

CHAPTER 22
NOTIFICATION AND FEES

61—22.1(537) Purpose. The purpose of these rules is to implement the notification and fees section of the Iowa consumer credit code, Iowa Code sections 537.6201 to 537.6203. The fees collected are used for the administration of the credit code.

61—22.2(537) Applicability.

22.2(1) Coverage. The following persons are included within the scope of the notification and fees sections:

a. "Creditors" who are engaged in consumer credit transactions and acts, practices or conduct involving consumer credit transactions to which this chapter applies pursuant to Iowa Code section 537.1201. The term "creditors" includes creditors engaged in consumer credit sales, consumer loans, refinancing or consolidation of sales or loans, consumer leases, or consumer rental purchase agreements, as these terms are defined in Iowa Code sections 537.1301 and 537.3604(8).

b. "Debt collectors," as defined in Iowa Code section 537.7102(5), whose acts, practices or conduct is governed by Iowa Code chapter 537 pursuant to 537.1201. Debt collectors whose total debt collected in the preceding calendar year is less than \$25,000, and in the current calendar year less than \$25,000, are exempt from the notification and fees section of the consumer credit code. The term "debt collectors" is not limited to creditors or debt collectors collecting debts arising from consumer credit transactions, but also includes the collection of debts as that term is defined in Iowa Code section 537.7102(3).

22.2(2) Exempt parties. Creditors and debt collectors who are licensed, certified, or otherwise authorized to engage in business by Iowa Code chapter 524, 533, 534, 536, or 536A are exempt from the notification and fees section of the Iowa consumer credit code. Therefore, for purposes of this chapter, the terms "creditors" and "debt collectors" do not include parties exempted by Iowa Code section 537.6201 and this subrule.

61—22.3(537) Definitions.

"Administrator" is defined in Iowa Code section 537.6103.

"Assignee" means a person who purchases consumer credit sales contracts, consumer leases, or consumer loans from a seller, lessor or lender.

"Consumer credit sale" is defined in Iowa Code section 537.1301(12).

"Consumer credit transaction" is defined in Iowa Code section 537.1301(11).

"Consumer lease" is defined in Iowa Code section 537.1301(13).

"Consumer loan" is defined in Iowa Code section 537.1301(14).

"Consumer rental purchase agreement" is defined in Iowa Code section 537.3604(8).

"Creditor" is defined in Iowa Code section 537.1301(17).

"Debt" is defined in Iowa Code section 537.7102(3).

"Debt collection" is defined in Iowa Code section 537.7102(4).

"Debt collector" is defined in Iowa Code section 537.7102(5).

"Lender" is defined in Iowa Code section 537.1301(23).

"Lessor" means a person who issues a consumer lease.

"Seller" is defined in Iowa Code section 537.1301(39).

61—22.4(537) Notification.

22.4(1) Coverage. All creditors and debt collectors shall file a notification statement with the administrator. The statement should be filed at the following address: Administrator of the Iowa Consumer Credit Code, Consumer Protection Division, Department of Justice, Hoover State Office Building, Des Moines, Iowa 50319.

22.4(2) Filing date. Persons required to file a notification statement shall file within 30 days after commencing business in this state, or within 30 days after April 24, 1991, whichever is applicable, and

thereafter, on or before January 31 of each year. Information filed should be based on the preceding calendar year.

22.4(3) Contents of notification statement. The notification statement shall contain all of the information required by Iowa Code section 537.6202.

22.4(4) Updating. The notification statement shall be updated annually on or before January 31 of each year. Should information provided in the statement become inaccurate after filing, no further notification is required until the following January 31.

61—22.5(537) Fees. All persons subject to the notification and fees section of the Iowa consumer credit code must pay the following fees:

22.5(1) Annual fees. All creditors and debt collectors, including assignees, who are required to file notification statements shall pay to the administrator an annual fee of \$10. This fee shall be paid with the filing of the first notification and on or before January 31 of each succeeding year.

22.5(2) Volume fees.

a. Sellers, lessors and lenders.

(1) Amount of fee. Sellers, lessors and lenders must also pay an additional fee at the time of filing of \$10 for each \$100,000, or part thereof exceeding \$10,000, of the average unpaid balances of obligations arising from consumer credit transactions entered into or modified by the person in this state and held on the last day of each calendar month during the preceding calendar year and held by the seller, lessor or lender. Lessors must pay an identical amount on the unpaid scheduled periodic payments for consumer leases. Sellers, lessors and lenders must also pay this amount on unpaid balances held by an immediate or remote assignee who has not filed notification. The unpaid balances of assigned obligations held by an assignee who has not filed a notification statement are presumed to be the unpaid balances of the assigned obligations at the time of their assignment by the seller, lessor or lender. Sellers, lessors and lenders who assign obligations to a party exempt under subrule 22.2(2) need not pay volume fees on these obligations after they have been assigned.

(2) Method of calculation. The average unpaid balance arising from consumer credit transactions for the preceding calendar year is determined by totaling the unpaid consumer credit balances held at the end of each month, including unpaid scheduled periodic payments under consumer leases. Included in this amount are consumer credit transactions assigned to assignees who have not filed notification statements. This total is then divided by 12. The volume fee is determined by taking this amount and assessing \$10 on each \$100,000 of outstanding credit. Volume amounts exceeding \$100,000 by more than \$10,000 are counted as an additional \$100,000 for the purpose of assessing the volume fee (e.g., an average unpaid balance of \$511,000 would generate a \$60 volume fee: \$10 for each \$100,000 in volume, and \$10 for the additional \$11,000).

b. Assignees.

(1) Amount of fee. Assignees must also pay an additional fee at the time of filing of \$10 for each \$100,000, or part thereof exceeding \$10,000, of the average unpaid balances of obligations arising from consumer credit transactions entered into or modified in this state, taken by the person by assignment and held by the person on the last day of each calendar month during the preceding calendar year. Assignees must pay an identical amount on assignments of unpaid scheduled periodic payments of consumer leases.

(2) Method of calculation. The average unpaid balances arising from consumer credit transactions for the preceding calendar year is determined by totaling the unpaid balances at the end of each month, including unpaid scheduled periodic payments under consumer leases. This amount is then divided by 12. The volume fee is determined by taking this total and assessing \$10 on each \$100,000 of outstanding credit. Volume amounts exceeding \$100,000 by more than \$10,000 are counted as an additional \$100,000 for the purpose of assessing the volume fee.

c. Debt collectors. Debt collectors subject to the notification and fees section of the credit code who are not engaged in consumer credit transactions are exempt from the assessment of volume fees.

22.5(3) Method of payment. The annual fee and applicable volume fees are to be included with the notification statement and filed within 30 days after April 24, 1991, and thereafter on or before January 31 of each year. The fees should be made payable to Iowa Consumer Credit Administration Fund.

Creditors shall pay volume fees in the first year of administration of the notification and fees section. These fees shall be calculated on the average unpaid consumer balances for the 1990 calendar year. Creditors may request consideration of alternative methods of calculating volume fees for 1990 if they can demonstrate that their records are not kept in a manner permitting them to calculate the fees as required, and that the alternative method proposed would approximate or exceed the volume fees that would be paid according to the statutory calculation method. All creditors shall comply with the statutory volume fee calculation method beginning with the 1992 notification and fee period.

61—22.6(537) Sanctions. The following sanctions are available to the administrator for use against creditors and debt collectors who are not in compliance with the notification and fees section. These sanctions are cumulative.

22.6(1) *Late charge.* The administrator may collect a late charge of \$25 from any party subject to Iowa Code sections 537.6201 to 537.6203 who has failed to pay the required fees in full within 30 days after their due date.

22.6(2) *Civil action.* The administrator may bring a civil action against parties subject to Iowa Code sections 537.6201 to 537.6203 who have failed to file a notification statement or to timely pay their fees in full pursuant to Iowa Code section 537.6113(3). The administrator may request the fees owed, interest on those fees at a rate of 7 percent per annum, the reasonable costs of bringing the action and a civil penalty.

These rules are intended to implement Iowa Code sections 537.6201 to 537.6203 and 537.6117.

[Filed 3/1/91, Notice 11/14/90—published 3/20/91, effective 4/24/91]