

2012 Kansas Statutes

16a-3-403. (UCCC) Credit card issuer subject to defenses. (1) If the issuer of a credit card, other than a lender credit card, is the seller or lessor or a person related to the seller or lessor, or if the seller or lessor is licensed, franchised, or permitted by the issuer to do business under the business name or trade name or designation of the issuer, the issuer is subject to all claims and defenses of a buyer or lessee against the seller or lessor arising out of a sale or lease of goods or services pursuant to the credit card.

(2) The issuer of a lender credit card is not subject to the claims and defenses of a buyer or lessee arising out of a sale or lease of goods or services pursuant to a lender credit card except where a home solicitation sale is involved. For purposes of this section, a "home solicitation sale" means a sale to a consumer of goods (other than equipment used in a business) or services, in which the seller or a person acting for the seller engages in a personal solicitation (other than by telephone or mail) of the sale at a residence of the buyer. It does not include a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale.

(3) Claims or defenses of a buyer or lessee against a seller or lessor in connection with a home solicitation sale may be asserted against the issuer of the lender credit card only:

(a) If the buyer or lessee has attempted in good faith to obtain reasonable satisfaction from the seller or lessor with respect to claims or defenses, and

(b) to the extent of the amount owing to the issuer with respect to the sale or lease at the time the issuer has notice of the claims or defenses. Notice of the claims or defenses may be given prior to the attempt specified in paragraph (a). The notice, which may generally state the claims or defenses, must be in writing but may be sent to either the seller (or lessor), or to the issuer.

(4) For the purpose of determining the amount owing to the issuer with respect to a sale or lease under a credit card, payments received upon the account are deemed to have been first applied to the payment of finance charges in the order of their entry to the account and then to the payment of debts in the order in which the entries of the debts are made to the account.

(5) An agreement may not provide for greater rights for an issuer of a credit card than this section permits.

History: L. 1973, ch. 85, § 58; L. 1981, ch. 93, § 12; July 1.