

Rents: Chair

Dix

Halvick

HSB 112

COMMERCE AND REGULATION

Submitted by
SE METCALF

HOUSE FILE

BY (PROPOSED COMMITTEE ON
COMMERCE AND REGULATION
BILL BY CHAIRPERSON
METCALF)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to delinquency charges on certain consumer credit
2 transactions.

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

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1 Section 1. Section 537.2502, Code 1999, is amended to read
2 as follows:

3 537.2502 DELINQUENCY CHARGES.

4 1. With respect to a precomputed consumer credit
5 transaction sale, a consumer loan, open-end credit, or a home
6 equity line of credit under section 535.10, the parties may
7 contract for a delinquency charge on any installment or
8 payment not paid in full within ten days after its due date,
9 as originally scheduled or as deferred, in an amount not
10 exceeding the greater of either of the following:

11 a. Five percent of the unpaid amount of the installment or
12 payment, or a maximum of twenty dollars.

13 b. The deferral charge that would be permitted to defer
14 the unpaid amount of the installment or payment for the period
15 that it is delinquent.

16 2. A delinquency charge under subsection 1, paragraph "a",
17 may be collected only once on an installment or payment
18 however long it remains in default. ~~No~~ A delinquency charge
19 may shall not be collected with respect to a deferred
20 installment or payment unless the installment or payment is
21 not paid in full within ten days after its deferred due date.
22 A delinquency charge may be collected at the time it accrues
23 or at any time afterward.

24 3. ~~No~~ A delinquency charge may shall not be collected
25 under subsection 1, paragraph "a", on an installment or
26 payment which is paid in full within ten days after its
27 scheduled or deferred installment or payment due date even
28 though an earlier maturing installment or payment or a
29 delinquency or deferral charge on an earlier installment or
30 payment may not have been paid in full. For purposes of this
31 subsection payments on a consumer credit sale, a consumer
32 loan, or a home equity line of credit under section 535.10 are
33 applied first to current installments or payments and then to
34 delinquent installments or payments, and payments on open-end
35 credit are applied first to an amount due for the current

1 billing cycle and then to delinquent payments.

2 4.--With respect to open end credit, the parties may
 3 contract for a delinquency charge on any payment not paid in
 4 full when due, as originally scheduled or as deferred, in an
 5 amount up to fifteen dollars.

6 5.--A delinquency charge under subsection 4 may be
 7 collected only once on a payment however long it remains in
 8 default.--A delinquency charge shall not be collected with
 9 respect to a deferred payment unless the payment is not paid
 10 in full on or before its deferred due date.--A delinquency
 11 charge may be collected at the time it accrues or at any time
 12 afterward.

13 6.--A delinquency charge shall not be collected under
 14 subsection 4 on a payment which is paid in full on or before
 15 its scheduled or deferred due date even though an earlier
 16 maturing payment or a delinquency or deferred charge on an
 17 earlier payment has not been paid in full.--For purposes of
 18 this subsection, payments are applied first to amounts due for
 19 the current billing cycle and then to delinquent payments.

20 EXPLANATION

21 This bill amends Code section 537.2502 relating to
 22 delinquency charges associated with certain consumer credit
 23 transactions. The bill provides that the parties to a
 24 consumer credit sale, a consumer loan, or a home equity line
 25 of credit may contract for a delinquency charge on any
 26 installment or payment not paid in full within 10 days after
 27 its due date, as originally scheduled or as deferred, in an
 28 amount not exceeding the greater of five percent of the unpaid
 29 amount of the installment or payment, or a maximum of \$20; or
 30 a deferral charge that would be permitted to defer the unpaid
 31 amount of the installment or payment for the period that it is
 32 delinquent. Under current law, such delinquency charge
 33 applies only to precomputed consumer credit transactions.

34 The bill increases the maximum delinquency charge which may
 35 be assessed with respect to open-end credit from \$15 to the

1 greater of \$20 or a deferral charge that would be permitted to
2 defer the unpaid amount for the period that it is delinquent.
3 The bill also provides that a delinquency charge shall not be
4 collected with respect to an amount that is paid in full
5 within 10 days after its scheduled or deferred due date.
6 Currently, there is no 10-day grace period and a delinquency
7 charge can be collected if a payment amount is not paid in
8 full on or before its scheduled or deferred due date.

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Substitutes for SF 318

3-23-99

(P.746)

MAR 2 1999

REPRINTED

Place On Calendar

HOUSE FILE 443

BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HSB 112)

(P.751)

Passed House, Date 3-18-99

(P.747)
Passed Senate, Date 3-23/99

Vote: Ayes 88 Nays 6

Vote: Ayes 46 Nays 1

Approved April 7, 1999

A BILL FOR

1 An Act relating to delinquency charges on certain consumer credit
2 transactions.

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

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HF 443

1 Section 1. Section 537.2502, subsections 1, 2, and 3, Code
2 1999, are amended to read as follows:

3 1. With respect to a precomputed consumer credit
4 transaction sale, a consumer loan, or a home equity line of
5 credit under section 535.10, the parties may contract for a
6 delinquency charge on any installment or payment not paid in
7 full within ten days after its due date, as originally
8 scheduled or as deferred, in an amount not exceeding the
9 greater of either of the following:

10 a. Five percent of the unpaid amount of the installment or
11 payment, or a maximum of twenty fifteen dollars.

12 b. The deferral charge that would be permitted to defer
13 the unpaid amount of the installment or payment for the period
14 that it is delinquent.

15 2. A delinquency charge under subsection 1, paragraph "a",
16 may be collected only once on an installment or payment
17 however long it remains in default. ~~No~~ A delinquency charge
18 ~~may~~ shall not be collected with respect to a deferred
19 installment or payment unless the installment or payment is
20 not paid in full within ten days after its deferred due date.
21 A delinquency charge may be collected at the time it accrues
22 or at any time afterward.

23 3. ~~No~~ A delinquency charge ~~may~~ shall not be collected
24 under subsection 1, paragraph "a", on an installment or
25 payment which is paid in full within ten days after its
26 scheduled or deferred installment or payment due date even
27 though an earlier maturing installment or payment or a
28 delinquency or deferral charge on an earlier installment or
29 payment may not have been paid in full. For purposes of this
30 subsection payments on a consumer credit sale, a consumer
31 loan, or a home equity line of credit under section 535.10 are
32 applied first to current installments or payments and then to
33 delinquent installments or payments.

34

EXPLANATION

35 This bill amends Code section 537.2502 relating to

1 delinquency charges associated with certain consumer credit
2 transactions. The bill provides that the parties to a
3 consumer credit sale, a consumer loan, or a home equity line
4 of credit may contract for a delinquency charge on any
5 installment or payment not paid in full within 10 days after
6 its due date, as originally scheduled or as deferred, in an
7 amount not exceeding the greater of five percent of the unpaid
8 amount of the installment or payment, or a maximum of \$15; or
9 a deferral charge that would be permitted to defer the unpaid
10 amount of the installment or payment for the period that it is
11 delinquent. Under current law, such delinquency charge
12 applies only to precomputed consumer credit transactions.

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HOUSE FILE 443

A-1099

1 Amend House File 443 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 535.10, subsection 3, Code
5 1999, is amended to read as follows:

6 3. a. A lender may collect in connection with
7 establishing or renewing a home equity line of credit
8 the costs listed in section 535.8, subsection 2,
9 paragraph "b", charges for insurance as described in
10 section 537.2501, subsection 2, and a loan processing
11 fee as agreed between the borrower and the lender, and
12 annually may collect an account maintenance fee of not
13 more than fifteen dollars. Fees collected under this
14 subsection shall be disregarded for purposes of
15 determining the maximum charge permitted by subsection
16 4.

17 b. The parties to a home equity line of credit
18 which is not a consumer credit transaction, as defined
19 in section 537.1301, may contract for a delinquency
20 charge under terms no more favorable than those
21 permitted for open-end credit under section 537.2502.

22 Sec. 2. NEW SECTION. 535.14 PROMPT PAYMENT ON
23 LOANS SECURED BY RESIDENTIAL REAL PROPERTY.

24 A lender is subject to the requirements set forth
25 in section 537.3206, regarding the prompt crediting of
26 payments, with respect to a loan secured by a lien or
27 security interest on owner-occupied residential real
28 property. For purposes of this section, "residential
29 real property" means residential real property as
30 defined in section 535B.1.

31 Sec. 3. Section 537.2502, subsections 1, 2, and 3,
32 Code 1999, are amended to read as follows:

33 1. With respect to a precomputed consumer credit
34 transaction not pursuant to an open-end credit
35 arrangement and other than a consumer lease or
36 consumer rental purchase agreement, the parties may
37 contract for a delinquency charge on any installment
38 not paid in full within ten days after its due date,
39 as originally scheduled or as deferred, in an amount
40 not-exceeding-the-greater-of-either-of-the-following
41 as follows:

42 a. For a precomputed transaction, an amount not
43 exceeding the greater of either of the following:

44 a- (1) Five percent of the unpaid amount of the
45 installment, or a maximum of twenty dollars.

46 b- (2) The deferral charge that would be permitted
47 to defer the unpaid amount of the installment for the
48 period that it is delinquent.

49 b. For an interest-bearing transaction, an amount
50 not exceeding five percent of the unpaid amount of the

A-1099

H-1099

Page 2

1 installment, or a maximum of fifteen dollars.

2 2. A delinquency charge under subsection 17
3 ~~paragraph-"a"~~, may be collected only once on an
4 installment however long it remains in default. No
5 delinquency charge may be collected with respect to a
6 deferred installment unless the installment is not
7 paid in full within ten days after its deferred due
8 date. A delinquency charge may be collected at the
9 time it accrues or at any time afterward.

10 3. ~~No~~ A delinquency charge may shall not be
11 collected under subsection 17, ~~paragraph-"a"~~, on an
12 installment which is paid in full within ten days
13 after its scheduled or deferred installment due date
14 even though an earlier maturing installment or a
15 delinquency or deferral charge on an earlier
16 installment may not have been paid in full. For
17 purposes of this subsection payments are applied first
18 to current installments and then to delinquent
19 installments.

20 Sec. 4. Section 537.3206, Code 1999, is amended by
21 adding the following new subsection:

22 NEW SUBSECTION. 4. a. A creditor shall credit a
23 payment to the consumer's account as of the date of
24 receipt, except when a delay in crediting does not
25 result in a finance or other charge, including a late
26 charge, or except as provided in paragraph "b". For
27 purposes of this subsection, a delay in posting does
28 not violate this subsection so long as the payment is
29 credited as of the date of receipt.

30 b. If a creditor specifies requirements for the
31 consumer to follow in making payments on the contract,
32 payment coupon book, payment coupon or statement, or
33 periodic statement, but accepts a payment that does
34 not conform to the requirements, the creditor shall
35 credit the payment within two days of receipt of such
36 payment.

37 c. If a creditor fails to credit a payment as
38 required by this subsection in time to avoid the
39 imposition of a finance or other charge, including a
40 delinquency charge, the creditor shall adjust the
41 consumer's account so that the charges imposed are
42 credited to the consumer's account during the next
43 payment period."

44 2. Title page, by striking lines 1 and 2 and
45 inserting the following: "An Act relating to
46 permissible fees and charges which may be assessed and
47 collected with respect to certain consumer credit
48 transactions."

By RANTS of Woodbury

H-1099 FILED MARCH 16, 1999

Adopted
3/18/99
(P. 137)

HOUSE FILE 443
BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HSB 112)

(As Amended and Passed by the House March 18, 1999)

Passed House, Date ^(P. 751) 3-18-99 Passed Senate, Date ^(P. 747) 3/23/99
Vote: Ayes 88 Nays 6 Vote: Ayes 46 Nays 1
Approved April 7, 1999

A BILL FOR

1 An Act relating to permissible fees and charges which may be
2 assessed and collected with respect to certain consumer credit
3 transactions.

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

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6 House Amendment _____

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8 All New Language by the House
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1 Section 1. Section 535.10, subsection 3, Code 1999, is
2 amended to read as follows:

3 3. a. A lender may collect in connection with
4 establishing or renewing a home equity line of credit the
5 costs listed in section 535.8, subsection 2, paragraph "b",
6 charges for insurance as described in section 537.2501,
7 subsection 2, and a loan processing fee as agreed between the
8 borrower and the lender, and annually may collect an account
9 maintenance fee of not more than fifteen dollars. Fees
10 collected under this subsection shall be disregarded for
11 purposes of determining the maximum charge permitted by
12 subsection 4.

13 b. The parties to a home equity line of credit which is
14 not a consumer credit transaction, as defined in section
15 537.1301, may contract for a delinquency charge under terms no
16 more favorable than those permitted for open-end credit under
17 section 537.2502.

18 Sec. 2. NEW SECTION. 535.14 PROMPT PAYMENT ON LOANS
19 SECURED BY RESIDENTIAL REAL PROPERTY.

20 A lender is subject to the requirements set forth in
21 section 537.3206, regarding the prompt crediting of payments,
22 with respect to a loan secured by a lien or security interest
23 on owner-occupied residential real property. For purposes of
24 this section, "residential real property" means residential
25 real property as defined in section 535B.1.

26 Sec. 3. Section 537.2502, subsections 1, 2, and 3, Code
27 1999, are amended to read as follows:

28 1. With respect to a precomputed consumer credit
29 transaction not pursuant to an open-end credit arrangement and
30 other than a consumer lease or consumer rental purchase
31 agreement, the parties may contract for a delinquency charge
32 on any installment not paid in full within ten days after its
33 due date, as originally scheduled or as deferred, in an amount
34 not-exceeding-the-greater-of-either-of-the-following as
35 follows:

1 a. For a precomputed transaction, an amount not exceeding
2 the greater of either of the following:

3 a. (1) Five percent of the unpaid amount of the
4 installment, or a maximum of twenty dollars.

5 b. (2) The deferral charge that would be permitted to
6 defer the unpaid amount of the installment for the period that
7 it is delinquent.

8 b. For an interest-bearing transaction, an amount not
9 exceeding five percent of the unpaid amount of the
10 installment, or a maximum of fifteen dollars.

11 2. A delinquency charge under subsection 17-paragraph-"a",
12 may be collected only once on an installment however long it
13 remains in default. No delinquency charge may be collected
14 with respect to a deferred installment unless the installment
15 is not paid in full within ten days after its deferred due
16 date. A delinquency charge may be collected at the time it
17 accrues or at any time afterward.

18 3. No A delinquency charge may shall not be collected
19 under subsection 17-paragraph-"a", on an installment which is
20 paid in full within ten days after its scheduled or deferred
21 installment due date even though an earlier maturing
22 installment or a delinquency or deferral charge on an earlier
23 installment may not have been paid in full. For purposes of
24 this subsection payments are applied first to current
25 installments and then to delinquent installments.

26 Sec. 4. Section 537.3206, Code 1999, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 4. a. A creditor shall credit a payment
29 to the consumer's account as of the date of receipt, except
30 when a delay in crediting does not result in a finance or
31 other charge, including a late charge, or except as provided
32 in paragraph "b". For purposes of this subsection, a delay in
33 posting does not violate this subsection so long as the
34 payment is credited as of the date of receipt.

35 b. If a creditor specifies requirements for the consumer

1 to follow in making payments on the contract, payment coupon
2 book, payment coupon or statement, or periodic statement, but
3 accepts a payment that does not conform to the requirements,
4 the creditor shall credit the payment within two days of
5 receipt of such payment.

6 c. If a creditor fails to credit a payment as required by
7 this subsection in time to avoid the imposition of a finance
8 or other charge, including a delinquency charge, the creditor
9 shall adjust the consumer's account so that the charges
10 imposed are credited to the consumer's account during the next
11 payment period.

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AN ACT

RELATING TO PERMISSIBLE FEES AND CHARGES WHICH MAY BE
ASSESSSED AND COLLECTED WITH RESPECT TO CERTAIN CONSUMER
CREDIT TRANSACTIONS.

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

Section 1. Section 535.10, subsection 3, Code 1999, is amended to read as follows:

3. a. A lender may collect in connection with establishing or renewing a home equity line of credit the costs listed in section 535.8, subsection 2, paragraph "b", charges for insurance as described in section 537.2501, subsection 2, and a loan processing fee as agreed between the borrower and the lender, and annually may collect an account

maintenance fee of not more than fifteen dollars. Fees collected under this subsection shall be disregarded for purposes of determining the maximum charge permitted by subsection 4.

b. The parties to a home equity line of credit which is not a consumer credit transaction, as defined in section 537.1301, may contract for a delinquency charge under terms no more favorable than those permitted for open-end credit under section 537.2502.

Sec. 2. NEW SECTION. 535.14 PROMPT PAYMENT ON LOANS SECURED BY RESIDENTIAL REAL PROPERTY.

A lender is subject to the requirements set forth in section 537.3206, regarding the prompt crediting of payments, with respect to a loan secured by a lien or security interest on owner-occupied residential real property. For purposes of this section, "residential real property" means residential real property as defined in section 535B.1.

Sec. 3. Section 537.2502, subsections 1, 2, and 3, Code 1999, are amended to read as follows:

1. With respect to a precomputed consumer credit transaction not pursuant to an open-end credit arrangement and other than a consumer lease or consumer rental purchase agreement, the parties may contract for a delinquency charge on any installment not paid in full within ten days after its due date, as originally scheduled or as deferred, in an amount not-exceeding-the-greater-of-either-of-the-following as follows:

a. For a precomputed transaction, an amount not exceeding the greater of either of the following:

a- (1) Five percent of the unpaid amount of the installment, or a maximum of twenty dollars.

b- (2) The deferral charge that would be permitted to defer the unpaid amount of the installment for the period that it is delinquent.

b. For an interest-bearing transaction, an amount not exceeding five percent of the unpaid amount of the installment, or a maximum of fifteen dollars.

2. A delinquency charge under subsection 17-paragraph-"a" may be collected only once on an installment however long it remains in default. No delinquency charge may be collected with respect to a deferred installment unless the installment 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.

3. No a delinquency charge may shall not be collected under subsection 17-paragraph-"a", on an installment which is paid in full within ten days after its scheduled or deferred installment due date even though an earlier maturing installment or a delinquency or deferral charge on an earlier installment may not have been paid in full. For purposes of this subsection payments are applied first to current installments and then to delinquent installments.

Sec. 4. Section 537.3206, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. A creditor shall credit a payment to the consumer's account as of the date of receipt, except when a delay in crediting does not result in a finance or other charge, including a late charge, or except as provided in paragraph "b". For purposes of this subsection, a delay in posting does not violate this subsection so long as the payment is credited as of the date of receipt.

b. If a creditor specifies requirements for the consumer to follow in making payments on the contract, payment coupon book, payment coupon or statement, or periodic statement, but accepts a payment that does not conform to the requirements, the creditor shall credit the payment within two days of receipt of such payment.

c. If a creditor fails to credit a payment as required by this subsection in time to avoid the imposition of a finance

or other charge, including a delinquency charge, the creditor shall adjust the consumer's account so that the charges imposed are credited to the consumer's account during the next payment period.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 443, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 7, 1999

THOMAS J. VILSACK
Governor