21 imprisonment not exceeding one year, or both.

22 3. A person who willfully and knowingly engages in the
23 business of entering into consumer credit transactions, or
24 of taking assignments of rights against consumers arising
25 therefrom and undertaking direct collection of payments or
26 enforcement of these rights, without complying with the
27 provisions of this Act concerning notification under section
28 six point two hundred two (6.202) or payment of fees under
29 section six point two hundred three (6.203) of this Act, is
30 guilty of a misdemeanor and upon conviction may be sentenced
31 to pay a fine not exceeding one hundred dollars.

32 4. A person who willfully and knowingly violates the pro-
33 visions of section seven point one hundred three (7.103) of
34 this Act is guilty of a misdemeanor and upon conviction may
35 be sentenced to pay a fine not exceeding one thousand dol-

1 lars.

2 Sec. 5.302. NEW SECTION. DISCLOSURE VIOLATIONS. A per-
3 son is guilty of a misdemeanor and upon conviction may be
4 sentenced to pay a fine not exceeding five thousand dollars,
5 or to imprisonment not exceeding one year, or both, if he
6 willfully and knowingly does any of the following:

7 1. Gives false or inaccurate information or fails to pro-
8 vide information which he is required to disclose under the
9 provisions of the Truth in Lending Act.

10 2. Uses any rate table or chart, the use of which is
11 authorized by the provisions of the Truth in Lending Act,
12 in a manner which consistently understates the annual
13 percentage rate determined according to those provisions.

14 3. Otherwise fails to comply with any requirement of the
15 provisions on disclosure of the Truth in Lending Act.

16 4. The criminal liability of a person under this section
17 is in lieu of and not in addition to his criminal liability
18 under the Truth in Lending Act. No prosecution of a person
19 with respect to the same violation may be maintained pursuant
20 to both this section and the Truth in Lending Act.

21 ARTICLE SIX

22 ADMINISTRATION

23 PART 1

24 POWERS AND FUNCTIONS OF ADMINISTRATOR

25 Sec. 6.101. NEW SECTION. SHORT TITLE. This article shall
26 be known and may be cited as the Iowa Consumer Credit Code-
27 -Administration.

28 Sec. 6.102. NEW SECTION. APPLICABILITY. This part ap-
29 plies to persons who:

30 1. Participate in transactions, acts, practices or conduct
31 to which this Act applies pursuant to section one point two
32 hundred one (1.201).

33 2. Participate in this state in transactions, acts,
34 practices or conduct to which this Act would apply pursuant
35 to section one point two hundred one (1.201), but for the

1 residence of the consumer.

2 3. Enter into or modify a sale of an interest in land
3 or a loan secured by an interest in land, if, but for the
4 rate of the finance charge, the sale, loan or modification
5 would involve a consumer credit sale or consumer loan, but
6 applies only for the purpose of authorizing the administrator
7 to enforce the provisions on compliance with the Truth in
8 Lending Act.

9 Sec. 6.103. NEW SECTION. ADMINISTRATOR. Except as
10 expressly provided in sections six point one hundred six
11 (6.106) and six point one hundred eight (6.108) of this part,
12 "administrator" means the attorney general or his designee
13 in the consumer credit protection bureau within the consumer
14 fraud division of the office of the attorney general.

15 Sec. 6.104. NEW SECTION. POWERS OF ADMINISTRATOR--RELIANCE
16 ON RULES--DUTY TO REPORT.

17 1. The administrator, within the limitations provided
18 by law, may:

19 a. Receive and act on complaints.

20 b. Take action designed to obtain voluntary compliance
21 with this Act.

22 c. Commence proceedings on his own initiative.

23 d. Counsel persons and groups on their rights and duties
24 under this Act.

25 e. Establish programs for the education of consumers with
26 respect to credit practices and problems.

27 f. Make studies appropriate to effectuate the purposes
28 and policies of this Act and make the results available to
29 the public.

30 g. Maintain offices within this state.

31 2. The administrator may enforce the Truth in Lending
32 Act to the fullest extent provided by law.

33 3. To keep the administrator's rules in harmony with the
34 rules of administrators in other jurisdictions which enact
35 the Uniform Consumer Credit Code, the administrator, so far

1 as is consistent with the purposes, policies and provisions
2 of this Act, shall do both of the following:

3 a. Before adopting, amending, and repealing rules, ad-
4 vise and consult with administrators in other jurisdictions
5 which enact the Uniform Consumer Credit Code.

6 b. In adopting, amending, and repealing rules, take into
7 consideration the rules of administrators in other jurisdic-
8 tions which enact the Uniform Consumer Credit Code.

9 4. Except for refund of an excess charge, no liability
10 is imposed under this Act for an act done or omitted in con-
11 formity with a rule of the administrator notwithstanding that
12 after the act or omission the rule is amended or repealed
13 or determined by judicial or other authority to be invalid
14 for any reason.

15 5. The administrator shall report annually on or before
16 January first to the general assembly on the operation of
17 the consumer credit protection bureau and the other agencies
18 of this state charged with administering this Act, on the
19 use of consumer credit in the state, and on the problems of
20 persons of small means obtaining credit from persons regularly
21 engaged in extending sales or loan credit. For the purpose
22 of making the report, the administrator may conduct research
23 and make appropriate studies. The report shall include, for
24 the consumer credit protection bureau and for other state
25 agencies enforcing this Act, a description of the examination
26 and investigation procedures and policies, a statement of
27 policies followed in deciding whether to investigate or examine
28 the offices of credit suppliers subject to this Act, a
29 statement of the number and percentages of offices which are
30 periodically investigated or examined, a statement of the
31 types of consumer credit problems of both creditors and
32 consumers which have come to his attention through his
33 examinations and investigations and the disposition of them
34 under existing law, and recommendations, if any, for
35 legislation to deal with those problems within his general

1 jurisdiction, a statement of the extent to which the rules
2 of the administrator pursuant to this Act are not in harmony
3 with the rules of administrators in other jurisdictions which
4 enact the Uniform Consumer Credit Code and the reasons for
5 the variations, and a general statement of the activities
6 of his office and of others to promote the purposes of this
7 Act. The report shall not identify the creditors against
8 whom action is taken.

9 Sec. 6.105. NEW SECTION. ADMINISTRATIVE POWERS WITH
10 RESPECT TO SUPERVISED FINANCIAL ORGANIZATIONS AND SUPERVISED
11 LOAN LICENSEES.

12 1. With respect to supervised financial organizations
13 subject to regulation under chapters five hundred twenty-four
14 (524), five hundred thirty-three (533) and five hundred thirty-
15 four (534) of the Code, and persons licensed under chapters
16 five hundred thirty-six (536) and five hundred thirty-six
17 A (536A) of the Code, the powers of examination and
18 investigation as provided in sections two point three hundred
19 five (2.305) and six point one hundred six (6.106) of this
20 Act, and administrative enforcement as provided in sections
21 two point three hundred three (2.303) and six point one hundred
22 eight (6.108) of this Act, shall be exercised by the official
23 or agency to whose supervision the person is subject. All
24 other powers of the administrator under this Act may be
25 exercised by the administrator with respect to such persons.
26 In all actions or other court proceedings brought to enforce
27 this Act, the attorney general or his designee shall
28 participate.

29 2. If the administrator receives a complaint or other
30 information concerning noncompliance with this Act by a per-
31 son specified in subsection one (1) of this section, he shall
32 inform the official or agency having supervisory authority
33 over that person. The administrator may obtain information
34 about any such person from the officials or agencies
35 supervising them.

1 3. The administrator and any official or agency of this
2 state having supervisory authority over a supervised finan-
3 cial organization or a chapter five hundred thirty-six (536)
4 or five hundred thirty-six A (536A) licensee are authorized
5 and directed to consult and assist one another in maintaining
6 compliance with this Act. They may jointly pursue
7 investigations, prosecute suits, and take other official
8 action against violations of this Act, as they deem
9 appropriate, if either of them otherwise is empowered to take
10 the action.

11 Sec. 6.106. NEW SECTION. INVESTIGATORY POWERS.

12 1. For purposes of this section, "administrator" means
13 either the attorney general or his designee, or the official
14 or agency charged with enforcing this Act against the person
15 under investigation, as provided in subsection one (1) of
16 section six point one hundred five (6.105) of this Act. If
17 the administrator has reasonable cause to believe that a
18 person has engaged in conduct or committed an act which is
19 in violation of this Act, he may make an investigation to
20 determine whether the person has engaged in the conduct or
21 committed the act, and, to the extent necessary for this
22 purpose, may administer oaths or affirmations, and, upon his
23 own motion or upon request of any party, may subpoena
24 witnesses, compel their attendance, adduce evidence, and
25 require the production of, or testimony as to, any matter
26 which is relevant to the investigation, including the
27 existence, description, nature, custody, condition, and
28 location of any books, documents, or other tangible things
29 and the identity and location of persons having knowledge
30 of relevant facts, or any other matter reasonably calculated
31 to lead to the discovery of admissible evidence. In any civil
32 action brought by the administrator as a result of such an
33 investigation, the administrator shall be awarded the
34 reasonable costs of making the investigation if he prevails
35 in the action.

1 2. If the person's records are located outside this state,
2 the person at his option shall either make them available
3 to the administrator at a convenient location within this
4 state or pay the reasonable and necessary expenses for the
5 administrator or his representative to examine them at the
6 place where they are maintained. The administrator may de-
7 signate representatives, including comparable officials of
8 the state in which the records are located, to inspect them
9 on his behalf.

10 3. Upon application by the administrator showing failure
11 without lawful excuse to obey a subpoena or to give testimony
12 and upon reasonable notice to all persons affected thereby,
13 the district court shall grant an order compelling compliance.

14 4. The administrator shall not make public the name or
15 identity of a person whose acts or conduct he investigates
16 pursuant to this section or the facts disclosed in the in-
17 vestigation, but this subsection does not prohibit disclosures
18 in actions or enforcement proceedings pursuant to this Act.

19 Sec. 6.107. Reserved for future use.

20 Sec. 6.108. NEW SECTION. ADMINISTRATIVE ENFORCEMENT
21 ORDERS.

22 1. For purposes of this section, "administrator" means
23 either the attorney general or his designee, or the official
24 or agency charged with enforcing this Act against the person
25 under investigation, as provided in subsection one (1) of
26 section six point one hundred five (6.105) of this Act. Ex-
27 cept as provided in subsection six (6) of this section, after
28 notice and hearing the administrator may order a person to
29 cease and desist from engaging in violations of this Act.
30 A person aggrieved by an order of the administrator may obtain
31 judicial review of the order and the administrator may obtain
32 an order of the district court for enforcement of the cease
33 and desist order if he prevails in the proceeding for review,
34 or as provided in subsection five (5) of this section. The
35 proceeding for review or enforcement is initiated by filing

1 a petition in the district court. Copies of the petition
2 shall be served upon all parties of record.

3 2. Within thirty days after service of the petition for
4 review upon the administrator, or within any further time
5 the court may allow, the administrator shall transmit to the
6 court the original or a certified copy of the entire record
7 upon which the order is based, including any transcript of
8 testimony, which need not be printed. By stipulation of all
9 parties to the review proceeding, the record may be shortened.
10 After hearing, the court may reverse or modify the order if
11 the findings of fact of the administrator are clearly er-
12 roneous in view of the reliable, probative, and substantial
13 evidence on the whole record, or grant any temporary relief
14 or restraining order it deems just, and enter an order
15 enforcing, modifying and enforcing as modified, or setting
16 aside in whole or in part the order of the administrator,
17 or remanding the case to the administrator for further
18 proceedings.

19 3. An objection not urged at the hearing shall not be
20 considered by the court unless the failure to urge the ob-
21 jection is excused for good cause shown. A party may move
22 the court to remand the case to the administrator in the
23 interest of justice for the purpose of adducing additional
24 specified and material evidence and seeking findings thereon
25 upon good cause shown for the failure to adduce this evidence
26 before the administrator.

27 4. The jurisdiction of the court shall be exclusive and
28 its final judgment or decree shall be subject to review by
29 the supreme court in the same manner and form and with the
30 same effect as in appeals from a final judgment or decree
31 in an equitable proceeding. The administrator's copy of the
32 testimony shall be available at reasonable times to all parties
33 for examination without cost.

34 5. A proceeding for review under this section must be
35 initiated within thirty days after a copy of the order of

1 the administrator is received. If no proceeding is so
2 initiated, the administrator may obtain a decree of the
3 district court for enforcement of the cease and desist order
4 upon a showing that the order was issued in compliance with
5 this section, that no proceeding for review was initiated
6 within thirty days after copy of the order was received, and
7 that the person against whom the order was directed is subject
8 to the jurisdiction of the court.

9 6. With respect to unconscionable agreements or fraudu-
10 lent or unconscionable conduct by the respondent, the ad-
11 ministrator may not issue an order pursuant to this section
12 but may bring a civil action for an injunction under section
13 six point one hundred eleven (6.111) of this Act.

14 Sec. 6.109. NEW SECTION. ASSURANCE OF DISCONTINUANCE.
15 If it is claimed that a person has engaged in conduct which
16 could be subject to an order by the administrator or by a
17 court, the administrator may accept an assurance in writing
18 that the person will not engage in the same or in similar
19 conduct in the future. The assurance may include stipulations
20 that the creditor will voluntarily pay the costs of
21 investigation, or that an amount will be held in escrow as
22 restitution to debtors aggrieved by future conduct of the
23 creditor or as a reserve to cover costs of future
24 investigation, or may include admissions of past specific
25 acts by the creditor or admissions that those acts violated
26 this Act or other statutes. A violation of an assurance of
27 discontinuance is a violation of this Act.

28 Sec. 6.110. NEW SECTION. INJUNCTIONS AND OTHER PROCEED-
29 INGS IN EQUITY OF ACT. The administrator may bring a civil
30 action to restrain a person from violating this Act and for
31 other appropriate relief, including but not limited to the
32 following:

33 a. To prevent the use or employment by a person of prac-
34 tices prohibited by this Act.

35 b. To reform contracts to conform to this Act and to re-

1 scind contracts into which a creditor has induced a consumer
2 to enter by conduct violating this Act, even though the con-
3 sumers are not parties to the action. An action under this
4 section may be joined with an action under the provisions
5 on civil actions by the administrator under section six point
6 one hundred thirteen (6.113) of this Act.

7 Sec. 6.111. NEW SECTION. INJUNCTIONS AGAINST UNCONSCION-
8 ABLE AGREEMENTS AND FRAUDULENT OR UNCONSCIONABLE CONDUCT.

9 1. The administrator may bring a civil action to restrain
10 a person to whom this part applies from engaging in any of
11 the following courses of action:

12 a. Making or enforcing unconscionable terms or provi-
13 sions of consumer credit transactions.

14 b. Fraudulent or unconscionable conduct in inducing con-
15 sumers to enter into consumer credit transactions.

16 c. Conduct of any of the types specified in paragraphs
17 a or b of this subsection with respect to transactions that
18 give rise to or that lead persons to believe they will give
19 rise to consumer credit transactions.

20 d. Fraudulent or unconscionable conduct in the collec-
21 tion of debts arising from consumer credit transactions or
22 from transactions which would have been consumer credit
23 transactions if a finance charge was made or the obligation
24 was payable in installments.

25 2. In an action brought pursuant to this section the court
26 may grant relief only if it finds all of the following:

27 a. That the defendant has made unconscionable agreements
28 or has engaged in or is likely to engage in a course of
29 fraudulent or unconscionable conduct.

30 b. That the defendant's agreements have caused or are
31 likely to cause, or the conduct of the defendant has caused
32 or is likely to cause, injury to consumers or debtors.

33 c. That the defendant has been able to cause or will be
34 able to cause the injury primarily because the transactions
35 involved are credit transactions.

1 3. In applying subsection one (1), paragraphs a, b, or
2 c of this section, consideration shall be given to the factors
3 specified in the provisions on unconscionability with respect
4 to a transaction that is or gives rise to or that a person
5 leads the debtor to believe will give rise to a consumer
6 credit transaction, as provided in section five point one
7 hundred eight (5.108), subsection three (3), of this Act,
8 among others.

9 4. In applying subsection one (1), paragraph d, of this
10 section, violations of section seven point one hundred three
11 (7.103) of this Act shall be considered, among other factors,
12 as applicable.

13 5. In an action brought pursuant to this section, a charge
14 or practice expressly permitted by this Act is not in itself
15 unconscionable.

16 Sec. 6.112. NEW SECTION. TEMPORARY RELIEF. With respect
17 to an action brought to enjoin violations of this Act under
18 section six point one hundred ten (6.110) or unconscionable
19 agreements or fraudulent or unconscionable conduct under
20 section six point one hundred eleven (6.111) of this Act,
21 the administrator may apply to the court for appropriate
22 temporary relief against a defendant, pending final
23 determination of the action. The court may grant appropriate
24 temporary relief.

25 Sec. 6.113. NEW SECTION. CIVIL ACTIONS BY ADMINISTRATOR.

26 1. After demand, the administrator may bring a civil ac-
27 tion against a person for all amounts of money, other than
28 penalties, which a consumer or class of consumers has a right
29 to recover explicitly granted by this Act. The court shall
30 order amounts recovered or recoverable under this subsection
31 to be paid to each consumer or set off against his obligation.
32 A consumer's action, other than a class action, takes prece-
33 dence over a prior or subsequent action by the administrator
34 with respect to the claim of that consumer. A consumer's
35 class action takes precedence over a subsequent action by

1 the administrator with respect to claims common to both ac-
2 tions but intervention by the administrator is authorized.
3 An administrator's action on behalf of a class of consumers
4 takes precedence over a consumer's subsequent class action
5 with respect to claims common to both actions. Whenever an
6 action takes precedence over another action under this subsec-
7 tion, the latter action may be stayed to the extent appropriate
8 while the precedent action is pending and dismissed if the
9 precedent action is dismissed with prejudice or results in
10 a final judgment granting or denying the claim asserted in
11 the precedent action. A defense available to a person in
12 a civil action brought by a consumer is available to him in
13 a civil action brought under this subsection.

14 2. The administrator may bring a civil action against
15 a person to recover a civil penalty of no more than five
16 thousand dollars for repeatedly and intentionally violating
17 this Act. No civil penalty pursuant to this subsection may
18 be imposed for violations of this Act occurring more than
19 two years before the action is brought or for making
20 unconscionable agreements or engaging in a course of fraudulent
21 or unconscionable conduct.

22 3. The administrator may bring a civil action against
23 a person for failure to file notification in accordance with
24 the provisions on notification in section six point two hundred
25 two (6.202) of this Act, or to pay fees in accordance with
26 the provisions on fees in section six point two hundred three
27 (6.203) of this Act, to recover the fees the defendant has
28 failed to pay plus interest at the rate of seven percent per
29 annum and the administrator's reasonable costs in bringing
30 the action, and a civil penalty in an amount determined by
31 the court not exceeding the greater of three times the amount
32 of fees the person has failed to pay or one thousand dollars.

33 Sec. 6.114. Reserved for future use.

34 Sec. 6.115. NEW SECTION. CONSUMER'S REMEDIES NOT AF-
35 FECTED. The grant of powers to the administrator in this

1 article does not affect remedies available to consumers under
2 this Act or under other principles of law or equity, except
3 as provided in section six point one hundred thirteen (6.113)
4 of this Act.

5 Sec. 6.116. NEW SECTION. VENUE. The administrator may
6 bring actions or proceedings in the district court in a county
7 in which an act on which the action or proceeding is based
8 occurred, or in a county in which the defendant resides or
9 transacts business.

10 PART 2

11 NOTIFICATION AND FEES

12 Sec. 6.201. NEW SECTION. APPLICABILITY. This part applies
13 to all of the following:

14 1. Creditors engaged in consumer credit transactions and
15 acts, practices or conduct involving consumer credit trans-
16 actions to which this Act applies pursuant to section one
17 point two hundred one (1.201) of this Act, but not to those
18 licensed, certificated, or otherwise authorized to engaged
19 in business by chapter five hundred twenty-four (524), five
20 hundred thirty-three (533), five hundred thirty-four (534),
21 five hundred thirty-six (536) or five hundred thirty-six A
22 (536A) of the Code.

23 2. Debt collectors, as defined in subsection three (3)
24 of section seven point one hundred two (7.102) of this Act,
25 to whose acts, practices, or conduct this Act applies pur-
26 suant to section one point two hundred one (1.201) of this
27 Act.

28 Sec. 6.202. NEW SECTION. NOTIFICATION.

29 1. Persons subject to this part shall file notification
30 with the administrator within thirty days after commencing
31 business in this state, and, thereafter, on or before January
32 thirty-first of each year. The notification must state all
33 of the following:

34 a. Name of the person.

35 b. Every name in which business is transacted if different

1 from the name of the person.

2 c. Address of principal office, whether or not within
3 this state.

4 d. Address of all offices or retail stores, if any, in
5 this state at which consumer credit transactions are entered
6 into or acts, practices or conduct involving consumer credit
7 transactions are engaged in, or in the case of a person taking
8 assignments of obligations, any offices or places of business
9 within this state at which business is transacted or, in the
10 case of debt collectors, any offices in this state from or
11 at which debt collection is engaged in.

12 e. If consumer credit transactions or acts, practices
13 or conduct involving consumer credit transactions or debt
14 collection, are engaged in otherwise than at an office or
15 retail store in this state and this Act applies to such
16 transactions, acts, practices or conduct, pursuant to sec-
17 tion one point two hundred one (1.201) of this Act, a brief
18 description of the manner in which they are engaged in.

19 f. Address of designated agent upon whom service of pro-
20 cess may be made in this state.

21 g. Whether or not supervised loans are made.

22 2. If information in a notification becomes inaccurate
23 after filing, no further notification is required until the
24 following January thirty-first.

25 Sec. 6.203. NEW SECTION. FEES.

26 1. A person required to file notification shall pay to
27 the administrator an annual fee of ten dollars. The fee shall
28 be paid with the filing of the first notification and on or
29 before January thirty-first of each succeeding year.

30 2. Except as provided in subsections four (4) and five
31 (5) of this section, a person required to file notification
32 who is a seller, lessor, or lender and who is not an assignee
33 shall pay an additional fee at the time and in the manner
34 stated in subsection one (1) of this section of ten dollars
35 for each one hundred thousand dollars, or part thereof ex-

1 ceeding ten thousand dollars, of the average unpaid balances,
2 including unpaid scheduled periodic payments under consumer
3 leases, of obligations arising from consumer credit trans-
4 actions entered into or modified by him in this state and
5 held on the last day of each calendar month during the pre-
6 ceding calendar year and held either by the seller, lessor,
7 or lender, or by his immediate or remote assignee who has
8 not filed notification. The unpaid balances of assigned ob-
9 ligations held by an assignee who has not filed notifications
10 are presumed to be the unpaid balances of the assigned obli-
11 gations at the time of their assignment by the seller, les-
12 sor, or lender.

13 3. A person required to file notification who is an as-
14 signee shall pay an additional fee at the time and in the
15 manner stated in subsection one (1) of this section of ten
16 dollars for each one hundred thousand dollars, or part there-
17 of exceeding ten thousand dollars, of the average unpaid
18 balances including unpaid scheduled periodic payments pay-
19 able by lessees, of obligations arising from consumer credit
20 transactions entered into or modified in this state taken
21 by him by assignment and held by him on the last day of each
22 calendar month during the preceding calendar year.

23 4. In addition to the penalties provided by subsection
24 three (3) of section six point one hundred twelve (6.112)
25 of this Act, the administrator may collect a charge, estab-
26 lished by rule, not exceeding twenty-five dollars from each
27 person required to pay fees under this section who fails to
28 pay the fees in full within thirty days after they are due.

29 Sec. 6.204. ADMINISTRATIVE RULES.

30 1. The attorney general or his designee pursuant to chap-
31 ter seventeen A (17A) of the Code may adopt, amend and repeal
32 rules which he deems reasonably necessary for the enforcement
33 of this Act. Each rule so adopted shall be applicable to
34 and binding upon every person subject to the provisions of
35 this Act.

1 employer, or others, and includes a person who sells, or of-
2 fers to sell, forms represented to be a collection system,
3 device, or scheme, intended to be used to collect debts.

4 4. "Administrator" means the person designated in sec-
5 tion six point one hundred three (6.103) of this Act.

6 5. "Debtor", for the purposes of this Part, means the
7 person obligated.

8 6. "Creditor", for the purposes of this Part, means the
9 person to whom a debtor is obligated, either directly or in-
10 directly, on a debt.

11 Sec. 7.103. NEW SECTION. PROHIBITED PRACTICES.

12 1. A debt collector shall not collect or attempt to col-
13 lect a debt by means of an illegal threat, coercion, or at-
14 tempt to coerce. The conduct described in each of the fol-
15 lowing paragraphs is an illegal threat, coercion or attempt
16 to coerce within the meaning of this subsection:

17 a. The use, or express or implicit threat of use, of
18 force, violence or other criminal means, to cause harm to
19 a person or to property of a person.

20 b. The false accusation or threat to falsely accuse a
21 person of fraud or any other crime.

22 c. False accusations made to a person, including a credit
23 reporting agency, or the threat to falsely accuse, that a
24 debtor is willfully refusing to pay a just debt. However,
25 a failure to reply to requests for payment and a failure to
26 negotiate disputes in good faith are deemed willful refusal.

27 d. The threat to sell or assign to another an obligation
28 of the debtor with an attending representation or implica-
29 tion that the result of the sale or assignment will be to
30 subject the debtor to harsh, vindictive, or abusive collec-
31 tion attempts.

32 e. The false threat that nonpayment of a debt may result
33 in the arrest of a person or the seizure, garnishment, at-
34 tachment or sale of property or wages of that person.

35 f. An action or threat to take an action prohibited by

1 this Act or any other law.

2 2. A debt collector shall not oppress, harass, or abuse
3 a person in connection with the collection or attempted
4 collection of a debt of that person or another person. The
5 following conduct is oppressive, harassing or abusive within
6 the meaning of this subsection:

7 a. The use of profane or obscene language or language
8 that is intended to abuse the hearer or reader and which by
9 its utterance would tend to incite an immediate breach of
10 the peace.

11 b. The placement of telephone calls to the debtor with-
12 out disclosure of the name of the business or company the
13 debt collector represents.

14 c. Causing expense to a person in the form of long dis-
15 tance telephone tolls, telegram fees, or other charges in-
16 curred by a medium of communication by attempting to deceive
17 or mislead persons as to the true purpose of the notice, let-
18 ter, message or communication.

19 d. Causing a telephone to ring or engaging a person in
20 telephone conversation repeatedly or continuously or at un-
21 usual hours or times known to be inconvenient, with intent
22 to annoy, harass, or threaten a person.

23 3. A debt collector shall not disseminate information
24 relating to a debt or debtor as follows:

25 a. The communication or threat to communicate or imply
26 the fact of a debt to a person other than the debtor or a
27 person who might reasonably be expected to be liable for the
28 debt, except with the written permission of the debtor given
29 after default. For the purposes of this paragraph, the use
30 of language on envelopes indicating that the communication
31 relates to the collection of a debt is a communication of
32 the debt. However, this paragraph does not prohibit a debt
33 collector from any of the following:

34 (1) Notifying a debtor of the fact that he may report
35 a debt to a credit bureau or engage an agent or an attorney

1 for the purpose of collecting the debt.

2 (2) Reporting a debt to a credit reporting agency or any
3 other person reasonably believed to have a legitimate busi-
4 ness need for the information.

5 (3) Engaging an agent or attorney for the purpose of col-
6 lecting a debt.

7 (4) Attempting to locate a debtor whom the debt collector
8 has reasonable grounds to believe has moved from his resi-
9 dence, where the purpose of the communication is to trace
10 the debtor, and the content of the communication is restricted
11 to requesting information on the debtor's location.

12 (5) Communicating with the debtor's employer or credit
13 union not more than once during any three month period when
14 the purpose of the communication is to obtain an employer's
15 or credit union's debt counselling services for the debtor.
16 In the event no response is received by the debt collector
17 from a communication to the debtor's employer or credit union
18 the debt collector may make one inquiry as to whether the
19 communication was received. In addition a debt collector
20 may respond to any communications by a debtor's employer or
21 credit union.

22 (6) Communicating with the debtor's employer once during
23 any three-month period, if the purpose of the communication
24 is to verify with an employer the fact of the debtor's em-
25 ployment and if the debt collector does not disclose, except
26 as permitted in subparagraph five (5) of this subsection,
27 any information other than the fact that a debt exists. This
28 subparagraph shall not authorize a debtor collector to dis-
29 close to an employer the fact that a debt is in default.

30 (7) Communicating the fact of the debt not more than once
31 in any three-month period, with the parents of a minor debtor,
32 or with any trustee of any property of the debtor, conserva-
33 tor of the debtor or the debtor's property, or guardian of
34 the debtor. In addition, a debt collector may respond to
35 inquiry from a parent, trustee, conservator or guardian.

1 (8) Communicating with the debtor's spouse with the con-
2 sent of the debtor, or responding to inquiry from the debtor's
3 spouse.

4 b. The disclosure, publication, or communication of in-
5 formation relating to a person's indebtedness to another
6 person, by publishing or posting a list of indebted persons,
7 commonly known as "deadbeat lists", or by advertising for
8 sale a claim to enforce payment of a debt when the advertise-
9 ment names the debtor.

10 c. The use of a form of communication to the debtor, ex-
11 cept a telegram, an original notice or other court process,
12 or an envelope displaying only the name and address of a
13 debtor and the return address of the debt collector, intended
14 or so designed as to display or convey information about the
15 debt to another person other than the name, address, and phone
16 number of the debt collector.

17 4. A debt collector shall not use a fraudulent, decep-
18 tive, or misleading representation or means to collect or
19 attempt to collect a debt or to obtain information concern-
20 ing debtors. The following conduct is fraudulent, decep-
21 tive, or misleading within the meaning of this subsection:

22 a. The use of a business, company, or organization name
23 while engaged in the collection of debts, other than the true
24 name of the debt collector's business, company, or organiza-
25 tion or the name of the business or company the debt col-
26 lector represents.

27 b. The failure to clearly disclose in all written com-
28 munications made to collect or attempt to collect a debt or
29 to obtain or attempt to obtain information about a debtor,
30 that the debt collector is attempting to collect a debt and
31 that information obtained will be used for that purpose, ex-
32 cept where disclosure would tend to embarrass the debtor.

33 c. A false representation that the debt collector has
34 information in his possession or something of value for the
35 debtor, which is made to solicit or discover information about

1 the debtor.

2 d. The failure to clearly disclose the name and full busi-
3 ness address of the person to whom the claim has been assigned
4 at the time of making a demand for money.

5 e. An intentional misrepresentation, or a representation
6 which tends to create a false impression of the character,
7 extent or amount of a debt, or of its status in a legal pro-
8 ceeding.

9 f. A false representation, or a representation which tends
10 to create a false impression, that a debt collector is vouched
11 for, bonded by, affiliated with, or an instrumentality, agency
12 or official of the state or an agency of federal, state or
13 local government.

14 g. The use or distribution or sale of a written communi-
15 cation which simulates or is falsely represented to be a docu-
16 ment authorized, issued or approved by a court, an official,
17 or other legally constituted or authorized authority, or which
18 tends to create a false impression about its source, authori-
19 zation, or approval.

20 h. A representation that an existing obligation of the
21 debtor may be increased by the addition of attorney's fees,
22 investigation fees, service fees, or other fees or charges,
23 when in fact such fees or charges may not legally be added
24 to the existing obligation.

25 i. A false representation, or a representation which tends
26 to create a false impression, about the status or true nature
27 of, or services rendered by, the debt collector or his
28 business.

29 5. A debt collector shall not engage in the following
30 conduct to collect or attempt to collect a debt:

31 a. The seeking or obtaining of a written statement or
32 acknowledgement in any form that specifies that a debtor's
33 obligation is one chargeable upon the property of either hus-
34 band or wife or both, under section five hundred ninety-seven
35 point fourteen (597.14) of the Code, when the original obliga-

1 tion was not in fact so chargeable.

2 b. The seeking or obtaining of a written statement or
3 acknowledgement in any form containing an affirmation of an
4 obligation which has been discharged in bankruptcy, without
5 clearly disclosing the nature and consequences of the
6 affirmation and the fact that the debtor is not legally
7 obligated to make the affirmation. However, this subsection
8 does not prohibit the accepting of promises to pay that are
9 voluntarily written and offered by a bankrupt debtor.

10 c. The collection of or the attempt to collect from the
11 debtor a part or all of the debt collector's fee for ser-
12 vices rendered, unless the debt collector is legally entitled
13 to collect the fee from the debtor.

14 d. The collection of or the attempt to collect interest
15 or other charge, fee or expense incidental to the principal
16 obligation unless the interest or incidental charge, fee,
17 or expense is expressly authorized by the agreement creating
18 the obligation and is legally chargeable to the debtor, or
19 is otherwise legally chargeable.

20 e. A communication with a debtor when the debt collector
21 knows that the debtor is represented by an attorney and the
22 attorney's name and address are known, or could be easily
23 ascertained, unless the attorney fails to answer
24 correspondence, return phone calls, or discuss the obligation
25 in question, within a reasonable time, or prior approval is
26 obtained from the debtor's attorney or when the communication
27 is a response in the ordinary course of business to the
28 debtor's inquiry.

29 6. A debt collector shall not use or distribute, sell,
30 or prepare for use, a written communication that violates
31 or fails to conform to United States postal laws and regu-
32 lations.

33 ARTICLE EIGHT

34 RESERVED FOR FUTURE USE

35 CONFORMING AMENDMENTS AND REPEALER

1 Sec. 9.101. Section five hundred twenty-four point one
2 hundred three (524.103), Code 1973, is amended by adding the
3 following new subsections:

4 NEW SUBSECTION. "Administrator" means the person desig-
5 nated in section six point one hundred three (6.103) of this
6 Act.

7 NEW SUBSECTION. "Supervised financial organization" as
8 defined and used in the Iowa Consumer Credit Code includes
9 a person organized pursuant to this chapter.

10 Sec. 9.102. Chapter five hundred twenty-four (524), Code
11 1973, is amended by adding the following new section:

12 NEW SECTION. ENFORCEMENT OF IOWA CONSUMER CREDIT CODE.

13 1. The superintendent shall enforce the Iowa Consumer
14 Credit Code with respect to banks, as provided in sections
15 two point three hundred three (2.303), two point three hun-
16 dred five (2.305), and six point one hundred five (6.105)
17 of this Act.

18 2. The superintendent shall cooperate with the adminis-
19 trator, and shall assist the administrator whenever neces-
20 sary to provide for the discharge of the duties of the ad-
21 ministrator.

22 3. Notwithstanding other provisions of this chapter to
23 the contrary, the superintendent shall authorize to be fur-
24 nished to the administrator, access to or copies of records
25 in the possession of the superintendent or other persons which
26 relate to a bank when necessary to enable the administrator
27 to enforce this Act.

28 4. The superintendent shall make an annual report in
29 writing to the administrator. A copy of the report shall
30 be furnished at cost by the superintendent to each bank or
31 other person upon request. The annual report shall contain:

32 a. A summary of applications to engage in the business
33 of banking approved or denied by the superintendent since
34 the last report.

35 b. A summary of the volume of consumer installment credit

1 outstanding per bank under the superintendent's supervision
2 as of December thirty-first of the year for which the report
3 is made.

4 c. A statement of the receipts and disbursements of agency
5 funds for consumer credit protection during the calendar year
6 ending the preceding December thirty-first, and of the funds
7 on hand on that date.

8 d. Information which the superintendent may deem appro-
9 priate and advisable to disclose.

10 e. Information which the administrator may require to
11 be included.

12 Sec. 9.103. Chapter five hundred thirty-three (533), Code
13 1973, is amended by adding the following new sections:

14 NEW SECTION. DEFINITIONS. As used in this part unless
15 the context otherwise requires:

16 1. "Administrator" means the person designated in sec-
17 tion six point one hundred three (6.103) of this Act.

18 2. "Credit union" means a person having a certificate
19 of approval issued pursuant to this chapter. A credit union
20 is also a supervised financial organization as defined and
21 used in the Iowa Consumer Credit Code.

22 NEW SECTION. ENFORCEMENT OF IOWA CONSUMER CREDIT CODE.

23 1. The superintendent shall enforce the Iowa Consumer
24 Credit Code with respect to credit unions, as provided in
25 sections two point three hundred three (2.303), two point
26 three hundred five (2.305) and six point one hundred five
27 (6.105) of this Act.

28 2. The superintendent shall cooperate with the adminis-
29 trator, and shall assist the administrator whenever neces-
30 sary to provide for the discharge of the duties of the ad-
31 ministrator.

32 3. Notwithstanding other provisions of this chapter to
33 the contrary, the superintendent shall authorize to be fur-
34 nished to the administrator, access to or copies of records
35 in the possession of the superintendent or other persons which

1 relate to a credit union, when necessary to enable the ad-
2 ministrator to enforce this Act.

3 4. The superintendent shall make an annual report in
4 writing to the administrator. A copy of the report shall
5 be furnished at cost by the superintendent to each credit
6 union or other person upon request. The annual report shall
7 contain:

8 a. A summary of applications for organization approved
9 or denied by the superintendent since the last report.

10 b. A summary of the assets, liabilities and capital
11 structure of all credit unions, and a summary of the volume
12 of consumer installment credit outstanding per credit union,
13 as of December thirty-first of the year for which the report
14 is made.

15 c. A statement of the receipts and disbursements of agency
16 funds for consumer credit protection during the calendar year
17 ending the preceding December thirty-first, and of the funds
18 on hand on that date.

19 d. Information which the superintendent may deem appro-
20 priate and advisable to disclose.

21 e. Information which the administrator may require to
22 be included.

23 Sec. 9.104. Section five hundred thirty-four point two
24 (534.2), Code 1973, is amended by adding the following new
25 subsections:

26 NEW SUBSECTION. "Administrator" means the person desig-
27 nated in section six point one hundred three (6.103) of this
28 Act.

29 NEW SUBSECTION. "Supervised financial organization" as
30 defined and used in the Iowa Consumer Credit Code includes
31 a person organized pursuant to this chapter.

32 Sec. 9.105. Chapter five hundred thirty-four (534), Code
33 1973, is amended by adding the following new section:

34 NEW SECTION. ENFORCEMENT OF IOWA CONSUMER CREDIT CODE.

35 1. The supervisor shall enforce the Iowa Consumer Credit

1 Code with respect to associations, as provided in sections
2 two point three hundred three (2.303), two point three hun-
3 dred five (2.305) and six point one hundred five (6.105) of
4 this Act.

5 2. The supervisor shall cooperate with the administrator,
6 and shall assist the administrator whenever necessary to pro-
7 vide for the discharge of the duties of the administrator.

8 3. Notwithstanding other provisions of this chapter to
9 the contrary, the supervisor shall authorize to be furnished
10 to the administrator, access to or copies of records in the
11 possession of the supervisor or other persons which relate
12 to a savings and loan association when necessary to enable
13 the administrator to enforce this Act.

14 4. The supervisor shall make an annual report in writing
15 to the administrator. A copy of the report shall be furnished
16 at cost by the supervisor to each association or other person
17 upon request. The annual report shall contain:

18 a. A summary of applications for organization approved
19 or denied by the supervisor since the last report.

20 b. A summary of the volume of consumer installment credit
21 outstanding per association as of December thirty-first of
22 the year for which the report is made.

23 c. A statement of the receipts and disbursements of agency
24 funds for consumer credit protection during the calendar year
25 ending the preceding December thirty-first, and of the funds
26 on hand on that date.

27 d. Information which the supervisor may deem appropriate
28 and advisable to disclose.

29 e. Information which the administrator may require to
30 be included.

31 Sec. 9.106. Chapter five hundred thirty-six (536), Code
32 1973, is amended by adding the following new sections:

33 NEW SECTION. DEFINITIONS. As used in this part, unless
34 the context otherwise requires:

35 1. "Administrator" means the person designated in sec-

1 tion six point one hundred three (6.103) of this Act.

2 2. "Licensee" means a person licensed under this chap-
3 ter.

4 NEW SECTION. ENFORCEMENT OF IOWA CONSUMER CREDIT CODE.

5 1. The superintendent shall enforce the Iowa Consumer
6 Credit Code with respect to licensees, as provided in sec-
7 tions two point three hundred three (2.303), two point thrèe
8 hundred five (2.305) and six point one hundred five (6.105)
9 of this Act.

10 2. The superintendent shall cooperate with the adminis-
11 trator, and shall assist the administrator whenever neces-
12 sary to provide for the discharge of the duties of the ad-
13 ministrator.

14 3. Notwithstanding other provisions of this chapter to
15 the contrary, the superintendent shall authorize to be fur-
16 nished to the administrator, access to or copies of records
17 in the possession of the superintendent or other persons which
18 relate to a person licensed under this chapter, when neces-
19 sary to enable the administrator to enforce this Act.

20 4. The superintendent shall make an annual report in writ-
21 ing to the administrator. A copy of the report shall be fur-
22 nished at cost by the superintendent to each licensee or other
23 person upon request. The annual report shall contain:

24 a. A summary of license applications approved or denied
25 by the superintendent since the last report.

26 b. A summary of the assets, liabilities and capital
27 structure of all licensees, and volume of consumer installment
28 of credit outstanding per licensee, as of December thirty-
29 first of the year for which the report is made.

30 c. A statement of the receipts and disbursements of agency
31 funds for consumer credit protection during the calendar year
32 ending the preceding December thirty-first, and of the funds
33 on hand on that date.

34 d. Information which the superintendent may deem appro-
35 priate and advisable to disclose.

1 e. Information which the administrator may require to
2 be included.

3 Sec. 9.107. Section five hundred thirty-six A point two
4 (536A.2), Code 1973, is amended by adding the following new
5 subsections:

6 NEW SUBSECTION. "Administrator" means the person designated
7 in section six point one hundred three (6.103) of this Act.

8 NEW SUBSECTION. "Licensee" means a person licensed under
9 this chapter.

10 Sec. 9.108. Chapter five hundred thirty-six A (536A),
11 Code 1973, is amended by adding the following new section:

12 NEW SECTION. ENFORCEMENT OF IOWA CONSUMER CREDIT CODE.

13 1. The auditor shall enforce the Iowa Consumer Credit
14 Code with respect to licensees, as provided in sections two
15 point three hundred three (2.303), two point three hundred
16 five (2.305) and six point one hundred five (6.105) of this
17 Act.

18 2. The auditor shall cooperate with the administrator,
19 and shall assist the administrator whenever necessary to pro-
20 vide for the discharge of the duties of the administrator.

21 3. Notwithstanding other provisions of this chapter to
22 the contrary, the auditor shall authorize to be furnished
23 to the administrator, access to or copies of records in the
24 possession of the auditor or other persons which relate to
25 a licensee when necessary to enable the administrator to en-
26 force this Act.

27 4. The auditor shall make an annual report in writing
28 to the administrator. A copy of the report shall be fur-
29 nished at cost by the auditor to each licensee or other per-
30 son upon request. The annual report shall contain:

31 a. A summary of license applications approved or denied
32 by the auditor since the last report.

33 b. A summary of the assets, liabilities and capital struc-
34 ture of all licensees, and volume of consumer installment
35 cred outstanding per licensee, as of December thirty-first

1 of the year for which the report is made.

2 c. A statement of the receipts and disbursements of agency
3 funds for consumer credit protection during the calendar year
4 ending the preceding December thirty-first, and of the funds
5 on hand on that date.

6 d. Information which the auditor may deem appropriate
7 and advisable to disclose.

8 e. Information which the administrator may require to
9 be included.

10 Sec. 9.109. Section three hundred twenty-two point two
11 (322.2), subsection eight (8), Code 1973, is amended to read
12 as follows:

13 8. "Retail installment transaction" means any sale
14 evidenced by a retail installment contract between a retail
15 buyer and a retail seller wherein the retail buyer buys a
16 motor vehicle from a retail seller at a time price payable
17 in one or more ~~deferred~~ installments. ~~The-cash-sale-price~~
18 ~~of-the-motor-vehicle,-the-amount-included-for-insurance-and~~
19 ~~other-benefits,-if-a-separate-charge-is-made-therefor,-official~~
20 ~~fees-and-finance-charge,-shall-together-constitute-the-time~~
21 ~~price.~~

22 Sec. 9.110. Section three hundred twenty-two point two
23 (322.2), Code 1973, is amended by striking subsections twelve
24 (12), fourteen (14), and fifteen (15).

25 Sec. 9.111. Section three hundred twenty-two point three
26 (322.3), subsection six (6), Code 1973, is amended by strik-
27 ing paragraphs b, c, d, and e, and by adding the following
28 new paragraph:

29 NEW PARAGRAPH. The contract shall comply with the Iowa
30 Consumer Credit Code, where applicable.

31 Sec. 9.112. Section three hundred twenty-two point six
32 (322.6), Code 1973, is amended by adding the following new
33 subsection:

34 NEW SUBSECTION. If it has been judicially determined that
35 the licensee has intentionally violated any of the provisions

1 of the Iowa Consumer Credit Code, and the licensee continues
2 to make consumer credit sales, consumer loans or consumer
3 leases in violation of the Iowa Consumer Credit Code.

4 Sec. 9.113. Section three hundred twenty-two point fourteen
5 (322.14), Code 1973, is amended to read as follows:

6 322.14 PENALTIES. Any person violating any of the pro-
7 visions of this chapter where a penalty is not specifically
8 provided for shall be deemed guilty of a misdemeanor and upon
9 conviction thereof shall be punished by a fine not exceeding
10 one hundred dollars or thirty days in jail.

11 ~~Any person who shall willfully and intentionally violate~~
12 ~~the provisions of subsection 6 of section 322.3 shall be~~
13 ~~guilty of a misdemeanor and upon conviction shall be punished~~
14 ~~by a fine not to exceed five hundred dollars.~~

15 The provisions of this section shall not apply to viola-
16 tions under subsection 5 of section 322.3.

17 Sec. 9.114. Section three hundred twenty-two point nineteen
18 (322.19), Code 1973, is amended by striking subsections two
19 (2) and three (3).

20 Sec. 9.115. Section five hundred thirty-five point three
21 (535.3), Code 1973, as amended by Acts of the Sixty-fifth
22 General Assembly, 1973 Session, chapter two hundred seventy-
23 five (275), section one (1), is amended to read as follows:

24 535.3 INTEREST ON JUDGMENTS AND DECREES. Interest shall
25 be allowed on all money due on judgments and decrees of courts
26 at the rate of seven cents on the hundred by the year, unless
27 a different rate is fixed by the contract on which the judgment
28 or decree is rendered, in which case the judgment or decree
29 shall draw interest at the rate expressed in the contract,
30 not exceeding the maximum ~~applicable~~ rate permitted by the
31 ~~provisions of section 535.27, which rate~~ law, and the applicable
32 rate must be expressed in the judgment or decree.

33 Sec. 9.116. Section five hundred fifty-four point nine
34 thousand two hundred three (554.9203), subsection two (2),
35 Code 1973, is amended to read as follows:

1 2. A transaction, although subject to this Article, is
2 also subject to chapters 322, 534, 535, 536, 536A and, section
3 524.906, and the Iowa Consumer Credit Code, where applicable,
4 and in the case of conflict between the provisions of this
5 Article and ~~any-such-statute~~ those statutes, the provisions
6 of ~~such-statute~~ those statutes control. Failure to comply
7 with any applicable statute has only the effect which is
8 specified therein.

9 Sec. 9.117. Section six hundred forty-two point two
10 (642.2), Code 1973, is amended by striking the section and
11 inserting in lieu thereof the following:

12 642.2 GARNISHMENT OF PUBLIC EMPLOYER.

13 1. The state of Iowa, and all of its governmental
14 subdivisions and agencies may be garnisheed, only as provided
15 in this section and the consent of the state and of its
16 governmental subdivisions and agencies to those garnishment
17 proceedings is hereby given.

18 2. Garnishment pursuant to this section may be made only
19 upon a judgment against an employee of the state, or of a
20 governmental subdivision or agency thereof.

21 3. No debt of the garnishee is subject to garnishment
22 other than the wages of the public employee.

23 4. Service upon the garnishee shall be made by serving
24 an original notice with a copy of the judgment against the
25 defendant, and with a copy of the questions specified in sec-
26 tion six hundred forty-two point five (642.5) of this chapter,
27 by certified mail or by personal service upon the attorney
28 general, county attorney, city attorney, or other legal counsel
29 of the appropriate governmental unit. The garnishee shall
30 be required to answer within thirty days following receipt
31 of the notice.

32 5. If it is established that the garnishee owed wages
33 to the defendant at the time of being served with the notice
34 of garnishment, judgment shall be entered, subject to the
35 requirement of section six hundred forty-two point fourteen

1 (642.14) of the Code against the garnishee in an amount not
2 exceeding the amount recoverable upon the judgment against
3 the defendant employee, but in no event shall the judgment
4 granted be for any amount in excess of that permitted by sec-
5 tion six hundred forty-two point twenty-one (642.21) of the
6 Code, and section five point one hundred five (5.105) of the
7 Iowa Consumer Credit Code.

8 6. A judgment in garnishment issued pursuant to this sec-
9 tion shall be enforceable against a garnishee only to the
10 extent of the defendant's wages actually in the possession
11 of the garnishee, and shall not be enforceable against any
12 property, claims or other rights of the garnishee.

13 7. A person garnished pursuant to this section shall be
14 subject to the provisions of this chapter not inconsistent
15 with this section.

16 Sec. 9.118. Sections three hundred twenty-two point twenty
17 (322.20) and three hundred twenty-two point twenty-three
18 (322.23), Code 1973, are repealed.

19 EXPLANATION

20 This bill enacts a Consumer Credit Code for the state of
21 Iowa which is based upon the Uniform Consumer Credit Code.
22 The format of the Uniform Act is retained, but various pro-
23 visions are amended, modified or essentially rewritten.

24 The first six articles of the bill generally follow the
25 Uniform Consumer Credit Code, and treat the following general
26 subjects:

27 1. Article 1, General Provisions and Definitions. This
28 article prescribes general rules of construction, specifies
29 the scope of the Act, and defines with particularity the terms
30 of precise meaning which are used throughout the bill.

31 2. Article 2, Finance Charges and Related Provisions.
32 This article specifies the methods which may be used in
33 determining charges for consumer credit transactions.
34 Provisions exist relating to certain interest rates, inter-
35 est rebates, finance charges on consolidations of loans,

1 charges for refinancings, deferral charges, delinquency
2 charges, closing costs, taxes, fees, and other costs incident
3 to consumer credit transactions, and attorney's fees.

4 Part 3 of the article prescribes limitations specifically
5 applicable to supervised loans, and prohibits certain activ-
6 ities by persons making supervised loans and provide some
7 enforcement procedures.

8 3. Article 3, Regulation of Agreements and Practices.
9 Generally, article 3 prescribes limitations and prohibitions
10 on acts, practices, conduct and agreements relating to consumer
11 credit transactions. The article provides for disclosure
12 pursuant to the federal Truth In Lending Act in effect on
13 the date of enactment of this bill, provides for certain
14 disclosures in consumer leases, specifies notice requirements
15 for consumer credit contracts, assignments, and co-signers
16 agreements, and prohibits the use of false, misleading or
17 deceptive advertising relative to consumer credit. Part 3
18 of this article places limitations upon the use of certain
19 security interests, and prohibits confessions of judgment,
20 the use of multiple agreements to obtain higher finance
21 charges, and the taking of assignments of earnings. Part
22 4 defines limitations on the liability of a consumer, and
23 modifies the holder in due course concept and makes credit
24 card issuers, lenders and assignees subject to the claims
25 and defenses of the consumer in certain circumstances. Home
26 solicitation sales (door-to-door) are regulated by reference
27 to the provisions of Senate File 329 enacted in the 1973
28 Session.

29 4. Article 4, Insurance. Prohibited charges and practices
30 related to credit insurance are violations subject to remedies
31 under this bill.

32 5. Article 5, Remedies and Penalties. Article five pre-
33 scribes the rights and remedies of a consumer in actions
34 arising from consumer credit transactions. Part 1 provides
35 for limitations on deficiency judgments and garnishments.

1 Part 1 also introduces the concept of unconscionability in
2 consumer credit transactions and specifies judicial conduct
3 respecting a determination of unconscionability. In addition
4 consumer default is expressly defined and limitations are
5 placed on the creditor respecting his conduct after a consumer
6 default. Part 2 provides for the recovery by the consumer
7 of unlawful charges and of civil penalties in the case of
8 certain violations by a creditor. Criminal penalties for
9 violations are specified in part 3.

10 6. Article 6, Administration. Article 6 provides for
11 the administration of the Iowa Consumer Credit Code. The
12 administrator is given broad powers to adopt rules, act on
13 consumer complaints, maintain harmony between the Iowa Con-
14 sumer Credit Code and the consumer acts of other states and
15 the federal Truth In Lending Act, enforce truth in lending
16 in Iowa, investigate, pursuant to the subpoena power, prac-
17 tices which violate the Code by creditors, issue adminis-
18 trative enforcement orders, seek injunctions and file civil
19 actions including class actions for damages against viola-
20 tors. Investigation and administrative enforcement powers
21 with respect to banks, credit unions, savings and loan as-
22 sociations, and small loan and industrial loan companies may
23 be exercised only by the respective regulating authority under
24 chapter 524, 533, 534, 536 or 536A of the Code. Part 2
25 requires any person extending consumer credit to file a
26 notification with the administrator and pay a fee.

27 7. Article 7 specifies particular conduct in collection
28 practices which is unlawful and provides civil and criminal
29 penalties. Generally, the article is drafted to prevent
30 abusive, harrassing and often tortious conduct by debt col-
31 lectors while not placing overly restrictive limitations on
32 nonviolators.

33 8. Article 8 is reserved for future use.

34 9. Article 9 contains the repealer and conforming amend-
35 ments to present Iowa law.

HOUSE AMENDMENT TO SENATE FILE 1405

1 Amend Senate File 1405, as amended and passed by
2 the Senate as follows:
3 1. Page 33, line 2, by striking the word "fifteen"
4 and inserting in lieu thereof the word "thirteen".
5 2. Page 26, line 17, by striking the word "five"
6 and inserting in lieu thereof the word "one".
7 3. Page 26, line 19, by striking the word "five"
8 and inserting in lieu thereof the word "one".
9 4. Page 35, line 20, by striking the word "five"
10 and inserting in lieu thereof the word "one".
11 5. Page 35, line 22, by striking the word "five"
12 and inserting in lieu thereof the word "one".
13 6. Page 53, by striking line 11 and inserting in
14 lieu thereof the words "of a security interest in real
15 property used as a residence of the consumer or his
16 dependents the amount financed is two thousand".
17 7. Page 53, by striking lines 32 through 35, and
18 inserting in lieu thereof the words "curity interest,
19 in the clothing, personal articles and household
20 furnishings and appliances used by the".
21 8. Page 56, line 18, by striking the words "Unless
22 executed after default on a claim".
23 9. Page 56, by striking lines 19 through 23, and
24 inserting in lieu thereof the following:
25 "In a consumer credit transaction, a creditor shall

Page 2

1 not take an authorization to obtain a judgment by
2 confession pursuant to chapter six hundred seventy-six
3 (676) of the Code or otherwise, or an authorization to
4 act in any other way on behalf of the consumer in the
5 enforcement of such transaction."
6 10. Page 56, line 34, by striking the word "twice"
7 and inserting in lieu thereof the words "one and one-
8 half times".
9 11. Page 66, line 32, by inserting after the
10 word "Code" the words ", or like proceedings, nor
11 attach any property of the consumer pursuant to sub-
12 sections seven (7), eight (8), and nine (9) of section
13 six hundred thirty-nine point three (639.9) of the
14 Code or pursuant to subsection two (2) of section six
15 hundred thirty-nine point nine (639.9) of the Code".
16 12. Page 66, by striking lines 7 through 25 and
17 inserting in lieu thereof the following:
18 2. If the seller repossesses or voluntarily
19 accepts surrender of goods which were the subject
20 of the sale and in which he has a security interest;
21 the consumer is not personally liable to the seller
22 for the unpaid balance of the debt arising from the
23 sale of a commercial unit of goods of which the cash
24 sale price was one thousand seven hundred fifty
25 dollars or less, and the seller's duty to dispose

Page 3

1 of the collateral is governed by the provisions on
2 disposition of collateral in sections five hundred
3 fifty-four point nine thousand five hundred one
4 (554.9501) through five hundred fifty-four point
5 nine thousand five hundred seven (554.9507) of the
6 Code.

7 3. If the seller repossesses or voluntarily
8 accepts surrender of goods which were not the
9 subject of the sale but in which he has a security
10 interest to secure a debt arising from a sale of
11 goods or services or a combined sale of goods and
12 services and the cash price of the sale was one
13 thousand seven hundred fifty dollars or less, the
14 consumer is not personally liable to the seller for
15 the unpaid balance of the debt arising from the
16 sale, and the seller's duty to dispose of the col-
17 lateral is governed by the provisions on disposition
18 of collateral in sections five hundred fifty-four
19 point nine thousand five hundred one (554.9501)
20 through five hundred fifty-four point nine thousand
21 five hundred seven (554.9507) of the Code.

22 4. If the lender takes possession or voluntarily
23 accepts surrender of goods in which he has a
24 purchase money security interest to secure a debt
25 arising from a consumer loan in which the lender

Page 4

1 is subject to defenses arising from sales or
2 leases under section three point four hundred five
3 (3.405) of this Act, and the net proceeds of the
4 loan paid to or for the benefit of the consumer
5 were one thousand seven hundred fifty dollars or
6 less, the consumer is not personally liable to the
7 lender for the unpaid balance of the debt arising
8 from that loan and the lender's duty to dispose of
9 the collateral is governed by the provisions on
10 disposition of collateral in sections five hundred
11 fifty-four point nine thousand five hundred one
12 (554.9501) through five hundred fifty-four point
13 nine thousand five hundred seven (554.9507) of the
14 Code.

15 5. For the purpose of determining the unpaid
16 balance of consolidated debts or debts pursuant
17 to open end credit, the allocation of payments to
18 a debt shall be determined in the same manner as
19 provided for determining the amount of debt secured
20 by various security interests under section three
21 point three hundred three (3.303) of this Act.

22 6. The consumer may be liable in damages to the
23 creditor if the consumer has wrongfully or negligently
24 damaged the collateral or if, after default and
25 demand, the consumer has in bad faith failed to

Senate 9
May 6, 1974

Page 5

- 1 make the collateral available to the creditor.
2 7. If the creditor elects to bring an action
3 against the consumer for a debt arising from a con-
4 sumer credit sale of goods or services or from a
5 consumer loan, when under this section he would not
6 be entitled to a deficiency judgment if he took
7 possession of the collateral, and obtains judgment,
8 he may not take possession of the collateral, and
9 the collateral is not subject to levy or sale on
10 execution or similar proceedings pursuant to the
11 judgment.
12 13. Page 77, line 15, by striking the words
13 "Authorizations to confess judgment" and inserting in
14 lieu thereof the words "Certain authorizations
15 prohibited".
16 14. Page 79, line 19, by inserting after the word
17 "of" the word "all".
18 15. Page 79, by striking all after the period in
19 line 21 and all of line 22.
20 16. Page 124, by striking lines 3 through 5,
21 and inserting in lieu thereof the following: "certi-
22 fied mail or by personal service upon the comptroller
23 of the state, the auditor of a county, the clerk of
24 a city, or the chief financial officer of any other
25 governmental subdivision, by whom the defendant is

Page 6

1 employed. The garnishee shall be required.

Received from the House
May 3, 1974

*Senate refused to concur 5/4
House needed 5/4*

S-3016

- 1 Amend the House amendment to Senate File 1405,
2 as amended and passed by the Senate, as follows:
3 1. Page 2, line 24, by striking the word "one"
4 and inserting in lieu thereof the word "three".
5 2. Page 3, line 12, by striking the word "one"
6 and inserting in lieu thereof the word "three".
7 3. Page 4, line 5, by striking the word "one"
8 and inserting in lieu thereof the word "three".

S-3016 Filed - Out of order 5/4 By GLUBA
May 3, 1974

S-3017

1 Amend the House amendment to Senate File 1405,
2 as amended and passed by the Senate, page 1, as
3 follows:

4 1. By striking lines 5 through 8 and inserting
5 in lieu thereof the following:

6 Page 26, by striking lines 15 through 19
7 and inserting in lieu thereof the following:

8 "exceed an amount equal to three-fourths of
9 one percent of the maximum amount pursuant to sub-
10 section two (2) of this section. If the billing
11 cycle".

12 2. By striking lines 9 through 12 and inserting
13 in lieu thereof the following:

14 Page 35, by striking lines 18 through 22,
15 and inserting in lieu thereof the following:

16 "exceed an amount equal to three-fourths of
17 one percent of the maximum amount pursuant to sub-
18 section two (2) of this section. If the billing
19 cycle".

S-3017 Filed *Out of Order 5/4* By GLUBA
May 3, 1974

S-3018

1 Amend the House amendment to Senate File 1405,
2 as amended and passed by the Senate, page 1, by
3 striking lines 3 and 4 and inserting in lieu
4 thereof the following:

5 1. Page 33, line 2, by striking the word
6 "fifteen" and inserting in lieu thereof the word
7 "ten".

S-3018 Filed *Out of Order 5/4* By GLUBA
May 6, 1974

S-3019

1 Amend the House amendment to Senate File 1405,
2 as amended and passed by the Senate, as follows:

3 1. Page 2, line 24, by striking the words "one
4 thousand seven hundred fifty" and inserting in lieu
5 thereof the words "two thousand".

6 2. Page 3, line 12, by striking the word "one".

7 3. Page 3, line 13, by striking the words "thou-
8 sand seven hundred fifty" and inserting in lieu
9 thereof the words "two thousand".

10 4. Page 4, line 5, by striking the words "one
11 thousand seven hundred fifty" and inserting in lieu
12 thereof the words "two thousand".

S-3019 Filed *Out of Order 5/4* By GLUBA
May 3, 1974

S-3023

1 Amend the House amendment to Senate File 1405,
2 as amended and passed by the Senate, page 1, line 4,
3 by striking the word "thirteen" and inserting
4 in lieu thereof the word "twelve".

S-3023 Filed *Last 5/4* By GALLAGHER
May 3, 1974

S-3022

1 Amend the House amendment to Senate File 1405,
2 page 1, as amended and passed by the Senate, as follows:
3 1. By striking lines 5 through 12 and inserting in
4 lieu thereof the following:
5 2. Page 26, line 17, by striking the words "five
6 hundred" and inserting in lieu thereof the words "one
7 hundred fifty".
8 3. Page 26, line 19, by striking the words "five
9 hundred" and inserting in lieu thereof the words "one
10 hundred fifty".
11 4. Page 35, line 20, by striking the words "five
12 hundred" and inserting in lieu thereof the words "one
13 hundred fifty".
14 5. Page 35, line 22, by striking the words "five
15 hundred" and inserting in lieu thereof the words "one
16 hundred fifty".

S-3022 Filed - *Repealed out of order 5/4* By GALLAGHER
May 3, 1974 *Massive Rules of Legislative*
Procedure, Sec. 180, para. 3.

S-3024

1 Amend the House amendment to Senate File 1405,
2 as amended and passed by the Senate, page 1, as
3 follows:
4 1. By striking lines 5 through 8 and inserting
5 in lieu thereof the following:
6 and _____. Page 26, by striking lines 15 through 19
7 and inserting in lieu thereof the following:
8 "exceed an amount equal to one and one-third
9 percent of that part of the maximum amount pursuant
10 to subsection two (2) of this section which is
11 three hundred dollars or less and one and one-fourth
12 percent of that part of the maximum amount which is
13 more than three hundred dollars. If the billing
14 cycle".
15 2. By striking lines 9 through 12 and insert-
16 ing in lieu thereof the following:
17 and _____. Page 35, by striking lines 18 through 22
18 and inserting in lieu thereof the following:
19 "exceed an amount equal to one and one-third
20 percent of that part of the maximum amount pursuant
21 to subsection two (2) of this section which is
22 three hundred dollars or less and one and one-fourth,
23 percent of that part of the maximum amount which is
24 more than three hundred dollars. If the billing
25 cycle".

S-3024 Filed - *Repealed 5/4*
May 3, 1974

By GALLAGHER

S-3020

1 Amend the House amendment to Senate File 1405,
2 page 1, as amended and passed by the Senate, as
3 follows:
4 1. By striking lines 5 through 8 and inserting
5 in lieu thereof the following:
6 Page 26 by striking lines 15 through 19
7 and inserting in lieu thereof the following:
8 "exceed an amount equal to one and one-fourth
9 percent of that part of the maximum amount pursuant
10 to subsection two (2) of this section which is three
11 hundred dollars or less and one percent of that part
12 of the maximum amount which is more than three hun-
13 dred dollars. If the billing cycle".
14 2. By striking lines 9 through 12 and inserting
15 in lieu thereof the following:
16 Page 35, by striking lines 18 through 22
17 and inserting in lieu thereof the following:
18 "exceed an amount equal to one and one-fourth
19 percent of that part of the maximum amount pursuant
20 to subsection two (2) of this section which is three
21 hundred dollars or less and one percent of that part
22 of the maximum amount which is more than three hun-
23 dred dollars. If the billing cycle".

S-3020 Filed *Out of Order 5/4* By GALLAGHER
May 6, 1974

S-3021

1 Amend the House amendment to Senate File 1405,
2 page 1, as amended and passed by the Senate, as
3 follows:
4 1. By striking lines 5 through 12 and inserting
5 in lieu thereof the following:
6 2. Page 26, line 17, by striking the words
7 "five hundred" and inserting in lieu thereof the
8 word "fifty".
9 3. Page 26, line 19, by striking the words
10 "five hundred" and inserting in lieu thereof the
11 word "fifty".
12 4. Page 35, line 20, by striking the words
13 "five hundred" and inserting in lieu thereof the
14 word "fifty".
15 5. Page 35, line 22, by striking the words
16 "five hundred" and inserting in lieu thereof the
17 word "fifty".

S-3021 Filed *Out of Order 5/4* By GALLAGHER
May 3, 1974

S-2952

1 Amend the Committee on Commerce amendment S-2922,
2 to pages 112 and 113 of Senate File 1405, as follows:
3 1. Page 3, line 20, strike the words "not more
4 than four" and insert in lieu thereof the words
5 "more than two".
6 2. Page 3, strike lines 24 and 25, and page 4,
7 strike lines 1 through 8.

S-2952 Filed, adopted,
reconsidered and withdrawn By GLUBA
April 30, 1974

S-3025

1 Amend the House amendment to Senate File 1405,
2 as amended and passed by the Senate, as follows:
3 1. Page 2, line 24, by striking the words "one
4 thousand seven hundred fifty" and inserting in lieu
5 thereof the words "three thousand".
6 2. Page 3, line 12, by striking the word "one".
7 3. Page 3, line 13, by striking the words "thou-
8 sand seven hundred fifty" and inserting in lieu
9 thereof the words "three thousand".
10 4. Page 4, line 5, by striking the words "one
11 thousand seven hundred fifty" and inserting in lieu
12 thereof the words "three thousand".

S-3025 Filed - *Lost 5/4*
May 3, 1974

By RODGERS

S-2933

1 Amend Senate File 1405 as follows:
2 1. Page 79, line 18, by striking the words
3 "ninety days" and inserting in lieu thereof the
4 words "two years".
5 2. Page 79, lines 21 and 22, by striking the
6 words "not exceed lost wages for six weeks." and
7 inserting in lieu thereof the words "be determined
8 as provided in the Iowa Rules of Civil Procedure."

S-2933 Filed
Division S-2933 A Adopted
Division S2933 B Lost
April 30, 1974

By GLENN

S-2961

1 Amend the Commerce Committee amendment S-2922, to
2 Senate File 1405, as follows:
3 1. Page 3, line 20, by striking the words "not more
4 than four" and inserting in lieu thereof the words
5 "~~not more than four~~ more than two".
6 2. Page 3, by striking lines 24 and 25, and page
7 4, by striking lines 1 through 8, and inserting
8 in lieu thereof the following:
9 ~~Class-4---Any-used-motor-vehicle-not-in-Class~~
10 ~~2-or-Class-3-and-designated-by-the-manufacturer-by~~
11 ~~a-year-model-more-than-four-years-prior-to-the-year,~~
12 ~~in-which-the-sale-is-made,-an-amount-equivalent-to~~
13 ~~two-and-one-fourth-percent-per-month-simple-interest~~
14 ~~on-the-declining-balance,-plus-a-flat-charge-of-one~~
15 ~~dollar-per-month-for-the-number-of-months-from-the~~
16 ~~date-of-the-contract-to-the-maturity-date-of-the~~
17 ~~last-installment-thereunder,-but-in-no-event-in~~
18 ~~excess-of-twelve-dollars.~~

S-2961 Filed and adopted
April 30, 1974

By GLUBA

S-2923

1 Amend Senate File 1405 as follows:
2 1. Page 75, by striking line 18 and inserting in
3 lieu thereof the following:
4 Sec. 5.112 NEW SECTION. CREDITOR'S RIGHT TO
5 POSSESSION AFTER DEFAULT. Upon default of the con- 94
6 sumer with respect to a consumer credit transaction,
7 unless the consumer voluntarily surrenders
8 possession of the collateral to the creditor, the
9 creditor may take possession of the collateral only
10 pursuant to court order.

S-2923 Filed - *Lost 4/30*
April 29, 1974

By GALLAGHER

S-2929

1 Amend Senate File 1405, page 101, line 23,
2 by striking the word "three" and inserting in
3 lieu thereof the word "one".

4
S-2929 Filed - *Adopted 4/30*
April 30, 1974

By DE KOSTER

S-2927

1 Amend Senate File 1405 as follows:
2 1. Page 100, by striking lines 11 through 13.
3 2. Page 100, by striking lines 25 through 35, and
4 page 101, by striking lines 1 through 35, and page
5 102, by striking lines 1 through 3 and inserting in
6 lieu thereof the following: "a. The communication or
7 threat to communicate false information concerning
8 debtors."
9 3. Page 102, by striking lines 4 through 9.
10 4. Page 102, by striking lines 22 through 26.
11 5. Page 103, by striking lines 2 through 8.
12 6. By renumbering and relettering sections and sub-
13 sections as necessary to conform with this amendment.

S-2927 Filed *A. lost 4/30*
April 29, 1974 *B. withdrawn*

By HULTMAN and RABEDEAUX

S-2924

1 Amend Senate File 1405 as follows:
2 1. Page 71, line 30, by inserting after the word
3 "agreement", the words ", if such failure amounts to
4 a substantial breach of the consumer's total
5 obligation under the transaction".
6 2. Page 72, line 1, by inserting after the word
7 "establishing" the words "substantial breach or".

S-2924 Filed - *Lost 4/30*
April 29, 1974

By GALLAGHER

S-2947

- 1 Amend the Committee on Commerce amendment S-2922,
2 to page 61 of Senate File 1405, as follows:
3 1. Page 1, insert after line 6 the following:
4 "unless". Page 61, line 8, insert after the word
5 "unless" the words and figure ", with respect to
6 the sale of a motor vehicle subject to registration
7 under the laws of this state by a person licensed
8 under chapter three hundred twenty-two (322) of the
9 Code,".
10 2. Page 1, line 8, strike the word "ninety" and
11 insert in lieu thereof the words "the number of days
12 specified in the notice of assignment".
13 3. Page 1, lines 10 and 11, strike the word
14 "ninety-day" and insert in lieu thereof the word
15 "specified".
16 4. Page 1, line 13, strike the word "ninety"
17 and insert in lieu thereof the words "the specified
18 number of".
19 5. Page 1, strike lines 14 and 15 and insert
20 in lieu thereof the following:
21 "thirty-day". Page 61, lines 30 and 31, strike the word
22 "thirty-day" and insert in lieu thereof the word
23 "specified".
24 "specified". Page 61, line 33, insert after the period
25 the following:

Page 2

1 The notice of assignment given to the consumer by
2 the assignee must specify the applicable number of
3 days during which a consumer may assert a claim or
4 defense by giving written notice to the assignee.
5 The number of days shall be based upon the class of
6 the motor vehicle by age as set forth in section
7 three hundred twenty-two point nineteen (322.19),
8 subsection one (1), of the Code, and shall be one
9 hundred eighty days for a class one motor vehicle,
10 one hundred twenty days for a class two motor
11 vehicle, ninety days for a class three motor
12 vehicle, and sixty days for a class four motor
13 vehicle.

S-2947 Filed and lost
April 30, 1974

By GLUBA

S-2949

- 1 Amend the Commerce Committee amendment S-2922B, to
2 Senate File 1405, as follows:
3 1. Page 1, by inserting before line 16, the follow-
4 ing:
5 "unless". Page 61, line 8 by inserting after the
6 word "unless" the words ", with respect to the sale
7 of a motor vehicle subject to registration under the
8 laws of this state by a person licensed under chapter
9 three hundred twenty-two (322) of the Code,".

S-2949 Filed and adopted
April 30, 1974

By RAMSEY and MURRAY

S-2948

1 Amend the Commerce Committee amendment S-2922, to
2 Senate File 1405 as follows:
3 1. Page 1, by inserting after line 23, the follow-
4 ing:
5 . Page 96, lines 30 and 31, by striking the
6 words "Except as provided in subsections four (4) and
7 five (5) of this section, a" and inserting in lieu
8 thereof the word "A".
9 2. Page 19, by inserting after line 7 the follow-
10 ing:
11 Sec. _____. Section five hundred thirty-six A
12 point twenty-three (536A.23), Code 1973, is amended
13 by adding the following new subsection:
14 NEW SUBSECTION. Industrial loan companies
15 licensed under the provisions of this chapter may
16 purchase notes, contracts, mortgages, accounts,
17 receivables, leases and securities of a type and kind
18 authorized by the auditor.

S-2948 Filed and adopted
April 30, 1974

By McCARTNEY

S-2950

1 Amend Senate File 1405, page 78, as follows:
2 1. Line 18, by inserting a period after the word
3 "Act" and striking the words ", and has a right
4 of refund of".
5 2. Line 19, by striking "any excess charge paid"
6 and inserting in lieu thereof the following:
7 "Where a consumer has been charged an excess charge,
8 the consumer has a right to a refund of all
9 finance charges".

S-2950 Filed and lost
April 30, 1974

By GLUBA

S-2953

1 Amend Senate File 1405 as follows:
2 1. Page 85, strike lines 12, 13, and 14, and insert
3 in lieu thereof the words "'administrator' means the
4 auditor of state or his designee."
5 2. Page 88, line 13, strike the words "attorney
6 general" and insert in lieu thereof the words "auditor
7 of state".
8 3. Page 89, line 23, strike the words "attorney
9 general" and insert in lieu thereof the words "auditor
10 of state".
11 4. Page 97, line 30, strike the words "attorney
12 general" and insert in lieu thereof the words "auditor
13 of state".
14 5. Page 110, strike lines 18 through 28 and insert
15 in lieu thereof the following:
16 2. The auditor shall make an annual report in
17 writing. A copy of the report shall be fur-
18 6. Page 111, strike lines 8 and 9.

S-2953 Filed and lost
April 30, 1974

By SHAW

S-2957

1 Amend the Commerce Committee amendment S-2922, to page
2 27 of Senate File 1405, as follows:

3 1. Page 11, by striking lines 9 through 22 and
4 inserting in lieu thereof the following,
5 "thirteen (536.13), Code 1973, is amended by striking
6 subsections one (1), two (2), three (3), four (4),
7 and five (5) and inserting in lieu thereof the follow-
8 ing new subsection:

9 NEW SUBSECTION. The maximum rate of interest or
10 charges upon loans in the amount or of the value of
11 one thousand dollars or less shall be two and one-
12 half percent per month on any part of the unpaid
13 principal balance of the loan not exceeding one
14 hundred fifty dollars and one and one-half percent
15 per month on any part of the loan in excess of one
16 hundred fifty dollars, but not exceeding three
17 hundred dollars, and one and one-quarter percent per
18 month on any part of the unpaid principal balance of
19 the loan in excess of three hundred dollars.

S-2957 Filed and lost
April 30, 1974

By GLENN-

S-2959

1 Amend Senate File 1405 as follows:

- 2 1. Page 26, line 17, strike the word "five" and
3 insert in lieu thereof the word "three".
- 4 2. Page 26, line 19, strike the word "five" and
5 insert in lieu thereof the word "three".
- 6 3. Page 35, line 20, strike the word "five" and
7 insert in lieu thereof the word "three".
- 8 4. Page 35, line 22, strike the word "five" and
9 insert in lieu thereof the word "three".

S-2959 Filed and lost
April 30, 1974

By KINLEY

S-2946

1 Amend Senate File 1405 as follows:

- 2 1. Page 32, line 33, by striking the words
3 "other than an".
- 4 2. Page 32, by striking lines 34 and 35.
- 5 3. Page 33, line 1, by striking the word "union".
- 6 4. Page 34, by striking lines 21 and 22.
- 7 5. Page 34, line 23, by striking the words
8 "state as a credit union".
- 9 6. Page 114, by inserting after line 18 the fol-
10 lowing:
11 Sec. _____. Section five hundred thirty-three
12 point fourteen (533.14), Code 1973, is amended to
13 read as follows:
14 533.14 INTEREST RATES. Interest rates on
15 loans made by a credit union shall not exceed one
16 percent a month on unpaid balances, except that
17 with respect to consumer loans, a credit union may
18 charge the finance charge permitted in sections two
19 point four hundred one (2.401) and two point four
20 hundred two (2.402) of the Iowa Consumer Credit
21 Code.

S-2946 Filed and adopted
April 30, 1974

By ROBINSON and RABEDEAUX

S-2960

1 Amend Senate File 1405 as follows:

2 1. Page 52, by inserting after line 34, the
3 following:

4 Sec. . NEW SECTION. NOTICE OF METHODS OF
5 FINANCING AND RATES.

6 1. With respect to a consumer who has an open
7 end credit account with a creditor, and with respect
8 to a creditor which offers to some or all of its
9 customers consumer credit sales of goods or services
10 both pursuant to open end credit and not pursuant
11 to open end credit, that creditor shall give written
12 notice to that consumer of those alternative methods
13 at the times provided in subsection three (3) of
14 this section. The notice shall be as provided in
15 subsection two (2) of this section.

16 2. The notice required by this section shall
17 conspicuously state the highest finance charge
18 charged by that creditor to any consumer within the
19 last calendar year for each type of credit sale.
20 Such finance charge shall be stated, as an annual
21 percentage rate in such form as is required pursuant
22 to section three point two hundred one (3.201) of
23 this Act for each type of credit sale described in
24 subsection one (1) of this section, and the terms
25 of repayment for each type of credit sale.

Page 2

1 3. This section is complied with if notice
2 is given at the following times:

3 a. With respect to an existing open end credit
4 account holder, in a writing contained as a part of,
5 or mailed with a periodic statement mailed to the
6 account holders and no less than once every six
7 months.

8 b. With respect to a consumer not holding an
9 existing open end credit account, if the written
10 notice is presented to the person at the time of
11 the consumer credit transaction, and thereafter
12 as provided in paragraph a of this subsection.

S-2960 Filed and adopted
April 30, 1974

By KINLEY

S-2941

1 Amend Senate File 1405, page 58, line 25, by
2 striking the word "martial" and inserting in lieu
3 thereof the word "marital".

S-2941 Filed and adopted
April 30, 1974

By McCARTNEY

S-2940

- 1 Amend Senate File 1405 as follows:
2 1. Page 76, line 21, by striking the word
3 "creditor" and inserting in lieu thereof the word
4 "person".
5 2. Page 79, line 23, by striking the word
6 "creditor" and inserting in lieu thereof the word
7 "person".
8 3. Page 79, line 25, by striking the word
9 "creditor" and inserting in lieu thereof the word
10 "person".
11 4. Page 79, line 27, by striking the word
12 "creditor" and inserting in lieu thereof the word
13 "person".
14 5. Page 80, line 1, by striking the word
15 "creditor" and inserting in lieu thereof the word
16 "person".
17 6. Page 80, line 2, by striking the word
18 "creditor" and inserting in lieu thereof the word
19 "person".
20 7. Page 80, line 4, by striking the word
21 "creditor" and inserting in lieu thereof the word
22 "person".
23 8. Page 80, line 5, by striking the word
24 "creditor" and inserting in lieu thereof the word
25 "person".

Page 2

- 1 9. Page 80, line 6, by striking the word
2 "creditor" and inserting in lieu thereof the word
3 "person".
4 10. Page 80, line 11, by striking the word
5 "creditor" and inserting in lieu thereof the word
6 "person".

S-2940 Filed and adopted
April 30, 1974

By McCARTNEY

S-2943

- 1 Amend the Committee on Commerce amendment S-2922, to
2 page 27 of Senate File 1405, as follows:
3 1. Page 8, by adding the following section after
4 line 23:
5 Sec. ____ Section five hundred thirty-five
6 point two (535.2), subsection one (1), unnumbered
7 paragraph one (1), Code 1973, as amended by Acts of
8 the Sixty-fifth General Assembly, 1973 Session, chap-
9 ter two hundred seventy-three (273), section three
10 (3), is amended to read as follows:
11 1. Except as provided in subsection two (2)
12 hereof, the rate of interest shall be five cents on
13 the hundred by the year in the following cases, unless
14 the parties shall agree in writing for the payment of
15 interest not exceeding ~~nine~~ ten cents on the hundred
16 by the year, except that for any contract in existence
17 prior to July 1, 1974 the lawful rate of interest
18 shall not exceed nine cents on the hundred by the
19 year:
20 2. By renumbering the remaining sections.

S-2943 Filed and lost
April 30, 1974

By HULTMAN and RABEDEAUX

S-2945

1 Amend Senate File 1405 as follows:
2 1. Page 49, strike lines 9 through 23 and insert
3 in lieu thereof the following:
4 1. Whether or not a change is authorized by
5 prior agreement, a creditor may make a change in
6 the terms of an open end credit account applying
7 to any balance incurred after the effective date
8 of the change only if either the consumer after
9 receiving disclosure of the change agrees to it in
10 writing or the creditor delivers or mails to the
11 consumer two written disclosures of the change, the
12 first at least three months before the effective
13 date of the change and the second at a later time
14 before the effective date of the change.
15 2. Unless authorized by a provision of this
16 Act, no creditor shall change the terms of an open
17 end credit account, with respect to any balance
18 incurred before the effective date of the change,
19 which results in an increase of the rate of the
20 finance charge or other charge or an increase in
21 the amount of a periodic payment due, or which
22 otherwise adversely affects the interests of the
23 consumer with respect to such balance.
24 2. Page 49, line 24, strike the figure "2"
25 and insert in lieu thereof the figure "3".

Page 2

1 3. Page 49, line 28, strike the figure "3"
2 and insert in lieu thereof the figure "4".

S-2945 Filed and adopted
April 30, 1974

By GLUBA, RODGERS, PALMER,
KINLEY, DODERER, WILLITS
and HILL

S-2939

1 Amend the Commerce Committee amendment S-2922,
2 to Senate File 1405, as follows:
3 1. Page 1, by inserting after line 4, the
4 following:
5 _____ Page 32, by striking lines 30 through 35,
6 and inserting in lieu thereof the words "States for
7 similar lenders."
8 _____ Page 33, by striking lines 1 through 3.
9 2. Page 6, by striking lines 11 through 25.
10 3. Page 8, by striking lines 11 through 13 and
11 inserting in lieu thereof the words "out in section
12 534.21 hereof. Such loans shall be amortized to mature in not"
13 3. By renumbering sections in conformity with
14 this amendment.

S-2939 Filed and lost
April 30, 1974

By GLUBA, RODGERS, PALMER
and KINLEY

SENATE FILE 1405

S-2944

1 Amend Senate File 1405, page 66, by striking
2 lines 7 through 25 and inserting in lieu thereof
3 the following:

4 2. If the seller repossesses or voluntarily
5 accepts surrender of goods which were the subject
6 of the sale and in which he has a security interest,
7 the consumer is not personally liable to the seller
8 for the unpaid balance of the debt arising from the
9 sale of a commercial unit of goods of which the cash
10 sale price was one thousand seven hundred fifty
11 dollars or less, and the seller's duty to dispose
12 of the collateral is governed by the provisions on
13 disposition of collateral in sections five hundred
14 fifty-four point nine thousand five hundred one
15 (544.9501) through five hundred fifty-four point
16 nine thousand five hundred seven (554.9507) of the
17 Code.

18 3. If the seller repossesses or voluntarily
19 accepts surrender of goods which were not the
20 subject of the sale but in which he has a security
21 interest to secure a debt arising from a sale of
22 goods or services or a combined sale of goods and
23 services and the cash price of the sale was one
24 thousand seven hundred fifty dollars or less, the
25 consumer is not personally liable to the seller for

Page 2

1 the unpaid balance of the debt arising from the
2 sale, and the seller's duty to dispose of the col-
3 lateral is governed by the provisions on disposition
4 of collateral in sections five hundred fifty-four
5 point nine thousand five hundred one (554.9501)
6 through five hundred fifty-four point nine thousand
7 five hundred seven (554.9507) of the Code.

8 4. If the lender takes possession or voluntarily
9 accepts surrender of goods in which he has a
10 purchase money security interest to secure a debt
11 arising from a consumer loan in which the lender
12 is subject to defenses arising from sales or
13 leases under section three point four hundred five
14 (3.405) of this Act, and the net proceeds of the
15 loan paid to or for the benefit of the consumer
16 were one thousand seven hundred fifty dollars or
17 less, the consumer is not personally liable to the
18 lender for the unpaid balance of the debt arising
19 from that loan and the lender's duty to dispose of
20 the collateral is governed by the provisions on
21 disposition of collateral in sections five hundred
22 fifty-four point nine thousand five hundred one
23 (554.9501) through five hundred fifty-four point
24 nine thousand five hundred seven (554.9507) of the
25 Code.

Senate 9
May 1, 1974

Page 3

1 5. For the purpose of determining the unpaid
2 balance of consolidated debts or debts pursuant
3 to open end credit, the allocation of payments to
4 a debt shall be determined in the same manner as
5 provided for determining the amount of debt secured
6 by various security interests under section three
7 point three hundred three (3.303) of this Act.

8 6. The consumer may be liable in damages to the
9 creditor if the consumer has wrongfully or negligently
10 damaged the collateral or if, after default and
11 deman, the consumer has in bad faith failed to
12 make the collateral available to the creditor.

13 7. If the creditor elects to bring an action
14 against the consumer for a debt arising from a con-
15 sumer credit sale of goods or services or from a
16 consumer loan, when under this section he would not
17 be entitled to a deficiency judgment if he took
18 possession of the collateral, and obtains judgment,
19 he may not take possession of the collateral, and
20 the collateral is not subject to levy or sale on
21 execution or similar proceedings pursuant to the
22 judgment.

S-2944 Filed and lost
April 30, 1974

By RODGERS

SENATE FILE 1405

S-2922

- 1 Amend Senate File 1405 as follows:
- 2 1. Page 27, line 8, by striking the numerals c
3 "9536A)" and inserting in lieu thereof the numerals
4 "(536A)".
- 5 2. Page 45, line 28, by inserting after the word A
6 "charge" the words "as permitted by law".
- 7 3. Page 61, line 14, by striking the word "thirty" B
8 and inserting in lieu thereof the word "ninety".
- 9 4. Page 61, line 18, by striking the words "thirty-
10 day" and inserting in lieu thereof the words "ninety-
11 day".
- 12 5. Page 61, line 26, by striking the word "thirty"
13 and inserting in lieu thereof the word "ninety".
- 14 6. Page 61, line 30, by striking the word "thirty-"
15 and inserting in lieu thereof the word "ninety-".
- 16 7. Page 62, line 4, by striking the word c
17 "easonable" and inserting in lieu thereof the word
18 "reasonable".
- 19 8. Page 66, line 31, by inserting after the word
20 "attachment," the word "or".
- 21 9. Page 76, line 8, by striking the words "or
22 sworn" and inserting in lieu thereof the words "
23 or unless sworn".
- 24 10. Page 106, line 14, by striking the word "part"
25 and inserting in lieu thereof the word "chapter".

Page 1A

- 1 11. Page 108, line 33, by striking the word "part"
2 and inserting in lieu thereof the word "chapter".
- 3 12. Page 110, line 35, by striking the word "cred"
4 and inserting in lieu thereof the word "credit".
- 5 13. Page 111, line 24, by inserting after the
6 figures "(12)," the word and figures "thirteen (13),".
- 7 14. Pages 112 and 113, by striking lines 1 through
8 35, and inserting in lieu thereof the following: of
9 the Iowa Consumer Credit Code, and the licensee
10 continues to make consumer credit sales, consumer
11 loans or consumer leases in violation of the Iowa

Page 2

1 Consumer Credit Code.

2 Sec. 9.113. Section three hundred twenty-two
3 point fourteen (322.14), Code 1973, is amended to
4 read as follows:

5 322.14 PENALTIES. Any person violating any of
6 the provisions of this chapter where a penalty is
7 not specifically provided for shall be deemed guilty
8 of a misdemeanor and upon conviction thereof shall
9 be punished by a fine not exceeding one hundred
10 dollars or thirty days in jail.

11 ~~Any person who shall willfully and intentionally~~
12 ~~violate the provisions of subsection 6 of section~~
13 ~~322.3 shall be guilty of a misdemeanor and upon~~
14 ~~conviction shall be punished by a fine not to exceed~~
15 ~~five hundred dollars.~~

16 If a retail installment contract is subject to
17 a provision of the Iowa Consumer Credit Code which
18 is enforced by a criminal penalty, such penalty shall
19 be considered to be specifically provided for a
20 violation of this chapter.

21 The provisions of this chapter shall not apply
22 to violations under subsection 5 of section 322.3.

23 Sec. 9.114. Section three hundred twenty-two
24 point nineteen (322.19), subsection one (1), Code
25 1973, is amended to read as follows:

Page 3

1 1. AMOUNT. Notwithstanding the provisions of
2 any other existing law, a retail installment
3 transaction may include a finance charge not in
4 excess of the following rates:

5 Class 1. Any new motor vehicle designated by
6 the manufacturer by a year model not earlier than
7 the year in which the sale is made, an amount
8 equivalent to one and one-fourth percent per month
9 simple interest on the declining balance of the
10 amount financed.

11 Class 2. Any new motor vehicle not in Class 1
12 and any used motor vehicle designated by the
13 manufacturer by a year model of the same or not more
14 than two years prior to the year in which the sale
15 is made, an amount equivalent to one and three-fourths
16 percent per month simple interest on the declining
17 balance of the amount financed.

18 Class 3. Any used motor vehicle not in Class
19 2 and designated by the manufacturer by a year model
20 not more than four years prior to the year in which
21 the sale is made, an amount equivalent to two and
22 one-fourth percent per month simple interest on the
23 declining balance of the amount financed.

24 Class 4. Any used motor vehicle not in Class
25 2 or Class 3 and designated by the manufacturer by

Page 4

1 a year model more than four years prior to the year
2 in which the sale is made, an amount equivalent to
3 two and one-fourth percent per month simple interest
4 on the declining balance of the amount financed,
5 plus a flat charge of one dollar per month for the
6 number of months from the date of the contract to
7 the maturity date of the last installment thereunder,
8 but in no event in excess of twelve dollars.

9 Amount financed shall be as defined in section
10 one point three hundred one (1.301) of the Iowa
11 Consumer Credit Code.

12 Sec. 9.115. Section three hundred twenty-two
13 point nineteen (322.19), Code 1973, is amended by
14 striking subsections two (2) and three (3).

15 Sec. 9.116. Section three hundred twenty-two
16 point twenty (322.20), Code 1973, is amended to read
17 as follows:

18 322.20 EXTENSION OF TIME. If Sections two point
19 five hundred three (2.503) and three point four
20 hundred two (3.402) of the Iowa Consumer Credit Code
21 notwithstanding, if the holder of a retail installment
22 contract, at the request of the buyer, extends the
23 scheduled due date of all or any part of any in-
24 stallment or installments, the holder may restate
25 the amount of the installments and the time schedule

Page 5

1 therefor, and collect for such extension not more
2 than one percent per month simple interest on the
3 respective declining balances of the amount financed
4 computed on the amount and for the period of such
5 extension or renewal.

6 Sec. 9.117. Sections three hundred twenty-two
7 point twenty-one (322.21) and three hundred twenty-
8 two point twenty-two (322.22), Code 1973, are
9 repealed.

10 Sec. 9.118. Chapter three hundred twenty-two
11 (322), Code 1973, is amended by adding the following
12 new section:

13 NEW SECTION. APPLICABILITY OF THE IOWA CONSUMER
14 CREDIT CODE.

15 1. The provisions of the Iowa Consumer Credit
16 Code shall apply to a consumer credit sale in which
17 a licensed motor vehicle dealer participates or
18 engages, and any violation of that Code shall be
19 a violation of this chapter.

20 2. Article two (2), parts five (5) and six (6),
21 and article three (3), sections three point two
22 hundred three (3.203), three point two hundred six
23 (3.206), three point two hundred nine (3.209), three
24 point three hundred four (3.304), three point three
25 hundred five (3.305), and three point three hun-

Page 6

1 dred six (3.306) of the Iowa Consumer Credit Code
2 shall apply to any credit transaction as defined
3 in section one point three hundred one (1.301) of
4 that Code, that is a retail installment transaction.
5 For the purpose of applying provisions of that Code
6 to those transactions, "consumer credit sale" shall
7 include a sale for a business purpose.

8 3. A provision of the Iowa Consumer Credit Code
9 shall supersede a conflicting provision of this
10 chapter.

11 Sec. 9.119. Section five hundred twenty-four
12 point nine hundred six (524.906), Code 1973, is
13 amended by inserting the following new unnumbered
14 paragraph ahead of subsection one (1):

15 NEW UNNUMBERED PARAGRAPH. This section shall
16 apply to installment loans other than consumer loans
17 as defined in the Iowa Consumer Credit Code.

18 Sec. 9.120. Section five hundred twenty-four
19 point nine hundred six (524.906), subsection six
20 (6), Code 1973, is amended to read as follows:

21 6. No state bank shall have outstanding loans
22 subject to this section and section five hundred
23 twenty-four point nine hundred thirteen (524.913)
24 of this chapter in an aggregate amount exceeding
25 twenty-five percent of its total assets.

Page 7

1 Sec. 9.121. Chapter five hundred twenty-four
2 (524), Division nine (IX), Code 1973, is amended
3 by adding the following new section:

4 NEW SECTION. 524.913. CONSUMER LOANS.

5 1. The provisions of the Iowa Consumer Credit
6 Code shall apply to consumer loans made by a bank,
7 and provisions of that Code shall supersede any
8 conflicting provision of this chapter with respect
9 to consumer loans.

10 2. This section shall not apply to a consumer
11 loan which is a real property improvement loan insured
12 wholly or in part by the federal housing
13 administration of the United States.

14 Sec. 9.122. Section five hundred thirty-three
15 point sixteen (533.16), Code 1973, is amended by
16 adding the following new unnumbered paragraph:

17 NEW UNNUMBERED PARAGRAPH. The provisions of the
18 Iowa Consumer Credit Code shall apply to consumer
19 loans made by a credit union, and a provision of
20 that Code shall supersede any conflicting provision
21 of this chapter with respect to a consumer loan.

22 Sec. 9.123. Section five hundred thirty-four
23 point nineteen (534.19), subsection six (6), Code
24 1973, is amended to read as follows:

25 6. PROPERTY IMPROVEMENT LOANS. To make property

1 improvement loans to home owners and other property
2 owners for maintenance, repair, landscaping,
3 modernization, furniture and fixtures, improvement
4 and equipment for their properties, and loans on
5 mobile homes, with or without security provided that
6 no such loan without security shall exceed five thou-
7 sand dollars, and provided further that not in excess
8 of fifteen percent of the assets of the association
9 shall be so invested, said fifteen percent to be
10 exclusive of the forty percent of assets power set
11 out in section 534.21 hereof. Such loans, other
12 than consumer loans as defined in the Iowa Consumer
13 Credit Code, shall be amortized to mature in not
14 to exceed eight years. Such loans may also be based
15 on a discount or add-on charge of not to exceed six
16 dollars per one hundred dollars face amount per year
17 in lieu of straight interest otherwise provided by
18 law.

19 The provisions of the Iowa Consumer Credit Code
20 shall apply to consumer loans made by a savings and
21 loan association and a provision of that Code shall
22 supersede any conflicting provision of this chapter
23 with respect to a consumer loan.

24 Sec. 9.124. Section five hundred thirty-six point
25 one (536.1), Code 1973, is amended to read as follows:

1 536.1 LICENSE AND RIGHTS THEREUNDER. No With
2 respect to a loan other than a consumer loan, no
3 person, copartnership, association, or corporation
4 shall engage in the business of making loans of
5 money, credit, goods, or things in action in the
6 amount or of the value of one thousand dollars or
7 less and charge, contract for, or receive on any
8 such loan a greater rate of interest or consideration
9 therefor than the lender would be permitted by law
10 to charge if he were not a licensee hereunder except
11 as authorized by this chapter and without first
12 obtaining a license from the superintendent of
13 banking, hereinafter called the superintendent.
14 The word "person", when used hereinafter, shall in-
15 clude individuals, copartnerships, associations,
16 and corporations unless the context requires a
17 different meaning. With respect to a consumer loan,
18 a person required by section two point three hundred
19 one (2.301) of the Iowa Consumer Credit Code to have
20 a license shall not engage in the business of making
21 loans of money, credit, goods, or things in action
22 in the amount or value of one thousand dollars or
23 less and charge, contract for, or receive on any
24 such loan a greater rate of interest or consideration
25 therefor than the lender would be permitted by law

1 to charge if he were not a licensee hereunder, except
2 as authorized by this chapter and without first
3 obtaining a license from the superintendent. A per-
4 son which enters into less than ten supervised loans
5 per year in this state and which neither has an
6 office physically located in this state nor engages
7 in face-to-face solicitation in this state may
8 contract for and receive the rate of interest
9 permitted in this chapter for licensees hereunder.
10 A "consumer loan" shall be as defined in section
11 one point three hundred one (1.301) of the Iowa
12 Consumer Credit Code.

13 Sec. 9.125 Section five hundred thirty-six point
14 twelve (536.12), Code 1973, is amended by striking
15 the section and inserting in lieu thereof the
16 following:

17 536.12 RESTRICTIONS ON PRACTICES. No licensee
18 shall conduct the business of making loans under
19 the provisions of this chapter within any office,
20 room, suite, or place of business in which any other
21 business is solicited or engaged in, or in association
22 or conjunction therewith, except as may be authorized
23 in writing by the superintendent upon his finding
24 that the character of such other business is such
25 that the granting of such authority would not

1 facilitate evasions of this chapter or of the rules
2 and regulations lawfully made by him hereunder.

3 No licensee shall make any loan provided for by
4 this chapter under any other name or at any other
5 place of business than that named in the license.

6 No licensee shall take any instrument in which
7 blanks are left to be filled in after execution.

8 Sec. 9.126. Section five hundred thirty-six point
9 thirteen (536.13), subsection one (1), paragraph
10 b, Code 1973, is amended to read as follows:

11 b. To determine and fix by a regulation such
12 maximum rate of interest or charges upon each such
13 class of small loans as will induce efficiently
14 managed commercial capital to enter such business
15 in sufficient amounts to make available adequate
16 credit facilities to individuals without the se-
17 curity or financial responsibility usually required
18 by banks. Such maximum rate of interest or charge
19 shall be stated by the board as an annual percentage
20 rate calculated according to the actuarial method
21 and applied to the unpaid balances of the amount
22 financed.

23 Sec. 9.127. Section five hundred thirty-six point
24 thirteen (536.13), subsection six (6), Code 1973,
25 is amended by striking the subsection and inserting

Page 12

1 in lieu thereof the following:
2 6. The following provisions shall apply to all
3 loans including consumer loans made by a licensee
4 hereunder: If any interest or charge in excess of
5 those permitted by this chapter are charged,
6 contracted for, or received, the contract of loan
7 shall be void and the licensee shall have no right
8 to collect or receive any principal, interest, or
9 charges whatsoever.
10 The provisions of the Iowa Consumer Credit Code
11 shall apply to a consumer loan in which the licensee
12 participates or engages, and any violation of the
13 Iowa Consumer Credit Code shall be a violation of
14 this chapter.
15 Article two (2), parts three (3), five (5) and
16 six (6), and article three (3), sections three point
17 two hundred three (3.203), three point two hundred
18 six (3.206), three point two hundred nine (3.209),
19 three point three hundred four (3.304), three point
20 three hundred five (3.305), and three point three
21 hundred six (3.306) of the Iowa Consumer Credit Code
22 shall apply to any credit transaction, as defined
23 in section one point three hundred one (1.301) of
24 that Code, in which a licensee participates or
25 engages, and any violation of those parts or sections

Page 13

1 shall be a violation of this chapter. For the purpose
2 of applying the provisions of the Iowa Consumer
3 Credit Code to those credit transaction, "consumer
4 loan" shall include a loan for a business purpose.
5 A provision of the Iowa Consumer Credit Code
6 applicable to loans regulated by this chapter shall
7 supersede a conflicting provision of this chapter.
8 Sec. 9.128. Section five hundred thirty-six point
9 fourteen (536.14), unnumbered paragraph one (1),
10 is amended to read as follows:
11 Every licensee, in addition to complying with
12 requirements of the Iowa Consumer Credit Code
13 respecting consumer loans, shall:
14 Sec. 9.129. Section five hundred thirty-six point
15 nineteen (536.19), Code 1973, is amended to read
16 as follows:
17 536.19 VIOLATIONS. Any person, copartnership,
18 association, or corporation and the several members,
19 officers, directors, agents, and employees thereof,
20 who shall violate or participate in the violation
21 of any of the provisions of sections 536.1, 536.12,
22 536.13, or 536.14, or ~~536.18~~, which are not also
23 violations of article five (5), part three (3), of
24 the Iowa Consumer Credit Code, shall be guilty of
25 a misdemeanor, and upon conviction thereof, shall

Page 14

1 be punishable by a fine of not more than five hundred
2 dollars or by imprisonment of not more than six
3 months, or by both such fine and imprisonment, in
4 the discretion of the court. Violations of the Iowa
5 Consumer Credit Code shall be subject to the penalties
6 provided therein.

7 Sec. 9.130. Section five hundred thirty-six point
8 twenty-six (536.26), unnumbered paragraphs four (4)
9 and five (5), Code 1973, are amended to read as
10 follows:

11 The premium, which shall be the only charge for
12 such insurance, shall not exceed that approved by
13 the commissioner of insurance of the state of Iowa
14 as filed in the office of such commissioner. Such
15 charge, computed at the time the loan is made for
16 the full term of the loan contract on the total
17 amount required to pay principal and interest, ~~shall~~
18 ~~be stated separately in the contract and in the same~~
19 ~~location in such contract as are the statements of~~
20 ~~the principal and interest of the loan.~~

21 If a borrower procures insurance by or through
22 a licensee, ~~the statement required by section 536.14~~
23 ~~shall disclose the cost to the borrower and the type~~
24 ~~of insurance, and~~ the licensee shall cause to be
25 delivered to the borrower a copy of the policy within

Page 15

1 fifteen days from the date such insurance is procured.
2 No licensee shall decline new or existing insur-
3 ance which meets the standards set out herein nor
4 prevent any obligor from obtaining such insurance
5 coverage from other sources.

6 Sec. 9.131. Chapter five hundred thirty-six
7 (536), Code 1973, is amended by adding the following
8 new section:

9 NEW SECTION. NONRESIDENT LICENSEES.

10 Notwithstanding other provisions of this chapter
11 to the contrary, a person which neither has an office
12 physically located in this state nor engages in face-
13 to-face solicitation in this state, if authorized
14 by another state to make loans in that state at a
15 rate of finance charge in excess of the rate provided
16 in chapter five hundred thirty-five (535) of the
17 Code, shall not be subject to the following provisions
18 of this chapter.

19 1. Section five hundred thirty-six point two
20 (536.2), Code 1973, to the extent it requires payment
21 of an annual license fee in excess of ten dollars
22 and requires a person to prove he has any dollar
23 amount of liquid assets or the use of any dollar
24 amount in the conduct of his business at the licensed
25 place of business.

Page 16

- 1 2. Section five hundred thirty-six point four
2 (536.4), Code 1973, however, the superintendent may
3 deny a license if upon investigation he determines
4 that the financial responsibility, experience,
5 character or general fitness of the person, or
6 members, officers, or directors thereof, do not
7 warrant the belief that the business will be operated
8 lawfully, honestly fairly, and efficiently, within
9 the purposes of this chapter.
- 10 3. Section five hundred thirty-six point six
11 (536.6), Code 1973, to the extent it requires a
12 person to have any dollar amount of assets available
13 for a licensed place of business.
- 14 4. Section five hundred thirty-six point ten
15 (536.10), Code 1973, to the extent it requires the
16 superintendent to make an examination of the affairs,
17 place of business, and records of the person on a
18 periodic basis.
- 19 Sec. 9.132. Sections five hundred thirty-six
20 point sixteen (536.16), five hundred thirty-six point
21 seventeen (536.17), five hundred thirty-six point
22 eighteen (536.18), five hundred thirty-six point
23 twenty-seven (536.27), and subsections seven (7)
24 and eight (8) of section five hundred thirty-six
25 point thirteen (536.13), subsections one (1) and

Page 17

- 1 two (2) of section five hundred thirty-six point
2 fourteen (536.14), and paragraph seven (7) of section
3 five hundred thirty-six point twenty-six (536.26),
4 Code 1973, are repealed.
- 5 Sec. 9.133. Section five hundred thirty-six A
6 point three (536A.3), Code 1973, is amended to read
7 as follows:
- 8 536A.3 LICENSE. No-corporation With respect
9 to a loan other than a consumer loan, no person shall
10 engage in the business of operating an "Industrial
11 Loan Company" in the state of Iowa without first
12 having obtained a license from the auditor of the
13 state of Iowa. With respect to a consumer loan,
14 no person required by section two point three hundred
15 one (2.301) of the Iowa Consumer Credit Code to have
16 a license shall be authorized to engage in the
17 business of operating an "Industrial Loan Company"
18 without first obtaining a license from the auditor
19 of the state of Iowa. A person which enters into
20 less than ten supervised loans per year in this state
21 and which neither has an office physically located
22 in this state nor engages in face-to-face solicitation
23 in this state may contract for and receive the rate
24 of interest permitted in this chapter for licensees
25 hereunder. A "consumer loan" shall be as defined

Page 18

1 in section one point three hundred one (1.301) of
2 the Iowa Consumer Credit Code.

3 Sec. 9.134. Section five hundred thirty-six A
4 point twenty-three (536A.23), subsection one (1),
5 Code 1973, is amended to read as follows:

6 1. Charge, receive or collect interest at a rate
7 greater than that authorized by section 535.2, except
8 that the interest may be computed when the note is
9 made on the full amount of the cash advanced on the
10 loan from the date of the note to the date of the
11 final installment thereof, and the interest so
12 computed may be included in the note, notwithstanding
13 any agreement to pay the entire amount in
14 installments; or the interest may be computed on
15 the amount of the note and discounted or collected
16 in advance when the loan is made, notwithstanding
17 any agreement to pay the entire amount in install-
18 ments. If the note is repayable in other than equal
19 monthly installments, the interest may be an amount
20 computed on the basis of the effective rates permitted
21 as provided above; provided, however, there shall
22 be no compounding of interest and when an interest
23 rate as authorized herein is advertised, or negotiated
24 for with a prospective borrower, with intent that
25 it be computed by either of the two methods authorized

Page 19

1 herein, they being the "add on" method or the
2 "discount" method, in such case such rate shall be
3 further described as to the method of computation
4 to be used, but interest computed by either method
5 shall be stated to the borrower as provided in section
6 three point two hundred ten (3.210) of the Iowa
7 Consumer Credit Code.

8 Sec. 9.135. Section five hundred thirty-six A
9 point twenty-six (536A.26), Code 1973, is amended
10 by striking the section and inserting in lieu thereof
11 the following:

12 536A.26 PREPAYMENT. In addition to the
13 requirements of the Iowa Consumer Credit Code
14 respecting consumer loans, and notwithstanding the
15 provisions of any note or contract to the contrary,
16 a borrower may, at any time, prepay all or any part
17 of the unpaid balance to become payable under any
18 note or installment contract.

19 Sec. 9.136. Section five hundred thirty-six A
20 point twenty-seven (536A.27), Code 1973, is amended
21 to read as follows:

22 536A.27 PENALTY. If any officer, director or
23 agent of any corporation engaged in the business
24 of operating an industrial loan company shall violate
25 any of the provisions of this chapter which are not

Page 20

1 also violations of the Iowa Consumer Credit Code;
2 or if any person individually or as a partner, or
3 officer, director or agent of any corporation shall
4 engage in the business of operating an industrial
5 loan company without obtaining the license required
6 by section 536A.3, when that person is not required
7 by section two point three hundred one (2.301) of
8 the Iowa Consumer Credit Code to have a license,
9 he shall be guilty of a misdemeanor and upon
10 conviction thereof shall be punishable by a fine
11 of not more than five hundred dollars or by
12 imprisonment in the county jail for not more than
13 six months, or by both such fine and imprisonment.
14 Violations of the Iowa Consumer Credit Code shall
15 be subject to the penalties provided therein.

16 Sec. 9.137 Chapter five hundred thirty-six A
17 (536A), Code 1973, is amended by adding the following
18 new sections:

19 NEW SECTION. NONRESIDENT LICENSEES.
20 Notwithstanding other provisions of this chapter
21 to the contrary, a person which neither has an office
22 physically located in this state nor engages in face-
23 to-face solicitation in this state, if authorized
24 by another state to make loans in that state at a
25 rate of finance charge in excess of the rate provided

Page 21

1 in chapter five hundred thirty-five (535) of the
2 Code, shall not be subject to the following provisions
3 of this chapter:

4 1. Section five hundred thirty-six A point seven
5 (536A.7) of the Code, to the extent it requires
6 payment of an annual license fee in excess of ten
7 dollars.

8 2. Section five hundred thirty-six A point eight
9 (536A.8) of the Code.

10 3. Section five hundred thirty-six A point ten
11 (536A.10), subsections two (2), three (3) and four
12 (4) of the Code.

13 4. Section five hundred thirty-six A point twelve
14 (536A.12) of the Code, to the extent it requires
15 a licensee to pay an annual licensee fee which, when
16 combined with that required in section five hundred
17 thirty-six A point seven (536A.7) of this chapter,
18 is in excess of ten dollars.

19 5. Section five hundred thirty-six A point fifteen
20 (536A.15) of this chapter, to the extent it requires
21 the auditor to make an examination and audit of the
22 books, accounts and records of the licensee on a
23 periodic basis.

24 NEW SECTION. APPLICABILITY OF IOWA CONSUMER
25 CREDIT CODE.

Page 22

1 1. The provisions of the Iowa Consumer Credit
2 Code shall apply to a consumer loan in which the
3 licensee participates or engages, and any violation
4 of the Iowa Consumer Credit Code shall be a violation
5 of this chapter.
6 2. Article two (2), parts three (3), five (5),
7 and six (6), and article three (3), sections three
8 point two hundred three (3.203), three point two
9 hundred six (3.206), three point two hundred nine
10 (3.209), three point two hundred ten (3.210), three
11 point three hundred four (3.304), three point three
12 hundred five (3.305), and three point three hundred
13 six (3.206) of the Iowa Consumer Credit Code shall
14 apply to any credit transaction, as defined in section
15 one point three hundred one (1.301) of that Code,
16 in which a licensee participates or engages, and
17 any violation of those parts or sections shall be
18 violations of this chapter. For the purpose of
19 applying the provisions of the Iowa Consumer Credit
20 Code to those credit transactions, "consumer loan"
21 shall include a loan for a business purpose.
22 2. A provision of the Iowa Consumer Credit Code
23 applicable to loans regulated by this chapter shall
24 supersede a conflicting provision of this chapter.
25 Sec. 9.138. Sections five hundred thirty-six

Page 23

1 A point twenty (536A.20) and five hundred thirty-
2 six A point twenty-four (536A.24), and subsections
3 three (3), four (4), six (6) and seven (7) of section
4 five hundred thirty-six A point twenty-three
5 (536A.23), Code 1973, are repealed.
6 Sec. 9.139. Section five hundred fifty-four point
7 nine thousand two hundred three (554.9203), subsection
8 two (2), Code 1973, is amended to read as follows:
9 2. A transaction, although subject to this
10 Article, is also subject to chapters 322, 534, 535,
11 536, 536A and, section 524.906, and the Iowa Consumer
12 Credit Code, where applicable, and in the case of
13 conflict between the provisions of this Article and
14 any-such-statute those statutes, the provisions of
15 such-statute those statutes control. Failure to
16 comply with any applicable statute has only the
17 effect which is specified therein.
18 Sec. 9.140. Section six hundred forty-two point
19 two (642.2), Code 1973, is amended by striking the
20 section and inserting in lieu thereof the following:
21 642.2 GARNISHMENT OF PUBLIC EMPLOYER.
22 1. The state of Iowa, and all of its governmental
23 subdivisions and agencies may be garnisheed, only
24 as provided in this section and the consent of the
25 state and of its governmental subdivisions and

Page 24

1 agencies to those garnishment proceedings is hereby
2 given.

3 2. Garnishment pursuant to this section may be
4 made only upon a judgment against an employee of
5 the state, or of a governmental subdivision or agency
6 thereof.

7 3. No debt of the garnishee is subject to
8 garnishment other than the wages of the public
9 employee.

10 4. Service upon the garnishee shall be made by
11 serving an original notice with a copy of the judgment
12 against the defendant, and with a copy of the
13 questions specified in section six hundred forty-
14 two point five (642.5) of this chapter, by certified
15 mail or by personal service upon the attorney general,
16 county attorney, city attorney, or other legal counsel
17 of the appropriate governmental unit. The garnishee
18 shall be required to answer within thirty days
19 following receipt of the notice.

20 5. If it is established that the garnishee owed
21 wages to the defendant at the time of being served
22 with the notice of garnishment, judgment shall be
23 entered, subject to the requirement of section six
24 hundred forty-two point fourteen (642.14) of the
25 Code against the garnishee in an amount not exceeding

Page 25

1 the amount recoverable upon the judgment against
2 the defendant employee, but in no event shall the
3 judgment granted be for any amount in excess of that
4 permitted by section six hundred forty-two point
5 twenty-one (642.21) of the Code, and section five
6 point one hundred five (5.105) of the Iowa Consumer
7 Credit Code.

8 6. A judgment in garnishment issued pursuant
9 to this section shall be enforceable against a
10 garnishee only to the extent of the defendant's wages
11 actually in the possession of the garnishee, and
12 shall not be enforceable against any property, claims
13 or other rights of the garnishee.

14 7. A person garnished pursuant to this section
15 shall be subject to the provisions of this chapter
16 not inconsistent with this section.

17 9.141. The secretary of the senate is authorized
18 to correct any errors in internal referencing which
19 may appear in this bill.

20 15. Page 114, by striking lines 1 through 18.

21 16. By correcting internal references in
22 conformity with this amendment.

S-2935

1 Amend the Committee amendment S-2922, to Senate
2 File 1405 as follows:

3 1. Page 1, by inserting before line 1 the fol-
4 lowing:

5 _____ Page 23, line 31, by striking the words "or
6 a sale of a motor vehicle".

7 _____ Page 23, by striking lines 34 and 35, and
8 inserting in lieu thereof the words "(6) of this
9 section."

10 _____ Page 24, by striking lines 1 through 5.

11 2. Page 2, by striking lines 24 and 25, and
12 inserting in lieu thereof the following:

13 point nineteen (322.19), Code 1973, is amended
14 by striking the section and inserting in lieu there-
15 of the following:

16 322.19 FINANCE CHARGES. A retail installment
17 transaction may include a finance charge not in
18 excess of that permitted by section two point
19 two hundred one (2.201) of the Iowa Consumer Credit
20 Code. "Finance charge" shall be as defined in sec-
21 tion one point three hundred one (1.301) of that
22 Code.

23 3. Page 3, by striking lines 1 through 25.

24 4. Page 4, by striking lines 1 through 11.

25 5. Page 4, by striking lines 16 through 25, and

Page 2

1 inserting in lieu thereof the following:

2 point twenty (322.20), Code 1973, is amended by
3 striking the section.

4 6. Page 5, by striking lines 1 through 5.

S-2935 Filed and lost
April 30, 1974

By SHAW

S-2936

1 Amend Senate File 1405 as follows:

2 1. Page 26, strike lines 15 through 19 and insert
3 in lieu thereof the words and figure "exceed an amount
4 equal to one and one-fourth percent of the maximum
5 amount pursuant to subsection two (2) of this section.
6 If the billing cycle".

7 2. Page 35, strike lines 18 through 22 and insert
8 in lieu thereof the words and figure "exceed an amount
9 equal to one and one-fourth percent of the maximum
10 amount pursuant to subsection two (2) of this sec-
11 tion. If the billing cycle".

S-2936 Filed and lost
April 30, 1974

By KINLEY and GLUBA

S-2938

1 Amend Senate File 1405, page 85, lines 13 and 14 by
2 striking the words "in the consumer credit protec-
3 tion bureau within the consumer fraud division of
4 the office of the attorney general".

S-2938 Filed - *Adopted 4/30*
April 30, 1974

By HULTMAN

SENATE FILE 1405

S—2958

1 Amend Senate File 1405 as follows:

2 1. Page 24, by striking lines 6 through 8, and
3 inserting in lieu thereof the following:

4 2. The finance charge which may be charged or
5 received with respect to a consumer credit sale,
6 except motor vehicles sold under section three
7 hundred twenty-two point nineteen (322.19) of the
8 Code, shall not exceed fifteen percent per year,
9 calculated according to the actuarial method, on
10 the unpaid balances of the amount financed, pro-
11 vided, however:

12 Any person, or his successor in interest in any
13 business, who has charged or received a finance
14 charge, in a consumer credit sale except the sale
15 of a motor vehicle, in excess of nine percent per
16 year calculated according to the actuarial method
17 on the unpaid balances of the amount financed during
18 any time period prior to the effective date of this
19 Act, shall not charge or receive a finance charge
20 in excess of twelve percent per year calculated
21 according to the actuarial method on the unpaid
22 balances of the amount financed, for a period of
23 time equal to one half the period during which
24 such was charged or received. If substantial
25 evidence is presented to the administrator that a

Page 2

1 person, or his successors in interest in any busi-
2 ness, has charged or received such excessive
3 interest or finance charge, the burden shall shift
4 to the person to show the period of time during
5 which he charged or received such finance charge
6 or interest, and the time he received an amount
7 equal to or less than nine percent, facts the ad-
8 ministrator shall determine upon notice and hearing.
9 Any decision of the administrator regarding said
10 time period may be the subject of certiorari under
11 Division fourteen (XIV), Iowa Rules of Civil
12 Procedure.

13 In the event that any finance charge or interest
14 provision of this Act is unconstitutional, the in-
15 terest or finance charge shall remain at nine per-
16 cent per year for the sale of any personal property
17 in Iowa, motor vehicles under section three hundred
18 twenty-two point nineteen (322.19) of the Code,
19 excepted. Any person violating any provision of
20 this Act, in addition to any other penalties
21 herein exacted, must credit the purchaser's account
22 with all interest received on said account, and
23 in the event the principal of that account has
24 been paid in full, or a credit balance remains
25 after crediting said interest or finance charge,

Senate 17
May 1, 1974

Page 3

1 he must refund all of said balance of interest or
2 finance charge to the purchaser, his heirs, executors
3 or assigns.

4 2. Page 26, by striking lines 15 through 19 and
5 inserting in lieu thereof the following:

6 "exceed an amount equal to one twelfth of the
7 rate authorized by section two point two hundred
8 one (2.201) of this Act multiplied by the maximum
9 amount pursuant to subsection two (2) of this sec-
10 tion. If the billing cycle".

11 3. Page 35, by striking lines 18 through 22 and
12 inserting in lieu thereof the following:

13 "exceed an amount equal to one twelfth of the
14 rate authorized by section two point two hundred
15 one (2.201) of this Act multiplied by the maximum
16 amount pursuant to subsection two (2) of this sec-
17 tion. If the billing cycle".

S-2958 Filed and lost
April 30, 1974

By GLUBA

H-3129

- 1 Amend Senate File 1405, as amended and passed by
2 the Senate as follows:
- 3 1. Page 33, line 2, by striking the word "fifteen"
4 and inserting in lieu thereof the word "thirteen".
 - 5 2. Page 26, line 17, by striking the word "five"
6 and inserting in lieu thereof the word "one".
 - 7 3. Page 26, line 19, by striking the word "five"
8 and inserting in lieu thereof the word "one".
 - 9 4. Page 35, line 20, by striking the word "five"
10 and inserting in lieu thereof the word "one".
 - 11 5. Page 35, line 22, by striking the word "five"
12 and inserting in lieu thereof the word "one".
 - 13 6. Page 53, by striking line 11 and inserting in
14 lieu thereof the words "of a security interest in real
15 property used as a residence of the consumer or his
16 dependents the amount financed is two thousand".
 - 17 7. Page 53, by striking lines 32 through 35, and
18 inserting in lieu thereof the words "curity interest,
19 in the clothing, personal articles, and household
20 furnishings and appliances used by the".
 - 21 8. Page 56, line 18, by striking the words "Unless
22 executed after default on a claim".
 - 23 9. Page 56, by striking lines 19 through 23, and
24 inserting in lieu thereof the following:
25 "In a consumer credit transaction, a creditor shall
26 not take an authorization to obtain a judgment by
27 confession pursuant to chapter six hundred seventy-six
28 (676) of the Code or otherwise, or an authorization to
29 act in any other way on behalf of the consumer in the
30 enforcement of such transaction."
 - 31 10. Page 56, line 34, by striking the word "twice"
32 and inserting in lieu thereof the words "one and one-
33 half times".
 - 34 11. Page 66, line 32, by inserting after the
35 word "Code" the words ", or like proceedings, nor
36 attach any property of the consumer pursuant to sub-
37 sections seven (7), eight (8), and nine (9) of section
38 six hundred thirty-nine point three (639.3) of the
39 Code or pursuant to subsection two (2) of section six
40 hundred thirty-nine point nine (639.9) of the Code".
 - 41 12. Page 66, by striking lines 7 through 25 and
42 inserting in lieu thereof the following:
43 2. If the seller repossesses or voluntarily
44 accepts surrender of goods which were the subject
45 of the sale and in which he has a security interest,
46 the consumer is not personally liable to the seller
47 for the unpaid balance of the debt arising from the
48 sale of a commercial unit of goods of which the cash
49 sale price was one thousand seven hundred fifty
50 dollars or less, and the seller's duty to dispose

51 of the collateral is governed by the provisions on
52 disposition of collateral in sections five hundred
53 fifty-four point nine thousand five hundred one
54 (554.9501) through five hundred fifty-four point
55 nine thousand five hundred seven (554.9507) of the
56 Code.

57 3. If the seller repossesses or voluntarily
58 accepts surrender of goods which were not the
59 subject of the sale but in which he has a security
60 interest to secure a debt arising from sale of
61 goods or services or a combined sale of goods and
62 services and the cash price of the sale was one
63 thousand seven hundred fifty dollars or less, the
64 consumer is not personally liable to the seller for
65 the unpaid balance of the debt arising from the
66 sale, and the seller's duty to dispose of the col-
67 lateral is governed by the provisions on disposition
68 of collateral in sections five hundred fifty-four
69 point nine thousand five hundred one (554.9501)
70 through five hundred fifty-four point nine thousand
71 five hundred seven (554.9507) of the Code.

72 4. If the lender takes possession or voluntarily
73 accepts surrender of goods in which he has a
74 purchase money security interest to secure a debt
75 arising from a consumer loan in which the lender
76 is subject to defenses arising from sales or
77 leases under section three point four hundred five
78 (3.405) of this Act, and the net proceeds of the
79 loan paid to or for the benefit of the consumer
80 were one thousand seven hundred fifty dollars or
81 less, the consumer is not personally liable to the
82 lender for the unpaid balance of the debt arising
83 from that loan and the lender's duty to dispose of
84 the collateral is governed by the provisions on
85 disposition of collateral in sections five hundred
86 fifty-four point nine thousand five hundred one
87 (554.9501) through five hundred fifty-four point
88 nine thousand five hundred seven (554.9507) of the
89 Code.

90 5. For the purpose of determining the unpaid
91 balance of consolidated debts or debts pursuant
92 to open end credit, the allocation of payments to
93 a debt shall be determined in the same manner as
94 provided for determining the amount of debt secured
95 by various security interests under section three
96 point three hundred three (3.303) of this Act.

97 6. The consumer may be liable in damages to the
98 creditor if the consumer has wrongfully or negligently
99 damaged the collateral or if, after default and
100 demand, the consumer has in bad faith failed to

House 15
May 3, 1974

101 make the collateral available to the creditor.
102 7. If the creditor elects to bring an action
103 against the consumer for a debt arising from a con-
104 sumer credit sale of goods or services or from a
105 consumer loan, when under this section he would not
106 be entitled to a deficiency judgment if he took
107 possession of the collateral, and obtains judgment,
108 he may not take possession of the collateral, and
109 the collateral is not subject to levy or sale on
110 execution or similar proceedings pursuant to the
111 judgment.

112 13. Page 77, line 15, by striking the words
113 "Authorizations to confess judgment" and inserting in
114 lieu thereof the words "Certain authorizations
115 prohibited".

116 14. Page 79, line 19, by inserting after the word
117 "of" the word "all".

118 15. Page 79, by striking all after the period in
119 line 21 and all of line 22.

120 16. Page 124, by striking lines 3 through 5,
121 and inserting in lieu thereof the following: "certi-
122 fied mail or by personal service upon the comptroller
123 of the state, the auditor of a county, the clerk of
124 a city, or the chief financial officer of any other
125 governmental subdivision, by whom the defendant is
126 employed. The garnishee shall be required".

H—3129 Filed and adopted
May 2, 1974

By WEST of Marshall
CARR of Dubuque

H—3084

1 Amend Senate File 1405, as amended and passed by
2 the Senate, page 124, by striking lines 3 through 5,
3 and inserting in lieu thereof the following: "certi-
4 fied mail or by personal service upon the comptroller
5 of the state, the auditor of a county, the clerk of
6 a city, or the chief financial officer of any other
7 governmental subdivision, by whom the defendant is
8 employed. The garnishee shall be required".

H—3084 Filed - *H. J. 5/2*
May 1, 1974

By KNOKE of Pottawattamie

H—3085

1 Amend Senate File 1405, as amended and passed by
2 the Senate, as follows:
3 1. Page 102, by striking lines 4 through 9.
4 2. By relettering paragraphs in conformity with
5 this amendment.

H—3085 Filed. *Withdrawn 5/2*
May 1, 1974

By KNOKE of Pottawattamie

H-3086

1 Amend Senate File 1405, as amended and passed by
2 the Senate, as follows:
3 1. Page 26, strike lines 15 through 19 and insert
4 in lieu thereof the words and figure "exceed an amount
5 equal to one percent of the maximum amount pursuant
6 to subsection two (2) of this section. If the billing
7 cycle".
8 2. Page 35, strike lines 18 through 22 and insert
9 in lieu thereof the words and figure "exceed an amount
10 equal to one percent of the maximum amount pursuant to
11 subsection two (2) of this section. If the billing
12 cycle".

H-3086 Filed *Law 5/2*
May 1, 1974

By HORN of Linn
JESSE of Polk
NIELSEN of Polk
MONROE of Des Moines
CARR of Dubuque

H-3095

1 Amend Senate File 1405, as amended and passed by
2 the Senate, as follows:
3 1. Page 110, insert after line 2 the following:
4 NEW SECTION. LIMITATION ON LICENSES. A person
5 who has been convicted of a crime constituting a
6 felony shall not be entitled to a license under this
7 chapter.
8 2. Page 110, line 11, strike the word "section"
9 and insert in lieu thereof the word "sections".
10 3. Page 110, insert after line 11 the following:
11 NEW SECTION. LIMITATION OF LICENSES. A person
12 who has been convicted of a crime constituting a
13 felony shall not be entitled to a license under this
14 chapter.

H-3095 Filed and lost
May 2, 1974

By HIGGINS of Scott
CARR of Dubuque

H-3122

1 Amend Senate File 1405, as amended and passed by
2 the Senate, as follows:
3 1. Page 104, by inserting after line 32, the fol-
4 lowing section:
5 Sec. 7.104. PROHIBITED PUBLICATION. A person,
6 whether or not a debt collector, shall not disclose,
7 publish or communicate information relating to a
8 person's indebtedness to another person by selling
9 lists, compilations or other abstracts, when such
10 information is acquired by the seller from public
11 documents or records, and when the seller has reason
12 to believe the person to whom the information is sold
13 intends to primarily use the information for com-
14 mercial or business purposes.
15

H-3122 Filed and lost
May 2, 1974

By MILLER of Buchanan

SENATE FILE 1405

H—3077

1 Amend Senate File 1405, as amended and passed by
2 the Senate, page 104, by striking line 34 and
3 inserting in lieu thereof the following:

4 Section 8.101. NEW SECTION. APPLICABILITY. This
5 article applies to credit reporting agencies, mer-
6 chants and others who prepare, provide, purchase or
7 use consumer reports or any information contained
8 in a consumer report.

9 Sec. 8.102. NEW SECTION. DEFINITIONS. As used
10 in this article unless the context requires otherwise:

11 1. "Account" means any actual or alleged debt
12 or other financial obligation of a consumer of what-
13 ever nature.

14 2. "Adverse information" means information that
15 is likely to have a negative effect upon the ability
16 of the consumer to obtain or upon his eligibility
17 for, credit and credit insurance.

18 3. "Consumer report" means any written, oral or
19 other communication of any information bearing upon
20 the credit worthiness, credit standing or credit
21 capacity of the consumer which is used or expected
22 to be used or is collected in whole or in part for
23 the purpose of serving as a factor in establishing
24 the eligibility of a consumer for employment, credit
25 or insurance. The term includes an investigative
26 consumer report. The term does not include a report
27 containing information solely as to transactions
28 between the consumer and the person making the report
29 or any authorization or approval of a specific
30 extension of credit by the issuer of a credit card
31 or by the creditor of an open-end credit plan to
32 persons authorized to extend credit to the consumer
33 pursuant to that credit card or that plan.

34 4. "Consumer reporting agency" means any person
35 other than a government instrumentality who regularly
36 engages in whole or in part in the business of pro-
37 viding consumer reports.

38 5. "File" means information recorded and retained
39 by a consumer reporting agency or a merchant about
40 a consumer, regardless of how the information is
41 stored.

42 6. "Investigative consumer report" means a con-
43 sumer report or a portion thereof in which information
44 on a consumer's character, general reputation, per-
45 sonal characteristics, or mode of living is obtained
46 through personal interviews with neighbors, friends,
47 or associates of the consumer reported on, or with
48 others with whom the consumer is acquainted or who
49 may have knowledge concerning any such items infor-
50 mation. However, the term shall not include specific

51 factual information on a consumer's credit record
52 obtained directly from a creditor of the consumer
53 or from a consumer reporting agency when such informa-
54 tion originally was obtained directly from the con-
55 sumer.

56 7. "Merchant" means any person other than a
57 government instrumentality who uses, in whole or in
58 part, a consumer report received from a consumer
59 reporting agency or who provides information to a
60 consumer reporting agency pursuant to a contract or
61 for a fee or other consideration, or who otherwise
62 regularly provides information to a consumer reporting
63 agency.

64 Sec. 8.103. NEW SECTION. DISCLOSURE TO CONSUMER
65 OF PROPOSED INVESTIGATION AND CONSUMER REPORT. A
66 consumer reporting agency or a merchant shall not
67 procure or prepare or cause to be procured or pre-
68 pared a consumer report unless each of the following
69 are complied with:

70 1. The person discloses to the consumer the pur-
71 pose and scope of the proposed investigation and con-
72 sumer report, and the identity of the person requesting
73 the report.

74 2. The person obtains the consumer's written per-
75 mission to undertake the proposed investigation and
76 consumer report, and upon completion obtains the con-
77 sumer's knowing permission to release the report.

78 3. The person notifies the consumer of the name
79 and address of the consumer reporting agency which
80 is to conduct the proposed investigation and prepare
81 the consumer report.

82 4. The person notifies the consumer of his rights
83 under section eight point two hundred two (8.202)
84 and section eight point two hundred three (8.203)
85 of this article.

86 Sec. 8.104. NEW SECTION. PROHIBITED INFORMA-
87 TION; ACCURACY, RELEVANCY AND OBSOLESCENCE OF INFORMA-
88 TION.

89 1. Neither a consumer reporting agency nor a
90 merchant shall collect, evaluate, prepare, use or
91 report information which is not reasonably relevant,
92 based upon objective criteria, to the purpose for
93 which it is sought.

94 2. A consumer reporting agency or a merchant who
95 collects, evaluates, prepares, uses or reports
96 information for purposes other than those specified
97 in subsection one (1) of section eight point one hun-
98 dred three (8.103) and subsection three (3) of sec-
99 tion eight point two hundred one (8.201) of this
100 article shall maintain separate files for that informa-

101 tion and shall not commingle or disclose that infor-
102 mation or any summary thereof with information col-
103 lected, evaluated, prepared, used or reported for
104 purposes of this article.

105 3. Neither a consumer reporting agency nor a mer-
106 chant shall collect, evaluate, prepare, use or report
107 information relative to a criminal offense unless
108 there has been a conviction for the offense.

109 4. Neither a consumer reporting agency nor a mer-
110 chant shall collect, evaluate, prepare, use or report
111 information which is obsolete or which it has rea-
112 son to know is inaccurate or irrelevant.

113 5. A consumer reporting agency and a merchant
114 shall adopt and maintain reasonable procedures designed
115 to accomplish the following:

116 a. Verify the accuracy and relevancy of informa-
117 tion in their files.

118 b. Exclude inaccurate and irrelevant information
119 from their files.

120 c. Eliminate obsolete information from their
121 files.

122 Sec. 8.105. NEW SECTION. PRESERVING CONFIDENTIALITY. A consumer reporting agency and a mer-
123 chant shall maintain procedures designed to preserve
124 the confidentiality of information in their files.
125 These procedures shall include limiting access to in-
126 formation to authorized employees and maintaining
127 training programs to acquaint employees with the need
128 for preserving confidentiality. Whenever a reporting
129 agency or merchant transmits information by any means
130 or medium of communication, it shall take steps to
131 prevent unauthorized access to such information.

132 Sec. 8.106. NEW SECTION. ACCESS BY GOVERNMENTAL AGENCIES. A consumer reporting agency and a merchant
133 shall not provide information on consumers in their
134 files to a governmental agency for purposes other
135 than those authorized in section eight point two
136 hundred one (8.201) of this article unless pursuant
137 to the order of a court having jurisdiction to issue
138 such an order. Identifying information such as names
139 addresses or places of employment may be provided
140 to such agencies upon written request.

141 Sec. 8.107. NEW SECTION. OBSOLETE INFORMATION.

142 1. A consumer reporting agency and a merchant
143 shall maintain procedures designed to discard infor-
144 mation in their files after it has become obsolete
145 or after the expiration of a reasonable period of
146 time.

147 2. The following information shall not be reported
148 to any person after the period indicated and shall
149
150

- 151 be removed from the file of the consumer upon
152 expiration of the period:
- 153 a. Bankruptcies and all other insolvency pro-
154 ceedings of all types after seven years from the date
155 of the most recent adjudication.
 - 156 b. Records of accounts placed for collection and
157 records of accounts charged to profit and loss after
158 three years.
 - 159 c. Suits, judgments and tax liens after seven
160 years from the date of their initial filing.
 - 161 d. Records of conviction after three years from
162 the date of release from confinement or, if there
163 was no confinement, from the date of conviction or
164 other disposition, but such items shall no longer
165 be reported if at any time it is learned that a full
166 pardon has been granted; and
 - 167 e. Any other adverse information not otherwise
168 specified in this section after three years.
- 169 3. Adverse information shall not be reported un-
170 less the information has been received or its accuracy
171 has been verified beyond a reasonable doubt within
172 six months prior to making the report.

173 Part 2

174 CONSUMER REPORTING AGENCIES

175 Sec. 8.201. NEW SECTION. USES FOR WHICH INFOR-
176 MATION MAY BE PROVIDED.

- 177 1. A consumer reporting agency shall maintain
178 procedures designed to limit access to consumer re-
179 ports to those persons whom it knows or has reason
180 to know intend to use reports solely for legitimate
181 business purposes. A consumer reporting agency shall
182 verify the identity of a new prospective user and
183 the uses certified by that prospective user before
184 it provides a report to a new prospective user.
- 185 2. A consumer reporting agency shall not provide
186 a report to a prospective user if it knows or has
187 reason to know that the report will be used for other
188 than legitimate business purposes.
- 189 3. For purposes of this article, the following
190 are legitimate business purposes:
- 191 a. Use in connection with an extension of credit
192 to a consumer, or in connection with a review or col-
193 lection of the account of the consumer.
 - 194 b. Use in connection with the consummation of
195 a transaction pursuant to which a consumer will make
196 payment for property or services.
 - 197 c. Use in connection with the consummation of
198 a contract of insurance involving a consumer.
 - 199 d. Use by an attorney in a legal matter if the
200 consumer is a client of the attorney and has agreed

201 in writing to the provisions of the report.
202 4. For purposes of this article, the following
203 are not legitimate business purposes:
204 a. Use for market research or marketing purposes.
205 b. Use by or on behalf of a private detective
206 or private detective agency or others in investigations
207 conducted by the detective or detective agency or
208 others.
209 5. Notwithstanding any other provision of this
210 Part, a consumer reporting agency may furnish a con-
211 sumer report in compliance with an order of a court
212 having jurisdiction to issue such an order.
213 Sec. 8.202. NEW SECTION. ACCESS BY CONSUMER TO
214 FILE.
215 1. A consumer reporting agency shall, upon request
216 and proper identification of a consumer, clearly and
217 accurately disclose to the consumer:
218 a. All information in his file concerning the
219 consumer; and
220 b. The sources of all information in the file;
221 and
222 c. The recipients of any consumer report concern-
223 ing the consumer which it has provided for any pur-
224 pose within the two-year period preceding the request
225 2. A consumer reporting agency shall, upon request
226 and proper identification of a consumer, permit the
227 consumer to actually examine the total contents of
228 the consumer's file, and to have copies made on the
229 premises at a cost not to exceed ten cents per page,
230 of any information the consumer requests.
231 3. The requirements of subsection one (1) respect-
232 ing the disclosure of sources of information and the
233 recipients of consumer reports do not apply to infor-
234 mation received or consumer reports provided prior
235 to the effective date of this Act except to the extent
236 that material involved is contained in the files of
237 the consumer reporting agency on that date.
238 4. A consumer reporting agency shall make the
239 disclosures to the consumer required under subsections
240 one (1) and two (2) of this section:
241 a. During normal business hours and on reasonable
242 notice.
243 b. In person if the consumer appears in person
244 and provides proper identification.
245 c. By telephone if the individual has made a
246 written request, with proper identification, for tele-
247 phone disclosure and the toll charge, if any, for
248 the telephone call is prepaid by or charged directly
249 to the consumer.
250 d. By providing trained personnel to explain to

251 the consumer any information provided to him pursu-
252 ant to subsections one (1) and two (2) of this sec-
253 tion.

254 5. The consumer may be accompanied by one other
255 person of his choice.

256 6. No consumer reporting agency shall require
257 a consumer to grant immunity from legal action to
258 the consumer reporting agency or its sources of
259 information as a condition for the disclosures required
260 by this section.

261 7. A consumer is entitled to receive the disclo-
262 sures required by this section with respect to his
263 file from each consumer reporting agency without
264 charge once during each calendar year and each time
265 a notice pursuant to section eight point one hundred
266 five (8.105) and section eight point three hundred
267 two (8.302) of this article is received by the
268 consumer. A consumer reporting agency may impose
269 a reasonable charge not to exceed five dollars,
270 exclusive of copy costs, for additional disclosure.

271 Sec. 8.203. NEW SECTION. CORRECTION OF INACCU-
272 RATE, IRRELEVANT AND MISLEADING INFORMATION.

273 1. A consumer reporting agency shall adopt rea-
274 sonable procedures to enable a consumer to correct
275 any inaccurate, irrelevant or misleading information
276 in his file.

277 2. If any item of information contained in his
278 file is disputed by a consumer on the ground that
279 it is inaccurate, irrelevant or misleading the consumer
280 reporting agency shall, within thirty days after writ-
281 ten notice of dispute is given by the consumer,
282 investigate and record the status of that information
283 and notify the consumer of the result of its investi-
284 gation and of his rights under subsection four (4)
285 of this section.

286 3. If, after conducting the investigation required
287 in subsection two (2) of this section, the consumer
288 reporting agency finds that the item is in error or
289 that it is unable to verify the item, it shall:

290 a. Expunge the item and otherwise correct the
291 file.

292 b. Refrain from reporting the item in subsequent
293 consumer reports.

294 c. Promptly notify all persons who have received
295 the item during the previous two years of the error
296 and the corrected information.

297 4. If, after conducting the investigation required
298 in subsection two (2) of this section, the consumer re-
299 porting agency is unable to prove beyond a reasonable
300 doubt any difference between the allegations made

301 by its sources and the consumer, it shall:
302 a. Expunge from the file the item in dispute.
303 b. Refrain from reporting the item in subsequent
304 consumer reports.
305 c. Promptly notify all persons who have received
306 the item during the previous two years of the error
307 and the corrected information.

308 Sec. 8.204. NEW SECTION. DISCLOSURE OF ADVERSE
309 INFORMATION OF PUBLIC RECORD.

310 1. A consumer reporting agency which compiles
311 and reports items of adverse information on consumers
312 when such items are matters of public record shall:

313 a. Give written notice to the consumer that the
314 information has been obtained and is being reported
315 and of the name and address of the depository of the
316 public record.

317 b. Give written notice to the consumer of his
318 rights under section eight point two hundred two
319 (8.202) and section eight point two hundred three
320 (8.203) of this article.

321 c. Maintain strict procedures designed to insure
322 that whenever the information is reported it is com-
323 plete and current.

324 2. For purposes of this section, items of public
325 record concerning convictions, suits, tax liens, out-
326 standing judgments and related matters shall be con-
327 sidered current if the public record status of the
328 item at the time of the report is reported.

329 Part 3

330 MERCHANTS

331 Sec. 8.301. NEW SECTION. USE OF REPORTS FROM
332 CONSUMER REPORTING AGENCY.

333 1. A merchant shall not obtain information from
334 a consumer reporting agency by false or misleading
335 means.

336 2. A merchant shall not use a consumer report
337 or disclose information therein except for a legitimate
338 business purpose.

339 Sec. 8.302. NEW SECTION. DISCLOSURE TO CONSUMER
340 OF CONSUMER REPORT. With respect to a particular
341 consumer, a merchant who because of any information
342 contained in a consumer report:

343 1. Refuses in whole or in part to enter into a
344 consumer credit transaction; or

345 2. Refuses in whole or in part to enter into a
346 consumer credit transaction except at a rate of finance
347 charge or in accordance with terms and conditions
348 more onerous than those regularly extended by that
349 merchant to consumers of similar economic backgrounds;
350 or

351 3. Increases in whole or in part any charge or
352 imposes any new, additional or modified terms or
353 conditions more onerous than those regularly extended
354 by that merchant to consumers of similar economic
355 background;
356 shall promptly give written notice to the consumer
357 of the action taken and of the fact that the action
358 was due in whole or in part to a consumer report.
359 The notice shall include the name and address of the
360 consumer reporting agency which provided the report
361 and a statement of the rights of the consumer pursuant
362 to section eight point two hundred two (8.202) and
363 section eight point two hundred three (8.203) of this
364 article.

365 Sec. 8.303. NEW SECTION. REPORT OF INFORMATION
366 TO CONSUMER REPORTING AGENCY.

367 1. If a merchant has provided information to a
368 consumer reporting agency that an account is past
369 due or that action has been taken to collect an
370 account, and the account is thereafter settled by
371 payment, deferral, refinancing, arrangement pursuant
372 to the Federal Bankruptcy Act, 11 U.S.C. Sections
373 701 et seq., other disposition of the account or a
374 determination in an action or other proceeding that
375 the account is not owing in whole or part, the merchant
376 shall promptly notify the consumer reporting agency
377 of such disposition.

378 2. Whenever adverse information has been reported
379 by a merchant to a consumer reporting agency, the
380 merchant shall promptly report to that agency any
381 subsequent action which relates to that information.

382 Sec. 8.304. NEW SECTION. REPORT OF DISPUTED
383 ACCOUNT TO CONSUMER REPORTING AGENCY.

384 1. After receiving notice that an account is
385 disputed by the consumer, a merchant shall not report
386 to a consumer reporting agency that the account is
387 delinquent unless the merchant:

388 a. Reports to the consumer reporting agency that
389 the account is disputed and providing a brief descrip-
390 tion of the respective allegations of the parties.

391 b. Provides the consumer with a copy of the infor-
392 mation reported pursuant to paragraph a of subsection
393 one (1), the name and address of the consumer reporting
394 agency and a statement of the rights of the consumer
395 pursuant to section eight point two hundred two (8.202)
396 and section eight point two hundred three (8.203)
397 of this article.

398 2. If a merchant has reported an account as delin-
399 quent and subsequently receives notice that the account
400 is disputed, he shall promptly comply with the require-

401 ments of subsection one (1) of this section.

402 3. For purposes of this section, an account is
403 disputed when the consumer or his attorney has given
404 notice to a merchant that the consumer contests the
405 allegations of the merchant concerning rights, obli-
406 gations or liabilities of the parties.

407 Sec. 8.305. NEW SECTION. MERCHANT HARASSMENT.
408 No merchant shall threaten any consumer with con-
409 sequences adverse to his credit standing by reason
410 of a report to be made by the merchant to a consumer
411 reporting agency. Nothing in this section shall pro-
412 hibit a merchant from reporting information to a
413 credit reporting agency in conformance with this
414 article.

Part 4

REMEDIES

415
416
417 Sec. 8.401. NEW SECTION. CIVIL LIABILITY FOR
418 WILLFUL NONCOMPLIANCE. Any consumer reporting agency
419 or user of a consumer report which willfully fails
420 to comply with any requirement imposed under this
421 article with respect to any consumer shall be liable
422 to that consumer in a civil action brought pursuant
423 to this article in an amount equal to the sum of all
424 of the following:

425 1. Any actual damages sustained by the consumer
426 as a result of the failure to comply.

427 2. In an action other than a class action, a
428 penalty in an amount to be determined by the court
429 of not less than one hundred dollars nor more than
430 one thousand dollars.

431 3. In the case of any successful action to enforce
432 any liability under this section, the costs of the
433 action together with reasonable attorney's fees as
434 determined by the court.

435 Sec. 8.402. NEW SECTION. CIVIL LIABILITY FOR
436 NEGLIGENT NONCOMPLIANCE.

437 1. Any consumer reporting agency or user of infor-
438 mation which negligently fails to comply with any
439 requirement imposed under this title with respect
440 to any consumer is liable to that consumer in an
441 amount equal to the sum of all of the following:

442 a. Any actual damages sustained by the consumer
443 as a result of the failure to comply.

444 b. In an action other than a class action, a
445 penalty in the amount of one hundred dollars for each
446 item of information erroneously reported.

447 c. In the case of any successful action to enforce
448 any liability under this section, the costs of the
449 action together with reasonable attorney's fees as
450 determined by the court.

House 29
May 2, 1974

451 2. Any failure to comply with a requirement imposed
452 by this article shall constitute a prima facie case
453 of negligence, but a consumer reporting agency
454 user of consumer reports shall not be held liable
455 if it establishes by a preponderance of the evidence
456 that, at the time of the violation, the violation
457 resulted from a bona fide error notwithstanding the
458 maintenance of reasonable procedures to assure
459 compliance and avoidance of error.

460 Sec. 8.403. NEW SECTION. ADMINISTRATIVE EN-
461 FORCEMENT.

462 1. ADMINISTRATOR. Compliance with the requirements
463 imposed by this article shall be administratively
464 enforced under the Iowa Consumer Credit Code by the
465 administrator.

466 2. POWERS. The administrator shall have all
467 procedural, investigative, enforcement and other
468 powers specified in part one (1) of article six (6)
469 of this Act to enforce this article, and a violation
470 of this article shall constitute a violation, or a
471 prohibited act as defined in the Iowa Consumer Credit
472 Code for administrative enforcement purposes.

473 3. RULE MAKING. The administrator shall have
474 the power to adopt, amend and repeal rules, pursuant
475 to chapter seventeen A (17A) of the Code, which he
476 deems are necessary to carry out the provisions of
477 this article.

H—3077 Filed - *Withdrawn 5/2*
May 1, 1974

By: PATCHETT of Johnson
RAPP of Black Hawk
GRIFEE of Chickasaw
AVENSON of Fayette
MONROE of Des Moines
CONNORS of Polk
NORLAND of Worth
MENNENGA of Clinton
SMALL of Johnson

H--3080

1 Amend Senate File 1405, as amended and passed by
2 the Senate as follows: (Amendment S-2922, page 8, after line 25)

3 1. Page 116, by inserting after line 4, the
4 following new section:

5 Sec. _____. Section five hundred thirty-
6 five point two (535.2), subsection two (2),
7 Code 1973, is amended to read as follows:

8 2. Any domestic or foreign corporation or
9 real estate investment trust as defined in
10 section 856 of the Internal Revenue Code or
11 organizations, including government, business,
12 or commercial other than those organized for
13 agricultural purposes may agree in writing to pay
14 any rate of interest in excess of the rate pre-
15 scribed in subsection 1 hereof, and no such
16 corporation or real estate investment trust or
17 organization so agreeing in writing shall plead
18 to interpose the claim or defense of usury in any
19 action or proceeding.

20 2. By renumbering the sections and correcting
21 internal references.

H--3080 Filed. *Law 5/2*
May 1, 1974

By FISCHER of Grundy
DRAKE of Muscatine

INDEX

to

IOWA CONSUMER CREDIT CODE

Prepared by

Larry W. Burch
Legislative Service Bureau
May 13, 1974

ACCELERATION,
Of contract, limitation, 5.110

ACCOUNT BALANCE,
determined-methods, 2.202(2),
2.402(2),
holder subject to, 3.403, 3.404,
3.405

ACKNOWLEDGMENT OF DEBT,
debt collection, 7.103

ACTIONS,
Administrator, by
civil, 6.113
enforcement of subpoena,
2.305(4), 6.106
Administrator to join, 6.105
False representations respecting,
7.103
Injunctions, 6.110, 6.111
Recision, 6.110

ACTUARIAL METHOD,
defined, 1.301(1)
rates determined by, 2.201(2),
2.401(2)

ADMINISTRATION,
actions, 6.108, 6.110, 6.111,
6.112, 6.113

administrative enforcement, 6.108
2.303
administrative orders,
suspension of license, 2.303(4)
cease and desist, 6.108

administrator,
defined, 1.301(2)
duties, 6.104

enforcement of other laws, 2.301,
2.501, 3.201, 3.309, 4.101

investigations, 6.106

ADMINISTRATION, CONT.,
rule-making,
generally, 6.204
actuarial method, 1.301(1)
additional charges, 2.501(1)
disclosure violations, 5.203(9)
duty to effect uniformity,
6.104
exemptions, balloon payments,
3.308
parts of months, 2.201(4)
2.401(3)

ADMINISTRATIVE RULES,
applicability to creditors,
6.204
no liability for reliance,
6.104(4)
regulatory agencies, 6.204

ADMINISTRATOR,
defined, 6.103
exceptions, 2.301, 6.105
powers not in derogation of
consumers remedies, 6.115
rules, 6.204
see ADMINISTRATION

ADVANCES TO PERFORM COVENANTS,
finance charge, 2.506

ADVERTISING,
prohibited statements, 3.209,
3.210

AGREEMENT,
defined, 1.301(4)
see CONTRACTS
see MULTIPLE AGREEMENTS

AGRICULTURAL PURPOSE,
defined, 1.301(4).
not subject to provision,
3.301, 3.303, 3.310,
3.401, 3.404, 3.501

AMOUNT FINANCED,
defined, 1.301(5)
CONVERSION TO OPEN END, 2.508

APPEALS,
cease and desist order, 6.108

ASSIGNEE,
notification required, 6.201
subject to defenses, 3.404

ASSIGNMENT,
notice of, required, 3.204
of earnings, prohibited, 3.305
claims and defenses, 3.404

ASSURANCE OF DISCONTINUANCE,
defined, 6.109
use, 2.303(4)

ATTORNEY,
of debtor,
debt collection, 7.103(5)(e)

ATTORNEY FEES,
creditor liable, 5.201(8)
no agreement by consumer to pay
2.507

AVERAGE DAILY BALANCE,
defined, 2.201

BALANCE,
see ACCOUNT BALANCE

BALLOON PAYMENTS,
lease, in,
prohibition, 3.401
non-lease, in,
rights of consumer, 3.308

BANKRUPTCY,
discharged debts,
affirmations limited, . . .
7.103(5)(e)

BILLING CYCLE,
defined, 1.301(6)

BURDEN OF PROOF,
material impairment, 5.109

CANCELLATION OF AGREEMENT
by creditor, notice, 3.207
by consumer, 3.309, 3.310

CARD ISSUER,
defined, 1.301(7)
subject to claims and defenses,
3.403

CARDHOLDER,
defined, 1.301(8)

CASH PRICE,
defined, 1.301(9)

CHARGES,
default, limitation, 3.402
deferral, 2.503
delinquency, 2.502, 2.601
other lawful charges, 2.501,
cardholder,
closing costs,
fees and taxes,
insurance,
license fees
non-consumer transactions, 2.601

CIVIL PENALTIES,
see DAMAGES
see PENALTIES

CLAIMS AND DEFENSES,
assignee subject to, 3.404
card issuer subject to, 3.403
lender subject to, 3.405
not subject to waiver, 3.403,
3.404, 3.405

CLOSING COSTS,
defined, 1.303(1), 2.501(1)

COMMUNICATIONS,
prohibited, respecting debt,
7.103

COMPUTATIONAL PERIOD,
defined, 1.303(2), 2.510(4)

CONFESSION OF JUDGMENT,
prohibited, 3.306

CONSOLIDATION LOANS,
application of payments, 3.303
see FINANCE CHARGE

CONSPICUOUS,
defined, 1.301(10)
used, 2.501, 3.202, 3.207,
3.208

CONSTRUCTION,
applicable law, 1.103
rules of, 1.102
severability, 1.105
subsequent repeal unintended,
1.104

CONSUMER,
defined, 1.301(11)

CONSUMER CREDIT INSURANCE,
disclosure, 2.501(2)
prepayment rebate, 2.510(7)

CONSUMER CREDIT SALE,
defined, exceptions, 1.301(13)
finance charge, open end credit
2.202
not open end
2.201

CONSUMER CREDIT TRANSACTION,
defined, 1.301(12)
receipt of payment required,
3.206
notice of methods of financing
and rates, 3.212

CONSUMER LEASE,
defined, 1.301(14)
balloon prohibited, 3.401
disclosure, 3.202

CONSUMER LOAN,
defined, exceptions, 1.301(15)
finance charge, open end-2.401
not open end,
2.402

CONTRACTS,
acceleration,
see ACCELERATION
agreement,
defined, 1.301(3)
change of terms, open end
accounts, disclosure,
3.205
copy to consumer, contract,
3.203
copy to cosigner, 3.208
cosigner, notice of obligation,
requirement, 3.208
default,
see DEFAULT
missing terms,
supplement, 3.207
recision, action for, 6.110
terms,
choice of law, 1.201(2)(c)
consumer to pay attorney
fees, 2.507
maturity limitation, 2.308
modification defined, 1.201(3)
prohibited, 1.201(6),
3.305, 3.306
waiver of consumer rights
prohibited, 3.403,
3.404, 3.405
unconscionability, 5.108

COSTS,
escrow, 6.109

COSTS OF SUIT,
awarded to administrator,
6.106, 6.113
attorney fees, as, 2.507, 5.201

CREDIT,
defined, 1.301(16)

CREDIT CARD,
defined, 1.301(17)
pursuant to, defined, 1.303(10)
1.301(7)

CREDITOR,
defined, 1.301(18)
notification required, 6.201

CRIMINAL PENALTIES, 5.301
excess charges,
debt collection,
disclosure violations,
failure to give notification,
lending without license

CROSS COLLATERAL
see SECURITY INTERESTS

CURE OF DEFAULT,
see DEFAULT
consumers right, 5.110(3)
also see EXECUTORY AGREEMENT

DAMAGES,
civil penalties, 5.201
dismissal of employee, garnishment,
5.201(5)
defenses of creditor, 5.201, 5.203
disclosure violations, 5.203
double recovery, 5.203(8)
limitation on,
claims and defenses of consumer
3.403, 3.404, 3.405
default charges, 3.402
recovery by creditor on
executory contract, 3.310
referral sales, 3.309
waiver of rights unenforcible
3.403, 3.404, 3.405
repossessed collateral, duties
5.103
unconscionability, 5.108

DEADBEAT LISTS,
use prohibited, 7.103(3)(b)

DEBT,
defined, 1.301(3), 7.102(1)

DEBT COLLECTION,
defined, 1.303(4), 7.102(1)
criminal penalties, 5.301
prohibited practices, 7.103

DEBT COLLECTOR
defined, 1.303(5), 7.102(3)
notification required, 6.201

DEBT COUNSELLING SERVICE,
debt collection,
contacting employer, 7.103

DEBTOR,
defined, 7.102

DECEPTIVE PRACTICES,
debt collection, 7.103(4)

DEFAULT,
defined, grounds, 5.109
cure of, notice, 5.110, 5.111
judgment, limitation, 5.114

DEFAULT CHARGES,
limitation, 3.402

DEFERRAL CHARGES,
limitation, 2.503
unilateral deferral and charge,
2.503(3)

DEFICIENCY JUDGMENT,
creditors duty to dispose,
5.103

DEFINITIONS,
generally, 1.301
others, 1.303

DELINQUENCY CHARGE,
limitation, 2.502, 2.601

DISCLOSURE,
finance charge, 3.201,
change in terms, open end credit,
3.205
rate maximum on certain deferrals
2.503,
debt collection, related to,
7.103(4)
of contract rights, 3.203

DISCRIMINATION PROHIBITED,
3.311

DISPOSABLE EARNINGS,
defined, 1.303(6), 5.105(1)

DOOR TO DOOR SALES,
law cited, enforcement,
violations 3.501

EARNED INTEREST,
see PREPAYMENT, 2.510

EARNINGS,
additional exemption from
garnishment 5.105(4)
assignment of, 3.305
defined, 1.301(19)
garnishment, limitation, 5.104,
5.105
garnishment of public employer,
9.141, Code sec. 642.2

EDUCATIONAL PROGRAMS,
see duties of administrator, 6.104

EMPLOYER,
of consumer,
assignment of earnings,
3.305
debt collection, 7.103
garnishment,
generally, 6.104, 6.105
public employer,
9.141, Code sec. 642.2
wrongful dismissal,
5.106

ENFORCIBILITY
contract terms,
assignment of earnings,
3.305
confession of judgment,
3.306
default charges, 3.402
unenforceable terms, 1.201(6)
waivers of rights,
3.403, 3.404, 3.405
referral sales, 3.309
unconscionability, 5.108

EVIDENCE
cease and desist order, 6.108
claims and defenses,
3.403, 3.404, 3.405

EVIDENCE, CONT.
defense to civil penalty,
5.201(6), (7), 5.203
injunctive relief, 6.111
material impairment, 5.109
proof of assignment, 3.204
sale of collateral, 5.103
substantial benefit, 5.108
unconscionability, 5.108

EXCESS CHARGES,
criminal penalty, 5.301
failure to disclose, change in
terms of open end account,
3.205
insurance, 4.101
obtained by multiple agreements,
3.304
recovery, 5.201

EXECUTORY AGREEMENT
limitation of enforcement, 3.310

EXCLUSIONS,
transactions not subject to ICCA,
1.202

FEES,
debt collection, assessment or
false representation, 7.103

FEES, NOTIFICATION,
see NOTIFICATION

FINANCE CHARGE,
advertising,
prohibited statements,
3.209, 3.210
balloon payment limitation, 3.308
calculation,
methods permitted, 2.201(3)
on prepayment, 2.510
consolidation loan, 2.505
defined, 1.301(20)
disclosure, 3.201
excess charge,
recoverable, 1.201(1), 3.205,
5.201, 6.113
insurance, 4.101

year as 365 days, 2.601

FINANCE CHARGE, CONT.

minimum charge permitted,
2.201(6), 2.202(4), 2.402(4)
2.510
notice of minimum charge,
3.203
multiple agreements to increase,
prohibited, 3.304
refinancing, limitation, 2.504

FLIPPING, ANTI-FLIPPING

balloons, 3.308
consolidations, 2.505
refinancing, 2.504
conversions, 2.508

FORMS,

required,
notice of contract rights,
3.203
notice to cosigner, 3.208
notice of consumer paper
3.211
notice of right to cure
default, 5.111

FRAUDULENT REPRESENTATIONS,

debt collection, 7.103(4)

GARNISHMENT,

defined, 1.303(7)
before judgment, 5.104
limitations, 5.105
public employer, 9.141
additional exemption, 5.105(4)
no discharge from employment for,
5.106

GIFT CERTIFICATE,

defined, 1.301(21)

GOOD FAITH,

general rule, 1.110
of consumer, claims and defenses,
3.403, 3.404
of assignee, defined, 3.404
sale of repossessed goods,
5.103

GOODS,

defined, 1.301(22)

HEARING,

administrative,
license revocation, 2.303(2)
cease and desist order, 6.108

INJUNCTION,

cease and desist order, 6.108
restraint of violations, 6.110,
6.111
temporary relief, 6.112
unconscionability, 5.108

INSURANCE,

disclosure of coverage, 2.501(2)
3.202

INSURANCE CHARGES,

excess charges, 4.101
notice of, 2.501(2)

INSURANCE PREMIUM LOAN

defined, 1.301(23)
disclosure required, 3.207

INTEREST IN LAND

disclosure, applicability to
non-consumer transactions,
3.102
restrictions on, as security
for loan, 2.307
restrictions on, as security
for sale, 3.301

INTERVAL,

defined, 1.303(8), 2.510(4)

INVESTIGATIONS,

licensing authority, 2.305
administrator, defined, 6.106

JUDGMENT

costs,
see COSTS OF SUIT
default, limitation, 5.114

JURISDICTION,

applicability,
actions or proceedings,
5.102
administration, 6.102
disclosure, 3.102
generally, of ICCC, 1.201
notification and fees, 6.201
district court,
generally, 1.203(1)
non residents, 1.203(2)

LEASE

balloon prohibited, 3.401
disclosure required, 3.202
not refinancable, 2.504
not subject to consolidation,
2.505

LENDER,

defined, 1.301(24)
subject to claims and defenses,
3.405
door to door sales, 3.501

LENDER CREDIT CARD

defined, 1.301(25)
exception to lease disclosure,
3.202(1)
used in door to door sales,
3.501
subject to claims and defenses,
3.403

LOAN

defined, 1.301(26)
sale of earnings construed as,
3.305

LOCATION

defined, 1.303(9), 2.310(1)

LICENSING AUTHORITY

defined, 2.301(1)

LICENSEE

defined, 2.301(1)
prohibited integration of business
2.309, 2.310

LICENSE

defined, 2.301(1)
revocation or suspension,
cause, procedures, 2.303
assurances of discontinuance,
6.109
reinstatement, 2.303(7)
voluntary relinquishment, 2.303(5)

LIMITATIONS OF ACTIONS

civil actions by administrator,
6.113
civil penalties, 5.201(3)

LIMITATIONS OF ACTIONS, CONT.

disclosure violations,
civil actions, 5.203(6)
judicial review,
cease and desist order,
6.108
lost wages, garnishment,
5.201(5)
statute not bar to setoff,
5.202

MATERIAL IMPAIRMENT,
see DEFAULT

MEDIAN AMOUNT

used to calculate finance
charge, 2.202(2), 2.402(2)

MERCHANDISE CERTIFICATE,
defined, 1.301(27)

MISREPRESENTATION,

in debt collection, 7.103

MOTOR VEHICLE

not subject to finance charge
limitation, 1.201(1)
excess charge a violation of
ICCC, 1.201(1)
dealers subject to ICCC,
Code sec. 322.6
sales, finance charge,
Code sec. 322.19

MULTIPLE AGREEMENTS

to increase finance charge,
prohibited, 3.304

NEGOTIABLE INSTRUMENTS

as consumer paper, notice,
3.211
prohibited in certain
instances, 3.307

NOTICE

hearing, license revocation,
2.303
by consumer, claims and defenses,
3.403, 3.404
by consumer, cancellation of
executory agreement, 3.310
contract rights of consumer,
3.203
effective when mailed,
3.403, 3.404, 3.405, 5.111
methods of financing and rates,
3.212

NOTICE, CONT.

of consumer paper, 3.211
of cancellation, insurance,
5.110
of default, 5.110, 5.111
proof of loss by consumer, insurance
rebate, 2.510(7)
refund, consumers right, 5.201(2)
to cosigners, 3.208

NOTIFICATION

by creditor to administrator,
6.201
contents of, 6.201
penalty for failure, 5.301
(criminal)
fees required, 6.203
f

OFFICIAL DOCUMENTS,

misrepresentation prohibited,
7.103(4)(g)

OFFICIAL FEES,

defined, 1.301(28)

OPEN END CREDIT

defined, 1.301(29)

ORGANIZATION

defined, 1.301(30)

OTHER STATE LAWS

applicability or effect,
1.201(1)(a)(2)

PAYABLE IN INSTALLMENTS

defined, 1.301(31)

PENALTIES

as setoff, no statute of limitation,
5.202

civil, 5.201

civil action by administrator,
repeated violations, 6.113
failure to give notifi-
cation, 6.113

criminal,

see CRIMINAL PENALTIES

disclosure, 5.203

late annual report, 2.304(2)

late notification, 6.203

loss of license, 2.303

PERSON

defined, 1.301(32)

PERSON RELATED TO

defined, 1.301(33)

PLEADINGS

default judgment, verification,
5.114

PRACTICES

prohibited, collections, 7.103

PRECOMPUTED CREDIT TRANSACTIONS

defined, 1.301(34)
prepayment, 2.510, 2.201, 2.401
acceleration, rebate, 2.510(6)

PREPAYMENT

notice of right of, 3.202
rebate, earned charges, 2.510
right of consumer, 2.509

PRESUMPTION

defined, 1.301(35)

PROCEEDINGS

see ACTIONS

PROCESS

simulation prohibited,
7.103(4)(g)

PROOF

see EVIDENCE

PURSUANT TO CREDIT CARD

defined, 1.303(10), 1.301(17)

RANGE

use of ranges permitted,
finance charge, 2.201(5)
2.401(4)

RECORDS,

reports of licensees, 2.304
of creditors, available to
administrator, 6.106

REFERRAL SALES,
law cited, enforcement, 3.309

REFINANCING,
limitations, 2.504
conversion of account to open
end credit, 2.508

REFUND
as credit to account,
limitation, 5.201

REPORTS
by administrator,
to legislature, 6.104(5)
to administrator,
by regulatory agency,
Code chs. 524, 533, 534,
536, 536A

REPOSSESSION
duty to dispose, 5.103

RESIDENCE
defined, 1.201(4), 1.303(11)

RULE MAKING
see ADMINISTRATION, rule making
see ADMINISTRATIVE RULES

SALE AND LOAN, INTERLOCKING,
claims and defenses, 3.405

SALE OF AN INTEREST IN LAND
defined, 1.301(37)

SALE OF GOODS
defined, 1.301(36)

SALE OF SERVICES
defined, 1.301(38)

SECURITY INTERESTS
cross collateral,
interest permitted, 3.302
finance charge, 3.302
application of payments,
3.303
limitations on,
land,
loans, 2.307
sales, 3.301
personalty, 3.301
household goods, 3.301
leases, 3.301

SELLER
defined, 1.301(39)

SELLER CREDIT CARD
defined, 1.301(40)

SERVICES
defined, 1.301(41)

SETTLEMENT OF CLAIMS
general rule, 1.107

SHORT TITLE
1.101

STANDARD FORMS
see FORMS

STATEMENT
of account, required, 3.206
charges for, 3.206(2)
payoff, 3.206(3)
notice of methods and rates
of financing enclosed with,
3.212

STATUTE OF LIMITATIONS
see LIMITATIONS OF ACTIONS

SUBPOENA
investigations, 2.305

SUBSTANTIAL BENEFIT
see EVIDENCE

SUPERINTENDENT OF BANKING
duty to administer ICCC,
Code chs. 524, 533, 536
powers, 2.301, 6.105
rule making, 6.204
reports to administrator,
Code chs. 524, 533, 536

SUPERVISED FINANCIAL ORGANIZATION
defined, 1.301(42)
effect of ICCC upon, general
rules, 1.108, 2.301(4)
finance charges, 2.401, 2.402

SUPERVISED LOAN
defined, 1.301(43)
authority to make, 2.301
criminal penalty, 5.301

SUPERVISED LOAN LICENSEE

defined, 2.301

SUPERVISOR OF SAVINGS AND LOANS

duty to administer ICCC,
Code ch. 534

powers, 2.301, 6.105

rule making, 6.204

reports to administrator,
Code ch. 534

SUPERVISOR OF INDUSTRIAL LOAN LICENSEES

duty to administer ICCC,
Code ch. 536A

powers, 2.301, 6.105

rulemaking, 6.204

reports to administrator,
Code ch. 536A

SUPREME COURT

review of cease and desist order,
6.108

SUSPENSION OF LICENSE

notice, hearing, preliminary
suspension, 2.303(3)

cause, violations of ICCC, 2.303

TERM

of contracts,

see CONTRACTS

of sale agreement, beginning date,
2.201(4)

maximum loan term, 2.308

of loan, beginning date, 2.401(3)

of open end credit account,
changes in, when permitted,
3.205

notice of change 3.205

of insurance premium loan,
disclosure, 3.207

TIME

parts of month, classification,
2.201(4), 2.401(3)

administrative rules relating to,
2.201(4), 2.401(3)

filing of review petition,
cease and desist order,
6.108

for cure of default, 5.110

for notification, 6.202

year to be 365 days, 2.601

TRANSACTION

definition, jurisdiction, 1.201(2)

TRUTH IN LENDING

defined, 1.302

effect on rules, 2.201(4)

compliance required, 3.201

administrator to enforce,
6.104

UNCONSCIONABILITY

agreement of settlement,
held invalid by court,
1.107

determination, effect, 5.108

no cease and desist order,
6.108(6)

injunction, 6.111

UNEARNED INTEREST

prohibited, see PREPAYMENT

UNENFORCIBILITY

see ENFORCIBILITY

USURY

defined, Code ch. 535

VENUE

actions by administrator,
6.116

change of, by consumer, 5.113

disclosure violations, 5.203

suit against consumer, 5.113

WAIVER OF RIGHTS

by consumer,

claims and defenses,

unenforceable, 3.403,

3.404, 3.405

in settlement of dispute,
1.107