

M E M O R A N D U M

To:

From:

Re: Permissible Finance Charges for Oil Company Credit Cards

Date: February 2, 1990

, a New York law firm, represents an oil company that issues credit cards for use in purchasing products from various gas and service stations throughout the country. They have inquired whether their client may assess a finance charge pursuant to Iowa Code § 537.2402(5), which deregulates the interest rate for certain credit card issuers (note: in their correspondence the firm incorrectly identifies this section as "537.2202(5)"). The firm suggests that since their client's credit card program permits customers to charge goods and services from "at least one hundred persons not related to the card issuer", the oil company has met the requirements in Iowa Code § 537.2402(5) and therefore may contract for any finance charge without limitation.

Iowa Code § 537.2402(5) states:

Notwithstanding any other provision of this chapter or chapter 535, a creditor may contract for and receive a finance charge without limitation as to amount or rate with respect to a loan pursuant to open-end credit obtained pursuant to a credit card issued by the creditor which entitles the cardholder to purchase or lease goods or services from at least one hundred persons not related to the card issuer.  
(emphasis added)

By its language, this statute deregulates finance charges only for consumer loans issued through a credit card. "Consumer loans" and "loans" are defined in Iowa Code §§ 537.1301(14) and 537.1301(25), respectively. Both provisions exclude from these definitions debts incurred through the use of a "seller credit card": see Iowa Code §§ 537.1301(14)(b)(1), 537.1301(25)(b)(1). Transactions pursuant to seller credit cards are considered "consumer credit sales". The Credit Code limits the permissible finance charge for seller credit cards to 1.65% monthly, as described in Iowa Code § 537.2202 ("Finance charge for consumer credit sales pursuant to open end credit").

Under the Iowa Consumer Credit Code, an oil company-issued credit card is classified as a "seller credit card". This term is defined in Iowa Code § 537.1301(39). Two alternative definitions are provided in this section; the credit card program

described would fit reasonably within either of these provisions, but for the purpose of this inquiry the definition in Iowa Code § 537.1301(39)(b) offers the clearest answer and does not require an analysis of the claims made by the oil company as to its relationships with the service station retailers who accept its card. This section defines a seller credit card as:

A credit card issued by a person other than a supervised lender primarily for the purpose of giving the cardholder the privilege of using the credit card to purchase or lease property or services from at least one hundred persons not related to the card issuer. (emphasis added)

Supervised lenders must be licensed under Chapters 536 (regulated loan companies) or 536A (industrial loan companies), or be classified as a "supervised financial organization". Supervised financial organizations are banks, credit unions or savings and loan associations organized under Chapters 524, 533, or 534, or similar laws of the United States: see Iowa Code § 537.1301(41). Oil companies which issue their own credit cards, and other creditors such as department stores, are not encompassed within these categories. Therefore their credit cards are "issued by a person other than a supervised lender", and fall within the statutory definition of "seller credit cards".

Credit extended pursuant to seller credit cards is defined as a "consumer credit sale" in Iowa Code § 537.1301(12)((a)(1). As described above, the maximum allowable finance charge for open end credit sales is 1.65% per month, or an annual percentage rate of 19.8%.

In summary, the deregulated interest rate authorized in Iowa Code § 537.2402(5) is only available for open end consumer loans acquired through the use of credit cards. As an oil company is not a supervised lender under Iowa law, debts incurred through the use of a company credit card are considered consumer credit sales rather than consumer loans. Therefore Iowa Code § 537.2202 governs the applicable finance charge, permitting a maximum monthly rate of 1.65%.