

28 (2) Notwithstanding ~~[the provisions of]~~ Section 25-5-4, a creditor may change any written
 29 term of an open-end consumer credit contract at any time while the agreement is in effect and
 30 apply the new term to the unpaid balance in the account~~[, by giving]~~ if:

31 (a) the creditor gives all other parties to the open-end consumer contract that may be
 32 affected not less than 15 days advance written notice of the change ~~[to all other parties who may~~
 33 be affected, but only if]; and

34 (b) the contract expressly provides that the creditor may change terms of the agreement
 35 from time to time.

36 ~~[(1)]~~ (3) If the creditor has taken a security interest in any real property of the debtor to
 37 secure payment of the debt, and if the term to be changed affects the method for calculating
 38 minimum payments, or is part of the finance charge, the creditor may apply the new term to an
 39 account balance relating to a credit transaction ~~[which]~~ that occurred prior to the effective date of
 40 the change only if:

41 (a) the debtor expressly so agrees after notice of the change has been given by the creditor;
 42 or

43 (b) (i) the creditor notifies the debtor that:

44 (A) further extensions of credit will not be permitted unless the debtor agrees that the new
 45 term may be applied to an existing account balance~~[, and];~~

46 (B) any future charges to the account will constitute ~~[such an]~~ agreement~~]; and~~

47 (ii) the debtor makes a charge ~~[or charges]~~ to the account after receiving ~~[such]~~ notice
 48 described in Subsection (3)(b)(i).

49 ~~[(2)]~~ (4) ~~[No notice]~~ Notice under this section is not required when:

50 (a) ~~[when]~~ the change involves:

51 (i) late payment charges~~];~~

52 (ii) charges for documentary evidence~~[, or];~~

53 (iii) over-the-limit charges;

54 ~~[(ii)]~~ (iv) a reduction of any component of a finance or other charge;

55 ~~[(iii)]~~ (v) suspension of future credit privileges; or

56 (vi) termination of an account or plan; or

57 (b) ~~[when]~~ other than an increase in the periodic rate or other finance charge, the change
 58 results from:

59 (i) an agreement involving a court proceeding[;] or [from]
60 (ii) the consumer's default or delinquency[, other than an increase in the periodic rate or
61 other finance charge].
62 [(3)] (5) (a) The actual unpaid balance of the account at any point in time is not a term of
63 the credit agreement for purposes of this section.
64 (b) With regard to a variable or adjustable interest rate, a periodic change in the applicable
65 rate is not a change subject to this section if no term of the credit agreement pertaining to
66 calculation of the applicable rate is changed.
67 (6) (a) A creditor may include a notice required by this section of a change to an open-end
68 consumer credit contract on or in the same envelope as a periodic statement or other material sent
69 to the borrower by the creditor.
70 (b) Notwithstanding Subsection (6)(a), a creditor is not required to include a notice
71 required by this section with any other material sent to the borrower.

Legislative Review Note
as of 1-27-99 4:38 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel