REGULATION OF CONSUMER CREDIT CHARGES STUDY COMMITTEE

Report to the Legislative Council
and the Members of the
Second Session of the Sixty-fifth General Assembly

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F I N A L R E P O R T

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The Regulation of Consumer Credit Charges Study Committee was established by the Legislative Council on April 12, 1972, pursuant to Senate Concurrent Resolution 132 and House Concurrent Resolution 141, which asked that a committee be appointed "for the purpose of studying legislative regulation of consumer credit charges in Iowa". Legislative members appointed to the Committee on May 16, 1972, were:

Representative Elizabeth Shaw, Acting Chairman
Senator Reinhold O. Carlson
Senator Leigh R. Curran
Senator Gene W. Glenn
Senator Eugene M. Hill
Senator Richard Stephens
Representative Samuel F. Anania
Representative William E. Gluba
Representative Norman Roorda
Representative Dale Tieden

The first Committee meeting was held on June 28, 1972, at which time Representative Shaw was elected permanent Chairman, and Senator Carlson was elected Vice Chairman. Pursuant to authorization from the Council, the Committee agreed to recommend the appointment of five nonlegislative members, who may vote on all developmental matters, but not on recommendations to the General Assembly. The nonlegislative members, recommended by the Committee and approved by the Legislative Council, were:

Mrs. Betty M. Talkington, President of the Iowa Consumers League
Mr. William A. Youngstrom, Controller of Petersen Harned Von Maur, in Davenport, Iowa
Mr. A. W. Jordan of the Iowa Credit Union League
Mr. Stan T. Shepherd, former State Representative who chaired the Commerce Subcommittee which studied the UCCC in 1969
Mr. Harry Griger, Assistant Attorney General

At early meetings, the Committee reviewed the progress of the Attorney General's case against Younkers for a purported violation of the Iowa usury law, familiarized themselves with the concepts contained in the Uniform Consumer Credit Code (UCCC), and examined the Iowa laws relating to consumer credit transactions. Mr. Nathaniel E. Butler, formerly Educational Director of the National Conference of Commissioners on Uniform State Laws, met with the Committee and described the history, philosophy, and effects of enactment of the UCCC.

The Committee learned that the UCCC regulates all creditors who extend consumer credit, sets maximum rates for all types of consumer credit, and provides limitations on a number of credit collection practices. The UCCC was studied by a legislative subcommittee in 1969, but no decision about it was made at that time.

This Study Committee agreed that its work should encompass all areas of consumer credit regulation in Iowa and that the UCCC might offer an appropriate framework for its study.

Professor George J. Wallace, of the College of Law at the University of Iowa, reviewed the Iowa law relating to consumer credit transactions and compared it to the provisions in the UCCC. Professor Wallace pointed out specific areas of concern in the present Iowa law. Some of the problems he discussed were credit insurance, deficiency judgments, the holder in due course doctrine and other devices which cut off a debtor's defenses, high pressure credit selling, and the need for more satisfactory laws relating to wage garnishment and repossession of collateral.

Mr. Richard Wheatley, first Administrator of the Oklahoma Consumer Affairs Office, attended a Committee meeting and explained how the UCCC has operated in Oklahoma. He also described the lengthy study process which receded adoption of the Act there.

The Committee members discussed the administrative provisions contained in the UCCC, and noted that a number of functions now handled by various Iowa agencies would be combined into one administrative office under the format of the UCCC. Previous studies of governmental organization in Iowa have pointed out that there are apparent conflicts in the administration of credit regulation under present Iowa law because different departments of government handle closely related problems. Small loan companies, for example, are now regulated by the Superintendent of Banking, but industrial loan companies are regulated by the Auditor of State.

At its fourth meeting on October 3, 1972, the Committee agreed to begin a section-by-section study of the revised version of the UCCC, with the thought of recommending adoption of a consumer credit code for the state of Iowa, including whatever reorganization of government is necessary to implement that recommendation. Chairman Shaw asked Professor Wallace to assist the Committee with its study of the UCCC, which he agreed to do.

Because of the complexity of the UCCC, the Committee was unable to complete its study during the 1972 interim, and requested that it be reestablished to function during 1973. This request was granted by the 1973 Legislative Council, and because some of the original members did not return to the Sixty-fifth General Assembly, a number of new members were appointed. Also, the Council discouraged the appointment of nonlegislative members, and a majority of the Committee agreed that its remaining task of preparing an Iowa version of the UCCC could be done as well with only legislative membership, obtaining assistance from persons interested in credit regulation as needed. The following legislators served on the Committee in 1973:

Senator Elizabeth Shaw, Chairman
Representative Norman Roorda, Vice Chairman
Senator Warren E. Curtis
Senator William E. Gluba
Senator Norman Rodgers
Senator Dale L. Tieden
Representative Robert M. Carr
Representative Lillian McElroy
Representative Richard J. Norpel
Representative James C. West

An orientation meeting for the newly appointed Committee members was held in September. The Committee heard presentations from the Consumer Protection Division of the Attorney General's Office, and from representatives of the Iowa Credit Union League, the Iowa Retail Federation, the Iowa Bankers Association, and the Iowa Automobile Dealers Association. Professor Wallace also gave the Committee a general overview of Iowa credit laws and consumer credit problems. At a later meeting representatives of the industrial loan companies and of the Iowa Student Public Interest Research Group met with the Committee.

The September 19 decision of the Iowa Supreme Court in the Younkers case, which limited the interest which may be charged by retail merchants to 9%, lent impetus to the Committee's work. In a subsequent series of six two-day meetings the Committee continued to study the UCCC section-by-section, including revised fourth and fifth redrafts prepared by the National Conference of Commissioners on Uniform State Laws.

The controversial area of maximum interest rates was touched upon by the Committee in general terms on several occasions. The Committee postponed a decision on rates until it has completed its study of the balance of the UCCC in order to understand the interrelationship of interest rates and other provisions, and to avoid the possibility of consuming undue amounts of time in discussing interest rates. On January 7, 1974, a special meeting was held and a majority of the Committee agreed on the interest rates to be included in the draft.

The UCCC, as propounded by the Conference of Commissioners, provides for an administrator to license supervised lenders, to receive notifications and fees therefor from persons extending credit to consumers, and to enforce the provisions of the code. After studying the issue carefully and visiting with representatives of the various Iowa departments which currently regulate some aspect of consumer credit, the Study Committee asked that a bill be drafted to establish a department of financial institutions and consumer credit protection. The new department is to be a consolidation for administrative purposes of existing and proposed regulatory functions. The department will have five divisions; banking, savings and loan associations, supervised loan licensees (replacing present regulation of small loan and industrial loan companies), credit unions and consumer credit protection.

The Study Committee's proposal will not alter the existing authority of the Superintendent of Banking over banks, and the regulation of savings and loan institutions will remain essentially the same, although the function will be removed from the Auditor's office. The present regulation of small loan companies and industrial loan companies charged to the Banking Department and Auditor, respectively, will be consolidated into a new division, and credit unions will be separately regulated by another division.

The new examination, investigation and enforcement provisions of the UCCC will be performed by the administrator of the consumer credit code with the cooperation of the various division heads. Although retailers presently are not regulated, except for the usury law and the special provisions relating to auto dealers, the proposed code will require that they register with and be subject to regulation by the administrator.

In December, Mr. Alfred A. Buerger, Chairman of the Committee on the Uniform Consumer Credit Code of the National Conference of Commissioners on Uniform State Laws, Mrs. Marion M. Buerger, Secretary to the Committee, and Professor Robert W. Johnson, Reporter-Economist for the Committee, met with the Study Committee and discussed important aspects of the UCCC. Their remarks proved very helpful to Committee members. Mr. Blair Schick of the National Consumer Law Center, also sat in on Committee discussions and made suggestions in light of the provisions of the Model Consumer Law drafted by the National Consumer Law Center, which was previously distributed to the Study Committee members.

The Study Committee completed its work in January, 1974, and an Iowa UCCC with administrative reorganization provisions is being prepared for introduction in the General Assembly. Because of the complexity of the UCCC, the Committee staff will prepare an explanation to the bill which will emphasize the major concepts of the UCCC, some of its important changes in consumer protections, and the major changes made by the Study Committee which are not consistent with the uniform version.

The Study Committee expresses special appreciation to Professor George J. Wallace of the University of Iowa College of Law, who has faithfully attended Committee meetings throughout the two-year study, and offered invaluable assistance to the Committee in analyzing, and when necessary revising, the complex UCCC provisions.