

MAR 9 1989

HOUSE FILE 552

SMALL BUSINESS AND COMMERCE

BY GRONINGA

DO PASS per amend. 3-20-89 (p. 874)

Sen. Commerce DO PASS 4-5-89 (p. 1197)

Passed House, Date 3-29-89 (p. 1072) Passed Senate, Date 4-11-89 (p. 1317)

Vote: Ayes 88 Nays 8 Vote: Ayes 44 Nays 5

Approved 4-27-89 (p. 2138)

A BILL FOR

1 An Act relating to the consumer credit code, by providing for
2 certain charges, amending the definition of debt collectors,
3 requiring notification and the imposition of certain fees,
4 appropriating funds collected, and providing an applicability
5 date.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

7
8
9
10

H.F. 552

HOUSE FILE 552

H-3449

1 Amend House File 552 as follows:

2 1. Page 2, line 5, by striking the word

3 "purusant" and inserting the following: "pursuant".

By COMMITTEE ON SMALL BUSINESS

DODERER of Johnson, Chairperson

H-3449 FILED MARCH 20 1989

adopted 3-28-89 (p. 1511)

19
20
21
22
23
24
25

1 Section 1. Section 537.1302, Code 1989, is amended to read
2 as follows:

3 537.1302 DEFINITION -- TRUTH IN LENDING ACT.

4 As used in this chapter, "Truth in Lending Act" means title
5 1 of the Consumer Credit Protection Act, in subchapter 1 of
6 chapter 41 of title 15 of the United States Code, as amended
7 to and including ~~July 17, 1982~~ January 1, 1989, and includes
8 regulations issued pursuant to that Act prior to ~~July 17, 1982~~
9 January 1, 1989.

10 Sec. 2. Section 537.2501, subsection 1, is amended by
11 adding the following new paragraphs as paragraphs f and g and
12 relettering the existing paragraph f:

13 NEW PARAGRAPH. f. With respect to open-end credit
14 pursuant to a credit card issued by the creditor which
15 entitles the cardholder to purchase or lease goods or services
16 from at least one hundred persons not related to the card
17 issuer, the parties may contract for an over-limit charge not
18 to exceed ten dollars if the balance of the account exceeds
19 the credit limit established pursuant to the agreement. The
20 over-limit charge under this paragraph shall not be assessed
21 again in a subsequent billing cycle unless in a subsequent
22 billing cycle the account balance has been reduced below the
23 credit limit.

24 If the differential treatment of this subsection based on
25 the number of persons honoring a credit card is found to be
26 unconstitutional, the parties may contract for the over-limit
27 charge as described in this paragraph in any consumer credit
28 transaction pursuant to open-end credit, the other conditions
29 relating to the over-limit charge shall remain in effect.

30 NEW PARAGRAPH. g. A surcharge of not more than ten
31 dollars for each dishonored payment instrument provided that
32 the fee is clearly and conspicuously disclosed in the
33 cardholder agreement. However, the surcharge shall not be
34 assessed against the maker if the reason for the dishonor of
35 the instrument is that the maker has stopped payment pursuant

1 to section 554.4403.

2 Sec. 3. Section 537.2501, Code 1989, is amended by adding
3 the following new subsection:

4 NEW SUBSECTION. 3. With respect to open-end credit
3449-5 obtained pursuant to a credit card issued by the creditor
6 which entitles the cardholder to purchase or lease goods or
7 services from at least one hundred persons not related to the
8 card issuer, the creditor may contract for and receive any
9 charge lawfully contained in a prior agreement between the
10 consumer and a prior creditor from whom the creditor currently
11 issuing the credit card acquired the credit card account, if
12 the account was acquired in an arm's-length for-value sale
13 from a nonrelated or nonaffiliated creditor. The creditor may
14 charge any charge on new open-end credit accounts lawfully
15 permitted in a prior agreement between a consumer and a prior
16 creditor from whom the creditor currently issuing the credit
17 card acquired the credit card accounts.

18 Sec. 4. Section 537.2502, Code 1989, is amended by adding
19 the following new subsections:

20 NEW SUBSECTION. 4. With respect to open-end credit
21 obtained pursuant to a credit card issued by the creditor
22 which entitles the cardholder to purchase or lease goods or
23 services from at least one hundred persons not related to the
24 card issuer, the parties may contract for a delinquency charge
25 on any payment not paid in full within ten days after its due
26 date, as originally scheduled or as deferred, in an amount not
27 to exceed ten dollars.

28 NEW SUBSECTION. 5. A delinquency charge under subsection
29 4 may be collected only once on a payment however long it
30 remains in default. No delinquency charge may be collected
31 with respect to a deferred payment unless the payment is not
32 paid in full within ten days after its deferred due date. A
33 delinquency charge may be collected at the time it accrues or
34 at any time afterward.

35 NEW SUBSECTION. 6. No delinquency charge may be collected

1 under subsection 4 on a payment which is paid in full within
2 ten days after its scheduled or deferred due date even though
3 an earlier maturing payment or a delinquency or deferred
4 charge on an earlier payment has not been paid in full. For
5 purposes of this subsection, payments are applied first to
6 amounts due for the current billing cycle and then to
7 delinquent payments.

8 NEW SUBSECTION. 7. If the differential treatment of
9 subsection 4 based on the number of persons honoring a credit
10 card is found to be unconstitutional, the parties may contract
11 for the delinquency charge as described in subsection 4 in any
12 consumer credit transaction pursuant to open-end credit, and
13 the other conditions provided in this section relating to
14 delinquency charges remain in effect.

15 Sec. 5. Section 537.6201, subsection 2, Code 1989, is
16 amended to read as follows:

17 2. Debt collectors, as defined in section 537.7102,
18 subsection 3, to whose acts, practices, or conduct this
19 chapter applies pursuant to section 537.1201 if the total debt
20 collected by a debt collector in the preceding calendar year
21 exceeds twenty-five thousand dollars, or if not, if the total
22 debt collected during the current calendar year exceeds
23 twenty-five thousand dollars, but this part does not apply to
24 those licensed, certified, or otherwise authorized to engage
25 in business under chapter 524, 533, 534, 536, or 536A.

26 Sec. 6. Section 537.6202, subsection 1, unnumbered
27 paragraph 1, Code 1989, is amended to read as follows:

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

34 Sec. 7. Section 537.6203, Code 1989, is amended by
35 striking the section and inserting in lieu thereof the

1 following:

2 537.6203 FEES.

3 1. A person required to file notification shall pay to the
4 administrator an annual fee of ten dollars. The fee shall be
5 paid with the filing of the first notification and on or
6 before January 31 of each succeeding year.

7 2. A person required to file notification who is a seller,
8 lessor, or lender and who is not an assignee shall pay an
9 additional fee at the time and in the manner stated in
10 subsection 1 of ten dollars for each one hundred thousand
11 dollars, or part thereof exceeding ten thousand dollars, of
12 the average unpaid balances, including unpaid scheduled
13 periodic payments under consumer leases, of obligations
14 arising from consumer credit transactions entered into or
15 modified by the person in this state and held on the last day
16 of each calendar month during the preceding calendar year and
17 held either by the seller, lessor, or lender, or by an
18 immediate or remote assignee who has not filed notification.
19 The unpaid balances of assigned obligations held by an
20 assignee who has not filed notifications are presumed to be
21 the unpaid balances of the assigned obligations at the time of
22 their assignment by the seller, lessor, or lender.

23 3. A person required to file notification who is an
24 assignee shall pay an additional fee at the time and in the
25 manner stated in subsection 1 of ten dollars for each one
26 hundred thousand dollars, or part thereof exceeding ten
27 thousand dollars, of the average unpaid balances including
28 unpaid scheduled periodic payments payable by lessees, of
29 obligations arising from consumer credit transactions entered
30 into or modified in this state, taken by the person by
31 assignment and held by the person on the last day of each
32 calendar month during the preceding calendar year.

33 4. In addition to the penalties provided by section
34 537.6113, subsection 3, the administrator may collect a
35 charge, established by rule, not exceeding twenty-five dollars

1 from each person required to pay fees under this section who
2 fails to pay the fees in full within thirty days after they
3 are due.

4 5. Moneys collected under this section shall be deposited
5 in a consumer credit administration fund in the state treasury
6 and shall be used for the administration of chapter 537. The
7 moneys are subject to warrant upon certification of the
8 administrator and are appropriated for these purposes.

9 Notwithstanding section 8.33, the moneys in the fund do not
10 revert at the end of a fiscal period.

11 EXPLANATION

12 This bill amends current law by updating the definition of
13 "Truth in Lending Act", provides for an over-limit charge on
14 open-end credit, and a surcharge pursuant to cardholder
15 agreements.

16 The bill provides for charges payable to certain subsequent
17 creditors by a consumer pursuant to an agreement between the
18 consumer and a prior creditor. The bill allows for certain
19 delinquency charges payable pursuant to open-end credit,
20 conditions regarding collection of the charges, and imposition
21 of alternative delinquency charges upon the occurrence of
22 certain conditions.

23 The bill provides for the application of notification
24 procedures and the imposition of fees to certain creditors and
25 debt collectors. Funds collected are not subject to reversion
26 to the general fund and are to be used for the administration
27 of chapter 537.

28
29
30
31
32
33
34
35

**HOUSE FILE 552
FISCAL NOTE**

A fiscal note for HOUSE FILE 552 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 552 strengthens the enforcement of the Consumer Credit Code, provides for the collection of fees, and provides for the deposit of these fees in a newly established fund, which does not revert to the General Fund at the end of a fiscal year. The funds shall be used by the Office of the Attorney General for enforcement of the Consumer Credit Code.

The amount of fees collected cannot be estimated at this time. The Office anticipates hiring one attorney and an investigator, as fee collection permits, to enforce this Chapter.

Source: Office of the Attorney General

(LSB 4167xh, 9AL)

FILED MARCH 30, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 552

AN ACT

RELATING TO THE CONSUMER CREDIT CODE, BY PROVIDING FOR CERTAIN CHARGES, AMENDING THE DEFINITION OF DEBT COLLECTORS, REQUIRING NOTIFICATION AND THE IMPOSITION OF CERTAIN FEES, APPROPRIATING FUNDS COLLECTED, AND PROVIDING AN APPLICABILITY DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 537.1302, Code 1989, is amended to read as follows:

537.1302 DEFINITION -- TRUTH IN LENDING ACT.

As used in this chapter, "Truth in Lending Act" means title 1 of the Consumer Credit Protection Act, in subchapter 1 of chapter 41 of title 15 of the United States Code, as amended to and including ~~July-17-1982~~ January 1, 1989, and includes regulations issued pursuant to that Act prior to ~~July-17-1982~~ January 1, 1989.

Sec. 2. Section 537.2501, subsection 1, is amended by adding the following new paragraphs as paragraphs f and g and relettering the existing paragraph f:

NEW PARAGRAPH. f. With respect to open-end credit pursuant to a credit card issued by the creditor which entitles the cardholder to purchase or lease goods or services from at least one hundred persons not related to the card issuer, the parties may contract for an over-limit charge not to exceed ten dollars if the balance of the account exceeds the credit limit established pursuant to the agreement. The over-limit charge under this paragraph shall not be assessed again in a subsequent billing cycle unless in a subsequent billing cycle the account balance has been reduced below the credit limit.

If the differential treatment of this subsection based on the number of persons honoring a credit card is found to be unconstitutional, the parties may contract for the over-limit

charge as described in this paragraph in any consumer credit transaction pursuant to open-end credit, the other conditions relating to the over-limit charge shall remain in effect.

NEW PARAGRAPH. g. A surcharge of not more than ten dollars for each dishonored payment instrument provided that the fee is clearly and conspicuously disclosed in the cardholder agreement. However, the surcharge shall not be assessed against the maker if the reason for the dishonor of the instrument is that the maker has stopped payment pursuant to section 554.4403.

Sec. 3. Section 537.2501, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 3. With respect to open-end credit obtained pursuant to a credit card issued by the creditor which entitles the cardholder to purchase or lease goods or services from at least one hundred persons not related to the card issuer, the creditor may contract for and receive any charge lawfully contained in a prior agreement between the consumer and a prior creditor from whom the creditor currently issuing the credit card acquired the credit card account, if the account was acquired in an arm's-length for-value sale from a nonrelated or nonaffiliated creditor. The creditor may charge any charge on new open-end credit accounts lawfully permitted in a prior agreement between a consumer and a prior creditor from whom the creditor currently issuing the credit card acquired the credit card accounts.

Sec. 4. Section 537.2502, Code 1989, is amended by adding the following new subsections:

NEW SUBSECTION. 4. With respect to open-end credit obtained pursuant to a credit card issued by the creditor which entitles the cardholder to purchase or lease goods or services from at least one hundred persons not related to the card issuer, the parties may contract for a delinquency charge on any payment not paid in full within ten days after its due date, as originally scheduled or as deferred, in an amount not to exceed ten dollars.

HF 552

NEW SUBSECTION. 5. A delinquency charge under subsection 4 may be collected only once on a payment however long it remains in default. No delinquency charge may be collected with respect to a deferred payment unless the payment is not paid in full within ten days after its deferred due date. A delinquency charge may be collected at the time it accrues or at any time afterward.

NEW SUBSECTION. 6. No delinquency charge may be collected under subsection 4 on a payment which is paid in full within ten days after its scheduled or deferred due date even though an earlier maturing payment or a delinquency or deferred charge on an earlier payment has not been paid in full. For purposes of this subsection, payments are applied first to amounts due for the current billing cycle and then to delinquent payments.

NEW SUBSECTION. 7. If the differential treatment of subsection 4 based on the number of persons honoring a credit card is found to be unconstitutional, the parties may contract for the delinquency charge as described in subsection 4 in any consumer credit transaction pursuant to open-end credit, and the other conditions provided in this section relating to delinquency charges remain in effect.

Sec. 5. Section 537.6201, subsection 2, Code 1989, is amended to read as follows:

2. Debt collectors, as defined in section 537.7102, subsection 3, to whose acts, practices, or conduct this chapter applies pursuant to section 537.1201 if the total debt collected by a debt collector in the preceding calendar year exceeds twenty-five thousand dollars, or if not, if the total debt collected during the current calendar year exceeds twenty-five thousand dollars, but this part does not apply to those licensed, certified, or otherwise authorized to engage in business under chapter 524, 531, 534, 536, or 536A.

Sec. 6. Section 537.6202, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Persons subject to this part shall file notification with the administrator within thirty days after commencing business

in this state or within thirty days after enactment of this Act, whichever is applicable, and, thereafter, on or before January 31 of each year. The notification must state all of the following:

Sec. 7. Section 537.6203, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

537.6203 FEES.

1. A person required to file notification shall pay to the administrator an annual fee of ten dollars. The fee shall be paid with the filing of the first notification and on or before January 31 of each succeeding year.

2. A person required to file notification who is a seller, lessor, or lender and who is not an assignee shall pay an additional fee at the time and in the manner stated in subsection 1 of ten dollars for each one hundred thousand dollars, or part thereof exceeding ten thousand dollars, of the average unpaid balances, including unpaid scheduled periodic payments under consumer leases, 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 either by the seller, lessor, or lender, or 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 notifications are presumed to be the unpaid balances of the assigned obligations at the time of their assignment by the seller, lessor, or lender.

3. A person required to file notification who is an assignee shall pay an additional fee at the time and in the manner stated in subsection 1 of ten dollars for each one hundred thousand dollars, or part thereof exceeding ten thousand dollars, of the average unpaid balances including unpaid scheduled periodic payments payable by lessees, 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.

4. In addition to the penalties provided by section 537.6113, subsection 3, the administrator may collect a charge, established by rule, not exceeding twenty-five dollars from each person required to pay fees under this section who fails to pay the fees in full within thirty days after they are due.

5. Moneys collected under this section shall be deposited in a consumer credit administration fund in the state treasury and shall be used for the administration of chapter 537. The moneys are subject to warrant upon certification of the administrator and are appropriated for these purposes. Notwithstanding section 8.33, the moneys in the fund do not revert at the end of a fiscal period.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 552, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 27, 1989

TERRY E. BRANSTAD
Governor

HF 552