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FILED MAR 4 1996

SENATE FILE 2432
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 2272)

(COMPANION TO LSB 4284HV BY
COMMITTEE ON COMMERCE AND
REGULATION)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the consumer credit code and permissible
2 finance charges and other fees which may be charged to a
3 consumer by a lender.

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

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S.F. 2432

1 Section 1. Section 537.2501, subsection 1, paragraph g,
 2 Code Supplement 1995, is amended to read as follows:
 3 g. A surcharge of not more than five percent of the amount
 4 of the face value of the payment instrument or twenty dollars,
 5 whichever is greater, for each dishonored payment instrument
 6 provided that the fee is clearly and conspicuously disclosed
 7 in the cardholder-agreement contract. However, the amount of
 8 the surcharge shall not exceed twenty dollars unless the
 9 check, draft, or order was presented twice or the maker does
 10 not have an account with the drawee. If the check, draft, or
 11 order was presented twice or the maker does not have an
 12 account with the drawee, the amount of the surcharge shall not
 13 exceed fifty dollars. The surcharge shall not be assessed
 14 against the maker if the reason for the dishonor of the
 15 instrument is that the maker has stopped payment pursuant to
 16 section 554.4403.

17 EXPLANATION

18 This bill amends section 537.2501, relating to permissible
 19 charges and fees on consumer credit transactions, by providing
 20 that the permissible surcharge which may be assessed for a
 21 dishonored payment instrument related to a cardholder
 22 agreement may also be assessed for a dishonored payment
 23 instrument related to other consumer credit transactions as
 24 long as the fee is clearly and conspicuously disclosed in the
 25 contract associated with such transaction.

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Redfern
Deluhery
Fleyn

SSB. 2272

Commerce

Succeeded By

SENATE FILE CF/HF 2432

BY (PROPOSED COMMITTEE ON
COMMERCE BILL BY CHAIRPERSON
DELUHERY)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the consumer credit code and permissible
2 finance charges and other fees which may be charged to a
3 consumer by a lender.

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

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1 ~~Section 1.10~~ Section 537.1301, Code 1995, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 35A. "Principal amount of the loan" means
4 the total of the following:

5 a. The amount financed as defined in subsection 4.

6 b. Any administrative fee or loan origination fee as
7 defined in section 537.2401, subsection 6.

8 Sec. 2. Section 537.2401, subsections 1 and 2, Code 1995,
9 are amended to read as follows:

10 1. Except as provided with respect to a finance charge for
11 loans pursuant to open end credit under section 537.2402, a
12 lender may contract for and receive a finance charge not
13 exceeding the maximum charge permitted by the laws of this
14 state or of the United States for similar lenders, and, in
15 addition, with respect to a consumer loan, a supervised
16 financial organization or a mortgage lender may contract for
17 and receive a finance charge, calculated according to the
18 actuarial method, not exceeding twenty-one percent per year on
19 the unpaid balance of the amount-financed principal amount of
20 the loan. This subsection does not prohibit a lender from
21 contracting for and receiving a finance charge exceeding
22 twenty-one percent per year on the unpaid balance of the
23 amount-financed principal amount of the loan on consumer loans
24 if authorized by other provisions of the law.

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

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

10 Sec. 3. Section 537.2401, Code 1995, is amended by adding
11 the following new subsection:

12 NEW SUBSECTION. 6. a. In addition to the finance charge
13 permitted in this section, the lender may contract for and
14 receive the following:

15 (1) With respect to a consumer loan that is not secured by
16 an interest in land, a loan administration fee not to exceed
17 twenty-five dollars.

18 (2) With respect to a consumer loan that is secured by an
19 interest in land, a loan origination fee of not more than five
20 percent of the principal amount of the loan.

21 b. The fees provided for under paragraph "a" are deemed to
22 be completely earned on the date of the issuance of the loan
23 and are not subject to rebate pursuant to section 537.2510.

24 Sec. 4. Section 537.2402, Code 1995, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 7. In addition to the finance charge
27 permitted by this section, a creditor, with respect to a loan
28 pursuant to an open-end credit, may contract for and receive a
29 nonrefundable loan origination fee of not more than five
30 percent of the initial line of credit. The loan origination
31 fee may be added to the unpaid balance and is deemed to be
32 completely earned on the date of the issuance of the loan.

33 Sec. 5. Section 537.2501, subsection 1, paragraphs g and
34 h, Code Supplement 1995, are amended to read as follows:

35 g. A surcharge of not more than five percent of the amount

1 of the face value of the payment instrument or twenty dollars,
2 whichever is greater, for each dishonored payment instrument
3 provided that the fee is clearly and conspicuously disclosed
4 in the cardholder-agreement contract. However, the amount of
5 the surcharge shall not exceed twenty dollars unless the
6 check, draft, or order was presented twice or the maker does
7 not have an account with the drawee. If the check, draft, or
8 order was presented twice or the maker does not have an
9 account with the drawee, the amount of the surcharge shall not
10 exceed fifty dollars. The surcharge shall not be assessed
11 against the maker if the reason for the dishonor of the
12 instrument is that the maker has stopped payment pursuant to
13 section 554.4403.

14 h. Charges for other benefits, including insurance,
15 conferred on the consumer, if the benefits are of value to the
16 consumer and if the charges are reasonable in relation to the
17 benefits, and are of a type which is not for credit, ~~and are~~
18 ~~authorized as permissible additional charges by rule adopted~~
19 ~~by the administrator.~~

20 EXPLANATION

21 This bill amends provisions of the consumer credit code
22 relating to permissible finance charges and other fees which
23 may be charged to a consumer by the lender.

24 Section 537.1301 is amended by adding a new definition of
25 "principal amount of the loan". That amount is to include the
26 amount financed plus any administrative or loan origination
27 fee permitted under section 537.2401, subsection 6, created in
28 this bill.

29 Section 537.2401, subsections 1 and 2, are amended by
30 striking the words "amount financed" and replacing them with
31 "principal amount of the loan". These subsections relate to
32 the maximum finance charge which may be contracted for and
33 received for loans pursuant to open-end credit. The section
34 is also amended to provide that in addition to the finance
35 charge permitted under this section, the lender may contract

1 for and receive a loan administration fee not to exceed \$25
2 with respect to a consumer loan that is not secured by an
3 interest in land, and a loan origination fee of not more than
4 5 percent of the principal amount of the loan with respect to
5 a consumer loan that is secured by an interest in land. The
6 bill provides that the loan administration and loan
7 origination fees created in this section are to be deemed
8 completely earned on the date of the issuance of the loan and
9 not subject to rebate.

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

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

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