

FEDERAL RESERVE BANK
OF NEW YORK

Circular No. 6460
December 29, 1969

PROPOSED AMENDMENT TO REGULATION Z
Retention of Federal Civil Remedies in Cases Involving
Exempted State Regulated Transactions

To All State Member Banks, and Others Concerned,
in the Second Federal Reserve District:

The following statement was issued December 16 by the Board of Governors of the Federal Reserve System:

The Board of Governors of the Federal Reserve System today issued for comment a proposed amendment to its Regulation Z that would preserve the right of consumers to file civil actions in either Federal or State courts after the Board exempts certain State credit transactions from the Federal Truth in Lending Act.

Under Section 123 of the Consumer Credit Protection Act, the Board is required to exempt from the disclosure and rescission requirements of Truth in Lending credit transactions subject to State law if it determines that the State requirements are substantially similar to the Federal requirements and there is adequate provision for enforcement.

If adopted, the proposed amendment would leave criminal and administrative responsibility to State control with respect to exempted transactions. But the proposal would preserve the right of a consumer to seek redress for violations of State law in either Federal or State court and to avail himself of Federal or State rules of court procedure, including those relating to class actions.

Under the Act, a customer can collect from a creditor who violates the law civil penalties equal to twice the amount of the finance charge (but in no case would he collect less than \$100 or more than \$1,000), court costs and reasonable attorney's fees. The Board has not yet granted any State exemptions from the Federal Truth in Lending Act, but notice of receipt of an application from Maine has been published in the Federal Register. Applications from several other States are now being reviewed for completeness by the Board's staff.

Comments on the proposed amendment should be submitted to the Board not later than January 22, 1970.

Printed on the reverse side is an excerpt from the Federal Register of December 23, containing the text of the proposed amendment. Comments thereon should be submitted by January 22, 1970 and may be sent to our Consumer Information and Securities Regulations Department.

Additional copies of this circular will be furnished upon request.

Alfred Hayes, President

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z]

TRUTH IN LENDING

Exemption of Certain State Regulated Transactions; Retention of Access to Federal Civil Remedies

Pursuant to the authority contained in the Consumer Credit Protection Act (15 U.S.C. 1604), the Board of Governors is considering amending Part 226 in the following respects.

Section 226.12 would be amended by revising paragraph (b) and by adding a new paragraph (c). As amended, § 226.12 would read as follows:

§ 226.12 Exemption of certain State regulated transactions.

(a) *Exemption for State regulated transactions.* In accordance with the provisions of Supplement II to Regulation Z (§ 226.12—Supplement), any State may make application to the Board for exemption of any class of transactions within that State from the requirements of Chapter 2 of the Act and the corresponding provisions of this part: *Provided, That*

(1) Under the law of that State, that class of transactions is subject to requirements substantially similar to those imposed under Chapter 2 of the Act and the corresponding provisions of this part; and

(2) There is adequate provision for enforcement.

(b) *Procedures and criteria.* The procedures and criteria under which any State may apply for the determination provided for in paragraph (a) of this section are set forth in Supplement II to Regulation Z (§ 226.12—Supplement).

(c) *Civil liability.* In order to assure that the concurrent jurisdiction of Federal and State courts created in section 130(e) of the Act shall continue to have substantive provisions to which such jurisdiction shall apply, and generally to aid in implementing the Act with respect to any class of transactions exempted pursuant to paragraph (a) of this section, the Board pursuant to sections 105 and 123 hereby prescribes that:

(1) No such exemption shall be deemed to extend to the civil liability provisions of sections 130 and 131; and

(2) After an exemption has been granted, the disclosure requirements of the applicable State law shall be the disclosure requirements of this Act, and information required under such State law shall, accordingly, be the "information required under this chapter" (Chapter 2 of the Act) for the purposes of section 130(a).

The Board of Governors is required under section 123 of the Consumer Credit Protection Act (15 U.S.C. 1633) to exempt from the disclosure and rescission requirements of the Act (Chapter 2 of Title I of the Act; 15 U.S.C. 1631-41) credit transactions subject to State law if it determines that that law is substantially similar to that of the Act and that there is adequate provision for enforcement.

The proposed addition of paragraph (c) to § 226.12 is designed to preserve the right of a customer to maintain an action under sections 130 and 131 of the Act (15 U.S.C. 1640-41) for violations of disclosure provisions after the Board of Governors has exempted the class transactions as being subject to State regulation.

If the proposal is adopted, criminal and administrative responsibility would be under State control with respect to such exempted transactions.

Sections 130 and 131 provide civil remedies for violations of the disclosure requirements of the Act. After an exemption based upon State law has been granted, that law will provide the applicable disclosure requirements, and violations of such requirements would be actionable under sections 130 and 131. The customer would, therefore, retain the right granted by subsection (e) of section 130 to seek redress for violations of such State law in either Federal or State court and to avail himself of the respective State or Federal court procedural rules.

Paragraph (b) of § 226.12 would also be revised to indicate that Supplement II (§ 226.12—Supplement) has been published, and to eliminate an obsolete reference to the date of the proposed publication.

This notice is published pursuant to section 553(b) of title 5, United States Code, and § 226.2(a) of the rules of procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 22, 1970. Under the Board's rules regarding availability of information (12 CFR Part 261), such materials will be available for inspection and copying unless the person submitting the material requests that it be considered confidential.

By order of the Board of Governors, December 15, 1969.

[SEAL]

ROBERT P. FORRESTAL,
Assistant Secretary.

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