

16a-2-201. Finance charge for closed end consumer credit sales. (1) This section applies only to a closed end consumer credit sale.

(2) A seller may charge a finance charge at any rate agreed to by the parties, subject, however, to the limitations on prepaid finance charges set forth in subsection (3).

(3) A seller may charge a prepaid finance charge:

(a) For a consumer credit sale secured by a security interest in a manufactured home as defined by 42 U.S.C. § 5402(6), in an amount not to exceed 5% of the amount financed for the sole purpose of reducing the interest rate of the consumer credit sale; or

(b) for any other consumer credit sale, an amount not to exceed the lesser of 2% of the amount financed or \$100.

(c) A prepaid finance charge permitted under this subsection is in addition to finance charges permitted under subsection (2). A prepaid finance charge permitted under this subsection is fully earned when paid and is nonrefundable, unless the parties agree otherwise in writing.

(4) If the sale is precomputed:

(a) The finance charge may be calculated on the assumption that all scheduled payments will be made when due, and the fact that payments are made either before or after the due date does not affect the amount of finance charge which the creditor may charge or receive; and

(b) the effect of prepayment is governed by subsection (5).

(5) Rebate upon prepayment:

(a) Except as provided for in this section, upon prepayment in full of a precomputed consumer credit transaction, the creditor shall rebate to the consumer an amount not less than the amount of rebate provided in subsection (b), paragraph (1), or redetermine the earned finance charge as provided in subsection (b), paragraph (2), and rebate any other unearned charges including charges for insurance. The rebate for charges for insurance shall be as prescribed by statute, rules and regulations and administrative interpretations by the administrator. If the rebate otherwise required is less than \$1, no rebate need be made.

(b) The amount of rebate and redetermined earned finance charge shall be as follows:

(1) The amount of rebate shall be determined by applying, according to the actuarial method, the rate of finance charge which was required to be disclosed in the transaction:

(i) Where no deferral charges have been made in a transaction, to the unpaid balances for the actual time remaining as originally scheduled for the period following prepayment; and

(ii) where deferral charges have been made in a transaction, to the unpaid balances for the actual time remaining as extended by deferral for the period following prepayment.

The time remaining for the period following prepayment shall be either the full days following prepayment; or both the full days, counting the date of prepayment, between the prepayment date and the end of the computational period in which the prepayment occurs, and the full computational periods following the date of prepayment to the scheduled due date of the final installment of the transaction.

(2) The redetermined earned finance charge shall be determined by applying, according to the actuarial method, the rate of finance charge which was required to be disclosed in the transaction to the actual unpaid balances of the amount financed for the actual time the unpaid balances were outstanding as of the date of prepayment. Any delinquency or deferral charges collected before the date of prepayment do not become a part of the total finance charge for purposes of rebating unearned charges.

(c) Upon prepayment, but not otherwise, of a consumer credit transaction whether or not precomputed, other than a consumer lease, a consumer rental purchase agreement, or a transaction pursuant to open end credit:

(1) If the prepayment is in full, the creditor may collect or retain a minimum charge not exceeding \$5 in a transaction which had an amount financed of \$75 or less, or not exceeding \$7.50 and in a transaction which had an amount financed of more than \$75, if the finance charge earned at the time of prepayment is less than the minimum allowed pursuant to this subsection.

(2) If the prepayment is in part, the creditor may not collect or retain a minimum finance charge.

(d) For the purposes of this section, the following defined terms apply:

(1) "Computational period" means the interval between scheduled due dates of installments under the transaction if the intervals are substantially equal or, if the intervals are not substantially equal, one month if the smallest interval between the scheduled due dates of installments under the transaction is one month or more, and otherwise one week.

(2) The "interval" between specified dates means the interval between them including one or the other but not both of them. If the interval between the date of the transaction and the due date of the first scheduled installment does not exceed one month by more than fifteen days when the computational period is one month, or eleven days when the computational period is one week, the interval may be considered by the creditor as one computational period.

(e) This section does not preclude the collection or retention by the creditor of delinquency charges.

(f) If the maturity is accelerated by any reason and judgment is obtained, the consumer is entitled to the same rebate as if payment had been made on the date maturity is accelerated.

(g) Upon prepayment in full of a precomputed consumer credit transaction by the proceeds of consumer credit insurance, the consumer or the consumer's estate is entitled to the same rebate as though the consumer had prepaid the agreement on the date the proceeds of the insurance are paid to the creditor, but no later than ten business days after satisfactory proof of loss is furnished to the creditor.

(6) This section does not apply to a sale of an interest in land. Subsection (11) of K.S.A. 16a-2-401, and amendments thereto, governs the limitations on finance charges for a contract for deed to real estate where the parties agree in writing to make the transaction subject to the uniform consumer credit code.

History: L. 1973, ch. 85, § 16; L. 1980, ch. 77, § 1; L. 1981, ch. 94, § 1; L. 1982, ch. 93, § 1; L. 1983, ch. 79, § 1; L. 1985, ch. 82, § 1; L. 1988, ch. 85, § 3; L. 1988, ch. 86, § 1; L. 1988, ch. 87, § 1; L. 1993, ch. 200, § 6; L. 1995, ch. 54, § 1; L. 1997, ch. 90, § 1; L. 1998, ch. 107, § 1; L. 1999, ch. 107, § 10; L. 2000, ch. 28, § 1; July 1.