

CHAPTER 12
IOWA CONSUMER CREDIT CODE DECLARATORY RULINGS

61—12.1(17A) General. Any person who has a real and direct interest in a specific factual situation that may affect their legal rights, duties or responsibilities under any provisions of the Iowa consumer credit code or of any rule, other written statement of law, policy, decision or order issued pursuant to the Iowa consumer credit code may request a declaratory ruling from the consumer credit code administrator concerning the application or interpretation of any such statutory provision, rule or other written statement of law or policy, decision or order.

61—12.2(17A) Effect of declaratory rulings. A declaratory ruling by the consumer credit code administrator shall have a binding effect between the administrator and petitioner in situations in which the facts and applicable law are indistinguishable from those presented in the petition for declaratory ruling. As to all other parties, and in factual situations which are distinguishable from that presented in the petition, a declaratory ruling shall serve merely as precedent. The declaratory ruling becomes the final act of the consumer credit code administrator on the petition.

61—12.3(17A) Petition.

12.3(1) Format. A petition for declaratory ruling shall be typewritten or printed and shall contain a caption in the following form:

THE ADMINISTRATOR OF IOWA CONSUMER CREDIT CODE	
THE IOWA DEPARTMENT OF JUSTICE	
HOOVER STATE OFFICE BUILDING	
DES MOINES, IOWA	

IN RE: THE PETITION OF _____)	IOWA CONSUMER CREDIT CODE
(state petitioner's name))	PETITION FOR
FOR A DECLARATORY RULING ON)	DECLARATORY RULING
_____ (state rule number, statute for)	Docket No. _____
which interpretation sought, etc.))	(filled in by Administrator)

12.3(2) Contents. The petition shall substantially state in separate, numbered paragraphs:

- a. The full name and address of the petitioner;
- b. The question or questions upon which the petitioner requests a declaratory ruling;
- c. The section of the consumer credit code, consumer credit code rule or written statement of law or policy, decision or order of the consumer credit code administrator and the particular aspect of it to which the request is addressed;
- d. All relevant facts which give rise to the petition;
- e. Any other relevant laws, rules or decisions;
- f. All reasons supporting or denying the applicability of the particular section of the consumer credit code, consumer credit code rule or written statement or policy, or decision or order of the consumer credit code administrator involved;
- g. The reasons prompting the petition together with a full disclosure of petitioner's interest therein;
- h. Whether the question or a related question is being considered or has been considered by any other governmental entity of any state or the United States.

12.3(3) Signatures and mailing address. The petition shall be signed by the petitioner, or by a duly authorized officer of the petitioner, if it be a corporation, organization, or other legal entity. Also, the name and address of petitioner's counsel, agent, or representative, if applicable, shall be furnished. The petition shall be addressed to the Administrator of the Iowa Consumer Credit Code at the Department of Justice, Consumer Protection Division, Second Floor, Hoover State Office Building, Des Moines, Iowa 50319, (515)281-5926, and shall be sent to the administrator by certified mail.

61—12.4(17A) Procedure after petition is filed.

12.4(1) *Initial review.* Upon filing of the petition, the consumer credit code administrator shall inspect the petition for substantial compliance with the recommended form, and may, in its discretion, reject a petition that fails to contain one or more of the stated requirements. The consumer credit code administrator shall conduct an initial review of the petition and may request the petitioner to provide additional information or provide greater specificity. Additional information may include relevant written data, views, arguments, or briefs. A request shall be made within 21 days of the filing of the petition. If the requested information is not provided to the consumer credit code administrator within 30 days of the petitioner's receipt of the request, the petitioner will be deemed to have withdrawn the petition. Petitions not in substantial conformity with the above rules shall be returned to the petitioner.

12.4(2) *Acknowledgment of receipt.* The consumer credit code administrator shall acknowledge receipt of all petitions by certified or registered letter to the petitioner.

61—12.5(17A) Action on petition.

12.5(1) The consumer credit code administrator may dismiss the petition or a portion thereof and decline to issue a declaratory ruling for any reason which it deems just and proper, including but not limited to the following:

- a. There is no jurisdiction under the Iowa consumer credit code.
- b. The issues are not clearly presented.
- c. No clear answer is determinable.
- d. The issue or issues presented are currently the subject of rule making, are pending resolution by an opinion of the attorney general or are in litigation in a contested case or court proceeding.
- e. The petition does not state facts showing that the petitioner is or will be aggrieved or adversely affected by an adverse declaratory ruling on the issue presented.
- f. The petition does not substantially comply with the form prescribed in this rule.
- g. The issuance of a declaratory ruling has been rendered unnecessary as a result of a change in circumstances, fact or law.
- h. The petitioner requests a declaratory ruling which, though technically binding only upon the consumer credit code administrator and the petitioner, would necessarily determine the legal rights of other persons who have not filed such a petition and whose position on the issue may fairly be presumed to be adverse to the petitioner or who are unrepresented in the declaratory proceeding.
- i. The petitioner requests the consumer credit code administrator to determine whether a section of the consumer credit code is constitutional on its face.
- j. The petition does not proceed on hypothetical facts structured to aid in planning future conduct but instead described past actions in order to establish their effect or challenges a decision already made by the consumer credit code administrator.
- k. The issue is more properly resolved in another manner or by another entity.

12.5(2) In the event the consumer credit code administrator declines to issue a ruling, the administrator shall notify in writing the petitioner of this fact and the reasons for the refusal.

12.5(3) When the petition is in proper form and has not been declined, the consumer credit code administrator shall issue a ruling disposing of the petition within 30 days after its filing or within 30 days of the receipt of additional information from petitioner.

61—12.6(17A) Declaratory ruling format. All declaratory rulings shall be in writing and shall state reasons in support of the ruling and shall be provided to the petitioner by certified mail. Rulings shall be mailed to other parties at the discretion of the consumer credit code administrator. Rulings shall be indexed and available for public inspection in the office of the consumer credit code administrator.

These rules are intended to implement Iowa Code chapters 17A and 537.

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