

# Louisiana Law Review

---

Volume 34 | Number 3

*Employment Discrimination: A Title VII Symposium*

*Symposium: Louisiana's New Consumer Protection*

*Legislation*

*Spring 1974*

---

## Usury and Interest Rates

Alonzo P. Wilson

---

### Repository Citation

Alonzo P. Wilson, *Usury and Interest Rates*, 34 La. L. Rev. (1974)

Available at: <https://digitalcommons.law.lsu.edu/lalrev/vol34/iss3/9>

This Article is brought to you for free and open access by the Law Reviews and Journals at LSU Law Digital Commons. It has been accepted for inclusion in Louisiana Law Review by an authorized editor of LSU Law Digital Commons. For more information, please contact [kreed25@lsu.edu](mailto:kreed25@lsu.edu).

## SYMPOSIUM: LOUISIANA'S NEW CONSUMER PROTECTION LEGISLATION

In 1972 the Louisiana legislature passed the Louisiana Consumer Credit Law and the Unfair Trade Practices and Consumer Protection Law. These Acts are the first comprehensive legislation in this state on the subjects of consumer credit transactions and trade practices in the area of consumer sales.

This *Symposium* is an attempt to explain and analyze the major provisions of these two Acts. Specific attention is paid to changes in prior law, to the remedies established for the consumer and to the function of the newly created administrative agencies. Where appropriate, comparisons with similar laws from other jurisdictions and uniform acts are made to help judge the effectiveness of the legislation. In general, topics are considered in the order in which they appear in the legislation.

### USURY AND INTEREST RATES

Prior to the enactment of the Consumer Credit Law,<sup>1</sup> Louisiana's law governing interest rates consisted of numerous legislative and judicial provisions. Civil Code article 2924 provided that the contract rate of interest could not exceed eight percent. However, this article permitted the owner or discountor of a note to claim and recover the full face amount of the note even when the discounted amount of the capitalized interest exceeded eight percent.<sup>2</sup> The only limit provided was an eight percent maximum rate after maturity of the debt. The

---

1. LA. R.S. 9:3510-68 (Supp. 1972).

2. Article 2924 was amended in 1908 to include the following: "The owner or discountor of any note or bond, or other written evidence of debt for the payment of money, payable to order or bearer or by assignment, shall have the right to claim and recover the full amount of such note, bond, or other written evidence of debt and all interest not beyond eight percent per annum interest that may accrue thereon, notwithstanding that the rate of interest or discount at which the same may be or may have been discounted has been beyond the rate of eight percent per annum interest or discount; but this provision shall not apply to the banking institutions of this State in operation under existing laws.

"The owner of any promissory note, bond, or other written evidence of debt for the payment of money, to order or bearer or transferrable by assignment, shall have the right to collect the whole amount of such promissory note, bond or other written evidence of debt for the payment of money may include a greater rate of interest or discount than eight percent per annum; provided, such obligation shall not bear more than eight percent per annum after maturity until paid."

See *Meadow Brook Nat. Bank v. Massengill*, 427 F.2d 1055 (5th Cir. 1970); *Mayfield v. Nunn*, 239 La. 1021, 121 So. 2d 65 (1960); *Vosbein v. Leopold*, 230 La. 21, 87 So. 2d 715 (1956); *General Sec. Co. v. Jumonville*, 216 La. 681, 44 So. 2d 702 (1950).

jurisprudence had also adopted the "time-price doctrine"; that is, so long as the seller stipulated a time-price and a cash-price any difference between the two prices was not subject to the usury article.<sup>3</sup> A small loan act<sup>4</sup> was also passed which permitted interest rates of up to 42 percent on loans under \$300. The Motor Vehicle Sales Finance Act<sup>5</sup> and the Direct Vehicle Loan Company Act<sup>6</sup> provided rate ceilings for sales of and loans secured by motor vehicles. Furthermore, in 1969, the interest rate ceiling on loans secured by a first mortgage was raised to ten percent and all restrictions on interest were removed on F.H.A. and V.A. loans.<sup>7</sup> By 1970 legislation was in effect which permitted banks and issuers of credit cards to charge one and one-half percent per month on revolving accounts.<sup>8</sup> Louisiana had moved from one basic usury article to a virtual quagmire of legislative and jurisprudential exceptions which have provided little protection for the consumer.

The Louisiana Consumer Credit Law provides a comprehensive scheme of rate regulation for consumer credit transactions and abolishes the "time-price doctrine" and the discount exception. The section dealing with interest and rate ceilings has specific provisions dealing with consumer loans, consumer credit sales, credit service charges for revolving charge accounts, loan finance charges for lender credit cards, and charges for delinquency, deferral, and refinancing.

#### *Consumer Loans*

The Act provides a graduated table of annual rate ceilings<sup>9</sup> for

---

3. The time-price is the price of the thing if it is bought on time and the cash price is the price of the thing if it is paid for in cash. For example, the seller might state the price of a TV as \$100 if paid for in cash or \$110 if paid for in six months—\$100 is the cash price and \$110 is the time price—the \$10 difference was not subject to the usury article's limit as to the maximum interest rate that could be charged. See *Commercial Cred. Equip. Corp. v. Larry Parrott of Gueydan, Inc.*, 212 So. 2d 860 (La. App. 3d Cir. 1968); *Motes v. Van Wagner*, 188 So. 2d 704 (La. App. 4th Cir. 1966); *General Motors Accept. Corp. v. Swain*, 176 So. 636 (La. App. 1st Cir. 1937); *Robbins v. W.W. Page & Son*, 120 So. 683 (La. App. 2d Cir. 1929); *Mills v. Crocker*, 9 La. Ann. 334 (1854).

4. LA. R.S. 6:571-93 (1950). This Act was repealed by the Louisiana Consumer Credit Law.

5. LA. R.S. 6:951-64 (1958), as amended by La. Acts 1960, No. 260 § 1; 1962, No. 139 § 1; 1964, No. 523 § 1; 1966, No. 515 § 1.

6. LA. R.S. 6:970-76 (1962). This Act was repealed by the Louisiana Consumer Credit Law.

7. LA. R.S. 9:3503, 3504 (Supp. 1969).

8. *Id.* 9:3509 (Supp. 1970). This Act was repealed by the Louisiana Consumer Credit Law.

9. LA. R.S. 9:3519 (Supp. 1972): "(A) The maximum loan finance charge for any consumer loan other than one made with a lender credit card that may be charged,

any consumer loan<sup>10</sup> (basically a loan not exceeding \$25,000) that can be contracted for by a licensed lender<sup>11</sup> or a supervised lender.<sup>12</sup> In the alternative the lender may charge a flat 18 percent per year.<sup>13</sup> The scale is graduated into segments to provide higher ceilings for the small loans. A large percentage of the cost of making a consumer loan is fixed and does not vary with the size of the loan; therefore, a higher interest rate on small loans is required to cover costs.

The rates are calculated based on the periodic declining unpaid balances as of the date of scheduled payment.<sup>14</sup> The installment payment is applied first to the finance charge and then to reduce the principal balance. As the balance is reduced, the reduction is taken out of the top segment rather than proportionately from each segment. For example, if a loan of \$2867.20 for 18 months was precomputed at the maximum interest rate it would be repayable in monthly installments of \$200 each as illustrated by the following table.

---

contracted for or received by a licensed lender or supervised financial organization may equal but may not exceed the greater of the following: (1) the total of (a) thirty-six per cent per year for that portion of the unpaid principal amount of the loan not exceeding eight hundred dollars; (b) twenty-seven per cent per year for that portion of the unpaid principal amount of the loan exceeding eight hundred dollars and not exceeding two thousand dollars; (c) twenty-one per cent per year for that portion of the unpaid principal amount of the loan exceeding two thousand and not exceeding three thousand, five hundred dollars; (d) fifteen per cent per year for that portion of the unpaid principal amount of the loan exceeding three thousand, five hundred dollars; or (e) eighteen per cent per year on the unpaid balances of the amount borrowed."

10. LA. R.S. 9:3516 (Supp. 1972): "'Consumer loan' means a loan of money or its equivalent not exceeding twenty-five thousand dollars in principal amount made by a supervised financial organization, a licensed lender, or lender in which the debtor is a consumer and includes debts created by the use of a lender card or similar arrangement, but does not include a loan on immovable property if the loan finance charge does not exceed ten percent simple interest per annum."

11. A licensed lender is a person licensed under provision of R.S. 9:3557-61, other than a supervised financial organization, engaged in the business of making supervised loans.

12. A supervised lender is a supervised financial organization. This is a banking or similar organization organized, certified and supervised by an agency of either the United States of America or of the State of Louisiana pursuant to the banking, currency and related laws of the United States of America or of the State of Louisiana. See LA. R.S. 9:3557-61 (Supp. 1972).

13. LA. R.S. 9:3519 (Supp. 1972).

14. The lender must still comply with the Federal Truth in Lending Act (15 U.S.C. § 1601-65 (1970)) requirements. (e.g., disclosing the annual percentage rate).

Periodic Declining Unpaid Balance	36%	27%	21%	Payment	Finance Charge	Reduction Of Balance
2867.20	800	1200	867.20	200	66.18*	133.82
2733.38	800	1200	733.38	200	63.83**	136.17
2597.21	800	1200	597.21	200	61.45	138.55
2458.66	800	1200	458.66	200	59.03	140.97
2317.69	800	1200	317.69	200	56.56	143.44
2174.69	800	1200	174.69	200	54.05	145.95
2028.30	800	1200	28.30	200	51.50	148.50
1879.80	800	1079.80	-0-	200	48.30	151.70
1728.10	800	928.10	-0-	200	44.88	155.12
1572.98	800	772.98	-0-	200	41.39	158.61
1414.37	800	614.37	-0-	200	37.82	162.18
1252.19	800	452.19	-0-	200	34.17	165.83
1086.36	800	286.36	-0-	200	30.44	169.56
916.80	800	116.80	-0-	200	26.63	173.37
743.43	743.43	-0-	-0-	200	22.30	177.70
565.73	565.73	-0-	-0-	200	16.97	183.03
382.70	382.70	-0-	-0-	200	11.48	188.52
194.18	194.18	-0-	-0-	200	5.82	194.18
				<u>3600</u>	<u>732.81***</u>	<u>2867.20</u>

$$\begin{aligned}
 * 36\% \times 800 \div 12 &= 24.00 \\
 27\% \times 1200 \div 12 &= 27.00 \\
 21\% \times 867.20 \div 12 &= 15.18 \\
 \hline
 &66.18
 \end{aligned}$$

$$\begin{aligned}
 ** 36\% \times 800 \div 12 &= 24.00 \\
 27\% \times 1200 \div 12 &= 27.00 \\
 21\% \times 733.38 \div 12 &= 12.83 \\
 \hline
 &63.83
 \end{aligned}$$

\*\*\*Annual Percentage Rate = 30.17%

The term of the loan commences when the loan is made, with a month counting as 30 days (differences in months are disregarded).<sup>15</sup> The lender may establish that the period in excess of fifteen days equals a full month provided he also establishes that a period of less than fifteen days is disregarded and provided also that the lender does not consistently use this to obtain a greater yield than would

---

15. I.A. R.S. 9:3519 C (Supp. 1972).

otherwise be permitted.<sup>16</sup> The billing cycles are deemed to be equal if they do not vary more than four days from period to period.<sup>17</sup>

The rates are computed on the unpaid balance of principal of the amount financed.<sup>18</sup> The amount financed is the cash or equivalent to cash paid to the consumer (or for the consumer to another) including what is to be paid by the lender to discharge a mortgage, lien or privilege on the property securing the loan pursuant to an agreement with the consumer.<sup>19</sup> The following are also included in the amount financed: use, sales or excise taxes; amounts to be paid by the lender for registration, certificate of title, or license fees; reasonable closing costs; charges for other benefits;<sup>20</sup> reasonable notarial fees; official fees and charges which will be paid for determining the existence of or for perfecting or releasing or satisfying any security related to the credit transaction.<sup>21</sup>

The loan may be precomputed<sup>22</sup> to include the finance charge for payment according to schedule.<sup>23</sup> In the above example the finance charge of \$732.81 would be added to \$2867.20 to be repaid in eighteen monthly installments of \$200 each. However, the Act specifically permits any method of contracting (discount, add-on, etc.) so long as the loan would not violate the interest ceilings if it were precomputed.<sup>24</sup> Thus, lenders may not avoid the rate ceilings by use of discounting as the rates are applicable to all methods of contracting.

With respect to a consumer loan made by a regulated or licensed lender pursuant to a revolving loan account,<sup>25</sup> the finance charge does

---

16. *Id.*

17. *Id.* 9:3516 A (Supp. 1972).

18. *Id.* 9:3519 A (Supp. 1972).

19. *Id.* 9:3516 (Supp. 1972).

20. The extender of credit may request or require a consumer to provide credit life insurance and credit health and accident insurance as additional security. If required, the cost of such insurance is included in the credit service charge or loan finance charge for the purpose of computing maximum rates. If not required, the cost of this insurance is included in the amount financed.

The extender of credit may also require a consumer to insure property involved in their agreement and the cost of this insurance may be included as a separate charge. See I.A. R.S. 9:3542-49 (Supp. 1972).

21. I.A. R.S. 9:3516 C (Supp. 1972).

22. *Id.* 9:3516(22) (Supp. 1972): "A consumer credit transaction is precomputed if the debt is expressed as a sum comprising the amount financed, or deferred additional charges, and the amount of the loan finance charge or credit service charge computed in advance."

23. Only precomputed transactions are subject to the provisions on deferral charges, delinquency charges, default charges, and rebate.

24. I.A. R.S. 9:3519 C (Supp. 1972).

25. I.A. R.S. 9:3516(24) (Supp. 1972): "'Revolving loan account' means an arrangement between a lender and a consumer, including but not limited to, the lender's

not violate the rate ceilings if the monthly finance charge does not exceed one-twelfth of the maximum rates for a consumer loan computed on an amount less than or equal to the greatest of: (1) the average daily balance of the debt; (2) the unpaid balance of the debt on the first day of the billing cycle; or (3) the median amount within a stated range which includes the average daily balance or the unpaid balance of the debt on the first day of the billing cycle. This allows the lender to include accrued interest in his base on which he computes the finance charge. For example, suppose that on April 1st the consumer's balance due on a revolving loan account is \$100 (including the unpaid finance charge for March) and then on April 15th the consumer pays \$50 on his account. For the April finance charge the creditor may charge three percent ( $36\% \times 1/12$ ) of: (1) The average daily balance which would equal  $\$100 \times 15 \text{ days} + \$50 \times 15 \text{ days}$  divided by 30 days per month. Thus the average daily balance is \$75 and the finance charge would be \$2.25 ( $3\% \times \$75$ ); (2) The balance on the first day of the billing cycle which would be \$100 in this case; (3) The creditor may choose to set up a schedule of ranges (such as 0-\$50, \$50.01 - \$100, \$100.01 - \$150, etc.) and based on which range either the average daily balance or the balance on April 1st fell into, the finance charge would equal three percent of the median of that range. Once the creditor chooses a method, he should not be allowed to change from month to month so as to maximize the finance charge; however, the consumer may be able to minimize the finance charge by making payments wisely.<sup>26</sup>

### *Consumer Credit Sale*

The provisions dealing with consumer credit sales (with certain exceptions this is a sale to a consumer with the price deferred in two or more installments and in which a credit service charge is charged)<sup>27</sup>

---

honoring a draft, similar order, or credit card against an established line of credit pursuant to which (a) the lender may permit the consumer to obtain loans from time to time, (b) the unpaid balances of the amount financed and the finance charges are debited to an account, (c) a finance charge if made is not precomputed but is computed on the outstanding balances of the consumer's account from time to time, and (d) the consumer has the privilege of paying the balances in deferred payments."

The maximum rates provided in this section apply only to revolving loan accounts where there is no third party merchant but only the bank and the consumer are involved in the transaction, *e.g.*, check credit plans. Maximum rates for revolving loan accounts made pursuant to a lender credit card are provided in a separate section,

26. For example, if the finance charge was computed on the balance on the first day of the billing cycle, the consumer might be able to minimize the finance charge by making all payments at the end of the month.

27. L.A. R.S. 9:3516(10) (Supp. 1972): "A 'consumer credit sale' is the sale of a

provide a graduating schedule of rate ceilings for the credit service charge on all consumer credit sales<sup>28</sup> except those made pursuant to a revolving charge account.<sup>29</sup> The seller has the option of using the schedule of rates or of using a flat 18 percent per year on the unpaid balance of the amount deferred. These rates are calculated in the same way as rates for consumer loans.

The rate of credit service charge is based on the amount deferred. This amount includes the following to the extent that payment for them is deferred: the cash price of the thing less any downpayment and the amount paid or to be paid by the seller to discharge a mortgage, lien or privilege on any property traded in. If not included in the cash price the amount deferred also includes: (1) sales, use or excise taxes; (2) amounts paid or to be paid for registration, certification of title or license fees; (3) reasonable closing costs; (4) charges for other benefits; (5) reasonable notarial fees; and (6) official fees and charges which actually are or will be paid for determining the

---

thing other than the sale of religious periodicals, books, and other religious materials by bonafide religious associations or the sale of a motor vehicle or immovable property in which a credit service charge is charged and the purchaser is permitted to defer all or part of the purchase price or other consideration in two or more installments excluding the down payment, the thing is purchased primarily for personal, family, household or agricultural purposes, the purchaser is a person other than an organization, and the amount deferred does not exceed twenty-five thousand dollars."

28. I.A. R.S. 9:3520 (Supp. 1972): "(A) Except as otherwise provided by section 3521 (dealing with the selling of consumer paper to a financial company), the maximum credit service charge for any consumer credit sale other than one made pursuant to a revolving charge account, may not exceed the equivalent of the greater of any of the following: (1) the total of (a) twenty-four per cent per year on that part of the unpaid balances of the amount deferred which is not in excess of one thousand, seven hundred and fifty dollars; and (b) eighteen per cent per year on that part of the unpaid balances of the amount deferred which is more than one thousand, seven hundred fifty dollars and not exceeding five thousand dollars; (c) twelve per cent per year on that part of the unpaid balance of the amount deferred which is more than five thousand dollars; or (d) eighteen per cent per year on the unpaid balances of the amount deferred; or (e) any other method of computation which would not yield a greater credit service charge than (a) or (b) of this section."

29. I.A. R.S. 9:3516(23) (Supp. 1972): "'Revolving charge account' means an arrangement between a seller or issuer of a seller credit card honored by a seller, and a consumer, pursuant to which (a) the seller or issuer of a seller credit card honored by a seller may permit the consumer to purchase things on credit either from the seller or with the use of a seller credit card, (b) the unpaid balances of amounts deferred arising from purchases and the credit service charges are debited to an account, (c) a credit service charge, if made, is not precomputed but is computed on the outstanding balances of the consumer's account from time to time, (d) the consumer has the privilege of deferring the balance, either for some specified time, or as in a consumer credit sale, and (e) no credit service charge is imposed upon the consumer for a billing period if the account is paid in full within a period of 25 days from the billing date."

existence of or for perfecting or releasing or satisfying any security related to the credit transaction.<sup>30</sup>

The service charge includes (1) all charges payable directly or indirectly by the consumer and imposed by the seller as an incident to the extension of credit and (2) charges paid by the consumer for investigating the collateral or credit worthiness of the consumer, or for commissions or brokerage for obtaining the credit.<sup>31</sup> The service charge does not include default charges, delinquency charges, or items included in the amount deferred.<sup>32</sup> The seller may contract for a minimum service charge of \$5 when the amount deferred is less than or equal to \$75 or \$7.50 when the amount deferred is greater than \$75.<sup>33</sup>

The obligation arising out of a consumer credit sale may be evidenced by a negotiable promissory note which may provide for a service charge at or less than the maximum rates for a consumer loan made by a licensed lender or supervised financial organization where the amount deferred is equal to the amount financed and the term is the same.<sup>34</sup> This allows the seller to discount the paper he sells to finance companies at the higher rates provided for consumer loans.<sup>35</sup>

#### *Credit Service Charge for Revolving Charge Account*

On a revolving charge account<sup>36</sup> (most department store credit cards are in this category) the extender of credit or the issuer of the card (or their assignees) may charge a service charge less than or

---

30. LA. R.S. 9:3516(2) (Supp. 1972).

31. *Id.* 9:3516(14) (Supp. 1972).

32. *Id.*

33. *Id.* 9:3520 B (Supp. 1972).

34. *Id.* 9:3521 (Supp. 1972).

35. This would mean that the consumer pays a higher rate of interest since the maximum rates for consumer loans are higher than those for credit sales.

36. LA. R.S. 9:3516(23): "Revolving charge account' means an arrangement between a seller or issuer of a seller credit card honored by a seller, and a consumer, pursuant to which (a) the seller or issuer of a seller credit card honored by a seller may permit the consumer to purchase things on credit either from the seller or with the use of a seller credit card, (b) the unpaid balances of amounts deferred arising from purchases and the credit service charges are debited to an account, (c) a credit service charge, if made, is not precomputed but is computed on the outstanding balances of the consumer's account from time to time, (d) the consumer has the privilege of deferring the balance, either for some specified time, or as in a consumer credit sale, and (e) no credit service charge is imposed upon the consumer for a billing period if the account is paid in full within a period of twenty-five days from the billing date." Gasoline credit cards and most department store credit cards are examples of seller credit cards.

equal to one and one-half percent per month in each billing period.<sup>37</sup> This rate is computed based on either (a) the average daily balance of the account or (b) on the balance of the account on the first day of each billing period as described in the section dealing with revolving loans.<sup>38</sup> A minimum service charge of 50 cents per month or less may be charged regardless of the rate.<sup>39</sup>

#### *Loan Finance Charge For Lender Credit Card*

The section of the Act dealing with a revolving loan account made with a lender credit card (*e.g.*, Master Charge) provides the same rate ceiling as provided for revolving charge accounts.<sup>40</sup> The unpaid balance of the debt is equal to the face amounts of checks, drafts, items ordered, or requests for payment of money, evidences of debt or similar written instruments which were received by the extender of credit in connection with the revolving loan, or the amounts actually paid pursuant to the consumer's direction to pay.<sup>41</sup> In the case of lender credit cards no finance charge can be collected on any amount paid within the first 25 days.<sup>42</sup> In addition to the loan finance charge the lender may receive a fee for the privilege of receiving cash advances not exceeding four percent of the amount of the cash advance.<sup>43</sup>

#### *Charges For Delinquency, Deferral, and Refinancing*

In the case of a precomputed consumer credit transaction where the debtor fails to meet his payments on time, the creditor may collect a delinquency charge, defer the payment or he may choose to refinance the remaining debt.<sup>44</sup>

The creditor may choose to collect a deferral charge not in excess of the rate of charge on the original transaction.<sup>45</sup> The amount of

---

37. *Id.* 9:3523 (Supp. 1972).

38. I.A. R.S. 9:3523 includes the language: "the balance of the account on the first day of each billing period *without regard to transactions affecting the account during the billing period . . .*" (Emphasis added.) The addition of the emphasized phrase may present problems in that it could be interpreted to apply to additional purchases but not to payments. However, it is submitted that the word transaction is broad enough to include payments.

39. I.A. R.S. 9:3523 (Supp. 1972).

40. *Id.* 9:3524 (Supp. 1972).

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.* 9:3525-26 (Supp. 1972).

45. *Id.* 9:3526 (Supp. 1972).

deferral charge allowed by the act is equal to: [(amount deferred X interest rate) ÷ (days in a year)] X number of days deferred.<sup>46</sup> For example, if the debtor signed a \$300 note (including 18 percent interest) repayable in twelve monthly installments of \$25 each and then after two installments he found he could not make the third payment, he could agree with the creditor to defer the \$250 (ten installments) for a month. In this case the maximum deferral charge would be: [(\$250 X 18%) ÷ 360] X 30 which equals \$3.75.<sup>47</sup> In addition to the deferral charge the extender of credit may charge for insurance for the extended period and the amount of this charge not paid in cash is added to the amount deferred with the deferral charge being computed on this increased amount.<sup>48</sup>

To prevent the extender of credit charging a deferral charge at the rates stated in the original transaction indefinitely, the Act provides that one year after contractual maturity of the installment the service or finance charge may not exceed eight percent.<sup>49</sup> If a deferral charge is made for a certain period, the extender of credit must return the delinquency charge received for the same period.<sup>50</sup>

On the other hand, the parties may contract to receive a late or delinquency charge on an installment not paid within ten days of the due date (whether the due date is scheduled or deferred).<sup>51</sup> The charge may equal but may not exceed the greater of: (1) five percent of the unpaid amount but no more than \$5 or, (2) the maximum deferral charge for the period the installment is delinquent.<sup>52</sup> For example, if the debtor was obligated to pay twelve monthly installments of \$25 (each installment including 18 percent per year on the unpaid balance) and after two payments the debtor was disabled for eight months and could not pay for those eight months the debtor and the creditor could agree that the creditor would charge a delinquency charge. This charge could not exceed [(\$25 X 18%) ÷ 360] X 240 days delinquent on the installment eight months delinquent, [(\$25 X 18%) ÷ 360] X 210 days delinquent and so on until he got to the installment which was three months delinquent—then the maximum deferral charge would equal \$1.13 while five percent of \$25 would equal \$1.25 so the creditor could charge five percent of the \$25 on the last three installments.

---

46. *Id.*

47. This is the same as deferring one installment for ten months.

48. L.A. R.S. 9:3526 (Supp. 1972).

49. *Id.* 9:3522 (Supp. 1972).

50. *Id.* 9:3526 (Supp. 1972).

51. *Id.* 9:3525 (Supp. 1972).

52. *Id.*

A delinquency charge may be collected only once on each installment regardless of how long it remains in default.<sup>53</sup> The delinquency charge may be collected at the time it accrues or any time thereafter so long as written notice of the charge is mailed to the consumer on or before fifteen days after the date of assessment.<sup>54</sup>

Payments on the credit transaction are deemed to apply first to current installments, then to delinquent installments and then to delinquency and other charges.<sup>55</sup> Suppose the debtor had signed a \$300 note payable in twelve monthly installments with the first installment due on the 1st day of January. If \$25 is paid on January 10, no late charge can be assessed since it is within ten days of the due date. If the next payment is \$30 on April 8, no late charge can be assessed for April but a late charge may be assessed for February and March; however, the late charge may not be deducted from the \$30 since \$25 first goes toward the April installment and the other \$5 goes toward the March installment. If on May 4th \$20 is paid, no delinquency charge may be assessed on the \$20 paid on the May installment but one may be assessed on the \$5. If on June 4th \$77.75 was paid, \$25 would be applied to the June installment, \$50 would be applied to the February and March installments and the remaining \$2.75 would be applied to late charges on the February, March and May installments (assuming charges on February and March installments were assessed on April 8th and on the May installment on June 4th).

TABLE

Date	Balance Due	Payments	Late Charges Due
1/1	25.00	-0-	-0-
1/10	-0-	25.00	-0-
2/1	25.00	-0-	-0-
3/1	50.00	-0-	-0-
4/1	75.00	-0-	-0-
4/8	45.00	30.00	2.50
5/1	70.00	-0-	2.50
5/4	50.00	20.00	2.50
6/4	-0-	77.75	-0-

The extender of credit may elect, in the alternative, to refinance a consumer credit transaction when two installments (or parts

---

53. *Id.*

54. *Id.*

55. *Id.*

thereof) are in default for ten or more days.<sup>56</sup> The creditor may receive a service or finance charge not exceeding the maximum rates based on the amount financed.<sup>57</sup> The amount financed is the amount the debtor would have been required to pay upon prepayment on the due date of the first delinquent installment pursuant to the provisions on rebate.<sup>58</sup> For the purpose of computing this amount no minimum charge shall be deducted.<sup>59</sup> After proceeding to refinance, the creditor may not make any further delinquency or deferral charges, and one year after the original maturity date of the first delinquent installment the charge can not exceed eight percent per year.

*Alonzo P. Wilson*

---

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.*