

Askee: Ed @ Furniture Manufacture

QUESTION: Regarding "service charges", are we legally able to call them "late charges"? Also, we have "service charge" statements come out one time per month, and charges are based on how much is past due at the time (mid-month). Are there other ways of doing this?

RESPONSE: The only thing a person needs to be concerned about is usury interest rates. This can get one into more trouble than anything else. TX is the biggest problem. It is recommended that charges or interests for TX Accounts not exceed 12%. The rest of the US 18% is a safe value. Usury rates in some cases actually exceed these values.

As far as what you call them, everyone pretty much understands they are late charges or fees. People have tried to call them different things. When legally challenged, it boils down to late fees/charges/interest.

So the key is this: Does a Creditor have an agreement (terms of conditions or credit applications where the debtor or customer has accepted, agreed to or knows about the terms of sale and resulting extra charges). That is the acid test I have seen and have been confronted with a number of times. We have tried to make a case out of implied fees we charge everyone, etc. It comes down to the facts. If there is, something in writing that is agreed to or attested to, that's what is legal or proper. Without that, your ability to make such charges stick is significantly diminished