CHAPTER 9

Effective Date and Repealer

**SECTION 37‑9‑101.** Time of taking effect; provisions for transition.

(1) Except as otherwise provided in this section, this title takes effect at 12:01 A.M. on January 1, 1975.

(2) To the extent appropriate to permit the administrator to prepare for operation of this title when it takes effect the chapter on administration (Chapter 6) takes effect immediately.

The provisions of this title relating to sales and leases become effective at 12:01 A.M. on January 1 1975, but the parties to a consumer sale or lease or renewal or consolidation thereof, made after the effective date of the chapter on administration, may agree in writing signed by the parties that the sale or lease is subject to the provisions of this title applying to consumer sales or leases. If the parties so agree, the sale or lease or renewal or consolidation thereof shall be subject to this title just as if the entire title were effective on the date of the agreement.

(3) Transactions entered into before this title takes effect and the rights, duties, and interests flowing from them thereafter may be terminated, completed, consummated, or enforced as required or permitted by any statute, rule of law, or other law amended, repealed, or modified by this title as though the repeal, amendment, or modification had not occurred, but this title applies to

(a) refinancings, consolidations, and deferrals made after this title takes effect of sales, leases, and loans whenever made;

(b) sales or loans made after this title takes effect pursuant to revolving charge accounts (Section 37‑2‑108) and revolving loan accounts (Section 37‑3‑108) entered into, arranged, or contracted for before this title takes effect; and

(c) all credit transactions made before this title takes effect insofar as the chapter on remedies and penalties (Chapter 5) limits the remedies of creditors.

(4) With respect to revolving charge accounts (Section 37‑2‑108) and revolving loan accounts (Section 37‑3‑108) entered into, arranged, or contracted for before this title takes effect, disclosure pursuant to the provisions on disclosure, shall be made not later than thirty days after this title takes effect.

HISTORY: 1962 Code Section 8‑800.541; 1974 (58) 2879.

Library References

Consumer Credit 2.

Westlaw Topic No. 92B.

C.J.S. Interest and Usury; Consumer Credit Sections 407 to 411.

**SECTION 37‑9‑102.** Continuation of licensing.

(A) All persons now or hereafter holding a license under the provisions of Chapter 29, Title 34, as amended, may elect to be licensed to make supervised loans under this title pursuant to the part on Supervised Loans (Part 5) of the chapter on Loans (Chapter 3), provided, however, that all persons related to such persons shall make the same election. Upon such election at any time hereafter in writing to the Board of Financial Institutions, the lender shall be deemed to have surrendered his license to lend under Chapter 29, Title 34 and to have obtained a license to lend under this title. As soon as is practicable after the board receives such writing it shall issue a new certificate identifying the lender as a Supervised Lender. The only requirements that the board may impose for licensure under this section are:

(1) the election must be stated in writing;

(2) all persons related to the electing lender must also have made such election; and

(3) the person making any such election must then hold a currently valid license under Chapter 29, Title 34.

(B) A lender licensed to make supervised loans under this title under Chapter 3, Title 37, who was previously licensed under the provisions of Chapter 29, Title 34, as amended, may elect to again be licensed under Chapter 29, Title 34, provided, however, that all persons related to such persons shall make the same election. Upon such election, which must be made in writing to the Board of Financial Institutions prior to January 1, 1997, the lender shall be deemed to have surrendered his license to lend under Chapter 3, Title 37 and to have obtained a license to lend under Title 34. As soon as practicable after the board receives such writing, it shall issue a new certificate identifying the lender as a Restricted Lender under Title 34. The only requirements that the board may impose for licensure under this section are:

(1) the election must be stated in writing;

(2) all persons related to the electing lender must also have made such election; and

(3) the person making any such election must then hold a currently valid license under Chapter 3, Title 37.

HISTORY: 1976 Act No. 686 Section 55; 1995 Act No. 135, Section 19.

Library References

Consumer Credit 4.

Westlaw Topic No. 92B.

C.J.S. Interest and Usury; Consumer Credit Sections 412, 414 to 422, 426 to 429.

**SECTION 37‑9‑103.** Relationship between separate subsidiary corporations; obligations of parent and subsidiary.

A wholly owned subsidiary of a parent corporation which subsidiary has elected to be licensed under the provisions of this chapter, and a separate wholly owned subsidiary of the same parent corporation which subsidiary has elected to be licensed under the provisions of Chapter 29, Title 34 are not considered to be related persons for purposes of Section 37‑9‑102; provided, that a parent corporation with these two subsidiaries operating under different licenses, shall not permit these or any other subsidiaries to exchange, convert, transfer, or sell a license or facility from one subsidiary to another and the failure to comply with the provisions of this proviso constitutes just cause for the revocation of the license exchanged, converted, transferred, or sold; and provided further, that the failure to take reasonable steps to determine if a consumer has a current loan on the books with another subsidiary of the same parent corporation shall serve as just cause for revocation of the license of the subsidiary failing to make this determination if a pattern of such misconduct is shown.

HISTORY: 1986 Act No. 370, Section 2.

Library References

Consumer Credit 4.

Westlaw Topic No. 92B.

C.J.S. Interest and Usury; Consumer Credit Sections 412, 414 to 422, 426 to 429.