

16a-5-203. (UCCC) Civil liability for violation of disclosure provisions. (1) Except as otherwise provided in this section, a creditor who, in violation of the provisions of the rules and regulations adopted by the administrator pursuant to K.S.A. 16a-6-117, and amendments thereto, fails to disclose information to a person entitled to the information under the provisions of K.S.A. 16a-1-101 through 16a-9-102, and amendments thereto, is liable to that person in an amount equal to the sum of:

(a) Twice the amount of the finance charge in connection with the transaction, but the liability pursuant to this paragraph shall be not less than \$200 or more than \$2,000; and

(b) in the case of a successful action to enforce the liability under paragraph (a), the costs of the action together with reasonable attorney's fees as determined by the court.

(2) A creditor has no liability under this section if within 15 days after discovering an error, and prior to the institution of an action under this section or the receipt of written notice of the error, the creditor notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the person will not be required to pay a credit service charge or loan finance charge in excess of the amount or percentage rate actually disclosed.

(3) A creditor may not be held liable in any action brought under this section for a violation of the provisions of K.S.A. 16a-1-101 through 16a-9-102, and amendments thereto, if the creditor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error.

(4) Any action which may be brought under this section against the original creditor in any credit transaction involving a security interest in land may be maintained against any subsequent assignee of the original creditor where the assignee, its subsidiaries, or affiliates were in a continuing business relationship with the original creditor either at the time the credit was extended or at the time of the assignment, unless the assignment was involuntary, or the assignee shows by a preponderance of evidence that it did not have reasonable grounds to believe that the original creditor was engaged in violations of this act and that it maintained procedures reasonably adapted to apprise it of the existence of the violations.

(5) No action pursuant to this section may be brought more than one year after the date of the occurrence of the violation.

(6) The liability of the creditor under this section is in lieu of and not in addition to the creditor's liability under the federal truth in lending act; no action with respect to the same violation may be maintained pursuant to both this section and the federal truth in lending act.

History: L. 1973, ch. 85, § 91; L. 1981, ch. 93, § 15; L. 1988, ch. 85, § 10; L. 1999, ch. 107, § 26; July 1.