

MINUTES OF THE SENATE COMMITTEE ON COMMERCIAL AND FINANCIAL INSTITUTIONS

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9:00 a.m./p.m. on March 1, 1984 in room 529-S of the Capitol.

All members were present except:

Senators Hess, Reilly, and Gordon - Excused

Committee staff present:

Bill Wolff, Legislative Research
Bruce Kinzie, Revisor of Statutes

Conferees appearing before the committee:

None

The minutes of February 29 were approved.

The chairman announced that Sen. Werts would give the Banking Subcommittee report on SB 472 which amends the Uniform Consumer Credit Code.

Sen. Werts went through the balloon of the bill page by page with an explanation of each change made. (See Attachment I.) There were additional technical amendments to be made on lines 179 and 553 by inserting after "loss" the following: ",except as provided in subparagraph (i) of paragraph (b) of subsection (1) of section 16".

Upon completion of committee discussion of the bill, Sen. Pomeroy made a motion to adopt the subcommittee report with the two additional technical amendments explained by Sen. Werts. Sen. Feleciano seconded, and the motion carried.

Sen. Werts made a motion to report SB 472 favorably as amended. Sen. Pomeroy seconded, and the motion carried.

With this action on SB 472, the chairman asked for action on SB 419 which addresses the notice section of the statute and is included in SB 472.

Sen. Feleciano made a motion to report SB 419 adversely. Sen. Pomeroy seconded, and the motion carried.

The meeting was adjourned.

SENATE COMMITTEE

ON

COMMERCIAL AND FINANCIAL INSTITUTIONS

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
3/1	Mel Gathen	Topeka	Consumer Credit
3/1	Don Phelps	✓	✓
3-1	Jim M. B. ...	✓	United Way of Topeka
3-1	Tom Robinson	Jeff City, Mo	Beneficial
3-1	Tom Reyan	Topeka	KAFCC
3-1	Jim Mace	"	KBA
	Stan Lind	K.C.K.s	KAFCC
	Jeryl Wright	Topeka	KCUL
	T. Wilder	Topeka	KLSI
	John Spurgeon	Lawrence	Budget
	Martin ... #2	Topeka	KCUL
	M. Hoover		Capital - Lawrence

SENATE BILL No. 472

By Special Committee on Commercial and Financial Institutions

Re Proposal No. 6

12-20

0018 AN ACT amending the uniform consumer credit code; amending
 0019 K.S.A. 16a-2-301, 16a-2-307, 16a-2-308, 16a-2-501, 16a-2-502,
 0020 ~~16a-3-205~~, 16a-3-206, 16a-3-402, 16a-4-202, ~~16a-5-203~~ and
 0021 ~~16a-6-104~~ and K.S.A. 1983 Supp. 16a-1-301, 16a-2-201, 16a-2-
 0022 401, 16a-2-510 and 16a-3-204 and repealing the existing sec-
 0023 tions; also repealing K.S.A. ~~16a-3-308~~, 16a-6-302 and 16a-6-
 0024 303.

and

0025 *Be it enacted by the Legislature of the State of Kansas:*

0026 Section 1. K.S.A. 1983 Supp. 16a-1-301 is hereby amended to
 0027 read as follows: 16a-1-301. In addition to definitions appearing in
 0028 subsequent articles, in K.S.A. 16a-1-101 through 16a-9-102, and
 0029 amendments thereto:

0030 (1) "Actuarial method" means the method, defined by rules
 0031 adopted by the administrator, of allocating payments made on a
 0032 debt between the amount financed and the finance charge pur-
 0033 suant to which a payment is applied first to the accumulated
 0034 finance charge and the balance is applied to the unpaid amount
 0035 financed.

0036 (2) "Administrator" means the administrator designated in
 0037 the article (article 6) on administration (section 16a-6-103).

0038 (3) "Agreement" means the bargain of the parties in fact as
 0039 found in their language or by implication from other circum-
 0040 stances including course of dealing or usage of trade or course of
 0041 performance.

(4) "Amount financed" means the total of the following
 items:

0044 (a) In the case of a sale, the cash price of the goods, services,
 0045 or interest in land, less the amount of any down payment

Attachment I

Atch. I

0046 whether made in cash or in property traded in, and the amount
0047 actually paid or to be paid by the seller pursuant to an agreement
0048 with the buyer to discharge a security interest in, a lien on, or a
0049 debt with respect to property traded in;

0050 (b) in the case of a loan, the net amount paid to, receivable
0051 by, or paid or payable for the account of the debtor, plus the
0052 amount of any discount excluded from the finance charge (para-
0053 graph (b) of subsection (18) of section 16a-1-301); and

0054 (c) in the case of a sale or loan, to the extent that payment is
0055 deferred and the amount is not otherwise included and is autho-
0056 rized and disclosed to the customer:

0057 (i) Amounts actually paid or to be paid by the creditor for
0058 registration, certificate of title, or license fees, and

0059 (ii) permitted additional charges (section 16a-2-501).

0060 (5) "Billing cycle" means the time interval between periodic
0061 billing statement dates.

0062 (6) "Cash price" of goods, services, or an interest in land
0063 means the price at which they are offered for sale by the seller to
0064 cash buyers in the ordinary course of business and may include
0065 (a) the cash price of accessories or services related to the sale,
0066 such as delivery, installation, alterations, modifications, and im-
0067 provements, and (b) taxes to the extent imposed on a cash sale of
0068 the goods, services, or interest in land. The cash price stated by
0069 the seller to the buyer in a disclosure statement is presumed to
0070 be the cash price.

0071 (7) "Closing costs" with respect to a debt secured by an
0072 interest in land includes:

0073 (a) Fees or premiums for title examination, title insurance, or
0074 similar purposes including surveys;

0075 (b) *fees payable to a third party, not related to the lender, for*
0076 *preparation of a deed, settlement statement, or other documents;*

0077 (c) escrows for future payments of taxes and insurance;

0078 (d) fees for notarizing deeds and other documents;

0079 (e) appraisal fees; and

0080 (f) credit reports.

0081 (8) "Conspicuous": A term or clause is conspicuous when it
0082 is so written that a reasonable person against whom it is to

0083 operate ought to have noticed it. Whether a term or clause is
0084 conspicuous or not is for decision by the trier of fact.

0085 (9) "Consumer" means the buyer, lessee, or debtor to whom
redit is granted in a consumer credit transaction.

0087 (10) "Consumer credit sale":

0088 (a) Except as provided in paragraph (b), a "consumer credit
0089 sale" is a sale of goods, services, or an interest in land in which:

0090 (i) Credit is granted either by a seller who regularly engages
0091 as a seller in credit transactions of the same kind or pursuant to a
0092 credit card other than a lender credit card,

0093 (ii) the buyer is a person other than an organization,

0094 (iii) the goods, services, or interest in land are purchased
0095 primarily for a personal, family or household purpose,

0096 (iv) either the debt is payable in installments or a finance
0097 charge is made, and

0098 (v) with respect to a sale of goods or services, the amount
0099 financed does not exceed \$25,000 ~~or a mobile home~~.

0100 (b) A "consumer credit sale" does not include:

0101 (i) A sale in which the seller allows the buyer to purchase
0102 goods or services pursuant to a lender credit card ; or

0103 (ii) unless the sale is made subject to K.S.A. 16a-1-101
0104 through 16a-9-102, and amendments thereto, by agreement (sec-
0105 tion 16a-1-109), a sale of an interest in land, other than sales
0106 governed by subsection (10)(b)(iii) of this section, if the finance
charge does not exceed ~~12%~~ 15% per year calculated according

to the actuarial method on the unpaid balances of the amount
0109 financed on the assumption that the debt will be paid according
0110 to the agreed terms and will not be paid before the end of the
0111 agreed term; or

0112 (iii) a sale by contract for deed of real estate the interest rate
0113 of which is governed by subsection (b) or (h) of K.S.A. 16-207,
0114 and any amendments thereto.

0115 (11) "Consumer credit transaction" means a consumer credit
0116 sale, consumer lease, or consumer loan or a modification thereof
including a refinancing, consolidation, or deferral.

0117 (12) "Consumer lease": A "consumer lease" is a lease of
0118 goods:

- 0120 (a) Which a lessor regularly engaged in the business of leas-
0121 ing makes to a person, other than an organization, who takes
0122 under the lease primarily for a personal, family or household
0123 purpose;
- 0124 (b) in which the amount payable under the lease does not
0125 exceed \$25,000;
- 0126 (c) which is for a term exceeding four months; and
- 0127 (d) which is not made pursuant to a lender credit card.
- 0128 (13) "Consumer loan":
- 0129 (a) Except as provided in paragraph (b), a "consumer loan" is
0130 a loan made by a person regularly engaged in the business of
0131 making loans in which:
- 0132 (i) The debtor is a person other than an organization;
- 0133 (ii) the debt is incurred primarily for a personal, family or
0134 household purpose;
- 0135 (iii) either the debt is payable in installments or a finance
0136 charge is made; and
- 0137 (iv) either the amount financed does not exceed \$25,000 or
0138 the debt is secured by an interest in land ~~or a mobile home~~.
- 0139 (b) Unless the loan is made subject to K.S.A. 16a-1-101
0140 through 16a-9-102, and amendments thereto, by agreement (sec-
0141 tion 16a-1-109), a "consumer loan" does not include:
- 0142 (i) A loan secured by a first real estate mortgage; or
- 0143 (ii) a loan secured by a second or other subordinate mortgage
0144 if the second or other subordinate mortgage is granted to the
0145 same lender as the first mortgage; or
- 0146 (iii) a loan made by a qualified plan, as defined in section 401
0147 of the internal revenue code, to an individual participant in such
0148 plan or to a member of the family of such individual participant.
- 0149 (14) "Credit" means the right granted by a creditor to a
0150 debtor to defer payment of debt or to incur debt and defer its
0151 payment.
- 0152 (15) "Credit card" means an arrangement pursuant to which
0153 a card issuer gives a cardholder the privilege of purchasing or
0154 leasing goods or services, obtaining loans, or otherwise obtaining
0155 credit from the card issuer or other persons.
- 0156 (16) "Creditor" means the person who grants credit in a

7 consumer credit transaction or, except as otherwise provided, an
8 assignee of a creditor's right to payment, but, use of the term
9 does not in itself impose on an assignee any obligation of such
0 ee's assignor. In the case of credit granted pursuant to a
1 credit card, the "person who grants credit" is the card issuer and
2 not another person honoring the credit card.

3 (17) "Earnings" means compensation paid or payable to an
4 individual or for such individual's account for personal services
5 rendered or to be rendered by such individual, whether denom-
6 inated as wages, salary, commission, bonus, or otherwise, and
7 includes periodic payments pursuant to a pension, retirement, or
8 disability program.

9 (18) "Finance charge":

0 (a) "Finance charge" means the sum of:

1 (i) All charges payable directly or indirectly by the consumer
2 and imposed directly or indirectly by the creditor as an incident
3 to or as a condition of the extension of credit, including any of the
4 following types of charges which are applicable; interest or any
5 amount payable under a point, discount or other system of
6 charges, however denominated; time price differential, service,
7 carrying or other charge, however denominated; premium or
8 other charge for any guarantee or insurance protecting the cred-
9 itor against the consumer's default or other credit loss; and

0 (ii) charges incurred for investigating the collateral or credit-
1 thiness of the consumer or for commissions or brokerage for
2 aining the credit, irrespective of the person to whom the
3 charges are paid or payable, unless the creditor had no notice of
4 the charges when the credit was granted.

5 (b) The term does not include:

6 (i) Charges as a result of default, additional charges (section
7 16a-2-501), delinquency charges (section 16a-2-502), or deferral
8 charges (section 16a-2-503), or

9 (ii) if a lender makes a loan to a debtor by purchasing or
0 satisfying obligations of the debtor pursuant to a lender credit
1 d and the purchase or satisfaction is made at less than the face
2 amount of the obligation, the discount, or

3 (iii) closing costs as defined in section 16a-1-301(7).

0194 (19) "Goods" includes goods not in existence at the time the
0195 transaction is entered into and merchandise certificates, but
0196 excludes money, chattel paper, documents of title, and instru-
0197 ments.

0198 (20) Except as otherwise provided, "lender" includes an
0199 assignee of the lender's right to payment but use of the term does
0200 not in itself impose on an assignee any obligation of the lender
0201 with respect to events occurring before the assignment.

0202 (21) "Lender credit card" means a credit card issued by a
0203 supervised lender.

0204 (22) "Loan":

0205 (a) Except as provided in paragraph (b), a "loan" includes:

0206 (i) The creation of debt by the lender's payment of or agree-
0207 ment to pay money to the debtor or to a third party for the
0208 account of the debtor;

0209 (ii) the creation of debt either pursuant to a lender credit card
0210 or by a cash advance to a debtor pursuant to a credit card other
0211 than a lender credit card;

0212 (iii) the creation of debt by a credit to an account with the
0213 lender upon which the debtor is entitled to draw immediately;
0214 and

0215 (iv) the forbearance of debt arising from a loan.

0216 (b) A "loan" does not include the payment or agreement to
0217 pay money to a third party for the account of a debtor if the debt
0218 of the debtor arises from a sale or lease and results from use of
0219 either a credit card issued by a person primarily in the business
0220 of selling or leasing goods or services or any other credit card
0221 which may be used for the purchase of goods or services and
0222 which is not a lender credit card.

0223 (23) "Merchandise certificate" means a writing issued by a
0224 seller not redeemable in cash and usable in its face amount in
0225 lieu of cash in exchange for goods or services.

0226 (24) "Official fees" means:

0227 (a) Fees and charges prescribed by law which actually are or
0228 will be paid to public officials for determining the existence of or
0229 for perfecting, releasing, or satisfying a security interest related
0230 to a consumer credit sale, consumer lease, or consumer loan; or

(b) premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the sale, lease, or loan, if the premium does not exceed the fees and charges described in paragraph (a) which would otherwise be payable.

(25) "Open end credit" means an arrangement pursuant to which:

(a) A creditor may permit a consumer, from time to time, to purchase goods or services on credit from the creditor or pursuant to a credit card, or to obtain loans from the creditor or pursuant to a credit card;

(b) the unpaid balance of amounts financed and the finance and other appropriate charges are debited to an account;

(c) the finance charge, if made, is not precomputed but is computed on the outstanding unpaid balances of the consumer's account from time to time; and

(d) the consumer has the privilege of paying the balances in installments.

(26) "Organization" means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(27) "Payable in installments" means that payment is required or permitted by agreement to be made in (a) two or more periodic payments, excluding a down payment, with respect to a debt arising from a consumer credit sale pursuant to which a finance charge is made, (b) four or more periodic payments, excluding a down payment, with respect to a debt arising from a consumer credit sale pursuant to which no finance charge is made, or (c) two or more periodic payments with respect to a debt arising from a consumer loan. If any periodic payment other than the down payment under an agreement requiring or permitting two or more periodic payments is more than twice the amount of any other periodic payment, excluding the down payment, the consumer credit transaction is "payable in installments."

(28) "Person" includes a natural person or an individual, and an organization.

0268 (29) "Person related to" with respect to an individual means
0269 (a) the spouse of the individual, (b) a brother, brother-in-law,
0270 sister, sister-in-law of the individual, (c) an ancestor or lineal
71 descendant of the individual or the individual's spouse, and (d)
0272 any other relative, by blood, adoption or marriage, of the indi-
0273 vidual or such individual's spouse who shares the same home
0274 with the individual. "Person related to" with respect to an
0275 organization means (a) a person directly or indirectly controlling,
0276 controlled by or under common control with the organization, (b)
0277 an officer or director of the organization or a person performing
0278 similar functions with respect to the organization or to a person
0279 related to the organization, (c) the spouse of a person related to
0280 the organization, and (d) a relative by blood, adoption or mar-
0281 riage of a person related to the organization who shares the same
0282 home with such person.

0283 (30) "Precomputed": A finance charge or consumer credit
0284 transaction is "precomputed" if the debt is expressed as a sum
0285 comprising the amount financed and the amount of the finance
0286 charge computed in advance.

0287 (31) "Presumed" or "presumption" means that the trier of
0288 fact must find the existence of the fact presumed unless and until
0289 evidence is introduced which would support a finding of its
0290 nonexistence.

0291 (32) "Sale of goods" includes any agreement in the form of a
0292 bailment or lease of goods if the bailee or lessee agrees to pay as
0293 compensation for use a sum substantially equivalent to or in
0294 excess of the aggregate value of the goods involved and it is
0295 agreed that the bailee or lessee will become, or for no other or a
0296 nominal consideration has the option to become, the owner of
0297 the goods upon full compliance with such bailee's or lessee's
0298 obligations under the agreements.

0299 (33) "Sale of an interest in land" includes a lease in which
0300 the lessee has an option to purchase the interest and all or a
0301 substantial part of the rental or other payments previously made
0302 by the lessee are applied to the purchase price.

0303 (34) "Sale of services" means furnishing or agreeing to fur-
0304 nish services and includes making arrangements to have services

05 furnished by another.

06 (35) "Seller": Except as otherwise provided, "seller" in-
07 cludes an assignee of the seller's right to payment but use of the
08 does not in itself impose on an assignee any obligation of
09 the seller with respect to events occurring before the assign-
10 ment.

11 (36) "Services" includes (a) work, labor, and other personal
12 services, (b) privileges with respect to transportation, hotel and
13 restaurant accommodations, education, entertainment, recre-
14 ation, physical culture, hospital accommodations, funerals, cem-
15 etery accommodations, and the like, and (c) insurance.

16 (37) "Supervised financial organization" means a person,
17 other than an insurance company or other organization primarily
18 engaged in an insurance business:

19 (a) Organized, chartered, or holding an authorization certifi-
20 cate under the laws of this state or of the United States which
21 authorize the person to make loans and to receive deposits,
22 including a savings, share, certificate or deposit account; and

23 (b) subject to supervision by an official or agency of this state
24 or of the United States.

25 (38) "Supervised lender" means a person authorized to make
26 or take assignments of supervised loans, either under a license
27 issued by the administrator (section 16a-2-301); or as a super-
28 vised financial organization (section 16a-1-301(37)) ~~or as an agri-
cultural credit corporation (section 16a-2-301).~~

29 (39) "Supervised loan" means a consumer loan, including a
30 loan made pursuant to open end credit, in which the rate of the
31 finance charge, calculated according to the actuarial method,
32 exceeds ~~12%~~ 15% per year.

33 ~~(40) "Seller credit card" means either of the following:~~
34 ~~(a) A credit card issued primarily for the purpose of giving~~
35 ~~the cardholder the privilege of using the credit card to purchase~~
36 ~~or lease property or services from the card issuer, persons~~
37 ~~related to the card issuer, persons licensed or franchised to do~~
38 ~~business under the card issuer's business or trade name or~~
39 ~~designation or from any of these persons and from other persons~~
40 ~~as well; or~~

41

0342 ~~(b) a credit card issued by a person other than a supervised~~
0343 ~~lender primarily for the purpose of giving the cardholder the~~
0344 ~~privilege of using the credit card to purchase or lease property~~
15 ~~or services from at least 100 persons not related to the card~~
0346 ~~issuer.~~

0347 Sec. 2. K.S.A. 1983 Supp. 16a-2-201 is hereby amended to
0348 read as follows: 16a-2-201. (1) With respect to a consumer credit
0349 sale, other than a sale pursuant to open end credit, a seller may
0350 contract for and receive a finance charge not exceeding that
0351 permitted by this section.

0352 (2) The finance charge, calculated according to the actuarial
0353 method, may not exceed the equivalent of the following:

0354 The total of:

0355 (a) Twenty-one percent per year on that part of the unpaid
0356 balance of the amount financed which is \$300 or less;

0357 (b) eighteen percent per year on that part of the unpaid
0358 balance of the amount financed which is more than \$300 but
0359 does not exceed \$1,000; and

0360 (c) fourteen and forty-five hundredths percent per year on
0361 that part of the unpaid balance of the amount financed which is
0362 more than \$1,000.

0363 (3) This section does not limit or restrict the manner of
0364 calculating the finance charge whether by way of add-on, dis-
0365 count, or otherwise, so long as the rate of the finance charge does
0366 not exceed that permitted by this section. If the sale is precom-
0367 puted:

0368 (a) The finance charge may be calculated on the assumption
0369 that all scheduled payments will be made when due; and

0370 (b) the effect of prepayment is governed by the provisions on
0371 rebate upon prepayment (16a-2-510).

0372 (4) For the purposes of this section, the term of a sale agree-
0373 ment commences with the date the credit is granted or, if goods
0374 are delivered or services performed 10 days or more after that
0375 date, with the date of commencement of delivery or perform-
0376 ance. Differences in the lengths of months are disregarded and a
0377 day may be counted as $\frac{1}{30}$ th of a month. Subject to classifications
0378 and differentiations the seller may reasonably establish, a part of

79 a month in excess of 15 days may be treated as a full month if
80 periods of 15 days or less are disregarded and that procedure is
81 consistently used to obtain a greater yield than would other-
82 be permitted.

83 (5) Subject to classifications and differentiations the seller
84 may reasonably establish, the seller may make the same finance
85 charge on all amounts financed within a specified range. A
86 finance charge so made does not violate subsection (2) if:

87 (a) When applied to the median amount within each range, it
88 does not exceed the maximum permitted by subsection (2); and

89 (b) when applied to the lowest amount within each range, it
90 does not produce a rate of finance charge exceeding the rate
91 calculated according to paragraph (a) by more than 8% of the rate
92 calculated according to paragraph (a).

93 (6) Notwithstanding subsection (2), the seller may contract
94 for and receive a minimum finance charge of not more than \$5
95 ~~\$10~~ when the amount financed does not exceed \$75, or not more
96 than ~~\$7.50~~ ~~\$15~~ when the amount financed exceeds \$75.

\$7.50

97 (7) As an alternative to the rates set forth in subsection (2),
98 during the period beginning on the effective date of this act and
99 ending July 1, 1985, the seller may contract for and receive a
400 finance charge not exceeding 21% per year on the unpaid bal-
401 ances of the amount financed.

\$12

402 (8) *A seller shall not contract for or receive a prepaid finance
403 charge under the provisions of this section.*

404 Sec. 3. K.S.A. 16a-2-301 is hereby amended to read as fol-
405 lows: 16a-2-301. Unless a person is a supervised financial orga-
406 nization; ~~or is an agricultural credit corporation organized under~~
407 ~~the laws of the United States or the state of Kansas;~~ or has first
408 obtained a license from the administrator authorizing such per-
409 son to make supervised loans, such person shall not engage in
410 the business of:

- 411 (1) Making supervised loans; or
- 412 (2) taking assignments of and undertaking direct collection of
413 payments from or enforcement of rights against debtors arising
414 from supervised loans, but such person may collect and enforce
415 for three months without a license if the person promptly applies

0416 for a license and such person's application has not been denied.
0417 Nothing in this section shall be construed to require the licens-
0418 ing of an attorney who is forwarded contracts for collection.

0419 Sec. 4. K.S.A. 16a-2-307 is hereby amended to read as fol-
0420 lows: 16a-2-307. ~~With respect to (1) Except as provided in sub-~~
0421 ~~section (2),~~ a consumer loan in which the finance charge exceeds
0422 twelve percent ~~(12%)~~ 15% and the amount financed is one
0423 thousand dollars ~~(\$1,000)~~ \$1,500 or less, a lender may not con-
0424 tract for an interest in land as security. A security interest taken
0425 in violation of this section is void.

0426 ~~(2) A lender may contract for an interest in land as security~~
0427 ~~in which the finance charge exceeds 15% and the consumer is~~
0428 ~~granted a line of credit which exceeds \$3,000.~~

0429 Sec. 5. K.S.A. 16a-2-308 is hereby amended to read as fol-
0430 lows: 16a-2-308. If consumer loans in which the finance charge
0431 exceeds twelve percent ~~(12%)~~ 15%, not made pursuant to open
0432 end credit or lender credit cards issued by a licensed lender, and
0433 in which the amount financed is one thousand dollars ~~(\$1,000)~~
0434 \$1,000 or less are payable in installments, they shall be sched-
0435 uled to be payable in substantially equal installments at sub-
0436 stantially equal periodic intervals except to the extent that the
0437 schedule of payments is adjusted to the seasonal or irregular
0438 income of the debtor, and:

0439 (a) Over a period of not more than ~~thirty-seven (37)~~ 37 calen-
0440 dar months if the amount financed is more than ~~three hundred~~
0441 ~~dollars (\$300)~~ \$300; or

0442 (b) over a period of not more than ~~twenty-five (25)~~ 25 calen-
0443 dar months if the amount financed is ~~three hundred dollars~~
0444 ~~(\$300)~~ \$300 or less. The debtor's schedule of payments may be
0445 extended to a longer repayment period subsequent to the exe-
0446 cution of the loan agreement pursuant to K.S.A. 16a-2-502 or
0447 16a-2-503, and amendments thereto. The default of the borrower
0448 shall not be considered as having extended the loan beyond the
0449 prescribed time limits.

0450 Sec. 6. K.S.A. 1983 Supp. 16a-2-401 is hereby amended to
0451 read as follows: 16a-2-401. (1) With respect to a consumer loan,
0452 including a loan pursuant to open end credit, a lender may

For

3 contract for and receive a finance charge, calculated according to
4 the actuarial method, not exceeding 18% per year on the unpaid
5 ce of the amount financed not exceeding \$1,000 and 14.45%
6 per year on that portion of the unpaid balance in excess of \$1,000.

7 (2) As an alternative to the rates set forth in subsection (1),
8 with respect to a supervised loan made under a license issued by
9 the administrator, including a loan pursuant to open end credit, a
10 supervised lender may contract for and receive a finance charge,
11 calculated according to the actuarial method, not exceeding the
12 equivalent of the greater of either of the following:

13 The total of: (a) Thirty-six percent per year on that part of the
14 unpaid balance of the amount financed which is \$300 or less; and

15 (b) twenty-one percent per year on that part of the unpaid
16 balance of the amount financed which is more than \$300, but
17 does not exceed \$1,000; and

18 (c) fourteen and forty-five hundredths percent per year on
19 that portion of the unpaid balance of the amount financed which
20 is more than \$1,000; or

21 (d) eighteen percent per year on the unpaid balance of the
22 amount financed.

23 (3) This section does not limit or restrict the manner of
24 calculating the finance charge, whether by way of add-on, dis-
25 count, or otherwise, so long as the rate of the finance charge does
26 not exceed that permitted by this section. The finance charge
27 to be contracted for and earned at the single annual percentage
28 rate that would earn the same finance charge as the graduated
29 rates when the debt is paid according to the agreed terms and the
30 calculations are made according to the actuarial method. If the
31 loan is precomputed:

32 (a) The finance charge may be calculated on the assumption
33 that all scheduled payments will be made when due; and

34 (b) the effect of prepayment is governed by the provisions on
35 rebate upon prepayment (section 16a-2-510).

36 (4) The term of a loan for the purposes of this section com-
37 mences on the date the loan is made. Differences in the lengths
38 of months are disregarded and a day may be counted as 1/30th of a
39 month. Subject to classifications and differentiations the lender

0490 may reasonably establish, a part of a month in excess of 15 days
0491 may be treated as a full month if periods of 15 days or less are
0492 disregarded and that procedure is not consistently used to obtain
0493 a greater yield than would otherwise be permitted.

0494 (5) Subject to classifications and differentiations the lender
0495 may reasonably establish, the lender may make the same finance
0496 charge on all amounts financed within a specified range. A
0497 finance charge so made does not violate subsections (1) and (2) if:

0498 (a) When applied to the median amount within each range, it
0499 does not exceed the maximum amount permitted in subsections
0500 (1) and (2); and

0501 (b) when applied to the lowest amount within each range, it
0502 does not produce a rate of finance charge exceeding the rate
0503 calculated according to paragraph (a) by more than 8% of the rate
0504 calculated according to paragraph (a).

0505 (6) Notwithstanding subsections (1) and (2), a lender may
0506 contract for and receive a minimum finance charge of not more
0507 than ~~\$5~~ \$10 when the amount financed does not exceed \$75, or
0508 not more than ~~\$7.50~~ \$15 when the amount financed exceeds \$75.

0509 (7) This section shall not apply to a loan secured by an
0510 interest in land the interest rate of which is governed by sub-
0511 section (b) of K.S.A. 16-207, and amendments thereto, unless
0512 made subject hereto by agreement.

0513 (8) This section shall not apply to a loan secured by an
0514 interest in land subordinate to a prior mortgage and held by a
0515 lender other than the lender of the first mortgage, the interest
0516 rate of which is governed by subsection (b) or (h) of K.S.A.
0517 16-207, and any amendments thereto, unless made subject
0518 hereto by agreement.

0519 (9) As an alternative to the rates set forth in subsection (1) and
0520 subsection (2)(d), during the period beginning on the effective
0521 date of this act and ending July 1, 1985, a supervised lender may
0522 contract for and receive a finance charge not exceeding 21% per
0523 year on the unpaid balance of the amount financed.

0524 (10) *A lender shall not contract for or receive a prepaid*
0525 *finance charge under the provisions of this section, except as*
0526 *provided in subsection (a) of section 19.*

7 Sec. 7. K.S.A. 16a-2-501 is hereby amended to read as fol-
8 16a-2-501. (1) In addition to the finance charge permitted
9 the parts of this article on maximum finance charges for
10 consumer credit sales and consumer loans (parts 2 and 4), a
11 creditor may contract for and receive the following additional
12 charges in connection with a consumer credit transaction:

- 13 (a) Official fees and taxes;
- 14 (b) charges for insurance as described in subsection (2);
- 15 (c) annual charges, payable in advance, for the privilege of
16 using a lender credit card which entitles the user to purchase
17 goods or services from at least ~~one hundred (100)~~ 100 persons not
18 related to the issuer of the lender credit card, under an arrange-
19 ment pursuant to which the debts resulting from the purchases
20 are payable to the issuer;
- 21 (d) charges for other benefits, including insurance, conferred
22 on the consumer, if the benefits are of value to ~~him~~ *the consumer*
23 and if the charges are reasonable in relation to the benefits, are of
24 a type which is not for credit, and are excluded as permissible
25 additional charges from the finance charge by rule adopted by
26 the administrator;
- 27 (e) *closing costs.*

28 (2) An additional charge may be made for insurance written
29 in connection with the transaction, including vendor's single
30 interest insurance with respect to which the insurer has no right
31 of subrogation against the consumer but excluding other insur-
32 ance protecting the creditor against the consumer's default or
33 other credit loss;

34 (a) With respect to insurance against loss of or damage to
35 property, or against liability, if the creditor furnishes a clear and
36 specific statement in writing to the consumer setting forth the
37 cost of the insurance if obtained from or through the creditor and
38 stating that the consumer may choose the person through whom
39 the insurance is to be obtained; and;

40 (b) with respect to consumer credit insurance providing life,
41 accident, or health coverage, if the insurance coverage is not a
42 factor in the approval by the creditor of the extension of credit,
43 and this fact is clearly disclosed in writing to the consumer, and

0564 if, in order to obtain the insurance in connection with the
0565 extension of credit, the consumer gives specific affirmative writ-
0566 ten indication of his *the consumer's* desire to do so after written
0567 disclosure to him *the consumer* of the cost thereof.

0568 (3) *An additional charge may be made for any check pre-*
0569 *sent for a payment to the creditor that is returned unsatisfied.*
0570 *The charge shall not exceed the charges actually imposed on the*
0571 *creditor in connection with the check. The creditor shall either*
0572 *post a sign conspicuously in any public place where payments*
0573 *are received or provide for such charge in the consumer credit*
0574 *contract.*

0575 Sec. 8. K.S.A. 16a-2-502 is hereby amended to read as fol-
0576 lows: 16a-2-502. (1) With respect to a precomputed consumer
0577 credit transaction, the parties may contract for a delinquency
0578 charge on any installment not paid in full within ~~ten~~ (10) 10 days
0579 after its scheduled or deferred due date in an amount not ex-
0580 ceeding the greater of:

0581 (a) An amount, not exceeding ~~five percent (5%)~~ 5% of the
0582 unpaid amount of the installment; or ~~two dollars and fifty cents~~
0583 ~~(\$2.50)~~ \$10, whichever is less, or

\$5

0584 (b) the deferral charge (section 16a-2-503) that would be
0585 permitted to defer the unpaid amount of the installment for the
0586 period that it is delinquent.

0587 (2) A delinquency charge under paragraph (a) of subsection
0588 (1) may be collected only once on an installment however long it
0589 remains in default. No delinquency charge may be collected
0590 with respect to a deferred installment unless the installment is
0591 not paid in full within ~~ten~~ (10) 10 days after its deferred due date.
0592 A delinquency charge may be collected at the time it accrues or
0593 at any time thereafter.

0594 (3) No delinquency charge may be collected on an install-
0595 ment which is paid in full within ~~ten~~ (10) 10 days after its
0596 scheduled or deferred installment due date even though an
0597 earlier maturing installment or a delinquency charge on an
0598 earlier installment may not have been paid in full.

0599 (4) If two installments or parts thereof of a precomputed
0600 consumer loan are in default for ~~ten~~ (10) 10 days or more, the

01 lender may elect to convert the loan from a precomputed loan to
02 in which the finance charge is based on unpaid balances. In
03 event he shall make a rebate pursuant to the provisions on
04 rebate upon prepayment (section 16a-2-510) as of the maturity
05 date of the first delinquent installment, and thereafter may make
06 a finance charge as authorized by the provisions on loan finance
07 charge for consumer loans (subsection (1) of section 16a-2-401) or
08 the provisions on finance charge for supervised loans (subsection
09 (2) of section 16a-2-401), whichever is appropriate. In any case,
10 the terms of the converted loan shall be no less favorable to the
11 debtor than the terms of the original loan. The amount of the
12 rebate shall not be reduced by the amount of any permitted
13 minimum charge (section 16a-2-510). If the creditor proceeds
14 under this subsection, any delinquency or deferral charges made
15 with respect to installments due at or after the maturity date of
16 the first delinquent installment shall be rebated, and no further
17 delinquency or deferral charges shall be made.

18 Sec. 9. K.S.A. 1983 Supp. 16a-2-510 is hereby amended to
19 read as follows: 16a-2-510. (1) Except as provided in subsection
20 (2), upon prepayment in full of the unpaid balance of a precom-
21 puted consumer credit transaction, an amount not less than the
22 unearned portion of the finance charge calculated according to
23 ~~this section~~ shall be rebated to the consumer. If the rebate
24 otherwise required is less than \$1, no rebate need be made.

25 (2) Upon prepayment in full, but not upon a refinancing
26 (section 16a-2-504), of a consumer credit transaction, whether or
27 not precomputed, other than one pursuant to open end credit,
28 the creditor may collect or retain a minimum charge of ~~\$5~~ \$10 in
29 a transaction which had an amount financed of \$75 or less, or
30 ~~\$7.50~~ \$15 in a transaction which had an amount financed of more
31 than \$75, if the minimum charge was contracted for and the
32 finance charge earned at the time of prepayment is less than the
33 minimum charge contracted for. In those instances where the
34 amounts financed are under or over \$75 and the finance charge is
35 less than the minimum provided therefor, then the finance
36 charge so contracted may be retained as the minimum finance
37 charge.

the actuarial method

0638 (3) Except as otherwise provided in this subsection with
0639 respect to a consumer credit sale of an interest in land or a
0640 consumer credit transaction secured by an interest in land, the
0641 unearned portion of the finance charge is a fraction of the finance
0642 charge of which the numerator is the sum of the periodic bal-
0643 ances scheduled to follow the computational period in which
0644 prepayment occurs, and the denominator is the sum of all peri-
0645 odic balances under the agreement evidencing the transaction.
0646 In the case of a consumer credit sale of an interest in land or a
0647 consumer credit transaction secured by an interest in land,
0648 reasonable sums actually paid or payable to persons not related
0649 to the creditor for customary closing costs included in the finance
0650 charge are deducted from the finance charge before the calcula-
0651 tion prescribed by this subsection is made.

0652 (4) The provisions of subsection (3) shall not apply to con-
0653 sumer credit transactions which are made after the effective date
0654 of this act and the term of which exceeds 61 months. The earned
0655 interest for such consumer credit transactions shall be deter-
0656 mined by the actuarial method.

0657 (5) In this section:

0658 (a) "Periodic balance" means the amount scheduled to be
0659 outstanding on the last day of a computational period before
0660 deducting the payment, if any, scheduled to be made on that day;

0661 (b) "computational period" means one month if $\frac{1}{2}$ or more of
0662 the intervals between scheduled payments under the agreement
0663 is one month or more, and otherwise means one week;

0664 (c) the "interval" to the due date of the first scheduled
0665 installment or the final scheduled payment date is measured
0666 from the date of a loan, refinancing or consolidation, and in-
0667 cludes either the first or last day of the interval;

0668 (d) if the interval to the due date of the first scheduled
0669 installment does not exceed one month by more than 15 days
0670 when the computational period is one month, or 11 days when
0671 the computational period is one week, the interval shall be
0672 considered as one computational period.

0673 (6) For transactions in which payments are not scheduled to
0674 be made in substantially equal installments at equal periodic

and regulations

75 intervals, the administrator shall adopt rules consistent with this
76 on providing for the calculation of the unearned portion of
77 finance charge.

(4)

78 ~~(7)~~ If a deferral (section 16a-2-503) has been agreed to, the
79 unearned portion of the finance charge shall be computed with-
80 out regard to the deferral. The amount of deferral charge earned
81 at the date of prepayment shall also be calculated. If the deferral
82 charge earned is less than the deferral charge paid, the differ-
83 ence shall be added to the unearned portion of the finance
84 charge. If any part of a deferral charge has been earned but has
85 not been paid, that part shall be subtracted from the unearned
86 portion of the finance charge or shall be added to the unpaid
87 balance.

88 ~~(8)~~ This section does not preclude the collection or retention
89 of delinquency charges (section 16a-2-502).

(5)

90 ~~(9)~~ If the maturity is accelerated for any reason and judgment
91 is obtained, the judgment shall be taken in accordance with the
92 provisions of K.S.A. 16-205 and any amendments thereto.

(6)

93 ~~(10)~~ Upon prepayment in full of a consumer credit transac-
94 tion by proceeds of consumer credit insurance (section 16a-4-
95 103), the consumer or the consumer's estate is entitled to the
96 same rebate as though the consumer had prepaid the agreement
97 on the date the proceeds of the insurance are paid to the creditor,
98 it no later than 10 business days after satisfactory proof of loss
99 is furnished to the creditor.

(7)

0700 Sec. 10. K.S.A. 1983 Supp. 16a-3-204 is hereby amended to
0701 read as follows: 16a-3-204. (1) If a creditor makes a change in the
0702 terms of an open end credit account without complying with this
0703 section any additional cost or charge to the consumer resulting
0704 from the change is an excess charge and subject to the remedies
0705 available to consumers (section 16a-5-201) and to the adminis-
0706 trator (section 16a-6-113).

(2) A creditor may change the terms of an open end credit
account whether or not the change is authorized by prior agree-
0709 ment. Except as provided in subsection (3), the lender shall give
0710 to the consumer written notice of any change at least three times;
0711 with the first notice at least six months ~~45~~ days before the

60

0712 effective date of the change.

0713 (3) The notice specified in subsection (2) is not required if:

0714 (a) The consumer after receiving notice of the change agrees
0715 in writing to the change; or

0716 (b) the consumer elects to pay an amount designated on a
0717 billing statement as including a new charge for a benefit offered
0718 to the consumer when the benefit and charge constitute the
0719 change in terms and when the billing statement also states the
0720 amount payable if the new charge is excluded;

0721 (c) (b) the change involves no significant cost to the con-
0722 sumer;

0723 (d) the consumer has previously consented in writing to the
0724 kind of change made and notice of the change is given to the
0725 consumer in two billing cycles prior to the effective date of the
0726 change; or

0727 (e) the change applies only to debts incurred after a date
0728 specified in a notice of the change given in two billing cycles
0729 prior to the effective date of the change.

0730 (4) The notice provided for in this section is given to the
0731 consumer when mailed to the consumer at the address used by
0732 the creditor for sending periodic billing statements.

0733 (5) Notwithstanding subsection (2), from and after the effec-
0734 tive date of this act and until July 1, 1985, a creditor may change
0735 the finance charge in an open end credit account after 30 days
0736 written notice is given to the consumer.

0737 Sec. 11. K.S.A. 16a-3-205 is hereby amended to read as fol-
0738 lows: 16a-3-205. (1) The creditor shall deliver or mail to the
0739 consumer, ~~without request upon request of the consumer,~~ a
0740 written receipt for each payment by coin or currency on an
0741 obligation pursuant to a consumer credit transaction. A periodic
0742 statement showing a payment received by mail complies with
0743 this subsection.

0744 (2) Upon written request of the consumer, the person to
0745 whom an obligation is owed pursuant to a consumer credit
0746 transaction, other than one pursuant to open end credit, shall
0747 provide a written statement of the dates and amounts of pay-
0748 ments made within the past ~~fifteen (15)~~ 15 months and the total

Changes in the terms of an open end credit account shall not apply to the existing balance in the account of a consumer.

49 amount unpaid. The statement shall be provided without charge.
 50 ~~(c) After a consumer has fulfilled all obligations with respect~~
 51 ~~to a consumer credit transaction, other than one pursuant to open~~
 52 ~~end credit, the person to whom the obligation was owed shall~~
 53 ~~upon request of the consumer, deliver or mail to the consumer~~
 54 ~~written evidence acknowledging payment in full of all obliga-~~
 55 ~~tions with respect to the transaction.~~

56 Sec. ~~12.~~ K.S.A. 16a-3-206 is hereby amended to read as fol-
 57 lows: 16a-3-206. (1) A creditor shall disclose to the consumer the
 58 information required by the rules and regulations adopted by the
 59 administrator pursuant to K.S.A. 16a-6-117, and amendments
 60 thereto.

11.

61 (2) In this section, creditor includes a person who in the
 62 ordinary course of business regularly extends or arranges for the
 63 extension of credit, or offers to arrange for the extension of credit.

12.

64 Sec. ~~13.~~ K.S.A. 16a-3-402 is hereby amended to read as fol-
 65 lows: 16a-3-402. Except for reasonable expenses actual costs
 66 incurred in realizing on a security interest, the agreement with
 67 respect to a consumer credit transaction may not provide for any
 68 charges as a result of default by the consumer other than those
 69 authorized by K.S.A. 16a-1-101 through 16a-9-102. A provision in
 70 violation of this section is unenforceable.

on

71 Sec. ~~14.~~ K.S.A. 16a-4-202 is hereby amended to read as fol-
 72 lows: 16a-4-202. (1) Except as provided in subsection (2);

13.

73 (a) In the case of consumer credit insurance providing life
 74 coverage, the amount of insurance may not initially exceed the
 75 debt, including precomputed finance charges, and, if the debt is
 76 payable in installments, may not at any time exceed the greater
 77 of the scheduled or actual amount of the debt; or

78 (b) in the case of any other consumer credit insurance, the
 79 total amount of periodic benefits payable may not exceed the
 80 total of scheduled unpaid installments of the debt, and the
 81 amount of any periodic benefit may not exceed the original
 82 amount of debt divided by the number of periodic installments

83 in which it is payable.

84 (2) If consumer credit insurance is provided in connection
 85 with an open end credit account, the amounts payable as insur-

0786 ance benefits may be reasonably commensurate with the amount
0787 of debt as it exists from time to time. If consumer credit insur-
0788 ance is provided in connection with a commitment to grant credit
0789 in the future, the amounts payable as insurance benefits may be
0790 reasonably commensurate with the total from time to time of the
0791 amount of debt and the amount of the commitment. ~~If the debt or~~
0792 ~~the commitment is primarily for an agricultural purpose, and~~
0793 ~~there is no regular schedule of payments, the amounts payable as~~
0794 ~~insurance benefits may equal the total of the initial amount of~~
0795 ~~debt and the amount of the commitment.~~

0796 Sec. ~~15.~~ K.S.A. 16a-5-203 is hereby amended to read as fol-
0797 lows: 16a-5-203. (1) Except as otherwise provided in this section,
0798 a creditor who, in violation of the provisions of the rules and
0799 regulations adopted by the administrator pursuant to K.S.A.
0800 16a-6-117, and amendments thereto, fails to disclose information
0801 to a person entitled to the information under the provisions of
0802 K.S.A. 16a-1-101 through 16a-9-102, and amendments thereto, is
0803 liable to that person in an amount equal to the sum of:

0804 (a) Twice the amount of the finance charge in connection
0805 with the transaction, but the liability pursuant to this paragraph
0806 shall be not less than \$100 or more than \$1,000; and

0807 (b) in the case of a successful action to enforce the liability
0808 under paragraph (a), the costs of the action together with rea-
0809 sonable attorney's fees as determined by the court.

0810 (2) A creditor has no liability under this section if within ~~15~~
0811 60 days after discovering an error, and prior to the institution of
0812 an action under this section or the receipt of written notice of the
0813 error, the creditor notifies the person concerned of the error and
0814 makes whatever adjustments in the appropriate account are
0815 necessary to assure that the person will not be required to pay a
0816 credit service charge or loan finance charge in excess of the
0817 amount or percentage rate actually disclosed.

0818 (3) A creditor may not be held liable in any action brought
0819 under this section for a violation of the provisions of K.S.A.
0820 16a-1-101 through 16a-9-102, and amendments thereto, if the
0821 creditor shows by a preponderance of evidence that the violation
0822 was not intentional and resulted from a bona fide error notwith-

standing the maintenance of procedures reasonably adapted to
the error.

(4) Any action which may be brought under this section
against the original creditor in any credit transaction involving a
security interest in land may be maintained against any sub-
sequent assignee of the original creditor where the assignee, its
subsidiaries, or affiliates were in a continuing business relation-
ship with the original creditor either at the time the credit was
extended or at the time of the assignment, unless the assignment
was involuntary, or the assignee shows by a preponderance of
evidence that it did not have reasonable grounds to believe that
the original creditor was engaged in violations of this act and that
it maintained procedures reasonably adapted to apprise it of the
existence of the violations.

(5) No action pursuant to this section may be brought more
than one year after the date of the occurrence of the violation.

(6) In this section, creditor includes a person who in the
ordinary course of business regularly extends or arranges for the
extension of credit, or offers to arrange for the extension of credit.

(7) The liability of the creditor under this section is in lieu of
and not in addition to the creditor's liability under the federal
truth in lending act; no action with respect to the same violation
may be maintained pursuant to both this section and the federal
truth in lending act.

(8) *The multiple failure to disclose to any person any infor-
mation required under the provisions of K.S.A. 16a-1-101
through 16a-9-102, and amendments thereto, to be disclosed in
connection with a single account under a credit transaction,
shall entitle the person to a single recovery under this section,
but continued failure to disclose after a recovery has been
granted shall give rise to rights to additional recoveries.*

~~Sec. 16. K.S.A. 16a-6-104 is hereby amended to read as fol-
lows: 16a-6-104. (1) In addition to other powers granted by this
act, the administrator within the limitations provided by law
may:~~

~~(a) Receive and act on complaints, take action designed to
obtain voluntary compliance with the provisions of K.S.A. 16a-~~

0860 1-101 to 16a-9-102, inclusive, and acts amendatory thereof, or
0861 commence proceedings on the administrator's own initiative;
0862 (b) counsel persons and groups on their rights and duties
0863 under K.S.A. 16a-1-101 to 16a-9-102, inclusive, and acts amend-
0864 atory thereof;
0865 (c) establish programs for the education of consumers with
0866 respect to credit practices and problems;
0867 (d) make studies appropriate to effectuate the purposes and
0868 policies of K.S.A. 16a-1-101 to 16a-9-102, inclusive, and acts
0869 amendatory thereof, and make the results available to the public;
0870 (e) adopt, amend, and repeal rules and regulations to carry
0871 out the specific provisions of K.S.A. 16a-1-101 to 16a-9-102,
0872 inclusive, and acts amendatory thereof;
0873 (f) maintain offices within this state; and
0874 (g) appoint any necessary attorneys, hearing examiners,
0875 clerks, and other employees and agents and fix their compensa-
0876 tion, and authorize attorneys appointed under this section to
0877 appear for and represent the administrator in court.
0878 (2) The administrator shall enforce the rules and regulations
0879 adopted pursuant to K.S.A. 16a-6-117, and amendments thereto,
0880 with respect to all creditors except those described below, whose
0881 compliance shall be enforced by their appropriate supervisory
0882 authorities as follows:
0883 (a) In the case of national banks, by the comptroller of the
0884 currency;
0885 (b) in the case of state banks, by the Kansas banking com-
0886 missioner;
0887 (c) in the case of federally chartered savings and loan associ-
0888 ations, by the federal home loan bank board, acting directly or
0889 through the federal savings and loan insurance corporation;
0890 (d) in the case of state chartered savings and loan associa-
0891 tions, by the Kansas savings and loan commissioner;
0892 (e) in the case of federally chartered credit unions, by the
0893 administrator of the national credit union administration;
0894 (f) in the case of state chartered credit unions, by the Kansas
0895 credit union administrator;
0896 (g) in the case of common carriers subject to the federal acts

to regulate commerce, 49 USC § 1 *et seq.*, by the interstate
commerce commission;

in the case of intrastate public utilities or common carriers, by the Kansas corporation commission;

(i) in the case of any air carrier or foreign air carrier subject to the federal aviation act of 1958, by the civil aeronautics board;
and

(j) with respect to any activities subject to the packer and stockyards act of 1921, by the secretary of agriculture.

(3) To keep the administrator's rules and regulations in harmony with the rules of administrators in other jurisdictions which enact the revised uniform consumer credit code, the administrator, so far as is consistent with the purposes, policies and provisions of K.S.A. 16a-1-101 to 16a-9-102, inclusive, and acts amendatory thereof, shall:

(a) Before adoption, amending, and repealing rules and regulations, advise and consult with administrators in other jurisdictions which enact the uniform consumer credit code; and

(b) in adopting, amending, and repealing rules, take into consideration the rules of administrators in other jurisdictions which enact the revised uniform consumer credit code.

(4) Except for refund of an excess charge, no liability is imposed under K.S.A. 16a-1-101 to 16a-9-102, inclusive, and acts amendatory thereof, for an act done or omitted in conformity with a rule of the administrator notwithstanding that after the act or omission the rule may be amended or repealed or be determined by judicial or other authority to be invalid for any reason.

(5) The administrator shall report annually on or before January 1 to the governor and legislature on the operation of the administrator's office, on the use of consumer credit in the state, and on the problems of persons of small means obtaining credit from persons regularly engaged in extending sales or loan credit.

For the purpose of making the report, the administrator is authorized to conduct research and make appropriate studies. The report shall include a description of the examination and investigation procedures and policies of the administrator's office, a statement of policies followed in deciding whether to investigate

0934 or examine the offices of credit suppliers subject to the provi-
0935 sions of K.S.A. 16a-1-101 to 16a-9-102, inclusive, and acts
0936 amendatory thereof, a statement of the number and percentages
0937 of offices which are periodically investigated or examined, a
0938 statement of the types of consumer credit problems of both
0939 creditors and consumers which have come to the attention of the
0940 administrator through the administrator's examinations and in-
0941 vestigations and the disposition of them under existing law, a
0942 statement of the extent to which the rules of the administrator
0943 pursuant to K.S.A. 16a-1-101 to 16a-9-102, inclusive, and acts
0944 amendatory thereof, are not in harmony with the rules of admin-
0945 istrators in other jurisdictions which enact the revised uniform
0946 consumer credit code and the reasons for such variations; and a
0947 general statement of the activities of the administrator's office
0948 and of others to promote the purposes of such sections of this act.
0949 The report shall not identify the creditors against whom action is
0950 taken by the administrator.

0951 (6) The administrator prior to December 1 of each year shall
0952 establish such fees as are authorized under the provisions of
0953 K.S.A. 16a-1-101 to 16a-9-102, inclusive, and acts amendatory
0954 thereof, for the ensuing calendar year in such amounts as the
0955 administrator may determine to be sufficient to meet the budget
0956 requirements of the administrator for each fiscal year.

0957 (7) (a) *In addition to any and all other powers heretofore*
0958 *granted to the consumer credit administrator, the administrator*
0959 *shall have the power to allow any supervised lender located in*
0960 *the state of Kansas to contract for and receive a finance charge*
0961 *at the maximum rate or amount permitted to be charged by any*
0962 *other lender for the same type of credit extended in the state.*
0963 *The administrator shall exercise such power by the issuance of a*
0964 *special order. Such special order shall provide for the effective*
0965 *date and on and after such date shall be in full force and effect*
0966 *until amended or revoked by the administrator by subsequent*
0967 *special order. Upon issuance of a special order, the administra-*
0968 *tor shall promptly mail copies of the order to all supervised*
0969 *lenders. The issuance of such special orders shall not be subject*
0970 *to the provisions of article 4 of chapter 77 of the Kansas Statutes*

1 ~~Annotated.~~

2 ~~The administrator shall, at the time of issuing any spe-~~
3 ~~order pursuant to this section, submit a written report~~
4 ~~thereof to the president and minority leader of the senate and to~~
5 ~~the speaker and minority leader of the house of representatives.~~

6 New Sec. 17. (1) The administrator shall examine periodi-
7 cally at intervals the administrator deems appropriate the sales
8 contracts, business and records of every retail credit grantor and
9 such retail credit grantor's assignees. In addition, for the purpose
10 of discovering violations of K.S.A. 16a-1-101 through 16a-9-102,
11 and amendments thereto, or securing information lawfully re-
12 quired, the administrator may at any time investigate the sales
13 contracts, business and records of any retail credit grantor and
14 such retail credit grantor's assignees. For these purposes, the
15 administrator shall have free and reasonable access to the offices,
16 places of business and records of the retail credit grantor and
17 such retail credit grantor's assignees.

18 (2) If the retail credit grantor or such retail credit grantor's
19 assignee's records are located outside this state, the retail credit
20 grantor or such retail credit grantor's assignees at their option
21 shall make them available to the administrator at a convenient
22 location within this state, or pay the reasonable and necessary
23 expenses for the administrator or such administrator's repre-
24 sentative to examine them at the place where they are main-
25 tained. The administrator may designate representatives, in-
26 cluding comparable officials of the state in which the records are
27 located, to inspect them on the administrator's behalf.

28 (3) For the purposes of this section, the administrator may
29 administer oaths or affirmations, and upon the administrator's
30 own motion or upon request of any party may subpoena wit-
31 nesses, compel their attendance, adduce evidence, and require
32 the production of any matter which is relevant to the investiga-
33 tion, including the existence, description, nature, custody, con-
34 dition, and location of any books, documents, or other tangible
35 things and the identity and location of persons having knowl-
36 edge of relevant facts, or any other matter reasonably calculated
37 to lead to the discovery of admissible evidence.

may 15.

1008 (4) Upon failure without lawful excuse to obey a subpoena or
1009 to give testimony and upon reasonable notice to all persons
1010 affected thereby, the administrator may apply to the district court
1011 for an order compelling compliance.

1012 New Sec. ~~18.~~ The provisions of K.S.A. 16a-1-101 through
1013 16a-9-102, and amendments thereto, where applicable, shall
1014 apply to a second mortgage loan and, in addition: (1) The lender
1015 may contract for and receive the following charges, which may
1016 be included in the principal amount of the loan:

16.

amount financed

1017 (a) A nonrefundable origination fee not to exceed 3% dis-
1018 counted from the amount financed; and

1019 (b) an additional charge may be made for insurance written
1020 in connection with the loan, including:

as follows

1021 (i) Insurance protecting the lender against the borrower's
1022 default or other credit loss;

1023 (ii) insurance against loss of or damage to property where no
1024 such coverage already exists;

1025 (iii) consumer credit insurance providing life, accident or
1026 health coverage;

1027 (2) the lender may contract for and receive any amounts paid
1028 to the lender by any person, corporation or entity, other than the
1029 borrower, to reduce the rate on a second mortgage loan or to
1030 assist the borrower in qualifying for the loan;

1031 Sec. ~~19.~~ K.S.A. 16a-2-301, 16a-2-307, 16a-2-308, 16a-2-501,
1032 16a-2-502, ~~16a-3-205~~, 16a-3-206, ~~16a-3-308~~, 16a-3-402, 16a-4-202,
1033 16a-5-203 and ~~16a-6-104~~ and K.S.A. 1983 Supp. 16a-1-301, 16a-
1034 2-201, 16a-2-401, 16a-2-510, 16a-3-204, 16a-6-302 and 16a-6-303
1035 are hereby repealed.

17.

and

18.

1036 Sec. ~~20.~~ This act shall take effect and be in force from and
1037 after its publication in the statute book.