

HOUSE BILL No. 2695

By Committee on Federal and State Affairs

2-12

1 AN ACT concerning the uniform consumer credit code; enacting the
2 respectful lending to Kansas seniors act; relating to consumer loans to
3 senior citizens; maximum finance charges; terms; fees; disclosures;
4 income tax exemption for interest income of certain loans; other
5 requirements; amending K.S.A. 2015 Supp. 79-32,117 and repealing
6 the existing section.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) This section shall be known and may be cited as
10 the respectful lending to Kansas seniors act.

11 (b) Any lender who makes a consumer loan under the provisions of
12 K.S.A. 16a-2-404, and amendments thereto, to a senior citizen shall not
13 impose an annual percent of interest greater than 36% with respect to the
14 total cost of the loan. The lender shall provide to the borrower written and
15 oral disclosure of the total cost of the loan and the lender's requirements
16 under subsection (c).

17 (c) It shall be unlawful for any lender who makes a consumer loan
18 under the provisions of K.S.A. 16a-2-404, and amendments thereto, to a
19 senior citizen with respect to which:

20 (1) The lender rolls over, renews, repays, refinances or consolidates
21 any consumer credit extended to the senior citizen by the same lender with
22 the proceeds of other credit extended to the same senior citizen;

23 (2) the borrower is required to waive the borrower's right to legal
24 recourse under any otherwise applicable provision of state or federal law;

25 (3) the lender requires the borrower to submit to arbitration or
26 imposes onerous legal notice provisions in the case of a dispute;

27 (4) the lender demands unreasonable notice from the borrower as a
28 condition for legal action;

29 (5) the creditor uses the title of a vehicle as security for the
30 obligation;

31 (6) the lender requires as a condition for the extension of credit that
32 the borrower establish an allotment on a paycheck or social security check
33 to repay an obligation; or

34 (7) the borrower is prohibited from prepaying the loan or is charged a
35 penalty or fee for prepaying all or part of the loan.

36 (d) The maximum repayment of any consumer loan made under the

1 provisions of K.S.A. 16a-2-404, and amendments thereto, to a senior
2 citizen shall be at \$100 per loan per 30-day month. Such repayment
3 includes the original costs added to the principal amount of the loan. The
4 total maximum repayment due to a lender shall be \$200 per borrower per
5 30-day month. The total cost of any fees, interest or other charges added to
6 the principal amount of the loan shall be spread equally over the life of the
7 loan.

8 (e) No additional fees may be charged, assessed or collected over the
9 life of the loan except as provided by this section.

10 (f) For purposes of this section:

11 (1) "Interest" means all cost elements associated with the extension of
12 credit, including fees, service charges, renewal charges, credit insurance
13 premiums, any ancillary product sold with any extension of credit to a
14 senior citizen and any other charge or premium with respect to the
15 extension of consumer credit; and

16 (2) "senior citizen" means an individual 60 years of age or older.

17 (g) This section shall be part of and supplemental to the uniform
18 consumer credit code.

19 Sec. 2. K.S.A. 2015 Supp. 79-32,117 is hereby amended to read as
20 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
21 means such individual's federal adjusted gross income for the taxable year,
22 with the modifications specified in this section.

23 (b) There shall be added to federal adjusted gross income:

24 (i) Interest income less any related expenses directly incurred in the
25 purchase of state or political subdivision obligations, to the extent that the
26 same is not included in federal adjusted gross income, on obligations of
27 any state or political subdivision thereof, but to the extent that interest
28 income on obligations of this state or a political subdivision thereof issued
29 prior to January 1, 1988, is specifically exempt from income tax under the
30 laws of this state authorizing the issuance of such obligations, it shall be
31 excluded from computation of Kansas adjusted gross income whether or
32 not included in federal adjusted gross income. Interest income on
33 obligations of this state or a political subdivision thereof issued after
34 December 31, 1987, shall be excluded from computation of Kansas
35 adjusted gross income whether or not included in federal adjusted gross
36 income.

37 (ii) Taxes on or measured by income or fees or payments in lieu of
38 income taxes imposed by this state or any other taxing jurisdiction to the
39 extent deductible in determining federal adjusted gross income and not
40 credited against federal income tax. This paragraph shall not apply to taxes
41 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and
42 amendments thereto, for privilege tax year 1995, and all such years
43 thereafter.

1 (iii) The federal net operating loss deduction.

2 (iv) Federal income tax refunds received by the taxpayer if the
3 deduction of the taxes being refunded resulted in a tax benefit for Kansas
4 income tax purposes during a prior taxable year. Such refunds shall be
5 included in income in the year actually received regardless of the method
6 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall
7 be deemed to have resulted if the amount of the tax had been deducted in
8 determining income subject to a Kansas income tax for a prior year
9 regardless of the rate of taxation applied in such prior year to the Kansas
10 taxable income, but only that portion of the refund shall be included as
11 bears the same proportion to the total refund received as the federal taxes
12 deducted in the year to which such refund is attributable bears to the total
13 federal income taxes paid for such year. For purposes of the foregoing
14 sentence, federal taxes shall be considered to have been deducted only to
15 the extent such deduction does not reduce Kansas taxable income below
16 zero.

17 (v) The amount of any depreciation deduction or business expense
18 deduction claimed on the taxpayer's federal income tax return for any
19 capital expenditure in making any building or facility accessible to the
20 handicapped, for which expenditure the taxpayer claimed the credit
21 allowed by K.S.A. 79-32,177, and amendments thereto.

22 (vi) Any amount of designated employee contributions picked up by
23 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
24 and amendments thereto.

25 (vii) The amount of any charitable contribution made to the extent the
26 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
27 32,196, and amendments thereto.

28 (viii) The amount of any costs incurred for improvements to a swine
29 facility, claimed for deduction in determining federal adjusted gross
30 income, to the extent the same is claimed as the basis for any credit
31 allowed pursuant to K.S.A. 2015 Supp. 79-32,204, and amendments
32 thereto.

33 (ix) The amount of any ad valorem taxes and assessments paid and
34 the amount of any costs incurred for habitat management or construction
35 and maintenance of improvements on real property, claimed for deduction
36 in determining federal adjusted gross income, to the extent the same is
37 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203,
38 and amendments thereto.

39 (x) Amounts received as nonqualified withdrawals, as defined by
40 K.S.A. 2015 Supp. 75-643, and amendments thereto, if, at the time of
41 contribution to a family postsecondary education savings account, such
42 amounts were subtracted from the federal adjusted gross income pursuant
43 to K.S.A. 79-32,117(c)(xv), and amendments thereto, or if such amounts

1 are not already included in the federal adjusted gross income.

2 (xi) The amount of any contribution made to the same extent the
3 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2015
4 Supp. 74-50,154, and amendments thereto.

5 (xii) For taxable years commencing after December 31, 2004,
6 amounts received as withdrawals not in accordance with the provisions of
7 K.S.A. 2015 Supp. 74-50,204, and amendments thereto, if, at the time of
8 contribution to an individual development account, such amounts were
9 subtracted from the federal adjusted gross income pursuant to subsection
10 (c)(xiii), or if such amounts are not already included in the federal adjusted
11 gross income.

12 (xiii) The amount of any expenditures claimed for deduction in
13 determining federal adjusted gross income, to the extent the same is
14 claimed as the basis for any credit allowed pursuant to K.S.A. 2015 Supp.
15 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

16 (xiv) The amount of any amortization deduction claimed in
17 determining federal adjusted gross income to the extent the same is
18 claimed for deduction pursuant to K.S.A. 2015 Supp. 79-32,221, and
19 amendments thereto.

20 (xv) The amount of any expenditures claimed for deduction in
21 determining federal adjusted gross income, to the extent the same is
22 claimed as the basis for any credit allowed pursuant to K.S.A. 2015 Supp.
23 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
24 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
25 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

26 (xvi) The amount of any amortization deduction claimed in
27 determining federal adjusted gross income to the extent the same is
28 claimed for deduction pursuant to K.S.A. 2015 Supp. 79-32,227, 79-
29 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
30 thereto.

31 (xvii) The amount of any amortization deduction claimed in
32 determining federal adjusted gross income to the extent the same is
33 claimed for deduction pursuant to K.S.A. 2015 Supp. 79-32,256, and
34 amendments thereto.

35 (xviii) For taxable years commencing after December 31, 2006, the
36 amount of any ad valorem or property taxes and assessments paid to a state
37 other than Kansas or local government located in a state other than Kansas
38 by a taxpayer who resides in a state other than Kansas, when the law of
39 such state does not allow a resident of Kansas who earns income in such
40 other state to claim a deduction for ad valorem or property taxes or
41 assessments paid to a political subdivision of the state of Kansas in
42 determining taxable income for income tax purposes in such other state, to
43 the extent that such taxes and assessments are claimed as an itemized

1 deduction for federal income tax purposes.

2 (xix) For all taxable years beginning after December 31, 2012, the
3 amount of any: (1) Loss from business as determined under the federal
4 internal revenue code and reported from schedule C and on line 12 of the
5 taxpayer's form 1040 federal individual income tax return; (2) loss from
6 rental real estate, royalties, partnerships, S corporations, except those with
7 wholly owned subsidiaries subject to the Kansas privilege tax, estates,
8 trusts, residual interest in real estate mortgage investment conduits and net
9 farm rental as determined under the federal internal revenue code and
10 reported from schedule E and on line 17 of the taxpayer's form 1040
11 federal individual income tax return; and (3) farm loss as determined under
12 the federal internal revenue code and reported from schedule F and on line
13 18 of the taxpayer's form 1040 federal income tax return; all to the extent
14 deducted or subtracted in determining the taxpayer's federal adjusted gross
15 income. For purposes of this subsection, references to the federal form
16 1040 and federal schedule C, schedule E, and schedule F, shall be to such
17 form and schedules as they existed for tax year 2011, and as revised
18 thereafter by the internal revenue service.

19 (xx) For all taxable years beginning after December 31, 2012, the
20 amount of any deduction for self-employment taxes under section 164(f)
21 of the federal internal revenue code as in effect on January 1, 2012, and
22 amendments thereto, in determining the federal adjusted gross income of
23 an individual taxpayer, to the extent the deduction is attributable to income
24 reported on schedule C, E or F and on line 12, 17 or 18 of the taxpayer's
25 form 1040 federal income tax return.

26 (xxi) For all taxable years beginning after December 31, 2012, the
27 amount of any deduction for pension, profit sharing, and annuity plans of
28 self-employed individuals under section 62(a)(6) of the federal internal
29 revenue code as in effect on January 1, 2012, and amendments thereto, in
30 determining the federal adjusted gross income of an individual taxpayer.

31 (xxii) For all taxable years beginning after December 31, 2012, the
32 amount of any deduction for health insurance under section 162(l) of the
33 federal internal revenue code as in effect on January 1, 2012, and
34 amendments thereto, in determining the federal adjusted gross income of
35 an individual taxpayer.

36 (xxiii) For all taxable years beginning after December 31, 2012, the
37 amount of any deduction for domestic production activities under section
38 199 of the federal internal revenue code as in effect on January 1, 2012,
39 and amendments thereto, in determining the federal adjusted gross income
40 of an individual taxpayer.

41 (xxiv) For taxable years commencing after December 31, 2013, that
42 portion of the amount of any expenditure deduction claimed in
43 determining federal adjusted gross income for expenses paid for medical

1 care of the taxpayer or the taxpayer's spouse or dependents when such
2 expenses were paid or incurred for an abortion, or for a health benefit plan,
3 as defined in K.S.A. 2015 Supp. 65-6731, and amendments thereto, for the
4 purchase of an optional rider for coverage of abortion in accordance with
5 K.S.A. 2015 Supp. 40-2,190, and amendments thereto, to the extent that
6 such taxes and assessments are claimed as an itemized deduction for
7 federal income tax purposes.

8 (xxv) For taxable years commencing after December 31, 2013, that
9 portion of the amount of any expenditure deduction claimed in
10 determining federal adjusted gross income for expenses paid by a taxpayer
11 for health care when such expenses were paid or incurred for abortion
12 coverage, a health benefit plan, as defined in K.S.A. 2015 Supp. 65-6731,
13 and amendments thereto, when such expenses were paid or incurred for
14 abortion coverage or amounts contributed to health savings accounts for
15 such taxpayer's employees for the purchase of an optional rider for
16 coverage of abortion in accordance with K.S.A. 2015 Supp. 40-2,190, and
17 amendments thereto, to the extent that such taxes and assessments are
18 claimed as a deduction for federal income tax purposes.

19 (c) There shall be subtracted from federal adjusted gross income:

20 (i) Interest or dividend income on obligations or securities of any
21 authority, commission or instrumentality of the United States and its
22 possessions less any related expenses directly incurred in the purchase of
23 such obligations or securities, to the extent included in federal adjusted
24 gross income but exempt from state income taxes under the laws of the
25 United States.

26 (ii) Any amounts received which are included in federal adjusted
27 gross income but which are specifically exempt from Kansas income
28 taxation under the laws of the state of Kansas.

29 (iii) The portion of any gain or loss from the sale or other disposition
30 of property having a higher adjusted basis for Kansas income tax purposes
31 than for federal income tax purposes on the date such property was sold or
32 disposed of in a transaction in which gain or loss was recognized for
33 purposes of federal income tax that does not exceed such difference in
34 basis, but if a gain is considered a long-term capital gain for federal
35 income tax purposes, the modification shall be limited to that portion of
36 such gain which is included in federal adjusted gross income.

37 (iv) The amount necessary to prevent the taxation under this act of
38 any annuity or other amount of income or gain which was properly
39 included in income or gain and was taxed under the laws of this state for a
40 taxable year prior to the effective date of this act, as amended, to the
41 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
42 the right to receive the income or gain, or to a trust or estate from which
43 the taxpayer received the income or gain.

1 (v) The amount of any refund or credit for overpayment of taxes on
2 or measured by income or fees or payments in lieu of income taxes
3 imposed by this state, or any taxing jurisdiction, to the extent included in
4 gross income for federal income tax purposes.

5 (vi) Accumulation distributions received by a taxpayer as a
6 beneficiary of a trust to the extent that the same are included in federal
7 adjusted gross income.

8 (vii) Amounts received as annuities under the federal civil service
9 retirement system from the civil service retirement and disability fund and
10 other amounts received as retirement benefits in whatever form which
11 were earned for being employed by the federal government or for service
12 in the armed forces of the United States.

13 (viii) Amounts received by retired railroad employees as a
14 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
15 228c (a)(1) et seq.

16 (ix) Amounts received by retired employees of a city and by retired
17 employees of any board of such city as retirement allowances pursuant to
18 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
19 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
20 amendments thereto.

21 (x) For taxable years beginning after December 31, 1976, the amount
22 of the federal tentative jobs tax credit disallowance under the provisions of
23 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the
24 amount of the targeted jobs tax credit and work incentive credit
25 disallowances under 26 U.S.C. § 280 C.

26 (xi) For taxable years beginning after December 31, 1986, dividend
27 income on stock issued by Kansas venture capital, inc.

28 (xii) For taxable years beginning after December 31, 1989, amounts
29 received by retired employees of a board of public utilities as pension and
30 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249,
31 and amendments thereto.

32 (xiii) For taxable years beginning after December 31, 2004, amounts
33 contributed to and the amount of income earned on contributions deposited
34 to an individual development account under K.S.A. 2015 Supp. 74-50,201
35 et seq., and amendments thereto.

36 (xiv) For all taxable years commencing after December 31, 1996, that
37 portion of any income of a bank organized under the laws of this state or
38 any other state, a national banking association organized under the laws of
39 the United States, an association organized under the savings and loan
40 code of this state or any other state, or a federal savings association
41 organized under the laws of the United States, for which an election as an
42 S corporation under subchapter S of the federal internal revenue code is in
43 effect, which accrues to the taxpayer who is a stockholder of such

1 corporation and which is not distributed to the stockholders as dividends of
2 the corporation. For all taxable years beginning after December 31, 2012,
3 the amount of modification under this subsection shall exclude the portion
4 of income or loss reported on schedule E and included on line 17 of the
5 taxpayer's form 1040 federal individual income tax return.

6 (xv) For all taxable years beginning after December 31, 2006,
7 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
8 joint return, for each designated beneficiary which are contributed to a
9 family postsecondary education savings account established under the
10 Kansas postsecondary education savings program or a qualified tuition
11 program established and maintained by another state or agency or
12 instrumentality thereof pursuant to section 529 of the internal revenue
13 code of 1986, as amended, for the purpose of paying the qualified higher
14 education expenses of a designated beneficiary at an institution of
15 postsecondary education. The terms and phrases used in this paragraph
16 shall have the meaning respectively ascribed thereto by the provisions of
17 K.S.A. 2015 Supp. 75-643, and amendments thereto, and the provisions of
18 such section are hereby incorporated by reference for all purposes thereof.

19 (xvi) For all taxable years beginning after December 31, 2004,
20 amounts received by taxpayers who are or were members of the armed
21 forces of the United States, including service in the Kansas army and air
22 national guard, as a recruitment, sign up or retention bonus received by
23 such taxpayer as an incentive to join, enlist or remain in the armed services
24 of the United States, including service in the Kansas army and air national
25 guard, and amounts received for repayment of educational or student loans
26 incurred by or obligated to such taxpayer and received by such taxpayer as
27 a result of such taxpayer's service in the armed forces of the United States,
28 including service in the Kansas army and air national guard.

29 (xvii) For all taxable years beginning after December 31, 2004,
30 amounts received by taxpayers who are eligible members of the Kansas
31 army and air national guard as a reimbursement pursuant to K.S.A. 48-
32 281, and amendments thereto, and amounts received for death benefits
33 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section
34 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and
35 amendments thereto, to the extent that such death benefits are included in
36 federal adjusted gross income of the taxpayer.

37 (xviii) For the taxable year beginning after December 31, 2006,
38 amounts received as benefits under the federal social security act which
39 are included in federal adjusted gross income of a taxpayer with federal
40 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
41 status is single, head of household, married filing separate or married filing
42 jointly; and for all taxable years beginning after December 31, 2007,
43 amounts received as benefits under the federal social security act which

1 are included in federal adjusted gross income of a taxpayer with federal
2 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
3 status is single, head of household, married filing separate or married filing
4 jointly.

5 (xix) Amounts received by retired employees of Washburn university
6 as retirement and pension benefits under the university's retirement plan.

7 (xx) For all taxable years beginning after December 31, 2012, the
8 amount of any: (1) Net profit from business as determined under the
9 federal internal revenue code and reported from schedule C and on line 12
10 of the taxpayer's form 1040 federal individual income tax return; (2) net
11 income, not including guaranteed payments as defined in section 707(c)
12 of the federal internal revenue code and as reported to the taxpayer from
13 federal schedule K-1, (form 1065-B), in box 9, code F or as reported to the
14 taxpayer from federal schedule K-1, (form 1065) in box 4, from rental real
15 estate, royalties, partnerships, S corporations, estates, trusts, residual
16 interest in real estate mortgage investment conduits and net farm rental as
17 determined under the federal internal revenue code and reported from
18 schedule E and on line 17 of the taxpayer's form 1040 federal individual
19 income tax return; and (3) net farm profit as determined under the federal
20 internal revenue code and reported from schedule F and on line 18 of the
21 taxpayer's form 1040 federal income tax return; all to the extent included
22 in the taxpayer's federal adjusted gross income. For purposes of this
23 subsection, references to the federal form 1040 and federal schedule C,
24 schedule E, and schedule F, shall be to such form and schedules as they
25 existed for tax year 2011 and as revised thereafter by the internal revenue
26 service.

27 (xxi) For all taxable years beginning after December 31, 2013,
28 amounts equal to the unreimbursed travel, lodging and medical
29 expenditures directly incurred by a taxpayer while living, or a dependent
30 of the taxpayer while living, for the donation of one or more human organs
31 of the taxpayer, or a dependent of the taxpayer, to another person for
32 human organ transplantation. The expenses may be claimed as a
33 subtraction modification provided for in this section to the extent the
34 expenses are not already subtracted from the taxpayer's federal adjusted
35 gross income. In no circumstances shall the subtraction modification
36 provided for in this section for any individual, or a dependent, exceed
37 \$5,000. As used in this section, "human organ" means all or part of a liver,
38 pancreas, kidney, intestine, lung or bone marrow. The provisions of this
39 paragraph shall take effect on the day the secretary of revenue certifies to
40 the director of the budget that the cost for the department of revenue of
41 modifications to the automated tax system for the purpose of
42 implementing this paragraph will not exceed \$20,000.

43 (xxii) For all taxable years beginning after December 31, 2012, the

1 amount of net gain from the sale of: (1) Cattle and horses, regardless of
2 age, held by the taxpayer for draft, breeding, dairy or sporting purposes,
3 and held by such taxpayer for 24 months or more from the date of
4 acquisition; and (2) other livestock, regardless of age, held by the taxpayer
5 for draft, breeding, dairy or sporting purposes, and held by such taxpayer
6 for 12 months or more from the date of acquisition. The subtraction from
7 federal adjusted gross income shall be limited to the amount of the
8 additions recognized under the provisions of subsection (b)(xix)
9 attributable to the business in which the livestock sold had been used. As
10 used in this paragraph, the term "livestock" shall not include poultry.

11 (xxiii) For all taxable years beginning after December 31, 2012,
12 amounts received under either the Overland Park, Kansas police
13 department retirement plan or the Overland Park, Kansas fire department
14 retirement plan, both as established by the city of Overland Park, pursuant
15 to the city's home rule authority.

16 (xxiv) For all taxable years beginning after December 31, 2013, the
17 net gain from the sale from Christmas trees grown in Kansas and held by
18 the taxpayer for six years or more.

19 (xxv) *For all taxable years beginning after December 31, 2016, the*
20 *amount of interest from a consumer loan made under the provisions of*
21 *K.S.A. 16a-2-404, and amendments thereto, to a senior citizen, as defined*
22 *in section 1, and amendments thereto, that charges interest on the loan of*
23 *15% or less and allows for a repayment term for such loan of at least 12*
24 *months.*

25 (d) There shall be added to or subtracted from federal adjusted gross
26 income the taxpayer's share, as beneficiary of an estate or trust, of the
27 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
28 amendments thereto.

29 (e) The amount of modifications required to be made under this
30 section by a partner which relates to items of income, gain, loss, deduction
31 or credit of a partnership shall be determined under K.S.A. 79-32,131, and
32 amendments thereto, to the extent that such items affect federal adjusted
33 gross income of the partner.

34 Sec. 3. K.S.A. 2015 Supp. 79-32,117 is hereby repealed.

35 Sec. 4. This act shall take effect and be in force from and after
36 January 1, 2017, and its publication in the statute book.