

2012 Kansas Statutes

16a-1-201. (UCCC) Territorial application. (1) Except as otherwise provided in this section, K.S.A. 16a-1-101 through 16a-9-102, and amendments thereto, apply to consumer credit transactions made in this state. For purposes of such sections of this act, a consumer credit transaction is made in this state if:

(a) A signed writing evidencing the obligation or offer of the consumer is received by the creditor in this state; or

(b) the creditor induces the consumer who is a resident of this state to enter into the transaction by solicitation in this state by any means, including but not limited to: Mail, telephone, radio, television or any other electronic means.

(2) With respect to consumer credit transactions entered into pursuant to open end credit (subsection (31) of K.S.A. 16a-1-301, and amendments thereto), this act applies if the consumer's communication or indication of intention to establish the arrangement is received by the creditor in this state. If no communication or indication of intention is given by the consumer before the first transaction, this act applies if the creditor's communication notifying the consumer of the privilege of using the arrangement is mailed or personally delivered in this state.

(3) The part on limitations on creditors' remedies (part 1) of the article on remedies and penalties (article 5) applies to actions or other proceedings brought in this state to enforce rights arising from consumer credit sales, consumer leases, or consumer loans, or extortionate extensions of credit, wherever made.

(4) A consumer credit transaction made in another state to a person who is a resident of this state at the time of the transaction is valid and enforceable in this state to the extent that it is valid and enforceable under the laws of the state applicable to the transaction, but the following provisions apply as though the transaction occurred in this state:

(a) A creditor may not collect charges through actions or other proceedings in excess of those permitted by the article on finance charges and related provisions (article 2); and

(b) a creditor may not enforce rights against the consumer with respect to the provisions of agreements which violate the provisions on limitations on agreements and practices (part 3) and limitations on consumer's liability (part 4) of the article on regulation of agreements and practices (article 3).

(5) Except as provided in subsection (3), a consumer credit transaction made in another state to a person who was not a resident of this state when the sale, lease, loan, or modification was made is valid and enforceable in this state according to its terms to the extent that it is valid and enforceable under the laws of the state applicable to the transaction.

(6) For the purposes of K.S.A. 16a-1-101 through 16a-9-102, and amendments thereto, the residence of a consumer is the address given by the consumer as the consumer's residence in any writing signed by the consumer in connection with a credit transaction. Until the consumer notifies the creditor of a new or different address, the given address is presumed to be unchanged.

(7) Notwithstanding other provisions of this section:

(a) Except as provided in subsection (3), K.S.A. 16a-1-101 through 16a-9-102, and amendments thereto, do not apply if the consumer is not a resident of this state at the time of a credit transaction and the parties have agreed that the law of the consumer's residence applies; and

(b) K.S.A. 16a-1-101 through 16a-9-102, and amendments thereto, apply if the consumer is a resident of this state at the time of a credit transaction and the parties have agreed that the law of the consumer's residence applies.

(8) Except as provided in subsection (7) the following agreements by a buyer, lessee, or debtor are invalid with respect to consumer credit transaction to which K.S.A. 16a-1-101 through 16a-9-102, and amendments thereto, apply:

(a) That the law of another state shall apply;

(b) that the consumer consents to the jurisdiction of another state; and

(c) that fixes venue.

(9) The following provisions of this act specify the applicable law governing certain cases:

(a) Applicability (K.S.A. 16a-6-102, and amendments thereto) of the part on powers and functions of administrator (part 1) of the article on administration (article 6); and

(b) applicability (K.S.A. 16a-6-201, and amendments thereto) of the part on notification and fees (part 2) of the article on administration (article 6).

(10) With respect to a consumer credit sale or consumer loan to which K.S.A. 16a-1-101 through 16a-9-102, and amendments thereto, does not otherwise apply by reason of the foregoing provisions of this section, if, pursuant to a solicitation relating to a consumer credit sale or loan received in this state, a person who is a resident of this state sends a signed writing evidencing the obligation or offer of the person to a creditor in another state, and the person receives the goods or services purchased or the cash proceeds of the loan in this state:

(a) The creditor may not contract for or receive charges exceeding those permitted by this code, and such charges as do exceed those permitted are excess charges for purposes of subsections (3) and (4) of K.S.A. 16a-5-201 and 16a-6-113, and amendments thereto, and such sections shall apply as though the consumer credit sale or consumer loan were made in this state; and

(b) the part on powers and functions of administrator (part 1) of the article on administration (article 6) shall apply as though the consumer credit sale or consumer loan were made in this state.

History: L. 1973, ch. 85, § 9; L. 1977, ch. 70, § 1; L. 1981, ch. 93, § 4; L. 1993, ch. 200, § 3; L. 1999, ch. 107, § 7; July 1.