

Senate File 418 - Introduced

SENATE FILE 418
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1118)

(COMPANION TO LSB 2322HV)

A BILL FOR

1 An Act relating to consumer credit transactions establishing
2 and increasing specified charges and penalties.

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

1 Section 1. Section 537.2301, Code 2017, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 2A. A supervised loan made by a person in
4 violation of subsection 2 shall be void and the consumer is
5 not obligated to pay either the amount financed or the finance
6 charge. If the consumer has paid any part of the amount
7 financed or the finance charge, the consumer has a right to
8 recover the payment from the person in violation of subsection
9 2 or from an assignee of that person's rights who undertakes
10 direct collection of payments or enforcement of rights arising
11 from the debt. With respect to violations arising from
12 loans made pursuant to open-end credit, no action pursuant
13 to this subsection may be brought more than two years after
14 the violation occurred. With respect to violations arising
15 from other loans, no action pursuant to this subsection may
16 be brought more than one year after the due date of the last
17 scheduled payment of the agreement pursuant to which the charge
18 was paid.

19 Sec. 2. Section 537.2501, subsection 1, paragraph f,
20 subparagraph (1), Code 2017, is amended to read as follows:

21 (1) With respect to open-end credit pursuant to a credit
22 card issued by the creditor which entitles the cardholder
23 to purchase or lease goods or services from at least one
24 hundred persons not related to the card issuer, the parties
25 may contract for an over-limit charge up to ~~fifteen~~ thirty
26 dollars if the balance of the account exceeds the credit
27 limit established pursuant to the agreement. The over-limit
28 charge under this paragraph shall not be assessed again in a
29 subsequent billing cycle unless in a subsequent billing cycle
30 the account balance has been reduced below the credit limit.

31 Sec. 3. Section 537.2501, subsection 1, paragraph g, Code
32 2017, is amended to read as follows:

33 ~~g. A surcharge of not more than five percent of the amount~~
34 ~~of the face value of the payment instrument or twenty dollars,~~
35 ~~whichever is greater, for each dishonored payment instrument~~

1 ~~provided that the fee is clearly and conspicuously disclosed~~
2 ~~in the cardholder agreement. However, the amount of the~~
3 ~~surcharge shall not exceed twenty dollars unless the check,~~
4 ~~draft, or order was presented twice or the maker does not have~~
5 ~~an account with the drawee. If the check, draft, or order was~~
6 ~~presented twice or the maker does not have an account with the~~
7 ~~drawee, the amount of the surcharge shall not exceed fifty~~
8 ~~dollars as provided for in section 554.3512 for a dishonored~~
9 ~~check, draft, or order that was accepted as payment for a~~
10 ~~consumer credit transaction payment.~~ The surcharge shall not
11 be assessed against the maker if the reason for the dishonor of
12 the instrument is that the maker has stopped payment pursuant
13 to [section 554.4403](#).

14 Sec. 4. Section 537.2501, subsection 1, Code 2017, is
15 amended by adding the following new paragraph:

16 NEW PARAGRAPH. *k.* Credit reporting charges.

17 Sec. 5. Section 537.2502, subsection 1, paragraph a,
18 subparagraph (1), Code 2017, is amended to read as follows:

19 (1) Five percent of the unpaid amount of the installment, or
20 a maximum of ~~twenty~~ thirty dollars.

21 Sec. 6. Section 537.2502, subsection 1, paragraph b, Code
22 2017, is amended to read as follows:

23 *b.* For an interest-bearing transaction, an amount not
24 exceeding five percent of the unpaid amount of the installment,
25 or a maximum of ~~fifteen~~ thirty dollars.

26 Sec. 7. Section 537.2502, subsection 4, Code 2017, is
27 amended to read as follows:

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

32 Sec. 8. Section 537.2510, Code 2017, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 8. This section does not apply to a
35 financial institution as defined in section 537.1301.

1 Sec. 9. Section 537.5201, subsection 3, Code 2017, is
2 amended to read as follows:

3 3. If a creditor has contracted for or received a charge
4 in excess of that allowed by [this chapter](#), or if a consumer
5 is entitled to a refund and a person liable to the consumer
6 refuses to make a refund within a reasonable time after demand,
7 the consumer may recover from the creditor or the person
8 liable, in an action other than a class action, the excess
9 charge or refund and a penalty in an amount determined by the
10 court not less than ~~one~~ two hundred dollars or more than ~~one~~
11 two thousand dollars. With respect to excess charges arising
12 from sales or loans made pursuant to open-end credit, no action
13 pursuant to [this subsection](#) may be brought more than two years
14 after the time the excess charge was made. With respect to
15 excess charges arising from other consumer credit transactions
16 no action pursuant to [this subsection](#) may be brought more than
17 one year after the due date of the last scheduled payment of
18 the agreement pursuant to which the charge was made. For
19 purposes of [this subsection](#), a reasonable time is presumed to
20 be thirty days.

21 Sec. 10. Section 537.5203, subsection 1, paragraph a, Code
22 2017, is amended to read as follows:

23 a. Twice the amount of the finance charge in connection with
24 the transaction, but the liability pursuant to this paragraph
25 shall be not less than ~~one~~ two hundred dollars or more than ~~one~~
26 two thousand dollars.

27 Sec. 11. Section 537.6113, subsection 2, Code 2017, is
28 amended to read as follows:

29 2. The administrator may bring a civil action against a
30 person to recover a civil penalty of no more than ~~five~~ ten
31 thousand dollars for repeatedly and intentionally violating
32 this chapter. No civil penalty pursuant to [this subsection](#)
33 may be imposed for violations of [this chapter](#) occurring more
34 than two years before the action is brought or for making
35 unconscionable agreements or engaging in a course of fraudulent

1 or unconscionable conduct.

2 Sec. 12. Section 537.6203, subsections 1 and 4, Code 2017,
3 are amended to read as follows:

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

8 4. In addition to the penalties provided by section
9 537.6113, subsection 3, the administrator may collect a charge,
10 established by rule, not exceeding ~~twenty-five~~ seventy-five
11 dollars from each person required to pay fees under this
12 section who fails to pay the fees in full within thirty days
13 after they are due.

14 EXPLANATION

15 The inclusion of this explanation does not constitute agreement with
16 the explanation's substance by the members of the general assembly.

17 This bill establishes and increases specified charges and
18 penalties relating to consumer credit transactions.

19 Current Code section 537.2301 authorizes certain persons to
20 make supervised loans. The bill provides that a supervised
21 loan made by a person in violation of Code section 537.2301(2)
22 is void and the consumer is not obligated to pay the amount
23 financed or the finance charge. A consumer who has already
24 paid any part of such amount or charge may recover the payment.
25 With respect to violations arising from loans made pursuant
26 to open-end credit, no action may be brought pursuant to the
27 bill more than two years after the violation occurred. With
28 respect to violations arising from other loans, no action may
29 be brought pursuant to the bill more than one year after the
30 due date of the last scheduled payment of the agreement for
31 which the charge was paid.

32 Current Code section 537.2501 sets forth the charges that
33 a creditor may receive in addition to a finance charge. The
34 bill increases the over-limit charge the parties to an open-end
35 credit pursuant to a credit card transaction may contract

1 for from up to \$15 to a maximum of \$30. The bill modifies
2 the surcharge in Code section 537.2501(1)(g) to authorize a
3 surcharge for a dishonored check, draft, or order not to exceed
4 \$30 as provided for in Code section 554.3512. The bill also
5 provides that a creditor may receive credit reporting charges.

6 Current Code section 537.2502 allows the parties in certain
7 consumer credit transactions to contract for delinquency
8 charges. For a precomputed consumer credit transaction, the
9 maximum delinquency charge is increased from the greater of 5
10 percent of the unpaid installment or \$20, to the greater of
11 5 percent of the unpaid installment or \$30, or the deferral
12 charge amount. For an interest-bearing consumer credit
13 transaction, the maximum delinquency charge is increased from 5
14 percent of the unpaid installment or \$15, to 5 percent of the
15 unpaid installment or \$30. For an open-credit arrangement, the
16 maximum delinquency charge is increased from \$15 to \$30.

17 Current Code section 537.2510 requires creditors to rebate
18 certain amounts to consumers upon the prepayment of precomputed
19 consumer credit transactions. The bill provides that Code
20 section 537.2510 does not apply to financial institutions as
21 defined in Code section 537.1301. This would include banks,
22 savings and loan associations, or state banks incorporated
23 under state or federal law, and credit unions organized under
24 state or federal law.

25 Current Code section 537.5201 sets forth the remedies
26 available to consumers for violations of Code chapter 537. The
27 bill increases the penalty a creditor must pay for contracting
28 for or receiving a charge in excess of that allowed by Code
29 chapter 537 from not less than \$100 or more than \$1,000, to not
30 less than \$200 or more than \$2,000.

31 Current Code section 537.5203 sets forth the civil liability
32 of a creditor who fails to disclose information to a person
33 entitled to the information under Code chapter 537. The bill
34 increases the amount a creditor is liable to such person from
35 not less than \$100 or more than \$1,000 to not less than \$200 or

1 more than \$2,000.

2 Current Code section 537.6113 allows the attorney general to
3 bring civil actions to recover moneys under Code chapter 537.
4 The bill increases the civil penalty the attorney general may
5 recover from a person for repeated and intentional violations
6 of Code chapter 537 from no more than \$5,000 to no more than
7 \$10,000.

8 Current Code section 537.6203 sets forth various fees and
9 charges for persons required to file notification pursuant to
10 Code chapter 537. The bill increases the annual fee for a
11 person required to file notification from \$10 to \$50. The bill
12 also increases the late charge for failure to pay a fee within
13 30 days that it is due from no more than \$25 per person to no
14 more than \$75 per person.