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TITLE 12 -- BANKS AND BANKING
CHAPTER II -- FEDERAL RESERVE SYSTEM
SUBCHAPTER A -- BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
PART 226 -- TRUTH IN LENDING (REGULATION Z)
SUBPART B -- OPEN-END CREDIT

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12 CFR 226.5

§ 226.5 General disclosure requirements.

(a) Form of disclosures. (1) General. (i) The creditor shall make the disclosures required by this subpart clearly and conspicuously.

(ii) The creditor shall make the disclosures required by this subpart in writing, n7 in a form that the consumer may keep, n8 except that:

n7 [Reserved].

n8 [Reserved].

(A) The following disclosures need not be written: Disclosures under § 226.6(b)(3) of charges that are imposed as part of an open-end (not home-secured) plan that are not required to be disclosed under § 226.6(b)(2) and related disclosures of charges under § 226.9(c)(2)(iii)(B); disclosures under § 226.9(c)(2)(vi); disclosures under § 226.9(d) when a finance charge is imposed at the time of the transaction; and disclosures under § 226.56(b)(1)(i).

(B) The following disclosures need not be in a retainable form: Disclosures that need not be written under paragraph (a)(1)(ii)(A) of this section; disclosures for credit and charge card applications and solicitations under § 226.5a; home-equity disclosures under § 226.5b(d); the alternative summary billing-rights statement under § 226.9(a)(2); the credit and charge card renewal disclosures required under § 226.9(e); and the payment requirements under § 226.10(b), except as provided in § 226.7(b)(13).

(iii) The disclosures required by this subpart may be provided to the consumer in electronic form, subject to

compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) *(15 U.S.C. 7001* et seq.). The disclosures required by §§ 226.5a, 226.5b, and 226.16 may be provided to the consumer in electronic form without regard to the consumer consent or other provisions of the E-Sign Act in the circumstances set forth in those sections.

(2) Terminology. (i) Terminology used in providing the disclosures required by this subpart shall be consistent.

(ii) For home-equity plans subject to § 226.5b, the terms finance charge and annual percentage rate, when required to be disclosed with a corresponding amount or percentage rate, shall be more conspicuous than any other required disclosure. n9 The terms need not be more conspicuous when used for periodic statement disclosures under § 226.7(a)(4) and for advertisements under § 226.16.

n9 [Reserved].

(iii) If disclosures are required to be presented in a tabular format pursuant to paragraph (a)(3) of this section, the term penalty APR shall be used, as applicable. The term penalty APR need not be used in reference to the annual percentage rate that applies with the loss of a promotional rate, assuming the annual percentage rate that applies is not greater than the annual percentage rate that would have applied at the end of the promotional period; or if the annual percentage rate that applies with the loss of a promotional rate is a variable rate, the annual percentage rate is calculated using the same index and margin as would have been used to calculate the annual percentage rate that would have applied at the end of the promotional period. If credit insurance or debt cancellation or debt suspension coverage is required as part of the plan, the term required shall be used and the program shall be identified by its name. If an annual percentage rate is required to be presented in a tabular format pursuant to paragraph (a)(3)(i) or (a)(3)(iii) of this section, the term fixed, or a similar term, may not be used to describe such rate unless the creditor also specifies a time period that the rate will be fixed and the rate will not increase during that period, or if no such time period is provided, the rate will not increase while the plan is open.

(3) Specific formats. (i) Certain disclosures for credit and charge card applications and solicitations must be provided in a tabular format in accordance with the requirements of § 226.5a(a)(2).

(ii) Certain disclosures for home-equity plans must precede other disclosures and must be given in accordance with the requirements of § 226.5b(a).

(iii) Certain account-opening disclosures must be provided in a tabular format in accordance with the requirements of § 226.6(b)(1).

(iv) Certain disclosures provided on periodic statements must be grouped together in accordance with the requirements of § 226.7(b)(6) and (b)(13).

(v) Certain disclosures provided on periodic statements must be given in accordance with the requirements of § 226.7(b)(12).

(vi) Certain disclosures accompanying checks that access a credit card account must be provided in a tabular format in accordance with the requirements of § 226.9(b)(3).

(vii) Certain disclosures provided in a change-in-terms notice must be provided in a tabular format in accordance with the requirements of § 226.9(c)(2)(iv)(D).

(viii) Certain disclosures provided when a rate is increased due to delinquency, default or as a penalty must be provided in a tabular format in accordance with the requirements of § 226.9(g)(3)(ii).

(b) Time of disclosures. (1) Account-opening disclosures. (i) General rule. The creditor shall furnish

account-opening disclosures required by § 226.6 before the first transaction is made under the plan.

(ii) Charges imposed as part of an open-end (not home-secured) plan. Charges that are imposed as part of an open-end (not home-secured) plan and are not required to be disclosed under § 226.6(b)(2) may be disclosed after account opening but before the consumer agrees to pay or becomes obligated to pay for the charge, provided they are disclosed at a time and in a manner that a consumer would be likely to notice them. This provision does not apply to charges imposed as part of a home-equity plan subject to the requirements of § 226.5b.

(iii) Telephone purchases. Disclosures required by § 226.6 may be provided as soon as reasonably practicable after the first transaction if:

(A) The first transaction occurs when a consumer contacts a merchant by telephone to purchase goods and at the same time the consumer accepts an offer to finance the purchase by establishing an open-end plan with the merchant or third-party creditor;

(B) The merchant or third-party creditor permits consumers to return any goods financed under the plan and provides consumers with a sufficient time to reject the plan and return the goods free of cost after the merchant or third-party creditor has provided the written disclosures required by § 226.6; and

(C) The consumer's right to reject the plan and return the goods is disclosed to the consumer as a part of the offer to finance the purchase.

(iv) Membership fees. (A) General. In general, a creditor may not collect any fee before account-opening disclosures are provided. A creditor may collect, or obtain the consumer's agreement to pay, membership fees, including application fees excludable from the finance charge under § 226.4(c)(1), before providing account-opening disclosures if, after receiving the disclosures, the consumer may reject the plan and have no obligation to pay these fees (including application fees) or any other fee or charge. A membership fee for purposes of this paragraph has the same meaning as a fee for the issuance or availability of credit described in § 226.5a(b)(2). If the consumer rejects the plan, the creditor must promptly refund the membership fee if it has been paid, or take other action necessary to ensure the consumer is not obligated to pay that fee or any other fee or charge.

(B) Home-equity plans. Creditors offering home-equity plans subject to the requirements of § 226.5b are not subject to the requirements of paragraph (b)(1)(iv)(A) of this section.

(v) Application fees. A creditor may collect an application fee excludable from the finance charge under § 226.4(c)(1) before providing account-opening disclosures. However, if a consumer rejects the plan after receiving account-opening disclosures, the consumer must have no obligation to pay such an application fee, or if the fee was paid, it must be refunded. See § 226.5(b)(1)(iv)(A).

(2) Periodic statements. (i) Statement required. The creditor shall mail or deliver a periodic statement as required by § 226.7 for each billing cycle at the end of which an account has a debit or credit balance of more than $ 1 or on which a finance charge has been imposed. A periodic statement need not be sent for an account if the creditor deems it uncollectible, if delinquency collection proceedings have been instituted, if the creditor has charged off the account in accordance with loan-loss provisions and will not charge any additional fees or interest on the account, or if furnishing the statement would violate federal law.

(ii) Timing requirements. (A) Credit card accounts under an open-end (not home-secured) consumer credit plan. For credit card accounts under an open-end (not home-secured) consumer credit plan, a card issuer must adopt reasonable procedures designed to ensure that:

(1) Periodic statements are mailed or delivered at least 21 days prior to the payment due date disclosed on the statement pursuant to § 226.7(b)(11)(i)(A); and

(2) The card issuer does not treat as late for any purpose a required minimum periodic payment received by the card issuer within 21 days after mailing or delivery of the periodic statement disclosing the due date for that payment.

(B) Open-end consumer credit plans. For accounts under an open-end consumer credit plan, a creditor must adopt reasonable procedures designed to ensure that:

(1) If a grace period applies to the account:

(i) Periodic statements are mailed or delivered at least 21 days prior to the date on which the grace period expires; and

(ii) The creditor does not impose finance charges as a result of the loss of the grace period if a payment that satisfies the terms of the grace period is received by the creditor within 21 days after mailing or delivery of the periodic statement.

(2) Regardless of whether a grace period applies to the account:

(i) Periodic statements are mailed or delivered at least 14 days prior to the date on which the required minimum periodic payment must be received in order to avoid being treated as late for any purpose; and

(ii) The creditor does not treat as late for any purpose a required minimum periodic payment received by the creditor within 14 days after mailing or delivery of the periodic statement.

(3) For purposes of paragraph (b)(2)(ii)(B) of this section, "grace period" means a period within which any credit extended may be repaid without incurring a finance charge due to a periodic interest rate. n10

n10 [Reserved]

(3) Credit and charge card application and solicitation disclosures. The card issuer shall furnish the disclosures for credit and charge card applications and solicitations in accordance with the timing requirements of § 226.5a.

(4) Home-equity plans. Disclosures for home-equity plans shall be made in accordance with the timing requirements of § 226.5b(b).

(c) Basis of disclosures and use of estimates. Disclosures shall reflect the terms of the legal obligation between the parties. If any information necessary for accurate disclosure is unknown to the creditor, it shall make the disclosure based on the best information reasonably available and shall state clearly that the disclosure is an estimate.

(d) Multiple creditors; multiple consumers. If the credit plan involves more than one creditor, only one set of disclosures shall be given, and the creditors shall agree among themselves which creditor must comply with the requirements that this regulation imposes on any or all of them. If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the account. If the right of rescission under § 226.15 is applicable, however, the disclosures required by §§ 226.6 and 226.15(b) shall be made to each consumer having the right to rescind.

(e) Effect of subsequent events. If a disclosure becomes inaccurate because of an event that occurs after the creditor mails or delivers the disclosures, the resulting inaccuracy is not a violation of this regulation, although new disclosures may be required under § 226.9(c).

HISTORY: [Reg. Z, *46 FR 20892,* Apr. 7, 1981, as amended at *54 FR 13865,* Apr. 6, 1989; *54 FR 24686,* June 9, 1989; *65 FR 58903, 58908,* Oct. 3, 2000; Reg. Z, *66 FR 17329, 17338,* Mar. 30, 2001; Reg. Z, *66 FR 41439, 41440,* Aug. 8, 2001; *72 FR 63462, 63473,* Nov. 9, 2007; *74 FR 5244,* Jan. 29, 2009, withdrawn at *75 FR 7925,* Feb. 22, 2010; *74 FR 36077, 36094,* July 22, 2009; *75 FR 7658,* Feb. 22, 2010; *76 FR 22948, 22998,* Apr. 25, 2011]

AUTHORITY: AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
12 U.S.C. 3806; 15 U.S.C. 1604, 1637(c)(5), 1639(l), and 1639h; Pub. L. 111-24, section 2, *123 Stat. 1734;* Pub. L. 111-203, *124 Stat. 1376.*

NOTES: [EFFECTIVE DATE NOTE: *75 FR 7658,* Feb. 22, 2010, revised this section, effective Feb. 22, 2010. For compliance date information, see: *75 FR 7658,* Feb. 22, 2010; *76 FR 22948, 22998,* Apr. 25, 2011, amended paragraph (b)(2)(ii)(A) and revised paragraph (b)(2)(ii)(B), effective Oct. 1, 2011. For compliance date information, see: *76 FR 22948,* Apr. 25, 2011.]
NOTES APPLICABLE TO ENTIRE TITLE:
CROSS REFERENCES: Farmers Home Administration: See Agriculture, 7 CFR, chapter XVIII.
Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development: See Housing and Urban Development, 24 CFR, chapter II.
Fiscal Service: See Money and Finance: Treasury, 31 CFR, chapter II.
Monetary Offices: See Money and Finance: Treasury, 31 CFR, chapter I.
Commodity Credit Corporation: See Agriculture, 7 CFR, chapter XIV.
Small Business Administration: See Business Credit and Assistance, 13 CFR, chapter I.
Rural Electrification Administration: See Agriculture, 7 CFR, chapter XVII.

NOTES APPLICABLE TO ENTIRE PART:
[PUBLISHER'S NOTE: For Federal Register citations concerning Part 226 adjustment notices, see: *61 FR 3177, 65317,* (1996); *63 FR 6474,* (1998); *63 FR 67575,* Dec. 8, 1998; *64 FR 60335,* Nov. 5, 1999.]

LexisNexis (R) Notes:

CASE NOTES

CASE NOTES Applicable to entire Part:Part Note

Powell v. Am. Gen. Fin., Inc., 310 F. Supp. 2d 481, 2004 U.S. Dist. LEXIS 4484 (ND NY Mar. 22, 2004).

Overview: *Motions to dismiss were granted; TILA had no provisions that govern credit denial or racially discriminatory lending and Equal Credit Opportunity Act claim failed because race of loan officers did not support an inference of discriminatory intent.*

- Regulation Z of Truth in Lending Act (TILA), *15 U.S.C.S. § 1601* et seq., protects consumers against predatory lending practices by requiring lenders to disclose credit terms to borrowers. Regulation Z's provisions also restrict or ban certain creditor practices in the areas of account cancellation, collections, interest rates, solicitations, and bill error resolution. 12 C.F.R. § 226.5 et seq. A plaintiff may state a cause of action under TILA by alleging a violation of one of its provisions. Go To Headnote

Hauk v. Jp Morgan Chase Bank United States, 552 F.3d 1114, 2009 U.S. App. LEXIS 1285 (9th Cir Jan. 23, 2009).

Overview: *Creditor's undisclosed intent to act inconsistent with its disclosures was irrelevant in determining sufficiency of those disclosures under 12 C.F.R. §§ 226.5, 226.6, and 226.9 of Regulation Z. Because disclosures complied with TILA and Regulation Z, district court properly granted summary judgment against credit card account holder on TILA claim.*

- Regulation Z requires that disclosures reflect the terms of the legal obligation between the parties. 12 C.F.R. § 226.5(c). Pursuant to § 226.5(c), a disclosure violates the Truth in Lending Act (TILA), *15 U.S.C.S. § 1601* et seq., if it inaccurately described the creditor's or cardholder's rights or obligations as they existed at the time the disclosure was made. 12 C.F.R. § 226, Supp. I, § 226.5(c) cmt. 1 states that the disclosures should reflect the credit terms to which the parties are legally bound at the time of giving the disclosures. The legal obligation is determined by applicable state or other law and normally is presumed to be contained in the contract that evidences the agreement. Go To Headnote

Patzka v. Viterbo College, 917 F. Supp. 654, 1996 U.S. Dist. LEXIS 2439 (WD Wis Feb. 27, 1996).

Overview: *A debt collector could not collect any amount in excess of principal amount of a loan, including collection charges, where the collection charges were not authorized expressly by agreement's terms or authorized explicitly by applicable State law.*

- Interest charges are permissible "finance charges" under Wisconsin law. Wis. Stat. § 421.301(20)(a). However, disclosures must be made to the customer of the annual financial rate, whether the finance rate will vary, how increases in the interest rate will be determined and their effects, the date on which the finance charge begins to accrue, whether an annual fee is charged and the amount and purpose of any "other" charges. Wis. Stat. § 422.308(1), (2). In addition, the Wisconsin Consumer Protection Act incorporates by reference all disclosures required by the Federal Consumer Credit Protection Act. 12 C.F.R. §§ 226.5 -- 226.16. The information that must be disclosed by a creditor to a customer shall be made clearly and conspicuously and shall be in writing. Wis. Stat. § 422.302(1)(a), (b). Go To Headnote

Murray v. Citibank, N.A., 2004 U.S. Dist. LEXIS 20941 (ND Ill Oct. 19, 2004).

Overview: *Credit card company's motion to dismiss was granted because it was not a third party debt collector under the FDCPA and it did not have an obligation to continue to send the consumer statements once debt was declared uncollectable.*

- The Fair Credit and Charge Card Disclosure Act (FCCDA), *15 U.S.C.S. § 1601,* states in relevant part that, it is the purpose of the subchapter to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit, and to protect the consumer against inaccurate and unfair credit billing and credit car practices. *15 U.S.C.S. § 1601*(a). While the FCCCDA requires a creditor to mail or deliver periodic statements for each billing cycle, the creditor's obligation in this regard ceases for an account if the creditor deems it uncollectible, or if delinquency collection proceedings have been instituted, or if furnishing the statement would violate federal law. 12 C.F.R. § 226.5(b)(2). Go To Headnote

Murray v. Amoco Oil Co., 539 F.2d 1385, 1976 U.S. App. LEXIS 6718 (5th Cir Oct. 12, 1976).

Overview: *In taking as true allegations that creditor failed to send credit card statement for several months, court found debtor stated a claim under Consumer Credit Protection Act (Act), and Act's claim provided independent jurisdictional base for action.*

Former 12 CFR 226.7 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.7(b)(1) provides that except in the case of an account which a creditor deems to be uncollectible or with respect to which delinquency collection procedures are instituted, the creditor of any open end credit account shall mail or deliver to a customer, for each billing cycle at the end of which there is an outstanding undisputed debit or credit balance in excess of $ 1 in that account or with respect to which a finance charge is imposed, a statement or statements which the customer may retain. Go To Headnote

Murray v. Citibank, N.A., 2004 U.S. Dist. LEXIS 20941 (ND Ill Oct. 19, 2004).

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Powell v. Am. Gen. Fin., Inc., 310 F. Supp. 2d 481, 2004 U.S. Dist. LEXIS 4484 (ND NY Mar. 22, 2004).

Overview: *Motions to dismiss were granted; TILA had no provisions that govern credit denial or racially discriminatory lending and Equal Credit Opportunity Act claim failed because race of loan officers did not support an inference of discriminatory intent.*

- Regulation Z of Truth in Lending Act (TILA), *15 U.S.C.S. § 1601* et seq., protects consumers against predatory lending practices by requiring lenders to disclose credit terms to borrowers. Regulation Z's provisions also restrict or ban certain creditor practices in the areas of account cancellation, collections, interest rates, solicitations, and bill error resolution. 12 C.F.R. § 226.5 et seq. A plaintiff may state a

cause of action under TILA by alleging a violation of one of its provisions. Go To Headnote

Patchell v. Option One Mortg. Corp. (in re Patchell), 336 B.R. 1, 2005 Bankr. LEXIS 2370 (Bankr D Mass July 8, 2005).

Overview: *Of 22 counts at issue, the creditor's Fed. R. Civ. P. 12(c) motion for judgment on the pleadings was allowed as to 14 counts in a case where pro se debtor alleged violations of, inter alia, the Truth in Lending Act. The court was certain that she was not entitled to relief under any set of facts that could be proved in support of those claims.*

- 12 C.F.R. § 226.5 requires that creditor mail or deliver a periodic statement within 14 days prior to any date or time period required to be disclosed pursuant to 12 C.F.R. § 226.7(j). The purpose of this regulation is to provide the consumer with an opportunity to avoid any additional finance charge(s) that may be incurred. Go To Headnote

Ector v. Southern Discount Co., 499 F. Supp. 284, 1980 U.S. Dist. LEXIS 13834 (ND Ga Sept. 15, 1980).

Overview: *A creditor did not violate the Truth in Lending Act (Act) where its state-law-required loan "fees" disclosure was not inconsistent with the Act and would not confuse or mislead a customer or detract from the prepaid finance charge disclosure.*

Former 12 CFR 226.8 was redesignated. See now 12 CFR 226.5.

- The regulations adopted by the Federal Reserve Board pursuant to *15 U.S.C.S. § 1604* require the lender to disclose the "prepaid finance charge." Regulation Z, 12 C.F.R. § 226.8(d)(3). Go To Headnote

Mcintyre v. Household Bank, 2004 U.S. Dist. LEXIS 25629 (ND Ill Dec. 21, 2004).

Overview: *In an action alleging unlawful credit card practices by a bank, class treatment was not warranted in view of atypical claims and individualized issues, and the bank made proper disclosures but it was unclear whether the bank properly sent statements.*

- 12 C.F.R. § 226.5(b)(2) makes clear that the creditor's obligation is to mail or deliver the periodic statement; it says nothing regarding the creditor's obligation to ensure that the account holder receives a properly mailed or delivered statement § 226.5(b)(2)(i), (ii). Go To Headnote

Bolden v. Greenpoint Mortg. Funding, Inc., 2004 U.S. Dist. LEXIS 20508 (ND Tex Oct. 13, 2004).

Overview: *The trustee under a deed of trust was not a creditor and could not be held liable under Regulation Z; a borrower stated a claim under Regulation Z against a lender with respect to placement of interest disclosures and absence of other disclosures.*

- 12 C.F.R. §§ 226.7, 226.5(a), and 226.12 all pertain to "open-end credit." 12 C.F.R. § 226.1(d)(2). "Open-end credit" is defined in Regulation Z, 12 C.F.R. § 226 et seq. (2004), as consumer credit extended by a creditor under a plan in which: (i) the creditor reasonably contemplates repeated transactions; (ii) the creditor may impose a finance charge from time to time on an outstanding unpaid balance; and (iii) the amount of credit that may be extended to the consumer during the term of the plan is generally made available to the extent that any outstanding balance is repaid. 12 C.F.R. § 226.2(20). Go To Headnote

Powell v. Am. Gen. Fin., Inc., 310 F. Supp. 2d 481, 2004 U.S. Dist. LEXIS 4484 (ND NY Mar. 22, 2004).

Overview: *Motions to dismiss were granted; TILA had no provisions that govern credit denial or racially discriminatory lending and Equal Credit Opportunity Act claim failed because race of loan officers did not support an inference of discriminatory intent.*

- Regulation Z of Truth in Lending Act (TILA), *15 U.S.C.S. § 1601* et seq., protects consumers against predatory lending practices by requiring lenders to disclose credit terms to borrowers. Regulation Z's provisions also restrict or ban certain creditor practices in the areas of account cancellation, collections, interest rates, solicitations, and bill error resolution. 12 C.F.R. § 226.5 et seq. A plaintiff may state a cause of action under TILA by alleging a violation of one of its provisions. Go To Headnote

Neff v. Capital Acquisitions & Mgmt. Co., 352 F.3d 1118, 2003 U.S. App. LEXIS 25222 (7th Cir Dec. 15, 2003).

Overview: *Where second purchaser of customers' delinquent credit card accounts never sent monthly statements and years later tried to collect debt that customers thought had been settled, first and second purchasers were not parties subject to TILA or FDCPA.*

- Under the Truth in Lending Act of 1968, *15 U.S.C.S. § 1601* et seq., 12 C.F.R. § 226.5(b)(2)(i) and 12 C.F.R. pt. 22d, supp. I, para. 5(b)(2)(i)-2 apply only to "creditors." Go To Headnote

Schwab v. Sears, Roebuck & Co. (in re Derienzo), 254 B.R. 334, 2000 Bankr. LEXIS 1299 (Bankr MD Pa Oct. 18, 2000).

Overview: *Retailer and bank to which it prospectively assigned credit lines violated TILA. There were separate accounts, and periodic statements did not disclose for each account beginning balance, credits, and ending balance.*

- The comments to Regulation Z provide that, after termination, an open-end credit account continues to be treated as an open-end account until the balance is paid. Official Staff Interpretation to 12 C.F.R. § 226.5(b)(2)(i) cmt. 2 (1998). Go To Headnote

Sagal v. First Usa Bank, N.A., 69 F. Supp. 2d 627, 1999 U.S. Dist. LEXIS 15682 (D Del Aug. 30, 1999).

Overview: *A federally chartered banking association's use of a mandatory arbitration provision in a cardholder agreement was binding in a credit card holder's class action suit where the Truth in Lending Act did not override the Federal Arbitration Act.*

- Section 1632(a) of the Truth in Lending Act, *15 U.S.C.S. § 1632* (a) (1994), as implemented by Regulation Z, requires that certain information, including finance charges, be clearly and conspicuously disclosed. *15 U.S.C.S. § 1632* (a) (1994); 12 C.F.R. § 226.5 (1999). Go To Headnote

Greisz v. Household Bank (ill.), 8 F. Supp. 2d 1031, 1998 U.S. Dist. LEXIS 12620 (ND Ill Aug. 12, 1998).

Overview: *A creditor complied with TILA requirements by setting out that disputed payments did not have to be turned in; a provision that there was a separate mailing address for voluntary payment of disputed amounts was not improper.*

- 12 C.F.R. § 226.5(a)(1) (1997) provides that the creditor shall make the disclosures required by this subpart clearly and conspicuously in writing, in a form that the consumer may keep. Go To Headnote

Schmidt v. Citibank (south Dakota) N.A. (cbsd), 677 F. Supp. 687, 1988 U.S. Dist. LEXIS 308 (D Conn Jan. 8, 1988).

Overview: *In a consumer's action against a bank, because they were not clear regarding a billing error address, the bank's periodic statements were required to include language stating that telephonic inquiries did not protect consumers' billing error rights.*

- In the context of precautionary language that inquiries by telephone do not preserve a consumer's billing error rights, as a matter of statutory law, the precautionary language is not required to be included in a bank's periodic statement. However, the law does require that an address used for purposes of receiving billing inquiries be clear and conspicuous, *15 U.S.C.S. § 1632*(a), 12 C.F.R. § 226.5(a). Go To Headnote

Saunders v. Ameritrust of Cincinnati, 587 F. Supp. 896, 1984 U.S. Dist. LEXIS 15899 (SD Ohio June 14, 1984).

Overview: *Debtor had a cause of action under the Truth-in-Lending Act against its creditor for the creditor's continued reporting of debtor's account delinquency to a credit bureau after the debtor had paid the account in full.*

- *15 U.S.C.S. § 1637* (a) sets out what a creditor must initially disclose before opening an open-end consumer credit account. *15 U.S.C.S. § 1637* (b) enumerates the items that must be included in the periodic statement that the creditor must provide to the obligor at the end of each billing cycle. Regulation Z, 12 C.F.R. § 226.5(b)(2)(i), provides that no periodic statement need be sent if delinquency collection proceedings have been instituted. Go To Headnote
- Both *15 U.S.C.S. § 1666* (b)(6) and Regulation Z, 12 C.F.R. § 226.5 (b)(2)(i), require the obligor to give written notice of the alleged error to the creditor as a prerequisite to resolution. Both prohibit a creditor from reporting a disputed amount as delinquent to a third party once it has received such written notice. Go To Headnote

Krenisky v. Rollins Protective Services Co., 728 F.2d 64, 1984 U.S. App. LEXIS 25775 (2d Cir Feb. 3, 1984).

Overview: *Buyer of an alarm system could not establish that creditor had violated the Truth in Lending Act where borrower was unable to show that the finance charges began accruing on a date other than the date of the transaction.*

- Under 12 C.F.R. §§ 226.5(d), 226.503, and 226.505 (pre-October 1, 1982, version), a creditor may, at his option, in determining and disclosing the annual percentage rate or the finance charge consider the payment irregularities set forth in this paragraph as if they were regular in amount or time, as applicable, provided that the transaction to which they relate is otherwise payable in equal installments at equal intervals and the interval between the date on which the finance charge begins to accrue and the date the first payment is due is not less than 20 (or more than 50 days) for an obligation otherwise payable in monthly installments. Go To Headnote

In re Rineer, 25 B.R. 264, 1982 Bankr. LEXIS 5293 (Bankr ND Ill Dec. 14, 1982).

Overview: *Debtors had no right to rescind a security interest in their residence for bank's violation of Regulation Z after they had transferred all their interest in the property subject to the transaction by voluntary return of a motor home.*

- Under section 1631 of the Truth in Lending Act, *15 U.S.C.S. § 1631,* and sections 226.5 and 226.17 of Regulation Z, 12 C.F.R. §§ 226.5, 226.17 (1982) (revised April 1, 1981), a creditor is obligated to disclose certain information regarding consumer credit transactions. Moreover, both the Act and the Regulation provide that the consumer has the right to rescind the transaction in certain instances. *15 U.S.C.S. § 1635;* 12 C.F.R. §§ 226.15, 226.23 (1982). Specifically, § 226.23(a)(1) of Regulation Z states that in a credit transaction in which a security interest is or will be retained or acquired in a consumer's principal dwelling, each consumer whose ownership interest is or will be subject to the security interest shall have the right to rescind the transaction, except for transactions described in paragraph (f) of this

section. Go To Headnote

Ector v. Southern Discount Co., 499 F. Supp. 284, 1980 U.S. Dist. LEXIS 13834 (ND Ga Sept. 15, 1980).

Overview: *A creditor did not violate the Truth in Lending Act (Act) where its state-law-required loan "fees" disclosure was not inconsistent with the Act and would not confuse or mislead a customer or detract from the prepaid finance charge disclosure.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- State law is inconsistent with the requirements of the Truth in Lending Act to the extent that it requires the creditor to make disclosures different from the federal requirements with respect to form or terminology. 12 C.F.R. § 226.6(b)(1)(i). Go To Headnote
- The Federal Reserve Board is empowered by the Truth in Lending Act to prescribe regulations to carry out the purpose of the act, *15 U.S.C.S. § 1604*, and its regulations must be construed to further the purpose of truth in lending law. The court construes 12 C.F.R. § 226.6(b)(1)(i) to mean that state law is inconsistent with the requirements of truth in lending law when it requires the use of terminology enough different from that required by federal law that it would prevent a meaningful disclosure of credit terms and contribute to the uninformed use of credit. Otherwise the state law terminology is "additional information" or "explanations" as contemplated in § 226.6(c). Go To Headnote
- The use of "fee" or "loan fee" is not an inconsistent term required by state law. The state law, found in Ga. Code Ann. § 25-319, has no requirements with respect to form, content, terminology, or time of delivery. Regulation Z, 12 C.F.R. § 226.6(b)(1)(i).The Georgia statute requires only that the disclosure of "the amount of interest and fees" be made in writing, in English, and in clear terms. Go To Headnote

Green v. Deluxe Motors, 1979 U.S. Dist. LEXIS 14987 (ND Ill Jan. 18, 1979).

Overview: *A used car purchaser who brought a de minimis action under the Truth in Lending Act for $ 1.76 abused the purpose of the Act and the court's jurisdiction. His claim was based upon a highly technical error which was quickly corrected by defendants.*

- *15 U.S.C.S. § 1606*(b) and 12 C.F.R. § 226.5(b) require that an annual percentage rate be expressed to the nearest one quarter of one percent. Go To Headnote

Lamar v. American Finance System, Inc., 577 F.2d 953, 1978 U.S. App. LEXIS 9767 (5th Cir Aug. 4, 1978).

Overview: *Debtor could not, after submitting the case on one set of hypotheses and learning that this was not enough, to attempt to inject new issues in the hope of achieving a different result; order denying the right to assert new grounds was proper.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- *15 U.S.C.S. § 1631*(a), and 12 C.F.R. § 226.6(a), the regulations with respect to meaningful sequence do not require any particular order for the disclosure of the security interest retained by the lender so long as that description is clear and conspicuous. Go To Headnote

Meadows v. Charlie Wood, Inc., 448 F. Supp. 717, 1978 U.S. Dist. LEXIS 18511 (MD Ga Apr. 7, 1978).

Overview: *Vendor's counterclaim to collect under parties' loan agreement was dismissed for lack of jurisdiction as a permissive counterclaim in buyer's Truth in Lending action, which sought a federal penalty that was independent of parties' loan obligations.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- *15 U.S.C.S. § 1634* and 12 C.F.R. § 226.6(g), which are identical, provide that if information disclosed in accordance with this part is subsequently rendered inaccurate as the result of any act, occurrence, or agreement subsequent to the delivery of the required disclosures, the inaccuracy resulting therefrom does not constitute a violation of this part. 12 C.F.R. § 226.6(g) in a footnote states more specifically that such acts, occurrences, or agreements include the failure of the customer to perform his obligations under the contract and such actions by the creditor as may be proper to protect his interests in such circumstances. Such failure may result in the liability of the customer to pay delinquency charges, collection costs, or expenses of the creditor for perfection or acquisition of any security interest or amounts advanced by the creditor on behalf of the customer in connection with insurance, repairs to, or preservation of collateral. Go To Headnote

Marciano v. Getty Oil Co., 1977 U.S. Dist. LEXIS 15771 (D Conn May 23, 1977).

Overview: *Contrary to a borrower's contentions, a lender met truth in lending disclosure requirements because, inter alia, the terms "finance charge" and "annual percentage rate" stood out from other disclosures and quite definitely caught the eye.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- Where the terms "finance charge" and "annual percentage rate" are required to be used, they shall be printed more conspicuously than other terminology required. 12 C.F.R. § 226.6(a), Conn. Reg. 36-395-5(a). The plain meaning of those regulations is that the two terms singled out indeed must be emphasized but only (1) by contrast with other required terminology and (2) when themselves mandatory. Go To Headnote
- 12 C.F.R. § 226.6(c) and Conn. Reg. 36-395-5(b) give lenders the option to furnish "additional information" that does not appear to mislead or confuse the customer or contradict, obscure, or detract attention from the information required to be disclosed. Go To Headnote

Vines v. Hodges, 422 F. Supp. 1292, 1976 U.S. Dist. LEXIS 12780 (DDC Oct. 13, 1976).

Overview: *Consumers awarded damages for automobile repossession, where creditors did not comply with TILA disclosure provisions, and contract void under D.C. Regulations gave creditors no right to repossess under Consumer Protection Act.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- Regulation Z, 12. C.F.R. § 226.6(e) (1975), specifically provides that in a single transaction involving more than one customer, the creditor need furnish a statement of disclosures required by this part to only one customer. Go To Headnote

Mason v. General Fin. Corp., 542 F.2d 1226, 1976 U.S. App. LEXIS 6695 (4th Cir Oct. 13, 1976).

Overview: *Where a transaction provided no right of rescission, a lender was required only one disclosure statement under the federal Truth in Lending Act, and the obligors, as joint obligors, could recover only one civil penalty for each transaction involved.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.6(c) addresses itself to the problem of reconciliation. Consistent with congressional directive, it does not undertake to prevent any money lender from disclosing to the borrower information required by state law even though conveyed in words different from the federally preferred terms finance charge and annual percentage rate. What it does provide is that the utilization of other words of the lending art shall be subordinated to the uniform federal form of disclosure and conspicuously identified by line separation and conspicuous heading to indicate state origin and not federal approval. Go To Headnote
- 12 C.F.R. § 226.6(b)(i) requires a creditor to make disclosures or take actions different from the requirements of this part with respect to form, content, terminology, or time of delivery. Go To Headnote
- The statutory pattern of the Virginia Small Loan Act (Act), Va. Code Ann. § 6.1-272 prescribes both a method of determining and disclosing interest rates. Insofar as it requires disclosure, it comes under the terms of *15 U.S.C.S. § 1610*(a) and 12 C.F.R. § 226.6, and is effected to the extent that it is inconsistent with the provisions of the Act or regulations thereunder. Rate of charge may be computed and contracted for as required by state law, but it must be disclosed in accordance with the mandates of federal law. Go To Headnote

Murray v. Amoco Oil Co., 539 F.2d 1385, 1976 U.S. App. LEXIS 6718 (5th Cir Oct. 12, 1976).

Overview: *In taking as true allegations that creditor failed to send credit card statement for several months, court found debtor stated a claim under Consumer Credit Protection Act (Act), and Act's claim provided independent jurisdictional base for action.*

Former 12 CFR 226.7 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.7(b)(1) provides that except in the case of an account which a creditor deems to be uncollectible or with respect to which delinquency collection procedures are instituted, the creditor of any open end credit account shall mail or deliver to a customer, for each billing cycle at the end of which there is an outstanding undisputed debit or credit balance in excess of $ 1 in that account or with respect to which a finance charge is imposed, a statement or statements which the customer may retain. Go To Headnote

Weaver v. General Finance Corp., 528 F.2d 589, 1976 U.S. App. LEXIS 12423 (5th Cir Mar. 12, 1976).

Overview: *The statement in defendant's disclosure statements that credit insurance charges would be "deducted from the Amount Financed" was misleading in violation of the Truth in Lending Act and Regulation Z.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- Federal Reserve Board Regulation Z, 12 C.F.R. § 226.6(c), provides that a creditor may include additional information beyond the minimum required disclosures, but none shall be stated, utilized, or placed so as to mislead or confuse the customer. Go To Headnote

Pedro v. Pacific Plan, 393 F. Supp. 315, 1975 U.S. Dist. LEXIS 13396 (ND Cal Mar. 12, 1975).

Overview: *A borrowing customer who was not furnished with identities of her lenders when she signed the relevant papers was entitled to cancel the transactions and recover damages.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.6(d) provides that in a transaction in which there is more than one creditor, each creditor shall be clearly identified and shall be responsible for making only those disclosures required by this part

which are within his knowledge and the purview of his relationship with the customer. If two or more creditors make a joint disclosure, each creditor shall be clearly identified. Go To Headnote

Reed v. Washington Trailer Sales, Inc., 393 F. Supp. 886, 1974 U.S. Dist. LEXIS 11387 (MD Tenn Dec. 30, 1974).

Overview: *Credit customers' truth in lending action was dismissed. Insurance premiums were included in "finance charge," and the statement that customers could obtain required insurance through a person of their own choice was clear, conspicuous and specific.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- In implementing Truth in Lending Act, *15 U.S.C.S. § 1631*(a) the statutory provision, Regulation Z states: General disclosure requirements: (a) Disclosures; general rule. The disclosures required to be given by this part shall be made clearly, conspicuously, in meaningful sequence, in accordance with the further requirements of this section, and at the time and in the terminology prescribed in applicable sections. Except with respect to the requirements of § 226.10, where the terms "finance charge" and "annual percentage rate" are required to be used, they shall be printed more conspicuously than other terminology required by this part and all numerical amounts and percentages shall be stated in figures and shall be printed in not less than the equivalent of 10 point type, .075 inch computer type, or elite size typewritten numerals, or shall be legibly handwritten. 12 C.F.R. § 226.6(a). Go To Headnote

Palmer v. Wilson, 359 F. Supp. 1099, 1973 U.S. Dist. LEXIS 14266 (ND Cal Mar. 29, 1973).

Overview: *Plaintiffs' rescission of loan not barred under consumer protection statute since lender failed to disclose material information before rescission; plaintiff could both rescind contract and recover statutory damages.*

Former 12 CFR 226.8 was redesignated. See now 12 CFR 226.5.

- A creditor must disclose the necessary information in connection with consumer credit protection, except the right to rescind, in a single document, either in the note on the same side of the page and above or adjacent to the place for the customer's signature, or on one side of a separate statement. 12 C.F.R. § 226.8(a). Go To Headnote

Willis v. American Nat'l Stores, 350 F. Supp. 173, 1972 U.S. Dist. LEXIS 11898 (ND Ga Sept. 21, 1972).

Overview: *Statement that creditor might retain security interest in goods purchased on open end credit plan was not a sufficient disclosure under the Consumer Credit Protection Act of the conditions under which the creditor would retain such an interest.*

Former 12 CFR 226.7 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.7(a) (1972) provides in part that before the first transaction is made on any open end credit account, the creditor shall disclose to the customer in a single written statement, which the customer may retain, in terminology consistent with the requirements of paragraph (b) of § 226.7, each of several listed items, to the extent applicable. Go To Headnote

Garza v. Chicago Health Clubs, Inc., 329 F. Supp. 936, 1971 U.S. Dist. LEXIS 12230 (ND Ill July 29, 1971).

Overview: *By including within its confession of judgment clause the waiver of a right to make a confessed judgment a lien on all real property, the seller had complied with the Federal Reserve Board Regulations and purchasers were not entitled to rescission.*

Former 12 CFR 226.10 was redesignated. See now 12 CFR 226.5.

- Chapter 3 of the Consumer Credit Protection Act is structured to require disclosures of certain credit terms if, but only if, the advertisement first makes a claim that relates to credit terms. *15 U.S.C.S. §§ 1662,* 1664; 12 C.F.R. § 226.10(a), (d). Go To Headnote

Rubio v. Capital One Bank, 613 F.3d 1195, 2010 U.S. App. LEXIS 14968 (9th Cir July 21, 2010), writ of certiorari denied by *131 S. Ct. 1817, 179 L. Ed. 2d 773, 2011 U.S. LEXIS 2639, 79 U.S.L.W. 3567 (U.S. 2011).*

Overview: *Under Truth in Lending Act (TILA), direct-mail credit card solicitation that disclosed "fixed" annual percentage rate and named three conditions under which rate could increase but contained a reservation of the right to change the contract was not reasonably understandable and readily noticeable, so consumer's TILA claim stated a claim.*

- The Truth in Lending Act (TILA) delegates to the Federal Reserve Board of Governors the duty to implement TILA's disclosure requirements. *15 U.S.C.S. § 1604*(a). Under that delegation, the Board has promulgated Regulation Z, 12 C.F.R. pt. 226 (2009), to which provisions courts defer unless demonstrably irrational. To implement TILA's mandate that a Schumer Box disclose credit card annual percentage rates (APR), Regulation Z requires a Schumer Box to disclose each periodic rate that may be used to compute the finance charge on an outstanding balance, expressed as an annual percentage rate. 12 C.F.R. § 226.5a(b)(1). Regulation Z provides that this APR disclosure, like other credit-card disclosures, must reflect the terms of the legal obligation between creditor and consumer. § 226.5(c). Go To Headnote
- The Truth in Lending Act (TILA) and Regulation Z do require a Schumer Box to disclose credit card APRs. *15 U.S.C.S. § 1637*(c)(1)(A)(i)(I); 12 C.F.R. § 226.5a(b)(1). This disclosure must be clear and conspicuous, *15 U.S.C.S. § 1632*(a); 12 C.F.R. § 226.5(a)(1), which, for purposes of credit card solicitations, is defined in the official staff commentary to Regulation Z as in a reasonably understandable form and readily noticeable to the consumer. 12 C.F.R. pt. 226 supp. I, para. 5a(a)(2), cmt. 1. Thus, Regulation Z prohibits a Schumer Box from making misleading annual percentage rate (APR) disclosures, where misleading means a disclosure that a reasonable consumer will either not understand or not readily notice. Put differently, an APR disclosure that is not clear and conspicuous is ipso facto misleading. Go To Headnote
- Based on the research, the Truth in Lending Act (TILA) revisions specify that in the Schumer Box's annual percentage rate (APR) disclosure, the term fixed, or a similar term, may not be used to describe the annual percentage rate unless the creditor also specifies a time period that the rate will be fixed and the rate will not increase during that period, or if no such time period is provided, the rate will not increase while the plan is open. Truth in Lending, *74 Fed. Reg. 5244, 5401* (Jan. 29, 2009) (to be codified at 12 C.F.R. § 226.5(a)(2)(iii)). Under this regulation, a creditor may describe an APR as fixed without specifying a period during which the APR will remain the same only if the rate is unchangeable for the life of the card. In explaining the regulation, the Federal Reserve Board of Governors has categorized the term "fixed" as misleading and states that it had found through consumer testing that consumers generally believe a fixed rate does not change. Although creditors often use the term fixed to describe an APR that is not tied to an index, consumers do not understand the term in this manner. Truth in Lending, *74 Fed. Reg. 5244, 5372-73* (Jan. 29, 2009). Go To Headnote

Barrer v. Chase Bank United States, N.A., 566 F.3d 883, 2009 U.S. App. LEXIS 10913 (9th Cir May 19, 2009).

Overview: *Under TILA, any disclosures in the credit card agreement had to reflect the terms of the legal obligation between the parties and the consumers sufficiently stated a claim because, as a matter of law, the company could not*

show that its agreement disclosed in a clear and conspicuous manner the annual percentage rates it was permitted to use.

- With regard to the Truth in Lending Act, *15 U.S.C.S. § 1601* et seq., just as 12 C.F.R. § 226.6 states what must be disclosed, so 12 C.F.R. § 226 describes how to disclose it. Among other things, creditors must make the required disclosures "clearly and conspicuously in writing." 12 C.F.R. § 226.5(a)(1).5 And, again, any disclosures must reflect the terms of the legal obligation between the parties. 12 C.F.R. § 226.5(c). Go To Headnote
- With regard to the Truth in Lending Act, *15 U.S.C.S. § 1601* et seq., regulation 12 C.F.R. § 226.5(a)(2) requires that the finance charge and annual percentage rate (APR), when required to be disclosed with a corresponding amount or percentage rate, shall be more conspicuous than any other required disclosure. Go To Headnote
- With regard to the Truth in Lending Act, *15 U.S.C.S. § 1601* et seq., creditors are not required to be clairvoyant, for if a disclosure becomes inaccurate because of an event that occurs after the creditor mails or delivers the disclosures, the resulting inaccuracy is not a violation of Regulation Z. 12 C.F.R. § 226.5(e). The Board of Governors of the Federal Reserve System has also recognized that creditors may reserve the general right to change the credit agreement. 12 C.F.R. pt. 226 supp. I, para. 6(a)(2), cmt. 2 recognizes the use of general reservation clause. Should the creditor make changes in these ways, it may have to disclose anew under 12 C.F.R. § 226.9(c). Go To Headnote
- Neither the Truth in Lending Act, *15 U.S.C.S. § 1601* et seq., nor Regulation Z demands clairvoyance from creditors. The comments specifically contemplate general reservation clauses, and Regulation Z recognizes that subsequent events, specific or not, can render inaccurate a creditor's initial disclosures and require new ones. 12 C.F.R. pt. 226 supp. I, para. 9(c), cmt. 1; 12 C.F.R. § 226.5(e). Go To Headnote
- With regard to the Truth in Lending Act, *15 U.S.C.S. § 1601* et seq., Regulation Z requires that creditors disclose any annual percentage rate (APR) that may be used to compute the finance charge and that they do so "clearly and conspicuously." 12 C.F.R. §§ 226.6(a)(2) and 226.5(a)(1) Go To Headnote
- With regard to the Truth in Lending Act, *15 U.S.C.S. § 1601* et seq., a creditor's undisclosed intent to act inconsistent with its disclosures is irrelevant in determining the sufficiency of those disclosures under 12 C.F.R. §§ 226.5, 226.6, and 226.9 of Regulation Z. Go To Headnote
- The United States Court of Appeals for the Ninth Circuit has focused on 12 C.F.R. § 226.5(c)'s requirement that disclosures reflect the terms of the legal obligation between the parties. The Ninth Circuit's interpretation of 12 C.F.R. § 226.6(a)(2) is consistent with full disclosure of contractual terms. Go To Headnote

Hauk v. Jp Morgan Chase Bank United States, 552 F.3d 1114, 2009 U.S. App. LEXIS 1285 (9th Cir Jan. 23, 2009).

Overview: *Creditor's undisclosed intent to act inconsistent with its disclosures was irrelevant in determining sufficiency of those disclosures under 12 C.F.R. §§ 226.5, 226.6, and 226.9 of Regulation Z. Because disclosures complied with TILA and Regulation Z, district court properly granted summary judgment against credit card account holder on TILA claim.*

- Regulation Z requires that disclosures reflect the terms of the legal obligation between the parties. 12 C.F.R. § 226.5(c). Pursuant to § 226.5(c), a disclosure violates the Truth in Lending Act (TILA), *15 U.S.C.S. § 1601* et seq., if it inaccurately described the creditor's or cardholder's rights or obligations as they existed at the time the disclosure was made. 12 C.F.R. § 226, Supp. I, § 226.5(c) cmt. 1 states that the disclosures should reflect the credit terms to which the parties are legally bound at the time of giving the disclosures. The legal obligation is determined by applicable state or other law and normally is presumed to be contained in the contract that evidences the agreement. Go To Headnote
- While a misleading statement may violate the Truth in Lending Act (TILA), *15 U.S.C.S. § 1601* et seq., the U.S. Court of Appeals for the Ninth Circuit has neither rejected nor adopted the blanket proposition

that a misleading statement violates TILA. Instead of determining whether a particular disclosure is misleading in the abstract, it has focused on 12 C.F.R. § 226.5(c)'s requirement that disclosures reflect the terms of the legal obligation between the parties and the requirements in other relevant subsections of Regulation Z or TILA. Go To Headnote

- A creditor's undisclosed intent to act inconsistent with its disclosures is irrelevant in determining the sufficiency of those disclosures under 12 C.F.R. §§ 226.5, 226.6, and 226.9 of Regulation Z. Go To Headnote
- If any information necessary for accurate disclosure is unknown to the creditor, it shall make the disclosure based on the best information reasonably available and shall state clearly that the disclosure is an estimate. 12 C.F.R. § 226.5(c). Go To Headnote

Aubin v. Residential Funding Co., Llc, 565 F. Supp. 2d 392, 2008 U.S. Dist. LEXIS 53242 (D Conn July 11, 2008).

Overview: *Rescission notice did not clearly and conspicuously disclose the date the rescission period expired, as required by the Truth in Lending Act, 15 U.S.C.S. § 1635(h), because it did not provide the correct date when the rescission period expired, and it did not define business days or explain when to begin counting business days or how to count them.*

- The Truth in Lending Act (TILA) and the regulations implemented by the Federal Reserve Board in Regulation Z, 12 C.F.R. pt. 226, provide consumers in credit transactions, where a security interest is given in their principal dwelling, the right to rescind within three business days following consummation, delivery of the notice of right to rescind disclosures, or delivery of all material disclosures, whichever occurs last. 12 C.F.R. § 226.23(a); *15 U.S.C.S. § 1635*(a). However, if the notice of right to rescind or other material disclosures are not made, then a consumer has three years from the consummation date to rescind the transaction, unless the property in question has been sold. 12 C.F.R. § 226.23(a)(3); *15 U.S.C.S. § 1635*(f). Among the required notice of right to rescind disclosures is the date the rescission period expires, 12 C.F.R. §§ 226.23(b)(1)(v), 226.15(b)(5), and such notice must be given "clearly and conspicuously" in writing, 12 C.F.R. §§ 226.5(a)(1), 226.17(a)(1), *15 U.S.C.S. § 1635*(a). Although there is some disagreement as to what constitutes "clear and conspicuous" notice, courts generally agree that it is measured by an objective, rather than a subjective test; courts ask whether the average consumer would find the notice clear or confusing. All courts are agreed that alleged violations of TILA are subject to an objective standard of review. Go To Headnote

Gray v. First Century Bank, 547 F. Supp. 2d 815, 2008 U.S. Dist. LEXIS 15796 (ED Tenn Feb. 29, 2008).

Overview: *Plaintiffs alleged a bank violated the Consumer Credit Protection Act, 15 U.S.C.S. § 1601 et seq., and TILA regulations. Two plaintiffs' claims failed in light of Anthony holding and parol evidence rule. Due to third plaintiff's lack of memory and evidence, he did not meet his summary judgment burden. A fourth plaintiff's claims were time barred.*

- 12 C.F.R. § 226.5 provides for general disclosures that must be clearly and conspicuously in writing. Go To Headnote

Muro v. Target Corp., 250 F.R.D. 350, 2007 U.S. Dist. LEXIS 81776 (ND Ill Nov. 2, 2007), affirmed by *580 F.3d 485, 2009 U.S. App. LEXIS 19486, 74 Fed. R. Serv. 3d (Callaghan) 502 (7th Cir. Ill. 2009).*

Overview: *Recipient of an unsolicited credit card could not assert individual or class claims under 15 U.S.C.S. § 1637(a) of TILA, as no account had been opened when she received required disclosures, or under § 1637(c), as the recipient did not use the card or pay any fees and therefore lacked standing under 15 U.S.C.S. § 1640.*

- Tabular format is required in Truth in Lending Act disclosures accompanying applications and

solicitations for credit card accounts, *15 U.S.C.S. § 1637*(c), 12 C.F.R. § 226.5(a)(3) (2007), but not for initial disclosures relating to the opening of a credit card account, *15 U.S.C.S. § 1637*(a), 12 C.F.R. § 226.6. Go To Headnote

Hess v. Citibank, (south Dakota), N.A., 459 F.3d 837, 2006 U.S. App. LEXIS 20720 (8th Cir Aug. 14, 2006).

Overview: *An issuer of a credit card to a decedent was not required to send an account statement to the decedent's estate since TILA only required that statements be sent to natural persons, and there was no overpayment on the account by the estate since the issuer properly claimed, and was entitled to, interest on the account balance.*

- The Board of Governors of the Federal Reserve System enacted Regulation Z, 12 C.F.R. § 226.1 et seq., to implement the Truth in Lending Act (TILA), *15 U.S.C.S. § 1601* et seq., (12 C.F.R. § 226.1(a)) and it is entitled to deference in applying ambiguous terms. 12 C.F.R. §§ 226.5-226.16 of Regulation Z include the regulatory provisions that govern open-end credit plans, and it is evident that the Board intended 12 C.F.R. § 226.7 to define the scope of a creditor's obligations to disclose periodic statements for open-end credit plans. Creditors need sure guidance through the highly technical TILA, and Congress, in delegating regulatory authority to the Board, chooses to resolve interpretive issues under the TILA by uniform administrative decision, rather than piecemeal through litigation. A court therefore looks to whether the pertinent regulation permissibly defines the disclosure obligations of creditors in this area, and the court refrains from substituting its own interstitial lawmaking for that of the Board, so long as the latter's lawmaking is not irrational. Go To Headnote

Murray v. Citibank, N.A., 2004 U.S. Dist. LEXIS 20941 (ND Ill Oct. 19, 2004).

Overview: *Credit card company's motion to dismiss was granted because it was not a third party debt collector under the FDCPA and it did not have an obligation to continue to send the consumer statements once debt was declared uncollectable.*

- The Fair Credit and Charge Card Disclosure Act (FCCDA), *15 U.S.C.S. § 1601*, states in relevant part that, it is the purpose of the subchapter to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit, and to protect the consumer against inaccurate and unfair credit billing and credit car practices. *15 U.S.C.S. § 1601*(a). While the FCCCDA requires a creditor to mail or deliver periodic statements for each billing cycle, the creditor's obligation in this regard ceases for an account if the creditor deems it uncollectible, or if delinquency collection proceedings have been instituted, or if furnishing the statement would violate federal law. 12 C.F.R. § 226.5(b)(2). Go To Headnote

In re Watson, 286 B.R. 594, 2002 Bankr. LEXIS 1419 (Bankr D NJ Oct. 30, 2002).

Overview: *Car loan by a credit union to debtor, which contained language that car secured the loan, and any other loans by union to debtor, was enforceable. Union's loan application, addendum, and vouchers satisfied disclosure requirements under federal law.*

- Regulation Z requires a creditor to make certain disclosures clearly and conspicuously in writing in a form that the consumer may keep. 12 C.F.R. § 226.5(a). *15 U.S.C. § 1632.* These disclosures must include: the finance charge, when charges accrue, the annual percentage rate, how finance charges are determined, and whether or not a security interest is involved. 12 C.F.R. § 226.6. *15 U.S.C.S. § 1637.* The disclosures are required before the first loan transaction is made. 12 C.F.R. § 226.5(b)(1). Go To Headnote

Rossman v. Fleet Bank Nat'l Ass'n, 280 F.3d 384, 2002 U.S. App. LEXIS 2020 (3rd Cir Feb. 8, 2002).

Overview: *Dismissal of credit card holder's Truth In Lending Act suit was reversed where a the bank's statement that the card had "no annual fee" was intentionally misleading if it intended to impose such a fee shortly thereafter.*

- The Truth in Lending Act (TILA), *15 U.S.C.S. § 1601* et seq., as amended by the Fair Credit and Charge Card Disclosure Act of 1988, as interpreted and implemented by the Federal Reserve Board, permits subsequent changes to any term required to be disclosed under 12 C.F.R. § 226.6, that do not affect the accuracy of a previous disclosure. 12 C.F.R. § 226.9(c). Whenever any term required to be disclosed under § 226.6 is changed or the required minimum periodic payment is increased, the creditor shall mail or deliver written notice of the change to each consumer who may be affected. 12 C.F.R. § 226.5(e). If a disclosure becomes inaccurate because of an event that occurs after the creditor mails or delivers the disclosures, the resulting inaccuracy is not a violation of this regulation, although new disclosures may be required under 12 C.F.R. § 226.9(c). Go To Headnote

London v. Chase Manhattan Bank United States, N.A., 150 F. Supp. 2d 1314, 2001 U.S. Dist. LEXIS 6888 (SD Fla Mar. 30, 2001).

Overview: *In a Truth in Lending Act case, lenders' disclosure about "optional" credit insurance was ambiguous and, thus, did not clearly convey to the credit applicant that choosing to decline the insurance would not affect the lender's credit decision.*

- The Truth in Lending Act (TILA), *15 U.S.C.S. § 1601* et seq., Federal Reserve Board Regulation Z, 12 C.F.R. § 226, and Model Form H-1 do not require that a lender disclose the voluntary nature of credit life insurance in any particular manner so long as the disclosure is clear and conspicuous. 12 C.F.R. 226.5(a)(1). TILA does not require perfect notice, rather clear and conspicuous notice. Go To Headnote

Demando v. Morris, 206 F.3d 1300, 2000 U.S. App. LEXIS 4302 (9th Cir Mar. 21, 2000).

Overview: *Plaintiff had stated a claim against defendant bank under the Truth in Lending Act, for issuing a disclosure that failed to reflect the terms of the underlying credit agreement, so dismissal was reversed.*

- Regulation Z, promulgated by the Federal Reserve, gives teeth to the Truth in Lending Act by prescribing specific disclosure requirements with which lenders must comply. 12 C.F.R. § 226. Subsection (c) of Regulation Z provides that all disclosures issued in conjunction with open-ended credit arrangements, which include credit cards, shall reflect the terms of the legal obligation of the parties. 12 C.F.R. § 226.5(c). Go To Headnote

Cunningham v. H.A.S., Inc., 74 F. Supp. 2d 1157, 1999 U.S. Dist. LEXIS 18753 (MD Ala Oct. 13, 1999).

Overview: *Plaintiff avoided summary judgment on her state law fraud claims because defendants' representations were false and material, and she justifiably relied upon them, and defendants had a duty to disclose the amount financed.*

- The Truth in Lending Act, *15 U.S.C.S. § 1601* et seq., requires that disclosures be made clearly and conspicuously, and in writing, in a form that the consumer may keep. 12 C.F.R. § 226.5(a). Go To Headnote

Sagal v. First Usa Bank, N.A., 69 F. Supp. 2d 627, 1999 U.S. Dist. LEXIS 15682 (D Del Aug. 30, 1999).

Overview: *A federally chartered banking association's use of a mandatory arbitration provision in a cardholder agreement was binding in a credit card holder's class action suit where the Truth in Lending Act did not override the Federal Arbitration Act.*

- Section 1637(c)(1)(B) of the Truth in Lending Act (TILA), *15 U.S.C.S. § 1637*(c)(1)(B) (1994), requires that lenders shall disclose clearly and conspicuously any fee imposed for an extension of credit in the form of cash. *15 U.S.C.S. § 1637*(c)(1)(B) (1994). Regulation Z, which implements the TILA, similarly provides that disclosures of finance charges and annual percentage rates must be clear and conspicuous. 12 C.F.R. § 226.5(a) (1999). Go To Headnote

Greisz v. Household Bank (ill.), 8 F. Supp. 2d 1031, 1998 U.S. Dist. LEXIS 3787 (ND Ill Mar. 25, 1998).

Overview: *A credit card customer was not entitled to relief under the Illinois Deceptive Trade Practices Act because money damages were not available under the statute, and she did not show any likelihood of future harm to invoke injunctive relief.*

- Regulation Z requires that the words "finance charge" must be more conspicuous than any other required disclosure only when those words accompany an amount or percentage rate. 12 C.F.R. § 226.5(a)(2). Moreover, where the words "finance charge" accompany an amount in the Schumer Box, the "more conspicuous" standard does not apply. Finally, Regulation Z states that neither finance charge nor annual percentage rate need be emphasized when used as part of general informational material or in textual descriptions of other terms. 12 C.F.R. § 226, Supp. I, com. 5(a)(2)-1. Go To Headnote

Benion v. Bank One, N.A., 967 F. Supp. 1031, 1997 U.S. Dist. LEXIS 8992 (ND Ill June 12, 1997).

Overview: *Bank and finance company's motion for summary judgment granted because repeat credit sales were sufficiently likely to classify the revolving charge plan as an open-end plan.*

- The Truth In Lending Act (TILA) sets out two different types of credit that may be extended to consumers: open-end credit (the prototypical example is a credit card account), and closed-end credit, such as a car loan or other retail installment contract. Those who extend credit to consumers are responsible under TILA for knowing the difference between the two and making the appropriate mandatory disclosures to consumers. The regulation applicable to TILA requires that closed-end disclosures be made unless the credit at issue qualifies as an open-end plan. 12 C.F.R. § 226.5-17. Closed-end disclosures must include the total amount financed, including both the sale price and the total amount of interest that will be paid, the length of time over which payments may be made, the amount of each installment payment and the intervals between payments, and the amount of any finance charges. These disclosures must be made at the point of sale. Go To Headnote

Miller v. European Am. Bank, 921 F. Supp. 1162, 921 F. Supp. 1162, 1996 U.S. Dist. LEXIS 4885 (SD NY Apr. 16, 1996).

Overview: *The disclosure of terms and conditions on the use of a bank's companion certificate, designed specifically to induce the customer to enroll for its bank credit card, did not fall under the mandatory disclosure requirements covered by TILA.*

- The general disclosure requirements under Regulation Z are governed by 12 C.F.R. §§ 226.5 and 226.6. The items subject to disclosure are essentially the same as those found under *15 U.S.C.S. §§ 1637*(a) and 1637(c), and deal specifically with finance charges, interest rates, consumer rights and creditor responsibilities regarding billing matters, grace periods, cash advance fees, late fees and over-credit-limit fees. Go To Headnote

Patzka v. Viterbo College, 917 F. Supp. 654, 1996 U.S. Dist. LEXIS 2439 (WD Wis Feb. 27, 1996).

Overview: *A debt collector could not collect any amount in excess of principal amount of a loan, including*

collection charges, where the collection charges were not authorized expressly by agreement's terms or authorized explicitly by applicable State law.

- Interest charges are permissible "finance charges" under Wisconsin law. Wis. Stat. § 421.301(20)(a). However, disclosures must be made to the customer of the annual financial rate, whether the finance rate will vary, how increases in the interest rate will be determined and their effects, the date on which the finance charge begins to accrue, whether an annual fee is charged and the amount and purpose of any "other" charges. Wis. Stat. § 422.308(1), (2). In addition, the Wisconsin Consumer Protection Act incorporates by reference all disclosures required by the Federal Consumer Credit Protection Act. 12 C.F.R. §§ 226.5 -- 226.16. The information that must be disclosed by a creditor to a customer shall be made clearly and conspicuously and shall be in writing. Wis. Stat. § 422.302(1)(a), (b). Go To Headnote

Weigel v. Nationsbank of Virginia, 1994 U.S. Dist. LEXIS 14122 (D Md May 13, 1994).

Overview: *The borrowers had no claim against the bank under the Trust in Lending Act, because the bank was not required to disclose the cost of property insurance on a car given that the insurance was not required to be purchased form the bank.*

- The Federal Reserve System's compliance handbook specifically excludes property insurance transaction from the Truth-in-Lending Act's, *15 U.S.C.S. § 1601* et seq., disclosure requirements. The compliance examination procedures state the following: all disclosures required under Regulation Z must be made on the assumption that the terms and conditions of the legal contract will be carried out as agreed as outlined in 12 C.F.R. §§ 226.5(e) and 226.17(e). In some instances, especially when the consumer defaults on some terms of the contract or pays the loan early, the original disclosures can become inaccurate. An example of a subsequent event would be when the consumer fails to insure the property securing the loan against physical damage and the financial institution purchases the insurance and adds the premium to the balance of the obligations. Inaccuracies in original disclosures are not violations if they are attributable to such subsequent occurrences. Additional disclosures are not required as a result of subsequent events, unless certain annual percentage rate inaccuracies, refinancings, or residential mortgage transaction assumptions are involved. Go To Headnote

Ector v. Southern Discount Co., 499 F. Supp. 284, 1980 U.S. Dist. LEXIS 13834 (ND Ga Sept. 15, 1980).

Overview: *A creditor did not violate the Truth in Lending Act (Act) where its state-law-required loan "fees" disclosure was not inconsistent with the Act and would not confuse or mislead a customer or detract from the prepaid finance charge disclosure.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- The inclusion of the term "loan fee" in the federal disclosure format is in violation of 12 C.F.R. § 226.6(c)(2)(i), (ii). Go To Headnote
- 12 C.F.R. § 226.6(a) mandates that the disclosures required to be given by this part shall be made in the terminology prescribed in the applicable sections. The regulations permit the creditor at his option to add additional information or explain, but none shall be stated, utilized or placed so as to mislead or confuse the customer or contradict, obscure or detract attention from the information required. 12 C.F.R. § 226.6(c). Go To Headnote
- Gaining an advantage on one's competitors is not against the law, but doing so by confusing them is. The addition of the term "Loan Fees" in the disclosures is in no wise synonymous with the term "Prepaid Finance Charge" to any but those most familiar with this arcane area of the law. The term in general application could be thought to include finder's fees, closing costs, official fees, notary fees, maintenance charges, recording charges, and even certain types of insurance. These are to be itemized separately, and

any indication that any of these might be included at the point where the prepaid finance charge is disclosed is to contradict, obscure and detract attention from the required information in violation of 12 C.F.R. § 226.6(c). Go To Headnote

- The terms "four percent fee(A)" and "eight percent fee(B)" are not so different from the terminology "prepaid finance charge" to prevent a meaningful disclosure of credit terms or to contribute to the uninformed use of credit. Instead the terms are found to be explanations of the state law charges that comprise the prepaid finance charge. The manner in which such explanations must be disclosed is set forth at 12 C.F.R. § 226.6(c). The explanations must not be stated, utilized or placed so as to mislead or confuse the customer or to contradict, obscure or detract attention from the information required by truth in lending law. Go To Headnote

Alvarez v. Galassi Amc-Jeep, Inc., 1979 U.S. Dist. LEXIS 11166 (ND Ill July 9, 1979).

Overview: *Automobile consumers were not bound by contract to any financing arrangement. Thus, the dealer was not bound to disclose credit information required under the Truth in Lending Act unless its financing agreement was also executed.*

Former 12 CFR 226.8 was redesignated. See now 12 CFR 226.5.

- The Federal Reserve Board is authorized to prescribe regulations to carry out the purposes of the Truth in Lending Act (the Act), *15 U.S.C.S. § 1604,* and pursuant thereto, it has promulgated Regulation Z, 12 C.F.R. § 226.1 et seq. The regulations are entitled to great weight and deference in construing the requirements of the Act, but are not binding on the federal court. The regulations require that: Any creditor when extending credit other than open end credit shall make the disclosures required with respect to any transaction. Such disclosures shall be made before the transaction is consummated. 12 C.F.R. § 226.8(a). Go To Headnote
- A transaction is deemed consummated at the time a contractual relationship is created between a creditor and a customer irrespective of the time of performance of either party. 12 C.F.R. § 226.2(kk).Where a first note is contingent upon approval of financing for the purchase, it is not a contract binding on the parties and disclosure need not precede its signing. The Truth in Lending Act (the Act), *15 U.S.C.S. § 1638*(b) merely requires disclosure before the credit is extended. While 12 C.F.R. §§ 226.8(a), 226.2(kk) require disclosure prior to the time a contractual relationship is created between a creditor and a customer, those sections cannot be construed without reference to the Act to which they relate. Go To Headnote
- 12 C.F.R. § 226 et seq. creates an ambiguity. It does not distinguish a purchase transaction from a credit transaction or a seller acting as seller from a seller acting as arranger of credit. Nor does it make clear whether such distinctions are precluded. The Truth in Lending Act (the Act), *15 U.S.C.S. § 1601* et seq. requires that in closed-ended credit plans disclosure shall be made before the credit is extended. 12 C.F.R. § 226.8(b)(3) requires disclosure of: the number, amounts, and due dates or periods of payments scheduled to repay the indebtedness. The words are identical to those of the Act, *15 U.S.C.S. § 1638*(a)(8). The proper starting point in any case involving statutory construction is, of course, the language of the statute itself. The Act, *15 U.S.C.S. § 1601* et seq., by its terms does not require that the creditor disclose both the due dates of repayment and the periods of repayment. Congress deemed it sufficient to require one or the other, but not both. A disclosure that repayment is by consecutive monthly installments conforms adequately to the *15 U.S.C.S. § 1639*(a)(6) requirements that are identical to *15 U.S.C.S. § 1638*(a)(8). Go To Headnote

Jacklitch v. Redstone Federal Credit Union, 463 F. Supp. 1134, 1979 U.S. Dist. LEXIS 15078 (ND Ala Jan. 15, 1979).

Overview: *A credit union violated the TILA by failing to disclose that an after-acquired property clause contained*

in the security agreement used in its consumer credit transactions was limited to consumer goods purchased within 10 days of the transaction.

Former 12 CFR 226.8 was redesignated. See now 12 CFR 226.5.

- Disclosures under Federal Reserve Regulation Z, 12 C.F.R. § 226, must be sufficient in and of themselves. Disclosures can be made but on one side of a piece of paper. § 226.8(a). Go To Headnote

Rogers v. Frank Jackson Lincoln-Mercury, 458 F. Supp. 1387, 1978 U.S. Dist. LEXIS 15277 (ND Ga Sept. 27, 1978).

Overview: *Car dealer was a "conduit" for credit company and thus company was a creditor under the Consumers Protection Act and dealer and company were liable under Regulation Z for not clearly disclosing the company as a creditor on consumers' sales contract.*

- Regulation Z requires that all disclosures be made together on either: (1) the note or other instrument evidencing the obligation on the same side of the page and above the place for the customer's signature; or (2) One side of a separate statement which identifies the transaction. 12 C.F.R. § 226.8(a). Furthermore, a "creditor's" address is a necessary disclosure for compliance with Regulation Z, 12 C.F.R. § 226.8(a). Go To Headnote

Whitlock v. Midwest Acceptance Corp., 575 F.2d 652, 1978 U.S. App. LEXIS 11405 (8th Cir May 2, 1978).

Overview: *When the automobile dealer was identified on a disclosure statement as a recipient of funds, the dealer was not clearly identified as a creditor and his role was minimized in violation of the Truth in Lending Act and Federal Reserve Regulation Z.*

12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.6(d) provides that if there is more than one creditor in a transaction, each creditor shall be clearly identified. The identification must be made on the disclosure statement even if the creditor has actual knowledge of the seller's precise role in the financing transaction. The disclosure statement must clearly convey that the seller played an integral part in the financing transaction. By merely identifying the seller as a recipient of funds, the disclosure statement fails to do this. As a result, the purchaser must make a further investigation in order to determine whether the seller is liable as a "creditor" for failure to make the required disclosures under the Truth in Lending Act, *15 U.S.C.S. § 1601* et seq. Go To Headnote

McGowan v. King, Inc., 569 F.2d 845, 1978 U.S. App. LEXIS 12156 (5th Cir Mar. 15, 1978).

Overview: *Debtor prevailed in its action alleging violations by creditor of Truth in Lending Act and Federal Reserve Board Regulation Z; the statutory good faith defense was only available for clerical errors which occur despite a system for correcting them.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.6(a) mandates that the disclosures required to be given by this part shall be made in the terminology prescribed in applicable sections. Go To Headnote
- Disclosures complying with Regulation Z cannot be made piecemeal throughout the document. In Regulation Z the Federal Reserve Board has required that they must be made clearly, conspicuously, and in meaningful sequence, 12 C.F.R. § 226.6(a), and that all the disclosures must be made together. 12 C.F.R. § 226.8(a). Under 12 C.F.R. § 226.8(c)(8)(ii) the entire cash price rather than the cash price minus

the down payment is to be included in the computation. Go To Headnote

Gennuso v. Commercial Bank & Trust Co., 566 F.2d 437, 1977 U.S. App. LEXIS 11170 (3rd Cir Oct. 14, 1977).

Overview: *Granting summary judgment for a bank in a customer's action seeking damages for the bank's failure to disclose the terms of a consumer loan was improper when security interests could have been identified.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- Federal Reserve Board Regulation Z, 12 C.F.R. § 226.6(c), says that disclosures shall not be stated, utilized, or placed so as to mislead or confuse the consumer. Go To Headnote

Grey v. European Health Spas, Inc., 428 F. Supp. 841, 1977 U.S. Dist. LEXIS 17442 (D Conn Feb. 9, 1977).

Overview: *A health club violated the truth-in-lending regulations by failing to include the term "unpaid balance" on their consumer credit contract for health spa membership because this term was applicable and allowed consumers to compare competitor's offers.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.6(a), and Conn. Bank. Reg. § 36-395-5(a) provide that where the terms "finance charge" and "annual percentage rate" are required, they shall be printed more conspicuously than other terminology required by this part. Go To Headnote

Vines v. Hodges, 422 F. Supp. 1292, 1976 U.S. Dist. LEXIS 12780 (DDC Oct. 13, 1976).

Overview: *Consumers awarded damages for automobile repossession, where creditors did not comply with TILA disclosure provisions, and contract void under D.C. Regulations gave creditors no right to repossess under Consumer Protection Act.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- Regulation Z, 12 C.F.R. § 226.6(a), requires disclosures shall be made clearly. Go To Headnote

Mason v. General Fin. Corp., 542 F.2d 1226, 1976 U.S. App. LEXIS 6695 (4th Cir Oct. 13, 1976).

Overview: *Where a transaction provided no right of rescission, a lender was required only one disclosure statement under the federal Truth in Lending Act, and the obligors, as joint obligors, could recover only one civil penalty for each transaction involved.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.6(c)(2) allows the lender to make inconsistent state disclosures providing that all federal disclosures are clearly labeled as being made in compliance with federal law and appear separately and above any other disclosures. Also, the inconsistent state disclosures must appear separately and below a conspicuous demarcation line and bear the identification by a clear and conspicuous heading indicating that the statements made thereafter are inconsistent with the disclosure requirements of the Federal Truth in Lending Act, *15 U.S.C.S. § 1640.* Go To Headnote

Rothenberg v. Chemical Bank New York Trust Co., 400 F. Supp. 1299, 400 F. Supp. 1299, 1975 U.S. Dist. LEXIS 11335 (SD NY July 23, 1975).

Overview: *A bank was granted summary judgment in a consumer's action because the initial disclosure statement and periodic statements issued by the bank to the consumer were sufficient to meet the disclosure requirements of the Truth in Lending Act.*

Former 12 CFR 226.7 was revised. See now 12 CFR 226.5.

- The Truth in Lending Act, *15 U.S.C.S. § 1601* et seq., and Regulation Z, 12 C.F.R. § 226.7, require two types of disclosure by a creditor in an open end consumer credit plan such as a "privilege checking" plan. First, the creditor must furnish the consumer with a disclosure statement prior to opening the account setting out, among other things, the method of determining the balance upon which a finance charge will be imposed and the method of determining the amount of the finance charge. *15 U.S.C.S. § 1637*(a), 12 C.F.R. § 226.7(a). Second, a creditor must transmit a statement to the consumer at the end of each billing cycle containing similar information specifically applied to that cycle. *15 U.S.C.S. § 1637*(b), 12 C.F.R. § 226.7(b). Go To Headnote
- *15 U.S.C.S. § 1637*(a)(3) and 12 C.F.R. § 226.7(a)(3) require disclosure of the creditor's method of determining the amount of the finance charge, including any minimum or fixed charge. Go To Headnote
- The Truth in Lending Act, *15 U.S.C.S. § 1601* et seq., and Regulation Z, 12 C.F.R. § 226.7, require the periodic disclosure of the balance on which the finance charge was computed, and a statement of how the balance was determined. If the balance is determined without first deducting all credits during the period, that fact and the amount of such credits shall also be disclosed. *15 U.S.C.S. § 1637*(b)(8), 12 C.F.R. § 226.7(b)(8). Go To Headnote

Philbeck v. Timmers Chevrolet, Inc., 499 F.2d 971, 1974 U.S. App. LEXIS 7203 (5th Cir Aug. 15, 1974).

Overview: *Disclosure of term of optional credit life insurance sold in connection with closed-end consumer credit transaction, was not required on front of contract, when the term of the insurance was the same as the term of the credit obligation.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.6 states in part: (a) Disclosures; general rule. The disclosures required to be given by this part shall be made clearly, conspicuously, in meaningful sequence, in accordance with the further requirements of this section, and at the time and in the terminology prescribed in applicable sections. Go To Headnote
- 12 C.F.R. § 226.8(a) reads: Credit other than open end -- specific disclosures. (a) General rule. Any creditor when extending credit other than open end credit shall, in accordance with § 226.6 and to the extent applicable, make the disclosures required by this section with respect to any transaction consummated on or after July 1, 1969. Except as provided in paragraphs (g) and (h) of this section, such disclosures shall be made before the transaction is consummated. At the time disclosures are made, the creditor shall furnish the customer with a duplicate of the instrument or a statement by which the required disclosures are made and on which the creditor is identified. All of the disclosures shall be made together on either (1) The note or other instrument evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature; or (2) One side of a separate statement which identifies the transaction. Go To Headnote

Thomas v. Myers-Dickson Furniture Co., 479 F.2d 740, 1973 U.S. App. LEXIS 9546 (5th Cir June 7, 1973).

Overview: *The court affirmed a judgment for plaintiff under Truth in Lending Act since defendant's failure to include insurance charges in the finance charge was unlawful even as to pre-existing accounts.*

Former 12 CFR 226.7 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.7 sets out the specific disclosures required for all "open end credit accounts." Go To Headnote

Kroll v. Cities Service Oil Co., 352 F. Supp. 357, 1972 U.S. Dist. LEXIS 10721 (ND Ill Dec. 13, 1972).

Overview: *A company was a creditor subject to truth in lending disclosure requirements because its monthly charge on late payments was a finance charge. The company could be subject to liability for failing to timely obtain the requisite disclosure forms.*

Former 12 CFR 226.7 was redesignated. See now 12 CFR 226.5.

- When in the ordinary course of business a vendor's billings are not paid in full within that stipulated period of time, and under such circumstances the vendor does not, in fact, regard such accounts in default, but continues or will continue to extend credit and imposes charges periodically for delaying payment of such accounts from time to time until paid, the charge so imposed comes within the definitions of a "finance charge," 12 C.F.R. § 226.2(q), applicable in each case to the amount of the unpaid balance of the account. Under such circumstances the credit so extended comes within the definition of "open end credit" in 12 C.F.R. § 226.2(r), the vendor is a creditor as defined in 12 C.F.R. § 226.2(m), and the disclosures required for open end credit accounts under 12 C.F.R. § 226.7 shall be made. Go To Headnote

Whitlock v. Midwest Acceptance Corp., 575 F.2d 652, 1978 U.S. App. LEXIS 11405 (8th Cir May 2, 1978).

Overview: *When the automobile dealer was identified on a disclosure statement as a recipient of funds, the dealer was not clearly identified as a creditor and his role was minimized in violation of the Truth in Lending Act and Federal Reserve Regulation Z.*

12 CFR 226.5 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.6(d) provides that if there is more than one creditor in a transaction, each creditor shall be clearly identified. The identification must be made on the disclosure statement even if the creditor has actual knowledge of the seller's precise role in the financing transaction. The disclosure statement must clearly convey that the seller played an integral part in the financing transaction. By merely identifying the seller as a recipient of funds, the disclosure statement fails to do this. As a result, the purchaser must make a further investigation in order to determine whether the seller is liable as a "creditor" for failure to make the required disclosures under the Truth in Lending Act, *15 U.S.C.S. § 1601* et seq. Go To Headnote

Mason v. General Fin. Corp., 542 F.2d 1226, 1976 U.S. App. LEXIS 6695 (4th Cir Oct. 13, 1976).

Overview: *Where a transaction provided no right of rescission, a lender was required only one disclosure statement under the federal Truth in Lending Act, and the obligors, as joint obligors, could recover only one civil penalty for each transaction involved.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.6(c)(2) allows the lender to make inconsistent state disclosures providing that all federal disclosures are clearly labeled as being made in compliance with federal law and appear separately and above any other disclosures. Also, the inconsistent state disclosures must appear separately and below a conspicuous demarcation line and bear the identification by a clear and conspicuous heading indicating

that the statements made thereafter are inconsistent with the disclosure requirements of the Federal Truth in Lending Act, *15 U.S.C.S. § 1640.* Go To Headnote

Patzka v. Viterbo College, 917 F. Supp. 654, 1996 U.S. Dist. LEXIS 2439 (WD Wis Feb. 27, 1996).

Overview: *A debt collector could not collect any amount in excess of principal amount of a loan, including collection charges, where the collection charges were not authorized expressly by agreement's terms or authorized explicitly by applicable State law.*

- Interest charges are permissible "finance charges" under Wisconsin law. Wis. Stat. § 421.301(20)(a). However, disclosures must be made to the customer of the annual financial rate, whether the finance rate will vary, how increases in the interest rate will be determined and their effects, the date on which the finance charge begins to accrue, whether an annual fee is charged and the amount and purpose of any "other" charges. Wis. Stat. § 422.308(1), (2). In addition, the Wisconsin Consumer Protection Act incorporates by reference all disclosures required by the Federal Consumer Credit Protection Act. 12 C.F.R. §§ 226.5 -- 226.16. The information that must be disclosed by a creditor to a customer shall be made clearly and conspicuously and shall be in writing. Wis. Stat. § 422.302(1)(a), (b). Go To Headnote

Weigel v. Nationsbank of Virginia, 1994 U.S. Dist. LEXIS 14122 (D Md May 13, 1994).

Overview: *The borrowers had no claim against the bank under the Trust in Lending Act, because the bank was not required to disclose the cost of property insurance on a car given that the insurance was not required to be purchased form the bank.*

- The Federal Reserve System's compliance handbook specifically excludes property insurance transaction from the Truth-in-Lending Act's, *15 U.S.C.S. § 1601* et seq., disclosure requirements. The compliance examination procedures state the following: all disclosures required under Regulation Z must be made on the assumption that the terms and conditions of the legal contract will be carried out as agreed as outlined in 12 C.F.R. §§ 226.5(e) and 226.17(e). In some instances, especially when the consumer defaults on some terms of the contract or pays the loan early, the original disclosures can become inaccurate. An example of a subsequent event would be when the consumer fails to insure the property securing the loan against physical damage and the financial institution purchases the insurance and adds the premium to the balance of the obligations. Inaccuracies in original disclosures are not violations if they are attributable to such subsequent occurrences. Additional disclosures are not required as a result of subsequent events, unless certain annual percentage rate inaccuracies, refinancings, or residential mortgage transaction assumptions are involved. Go To Headnote

Hauk v. Jp Morgan Chase Bank United States, 552 F.3d 1114, 2009 U.S. App. LEXIS 1285 (9th Cir Jan. 23, 2009).

Overview: *Creditor's undisclosed intent to act inconsistent with its disclosures was irrelevant in determining sufficiency of those disclosures under 12 C.F.R. §§ 226.5, 226.6, and 226.9 of Regulation Z. Because disclosures complied with TILA and Regulation Z, district court properly granted summary judgment against credit card account holder on TILA claim.*

- Regulation Z requires that disclosures reflect the terms of the legal obligation between the parties. 12 C.F.R. § 226.5(c). Pursuant to § 226.5(c), a disclosure violates the Truth in Lending Act (TILA), *15 U.S.C.S. § 1601* et seq., if it inaccurately described the creditor's or cardholder's rights or obligations as they existed at the time the disclosure was made. 12 C.F.R. § 226, Supp. I, § 226.5(c) cmt. 1 states that the disclosures should reflect the credit terms to which the parties are legally bound at the time of giving

the disclosures. The legal obligation is determined by applicable state or other law and normally is presumed to be contained in the contract that evidences the agreement. Go To Headnote

Pedro v. Pacific Plan, 393 F. Supp. 315, 1975 U.S. Dist. LEXIS 13396 (ND Cal Mar. 12, 1975).

Overview: *A borrowing customer who was not furnished with identities of her lenders when she signed the relevant papers was entitled to cancel the transactions and recover damages.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.6(d) provides that in a transaction in which there is more than one creditor, each creditor shall be clearly identified and shall be responsible for making only those disclosures required by this part which are within his knowledge and the purview of his relationship with the customer. If two or more creditors make a joint disclosure, each creditor shall be clearly identified. Go To Headnote

Philbeck v. Timmers Chevrolet, Inc., 499 F.2d 971, 1974 U.S. App. LEXIS 7203 (5th Cir Aug. 15, 1974).

Overview: *Disclosure of term of optional credit life insurance sold in connection with closed-end consumer credit transaction, was not required on front of contract, when the term of the insurance was the same as the term of the credit obligation.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- 12 C.F.R. § 226.8(a) reads: Credit other than open end -- specific disclosures. (a) General rule. Any creditor when extending credit other than open end credit shall, in accordance with § 226.6 and to the extent applicable, make the disclosures required by this section with respect to any transaction consummated on or after July 1, 1969. Except as provided in paragraphs (g) and (h) of this section, such disclosures shall be made before the transaction is consummated. At the time disclosures are made, the creditor shall furnish the customer with a duplicate of the instrument or a statement by which the required disclosures are made and on which the creditor is identified. All of the disclosures shall be made together on either (1) The note or other instrument evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature; or (2) One side of a separate statement which identifies the transaction. Go To Headnote

In re Rineer, 25 B.R. 264, 1982 Bankr. LEXIS 5293 (Bankr ND Ill Dec. 14, 1982).

Overview: *Debtors had no right to rescind a security interest in their residence for bank's violation of Regulation Z after they had transferred all their interest in the property subject to the transaction by voluntary return of a motor home.*

- Under section 1631 of the Truth in Lending Act, *15 U.S.C.S. § 1631,* and sections 226.5 and 226.17 of Regulation Z, 12 C.F.R. §§ 226.5, 226.17 (1982) (revised April 1, 1981), a creditor is obligated to disclose certain information regarding consumer credit transactions. Moreover, both the Act and the Regulation provide that the consumer has the right to rescind the transaction in certain instances. *15 U.S.C.S. § 1635;* 12 C.F.R. §§ 226.15, 226.23 (1982). Specifically, § 226.23(a)(1) of Regulation Z states that in a credit transaction in which a security interest is or will be retained or acquired in a consumer's principal dwelling, each consumer whose ownership interest is or will be subject to the security interest shall have the right to rescind the transaction, except for transactions described in paragraph (f) of this section. Go To Headnote

Lamar v. American Finance System, Inc., 577 F.2d 953, 1978 U.S. App. LEXIS 9767 (5th Cir Aug. 4, 1978).

Overview: *Debtor could not, after submitting the case on one set of hypotheses and learning that this was not enough, to attempt to inject new issues in the hope of achieving a different result; order denying the right to assert new grounds was proper.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- The Truth-in-Lending Act requires only that disclosure be made clearly and conspicuously, in accordance with the regulations of the Board. *15 U.S.C.S. § 1631*(a). The regulations amplify this to require that disclosure also be made in meaningful sequence. 12 C.F.R. § 226.6(a). Go To Headnote

Benion v. Bank One, N.A., 967 F. Supp. 1031, 1997 U.S. Dist. LEXIS 8992 (ND Ill June 12, 1997).

Overview: *Bank and finance company's motion for summary judgment granted because repeat credit sales were sufficiently likely to classify the revolving charge plan as an open-end plan.*

- The Truth In Lending Act (TILA) sets out two different types of credit that may be extended to consumers: open-end credit (the prototypical example is a credit card account), and closed-end credit, such as a car loan or other retail installment contract. Those who extend credit to consumers are responsible under TILA for knowing the difference between the two and making the appropriate mandatory disclosures to consumers. The regulation applicable to TILA requires that closed-end disclosures be made unless the credit at issue qualifies as an open-end plan. 12 C.F.R. § 226.5-17. Closed-end disclosures must include the total amount financed, including both the sale price and the total amount of interest that will be paid, the length of time over which payments may be made, the amount of each installment payment and the intervals between payments, and the amount of any finance charges. These disclosures must be made at the point of sale. Go To Headnote

McGowan v. King, Inc., 569 F.2d 845, 1978 U.S. App. LEXIS 12156 (5th Cir Mar. 15, 1978).

Overview: *Debtor prevailed in its action alleging violations by creditor of Truth in Lending Act and Federal Reserve Board Regulation Z; the statutory good faith defense was only available for clerical errors which occur despite a system for correcting them.*

Former 12 CFR 226.6 was redesignated. See now 12 CFR 226.5.

- Disclosures complying with Regulation Z cannot be made piecemeal throughout the document. In Regulation Z the Federal Reserve Board has required that they must be made clearly, conspicuously, and in meaningful sequence, 12 C.F.R. § 226.6(a), and that all the disclosures must be made together. 12 C.F.R. § 226.8(a). Under 12 C.F.R. § 226.8(c)(8)(ii) the entire cash price rather than the cash price minus the down payment is to be included in the computation. Go To Headnote

London v. Chase Manhattan Bank United States, N.A., 150 F. Supp. 2d 1314, 2001 U.S. Dist. LEXIS 6888 (SD Fla Mar. 30, 2001).

Overview: *In a Truth in Lending Act case, lenders' disclosure about "optional" credit insurance was ambiguous and, thus, did not clearly convey to the credit applicant that choosing to decline the insurance would not affect the lender's credit decision.*

- The Truth in Lending Act (TILA), *15 U.S.C.S. § 1601* et seq., Federal Reserve Board Regulation Z, 12 C.F.R. § 226, and Model Form H-1 do not require that a lender disclose the voluntary nature of credit life insurance in any particular manner so long as the disclosure is clear and conspicuous. 12 C.F.R. 226.5(a)(1). TILA does not require perfect notice, rather clear and conspicuous notice. Go To Headnote

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Weigel v. Nationsbank of Virginia, 1994 U.S. Dist. LEXIS 14122 (D Md May 13, 1994).

Overview: *The borrowers had no claim against the bank under the Trust in Lending Act, because the bank was not required to disclose the cost of property insurance on a car given that the insurance was not required to be purchased form the bank.*

- The Federal Reserve System's compliance handbook specifically excludes property insurance transaction from the Truth-in-Lending Act's, *15 U.S.C.S. § 1601* et seq., disclosure requirements. The compliance examination procedures state the following: all disclosures required under Regulation Z must be made on the assumption that the terms and conditions of the legal contract will be carried out as agreed as outlined in 12 C.F.R. §§ 226.5(e) and 226.17(e). In some instances, especially when the consumer defaults on some terms of the contract or pays the loan early, the original disclosures can become inaccurate. An example of a subsequent event would be when the consumer fails to insure the property securing the loan against physical damage and the financial institution purchases the insurance and adds the premium to the balance of the obligations. Inaccuracies in original disclosures are not violations if they are attributable to such subsequent occurrences. Additional disclosures are not required as a result of subsequent events, unless certain annual percentage rate inaccuracies, refinancings, or residential mortgage transaction assumptions are involved. Go To Headnote