For release on delivery
Expected about 9:30 a.m. EST
February 7, 1984

Statement by

Nancy H. Teeters

Member, Board of Governors of the Federal Reserve System

before the

Subcommittee on Consumer Affairs

Committee on Banking, Housing, and Urban Affairs

United States Senate

February 7, 1984

on

Cash Discounts and Surcharges

under

the Truth in Lending Act

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

I am pleased to appear before you this morning to present the views of the Board of Governors on the issue of whether the Truth in Lending Act should continue to prohibit merchants from charging higher prices to credit card purchasers than to cash purchasers through the use of a "surcharge."

As you know, the purpose of the Truth in Lending law, which was passed in 1968, is to provide for a uniform disclosure of the cost of credit to consumers through the identified "finance charge" and "annual percentage rate." As a result, the act originally required that any differential between the price charged in a cash transaction and that charged in a credit transaction be treated as a cost of credit and included in the finance charge and annual percentage rate.

This requirement, as well as state disclosure and usury laws, however, was viewed in subsequent years as an obstacle to merchants wishing to implement two-tier pricing systems for cash and credit card customers -- that is, establishing two prices for property or services, a lower price for customers paying cash and a higher price for customers paying with a credit card. Consumer groups argued that the fee imposed on merchants by credit card companies was being passed on in higher prices to all customers.1/ As a result, it was argued that cash customers were being forced to subsidize credit customers when they were required to pay the same price for an item. Two-tier pricing systems were thus viewed as potentially beneficial to consumers as a means of eliminating the subsidy.

1/ The charge assessed by a credit card company on a merchant's credit card transactions is often referred to as the "merchant discount." If a merchant accepts a credit card for a $100 purchase, for example, the merchant might be assessed a three percent fee, thus receiving only $97 when the transaction is processed by the credit card company.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

Congress responded to this concern and sought to eliminate this subsidy by removing the Truth in Lending and state law obstacles to merchants offering lower prices to cash customers. It amended the federal act in 1974 to provide that discounts for cash need not be considered finance charges for purposes of Truth in Lending. There was, however, a great deal of uncertainty following Congress' action as to whether it intended to permit additions to prices for credit card customers (surcharges) as well as reductions in prices for cash customers (discounts). In response, Congress in 1976 prohibited the imposition of surcharges -- that is, adding an amount to the regular price of an item when it was sold to credit card customers.[2/] At the same time, Congress responded to the concern that state disclosure and usury laws presented an obstacle to discount programs by preempting them to the extent those laws treated discounts as finance charges.

However, because of some uncertainty as to the effect of the surcharge prohibition, it was originally scheduled to expire on February 27, 1979. Subsequently, the expiration date was advanced, and the surcharge prohibition will now expire on February 27, 1984. The chart found in Attachment A summarizes the provisions of the current law and indicates the provisions that would apply after the expiration date, absent some action by Congress. The chart is also displayed at the side of the room.

2/ In amending the act Congress defined a discount as a reduction in the regular price and a surcharge as an addition to the regular price. The "regular price" was not defined, however. In order to allow merchants to determine whether their programs involved discounts or surcharges, the Board by regulation defined "regular price." This definition was made part of the act in 1981.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

The principal reason for the temporary nature of the surcharge prohibition was to allow Congress to study the issue more thoroughly. It wanted to determine whether there is, in fact, a higher cost associated with the use of credit cards; whether cash customers do, as a result, subsidize credit customers; and whether it is necessary to allow surcharges as well as discounts in order to eliminate any subsidization. When the prohibition was last extended in 1981, the Board was directed to prepare a report on the effects of credit cards so that Congress would have a basis for making a permanent decision regarding surcharges. The report was to discuss the impact of credit cards on the costs that merchants incur, on the pricing of goods and services, and on retail sales volume.

The Board submitted its report in July 1983. Appendix B contains a more detailed summary of the results, but these are the main findings:

- The costs to retailers of credit card transactions (including point-of-sale, security-related, and financial costs) are higher than the costs for other types of transactions. The extra cost is about 2 to 3 percent of the transaction amount.
- There is little evidence that credit card usage increases overall retail sales volume. Since credit cards are so widely accepted, retailers as a whole do not recover the added cost of credit card transactions through increased sales.
- The extra cost of credit card transactions (to the extent it is not recovered directly from credit card users) is reflected in retail prices. It appears that on average the price of a given item is increased by something less than 1 percent.
- About 25 percent of gasoline stations and 6 percent of other retailers offer discounts. Approximately 40 percent of all retailers surveyed believed that discounts for cash are "a good idea."

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

In finding that credit card transactions cost most retailers more than cash or check transactions, and that the additional cost is generally not offset by higher sales volume but is reflected in the price level, the report supports the conclusion that cash buyers, at least to some extent, subsidize credit card users when all customers pay the same price. The report estimates the typical size of the subsidy to be between 1/2 percent and 1-1/4 percent of the total price. Thus, it appears that the theory underlying Congress' attempt in 1974 to eliminate the subsidy of credit card users by encouraging two-tier pricing was correct. At the same time, the size of the subsidy may be smaller than many people had assumed, which may help to explain why relatively few retailers have seen fit to adopt two-tier pricing.

In summary, our studies confirm that cash customers subsidize credit customers to some extent. The report also indicates that discount programs have become popular in at least one industry, but probably are not as widespread in the marketplace as a whole as proponents of the legislation hoped. Finally, a sizable percentage of the retailers surveyed look with favor on such programs.

Although many options are now available to Congress, they fall into three categories. Congress could remove the special Truth in Lending rules for discounts and surcharges, thus requiring them both to be treated as finance charges; as a practical matter, this would probably eliminate the existing programs and ensure that new ones would not develop. It could make the surcharge prohibition permanent, thereby permitting continuation of most discount programs now in place, but without any good reason to expect more to be offered in the future. Finally, it could allow the surcharge prohibition to expire, thereby possibly promoting some additional two-tier pricing. The Board favors this third alternative, provided the surcharge or discount does not exceed 5 percent.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

To make such programs work, the exemption from the truth in lending rules, both state and federal, and from state usury ceilings should be available to both programs.

Our recommendation that both surcharges and discounts be permitted is based on the proposition that the two are fundamentally equivalent, as well as on a number of practical considerations. First, while advocates of discounts have claimed that discount programs result only in price reductions for cash buyers, without penalizing credit card users, economic reality is such that prices generally will be restructured so that the "new" credit price is above -- and the discounted cash price only somewhat below -- the "old" single price. The Board's study indicates that if discount programs are to be economically feasible, most are likely to involve some increase in the price, from which discounts to cash customers are calculated. In fact, two-tier pricing through discounts ordinarily would result in essentially the same level of credit and cash prices as would a surcharge program. (This is discussed in more detail in Appendix C.)

Second, allowing two alternative methods of pricing may provide merchants the flexibility they need to offer more of the two-tier pricing that Congress is trying to encourage. Although 40 percent of the retailers surveyed by the Board considered cash discounts a "good idea," only 6 percent actually offered them. This low figure may mean that merchants find discount programs to be too much trouble to administer. Another possible explanation is that the similarity between discounts and surcharges causes merchants to be confused about what is a permissible discount and what is an illegal surcharge -- as evidenced by many inquiries the Board has received about the distinction.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

This uncertainty may discourage merchants from risking a violation of federal law. If the lack of two-tier pricing is related to either or both of these factors, then there is some hope that permitting both pricing schemes might promote the result Congress originally hoped to achieve.

A third consideration concerns the claim made by some opponents of surcharges that allowing both types of two-tier pricing will lead to consumer confusion in a marketplace where some merchants offer discounts and others impose surcharges. While the possibility of some initial confusion certainly exists (much like that which accompanied the introduction of discount programs at service stations), we do not think the problem would be major since merchants would still be required to disclose their policies. In addition, the Board believes that competition and the merchants' desire for customer goodwill would lead them to make clear to their customers what their pricing practices are. Furthermore, there is at least one type of problem with discount programs that would not exist with surcharges. There have been reports that cash-paying customers have not always received the discounts to which they were entitled; this has occurred, for example, where customers believed that the posted price reflected the discount, when it in fact did not.

In addition to allowing both types of pricing systems, we urge Congress to make two other changes. First, we suggest that the amount of the price differential in any two-tier pricing system that is excluded from truth in lending requirements and state disclosure and usury laws be limited to 5 percent of the cash price of the property or service. Any price differential between cash customers and credit customers is a cost of credit and normally would be viewed as a finance charge. In this case, however, Congress chose to sacrifice some accuracy in the credit cost disclosures and the protection offered by state

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

usury laws in order to help eliminate subsidization of credit card users. Since this provision involves a trade-off with the goals of the Truth in Lending Act and state laws, we think some limits are appropriate. Furthermore, we think the 5 percent limit would not keep merchants from offering price differentials related to the extra cost of credit card transactions. The Board's study indicates that the fee imposed by credit card companies on merchants averages 3.1 percent (with an average of 4.1 percent for small businesses), well within the 5 percent limit. In addition, most cash discounts now being offered are in the neighborhood of 3 to 5 percent. Therefore, we believe that limiting the differential to 5 percent would avoid any major distortions of credit costs as a result of the finance charge exclusion without adversely affecting the provision's goal.

Second, we believe that the two-tier pricing provision should be limited to credit cards. The purpose of the original exception, in fact the only focus of the discussions over the years, was to provide a means to remove from the price charged to the cash customer the extra cost of credit card transactions. However, in 1981 Congress changed the language of the act to provide special treatment for discounts not only in credit card transactions, but in all open-end credit transactions. The Board believes that since open-end credit transactions not involving a credit card do not generally result in a "merchant discount," this may have been an unwarranted extension of the provision and could further undercut the accuracy of the Truth in Lending disclosures and the effectiveness of state laws. We therefore recommend that the special treatment offered two-tier price differentials be limited to credit card transactions.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

The third column under both the "Discount" and the "Surcharge" sections of the chart shows the treatment that would be offered to all two-tier price differentials if the Board's recommended changes are made. Appendix D contains statutory language that reflects the recommendations.

I appreciate the opportunity to address the subcommittee and hope that our testimony will be of assistance in your efforts to deal with this difficult question.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

	DISCOUNTS			SURCHARGES		
	Now	After 2/27/84	FRB Recommendation	Now	After 2/27/84	FRB Recommendation
1. LEGAL TO OFFER?	YES	YES	YES	NO	YES	YES
2. FINANCE CHARGE UNDER TRUTH IN LENDING?	NO	NO	NO (if 5% or less)	N/A	YES	NO (if 5% or less)
3. FINANCE CHARGE UNDER STATE LAW?						
• DISCLOSURES	NO	NO	NO (if 5% or less)	N/A	YES	NO (if 5% or less)
• USURY CEILINGS	NO	NO	NO (if 5% or less)	N/A	YES	NO (if 5% or less)

APPENDIX A

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

APPENDIX B

SUMMARY OF FEDERAL RESERVE BOARD'S CREDIT CARD STUDY*/

The fundamental thesis underlying the Cash Discount Act is that credit card transactions are more costly to retailers than cash or check transactions, and that the higher costs of credit cards are incorporated in the prices of goods and services paid by all customers, resulting in a subsidy of credit buyers by cash purchasers.

The most basic challenge to this view would be the assertion that, properly measured, transactions costs for credit cards do not differ from other means of payment, or that the magnitude of difference is negligible. Another counter-argument sometimes proposed to the subsidy thesis is that credit cards generate incremental sales for retailers, so that the additional profits thereby attributable to cards eliminate any need to recover the cost of credit cards in prices of goods and services. The Board's study addressed these issues, and also examined the current practices and attitudes of retailers toward offering discounts for cash.

Following a brief overview in Chapter 2 of the study describing the types of credit cards available and the incidence of their use among households, Chapter 3 examined the broad question of the impact of credit cards on sales of retailers. Many observers would argue that because consumers are enabled by credit cards to spend beyond the immediate limits of cash or checking account balances, they are more likely to make ill-considered purchases and, in general, to spend more and save less than they would in the absence of credit cards.

This idea was examined in two ways: first, through a survey of households on "impulse" purchases transacted by credit cards; and second, by

*/ "Credit Cards in the U.S. Economy: Their Impact on Costs, Prices, and Retail Sales," July 27, 1983.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

a review of available research on the link between credit cards and aggregate spending, on the grounds that any broad increase in spending induced by credit cards would be expected to boost aggregate consumption and to reduce the aggregate saving rate. However, neither the household survey nor the macroeconomic studies suggested that any strong, consistent relationship exists between credit cards and incremental sales among retailers as a group.1/ The survey found that many unplanned purchases were transacted by cash, and that many of those transacted through credit cards would likely have been undertaken even without access to a credit card. The limited amount of macroeconomic research available has failed to establish any measurable impact of credit cards on the aggregate saving rate.

Chapter 4 examined the costs associated with credit cards and other means of payment, and summarized a number of relevant studies. It also reported on the results of a survey of retailers conducted during the spring of 1983 concerning their perceptions of the relative costs of credit cards, cash, and checks. The weight of the evidence from the survey and other studies was that total net costs to retailers associated with credit cards -- including point-of-sale, security-related, and financial costs -- were in fact higher than for other types of transactions, typically by about 2 to 3 percent of the transaction amount, a figure which roughly corresponds to the average factoring or servicing fee paid by merchants to issuers of third-party credit cards (or the net credit department deficits of retailers that issue their own credit cards). For most

---

1/ Whether card-honoring retailers attract sales from other retailers who don't accept credit cards is treated as a minor issue, in view of the widespread acceptance of credit cards. Unless industry-wide sales are increased, gains and losses from credit card sales will net out among retailers, yielding no net additional revenue to offset the higher costs of credit cards.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

retailers, the costs of check transactions appeared to be smaller than for credit cards, and either about the same or larger than for cash. Large retailers were more likely than small retailers to rate both checks and credit cards as more costly than cash.

In Chapter 5, the issue of whether the higher costs of credit cards are included in retail prices was discussed. From a microeconomic perspective, it was concluded that prices in the long run would reflect all such costs that were not recovered directly from credit card users, but that the size of the price effect would be small. In total, the need to cover credit-related costs would likely boost the price of a given item by less than 1 percent. This minimal impact owes in part to the relatively small share of sales transacted by credit cards -- around 15 percent through third-party cards in the areas of general merchandising under study. If an added cost of 3 percent occurs on 15 percent of sales, the spreading of that cost over all sales would boost prices by just under 1/2 percent (.03 x .15 = .0045).

From a macroeconomic perspective, credit cards could potentially affect economic activity by altering the aggregate propensity to consume and/or the transactions demand for money. Some impact on the equilibrium level of prices during a period of adjustment to the introduction of credit cards was held possible, but available evidence suggested that such an effect would be small and mostly irrelevant to the long-run processes of economic growth or inflation.

From Chapters 3 through 5, it could be concluded that credit card transactions cost most retailers more than cash (or check) transactions, and that this cost is not offset by higher retail sales volume, but is reflected in the level of prices. As a result it could be said that cash buyers, at least to some extent, subsidize credit card users by paying identical prices.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

Chapter 6 raised two possible methods of minimizing the subsidy: (1) removal of government-imposed artificial barriers to coverage of credit card costs via finance charges and other user fees, and (2) establishment of a two-tier price structure involving discounts for cash or surcharges for credit. Because of legislative changes, both methods have become more accessible in the past few years.

Revisions in state usury laws and other statutes have enabled card issuers to shift more of the cost of credit cards onto users recently. The Cash Discount Acts have encouraged two-tier pricing, but adoption of such pricing appears feasible for most retailers only if they simultaneously raise the base price from which discounts would be calculated, so that the "new" credit price is above -- and the discounted cash price only somewhat below -- the "old" single price.[2/] This conclusion is based on results from surveys of consumer reaction to actual two-tier pricing of gasoline and to hypothetical discounts for cash on durable goods and clothing, as well as implications from the findings on costs in Chapter 4.

A polling of retailers on their current practices and attitudes toward discounts for cash, reported in Chapter 6, found that in the spring of 1983 cash discounts were typically the exception rather than the rule for types of business likely to accept credit cards in addition to other means of payment. About 25 percent of gasoline stations and 6 percent of other retailers offered discounts, with around 40 percent of all retailers surveyed describing discounts for cash as "a good idea." About three out of every ten retailers thought that surcharges for credit constituted a better approach to two-tier pricing than discounts for cash; 70 percent thought surcharges an inferior approach.

2/ Two-tier pricing through surcharges for credit would ordinarily result in the same structure of credit and cash price as under a discount-for-cash approach.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

APPENDIX C

HYPOTHETICAL EXAMPLE OF TWO-TIER PRICING OF GASOLINE

This Appendix presents a hypothetical example of gasoline pricing before and after adoption of a discount-for-cash program; the principles involved would apply as well to other retailing situations. The example assumes that there are no shifts in underlying wholesale gasoline prices, that sales volume remains constant, and that the gasoline retailer has an objective of maintaining a constant level of profits.[1/] The purpose of the example is to indicate the relationship that could be expected between a former single price for gasoline and a new two-tier set of prices, using estimates about certain aspects of buyer behavior that were discussed in Chapter 6, section 2, of the Board's Report to Congress.

The example, shown in table C.1, is constructed with 100 customers each buying one gallon of gasoline. Drawing on the results of a household survey of gasoline purchase experience, the assumption is made that about 40 customers would use credit cards and 60 would pay in cash in the absence of a discount offer. For sake of illustration, it is assumed that gross receipts of $120 would cover all costs, including credit card costs, and yield the gasoline seller some desired level of profits. Obviously, under a single-price system, the retail price of a gallon of gas would be $1.20 to each customer.

Introduction of a discount-for-cash policy complicates the price structure. In line with the discussion in Chapter 6 of the Report and

---

1/ It is recognized that the introduction of a discount-for-cash program may affect a station's volume of sales, at least at first. The station may hope to increase sales by attracting cash users away from competitors. But competitive response by other stations is likely to minimize any sales advantage initially accruing to a dealer that sets up a two-tier system. Unless two-tier pricing were to stimulate total industry-wide gasoline sales, it would be inappropriate to assume some permanent sales gain for any particular retailer.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

statistics presented there (in table 6.2), when a discount is offered, the proportions of cash and credit buyers are assumed to shift from .60 and .40, respectively, to .75 and .25. In the present example, then, 75 persons would buy for cash and 25 would use a credit card under two-tier pricing, for a net shift of 15 customers from credit to cash. Since this shift would reduce the seller's cost of carrying receivables, the gross revenue needed to maintain level profits would drop by 15 times the per gallon cost saving. In the example, a credit-handling cost of 3 cents per gallon of gas sold on credit is used, which approximates the cost estimated by several major gasoline companies. By influencing 15 customers to switch from credit card to cash, the gas station in the example could save 45 cents in credit servicing costs, thus reducing the level of gross revenues needed to maintain constant profits to $119.55 from $120.

Assuming that the cash price and credit price would be set to differ by the amount of credit-related costs per gallon, it can be calculated (as shown in table C.1) that the gasoline seller would need to price gas at $1.188 for cash sales and $1.218 for credit sales.[2/] Because the lower price for cash must be offered to those who would pay cash anyway, the cash price cannot be reduced from the old $1.20 price by the full amount of the per gallon cost of credit. Instead, the two-tier price points would bracket the old single price point.

2/ Alternatively, rather than assuming a price differential equal to the difference in cost between credit card and cash transactions, then solving for the two prices, one could assume the credit price to be set equal to the price that would be charged in a one-tier system ($1.20 in this example), then solve the equations for the cash price. Under this approach, it can be calculated that, given the credit price of $1.20 in the two-tier system, the cash price would have to be at least $1.194 to maintain the target level of profits.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

Retail gasoline prices in the real world often fluctuate a few cents from week to week. Thus it is difficult to judge how closely an actual station's two-tier price structure vis-a-vis an alternative single price policy might compare with the example sketched here. However, as noted, values of the key variables in the example were chosen -- based on survey results -- to realistically reflect conditions faced by typical gasoline retailers. Moreover, as further calculations under alternative assumptions would show, the implications of the example do not depend narrowly on the specific values of the variables used. That is, under widely different customer purchasing habits, the new two-tier price schedule would still bracket the old one-tier price. For instance, if it were assumed that as many as 60 percent (instead of 40 percent) of the customers would use credit cards in a single-price system, and that only 20 percent would use credit cards in a two-tier system,[3/] the "equal-profit" prices would be $1.182 for cash and $1.212 for credit, compared with the one-tier price of $1.20.

3/ In other words, 40 percent of the total customer base would switch from credit card to cash in this alternative, compared with 15 percent who switched in the original example.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

TABLE C.1

HYPOTHETICAL GASOLINE PRICING WITH CONSTANT PROFITS
UNDER ONE-TIER AND TWO-TIER PRICING SCHEMES

Single-price case:		Two-tier pricing:
$aX + bY = R$	revenue function	$(a+s)\ X + (b-s)\ Y = R - cs$
$X - Y = 0$	price structure	$X = Y - c$

calculations:

Single-price case:

$$\begin{array}{r} 60\ X + 40Y = \$120 \\ X - Y = 0 \\ \hline 100\ X = \$120 \end{array}$$

$$X = \$\ 1.20$$
$$Y = \$\ 1.20$$

Two-tier pricing:

$$\begin{array}{r} (60+s)X + (40-s)Y = \$120 - \$.03s \\ X - Y = -c \\ \hline \end{array}$$

$$\begin{array}{r} 75\ X + 25\ Y = \$119.55 \\ X - Y = -\$\ .03 \\ \hline 100\ X = \$118.80 \\ X = \$\ 1.188 \\ Y = \$\ 1.218 \end{array}$$

where: X = cash price
- Y = credit price
- a = number of customers per 100 that typically pays cash
- b = number of customers per 100 that typically uses credit card
- R = desired gross revenue for initial cash/credit sales mix
- s = number of customers that shifts to cash from credit
- c = cost of financing receivables per gallon of gas sold on credit

assumptions:

- a = 60, b = 40
- R = $120
- s = 15
- c = .03
- each customer buys one gallon of gas

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

APPENDIX D

RECOMMENDED STATUTORY LANGUAGE

A. Removal of the surcharge prohibition.

1. To remove the prohibition against the imposition of surcharges, and to ensure that card issuers will not prevent sellers from charging different prices by imposing a surcharge or by giving a discount, section 167(a) of the Truth in Lending Act is amended to read as follows:

Recommended	Current
SECTION 167--Price Differences for Credit Cards. (a) With respect to credit cards which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer may not, by contract or otherwise, prohibit any such seller from <u>charging different prices</u> to induce a cardholder to pay by cash, check, or similar means rather than use a credit card.	SECTION 167--Use of Cash Discounts. (a)(1) With respect to credit cards which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer may not, by contract or otherwise, prohibit any such seller from offering a discount to a cardholder to induce the cardholder to pay by cash, check, or similar means rather than use a credit card. (2) No seller in any sales transaction may impose a surcharge on a cardholder who elects to use a credit card in lieu of payment by cash, check, or similar means.* ——— */ This provision will cease to be effective February 27, 1984.

APPENDIX D

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

B. Revision of the finance charge exclusion.

1. In order to apply the exclusion from the finance charge to surcharges as well as to discounts, to limit both to an amount equal to 5 percent of the cash price, and to limit the exclusion to credit card transactions, section 167(b) of the Truth in Lending Act is amended to read as follows:

Recommended	Current
SECTION 167--Price Differences for Credit Cards.	SECTION 167--Use of Cash Discounts.
(b) With respect to any credit card sales transaction, any difference in price offered by the seller to induce payment by cash, checks, or other means not involving the use of a credit card shall not constitute a finance charge as determined under section 106, to the extent that the difference does not exceed 5 percent of the cash price of the property or service, is applicable to all prospective buyers, and is disclosed clearly and conspicuously.	(b) With respect to any sales transaction, any discount from the regular price offered by the seller for the purpose of inducing payment by cash, checks, or other means not involving the use of an open-end credit plan or a credit card shall not constitute a finance charge as determined under section 106 if such discount is offered to all prospective buyers and its availability is disclosed clearly and conspicuously.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis

C. Relation to state usury and disclosure laws.

1. In order to provide the same protection from liability under state usury and disclosure laws to sellers imposing surcharges that is provided to sellers offering discounts, section 171(c) of the Truth in Lending Act is amended to read as follows:

Recommended	Current
SECTION 171--Relation to State Laws.	SECTION 171--Relation to State Laws.
(c) Notwithstanding any other provisions of this title, any price difference offered under section 167(b) of this title shall not be considered a finance charge or other charge for credit under the usury laws of any State or under the laws of any State relating to disclosure of information in connection with credit transactions, or relating to the types, amounts or rates of charges, or to any element or elements of charges permissible under such laws in connection with the extension or use of credit.	(c) Notwithstanding any other provisions of this title, any discount offered under section 167(b) of this title shall not be considered a finance charge or other charge for credit under the usury laws of any State or under the laws of any State relating to disclosure of information in connection with credit transactions, or relating to the types, amounts or rates of charges, or to any element or elements of charges permissible under such laws in connection with the extension or use of credit.

Digitized for FRASER
http://fraser.stlouisfed.org/
Federal Reserve Bank of St. Louis