

House Study Bill 698

Conference Committee Text

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1 1 Section 1. Section [537.1301](#), Code 1995, is amended by
1 2 adding the following new subsection:
1 3 NEW SUBSECTION. 35A. "Principal amount of the loan" means
1 4 the total of the following:
1 5 a. The amount financed as defined in subsection 4.
1 6 b. Any administrative fee or loan origination fee as
1 7 defined in section 537.2401, subsection 6.
1 8 Sec. 2. Section [537.2401](#), subsections 1 and 2, Code 1995,
1 9 are amended to read as follows:
1 10 1. Except as provided with respect to a finance charge for
1 11 loans pursuant to open end credit under section 537.2402, a
1 12 lender may contract for and receive a finance charge not
1 13 exceeding the maximum charge permitted by the laws of this
1 14 state or of the United States for similar lenders, and, in
1 15 addition, with respect to a consumer loan, a supervised
1 16 financial organization or a mortgage lender may contract for
1 17 and receive a finance charge, calculated according to the
1 18 actuarial method, not exceeding twenty-one percent per year on
1 19 the unpaid balance of the

~~— amount financed~~

~~— principal amount of~~

1 20 the loan. This subsection does not prohibit a lender from
1 21 contracting for and receiving a finance charge exceeding
1 22 twenty-one percent per year on the unpaid balance of the
1 23

~~— amount financed~~

~~— principal amount of the loan~~ on consumer loans

1 24 if authorized by other provisions of the law.
1 25 2. This section does not limit or restrict the manner of
1 26 calculating the finance charge, whether by way of add-on,
1 27 discount, or otherwise, so long as the rate of the finance
1 28 charge does not exceed that permitted by this section or the
1 29 laws of this state or of the United States. The finance
1 30 charge permitted by this section or the laws of this state or
1 31 of the United States may be calculated by determining the
1 32 single annual percentage rate as required to be disclosed to
1 33 the consumer pursuant to section 537.3201 which, when applied
1 34 according to the actuarial method to the unpaid balances of
1 35 the

~~— amount financed~~

~~— principal amount of the loan~~, will yield

2 1 the finance charge for that transaction which would result
2 2 from applying any graduated rates permitted by this section or
2 3 the laws of this state or of the United States to the
2 4 transaction on the assumption that all scheduled payments will
2 5 be made when due. If the loan is a precomputed consumer
2 6 credit transaction, the finance charge may be calculated on
2 7 the assumption that all scheduled payments will be made when
2 8 due, and the effect of prepayment is governed by section
2 9 537.2510.

2 10 Sec. 3. Section [537.2401](#), Code 1995, is amended by adding
2 11 the following new subsection:

2 12 NEW SUBSECTION. 6. a. In addition to the finance charge

2 13 permitted in this section, the lender may contract for and
2 14 receive the following:
2 15 (1) With respect to a consumer loan that is not secured by
2 16 an interest in land, a loan administration fee not to exceed
2 17 twenty-five dollars.
2 18 (2) With respect to a consumer loan that is secured by an
2 19 interest in land, a loan origination fee of not more than five
2 20 percent of the principal amount of the loan.
2 21 b. The fees provided for under paragraph "a" are deemed to
2 22 be completely earned on the date of the issuance of the loan
2 23 and are not subject to rebate pursuant to section 537.2510.
2 24 Sec. 4. Section [537.2402](#), Code 1995, is amended by adding
2 25 the following new subsection:
2 26 NEW SUBSECTION. 7. In addition to the finance charge
2 27 permitted by this section, a creditor, with respect to a loan
2 28 pursuant to an open-end credit, may contract for and receive a
2 29 nonrefundable loan origination fee of not more than five
2 30 percent of the initial line of credit. The loan origination
2 31 fee may be added to the unpaid balance and is deemed to be
2 32 completely earned on the date of the issuance of the loan.
2 33 Sec. 5. Section [537.2501](#), subsection 1, paragraphs g and
2 34 h, Code Supplement 1995, are amended to read as follows:
2 35 g. A surcharge of not more than five percent of the amount
3 1 of the face value of the payment instrument or twenty dollars,
3 2 whichever is greater, for each dishonored payment instrument
3 3 provided that the fee is clearly and conspicuously disclosed
3 4 in the

~~cardholder agreement~~

- ~~contract.~~ However, the amount of
3 5 the surcharge shall not exceed twenty dollars unless the
3 6 check, draft, or order was presented twice or the maker does
3 7 not have an account with the drawee. If the check, draft, or
3 8 order was presented twice or the maker does not have an
3 9 account with the drawee, the amount of the surcharge shall not
3 10 exceed fifty dollars. The surcharge shall not be assessed
3 11 against the maker if the reason for the dishonor of the
3 12 instrument is that the maker has stopped payment pursuant to
3 13 section 554.4403.
3 14 h. Charges for other benefits, including insurance,
3 15 conferred on the consumer, if the benefits are of value to the
3 16 consumer and if the charges are reasonable in relation to the
3 17 benefits, and are of a type which is not for credit

~~, and are~~

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3 18

~~authorized as permissible additional charges by rule adopted~~

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3 19

~~by the administrator~~

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3 20 EXPLANATION
3 21 This bill amends provisions of the consumer credit code
3 22 relating to permissible finance charges and other fees which
3 23 may be charged to a consumer by the lender.
3 24 Section 537.1301 is amended by adding a new definition of
3 25 "principal amount of the loan". That amount is to include the
3 26 amount financed plus any administrative or loan origination
3 27 fee permitted under section 537.2401, subsection 6, created in
3 28 this bill.
3 29 Section 537.2401, subsections 1 and 2, are amended by
3 30 striking the words "amount financed" and replacing them with
3 31 "principal amount of the loan". These subsections relate to
3 32 the maximum finance charge which may be contracted for and

3 33 received for loans pursuant to open-end credit. The section
3 34 is also amended to provide that in addition to the finance
3 35 charge permitted under this section, the lender may contract
4 1 for and receive a loan administration fee not to exceed \$25
4 2 with respect to a consumer loan that is not secured by an
4 3 interest in land, and a loan origination fee of not more than
4 4 5 percent of the principal amount of the loan with respect to
4 5 a consumer loan that is secured by an interest in land. The
4 6 bill provides that the loan administration and loan
4 7 origination fees created in this section are to be deemed
4 8 completely earned on the date of the issuance of the loan and
4 9 not subject to rebate.

4 10 Section 537.2402 is amended to provide that a creditor,
4 11 with respect to a loan pursuant to open-end credit, may
4 12 contract for and receive a nonrefundable loan origination fee
4 13 of not more than 5 percent of the initial line of credit, in
4 14 addition to any other permissible finance charge. The bill
4 15 provides that the loan origination fee may be added to the
4 16 unpaid balance of the loan and is deemed to be completely
4 17 earned on the date of the issuance of the loan.

4 18 Section 537.2501 is amended by striking language which
4 19 currently provides that charges related to consumer credit
4 20 transactions for other benefits, including insurance, which
4 21 are conferred on the consumer, must be approved by rule
4 22 adopted by the administrator (attorney general). These
4 23 charges must be of value to the consumer, reasonable in
4 24 relation to the benefits, and of a type which is not for
4 25 credit. The section is also amended by replacing the term
4 26 "cardholder agreement" with "contract".

4 27 LSB 4284HC 76

4 28 mj/cf/24