

CHAPTER 151

CONSUMER AND COMMERCIAL TRANSACTIONS

SENATE BILL 93-170

BY SENATORS Schroeder, Ruddick, Trujillo, and Wattenberg;
also REPRESENTATIVES Dyer, Gordon, Kerns, May, Pffinner, and Schauer.

AN ACT**CONCERNING THE AUTHORITY TO CONTRACT FOR THE IMPOSITION OF A DELINQUENCY CHARGE ON LATE PAYMENTS ON REVOLVING CHARGE OR LOAN ACCOUNTS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 5-2-203, Colorado Revised Statutes, 1992 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

5-2-203. Delinquency charges. (4) THE PARTIES TO A REVOLVING CHARGE ACCOUNT MAY CONTRACT TO IMPOSE A DELINQUENCY CHARGE ON ANY MINIMUM PAYMENT DUE IN CONNECTION WITH A BILLING CYCLE THAT REMAINS UNPAID TEN DAYS AFTER SUCH MINIMUM PAYMENT'S SCHEDULED DUE DATE. NO DELINQUENCY CHARGE MAY BE COLLECTED ON ANY MINIMUM PAYMENT DUE WHICH IS PAID IN FULL WITHIN TEN DAYS AFTER THE SCHEDULED DUE DATE, EVEN THOUGH AN EARLIER MINIMUM PAYMENT WAS NOT PAID IN FULL. PAYMENTS SHALL BE APPLIED FIRST TO THE CURRENT PORTION OF THE MINIMUM PAYMENT DUE AND THEN TO ANY DELINQUENT PORTION OF THE MINIMUM PAYMENT DUE. NO DELINQUENCY CHARGE SHALL EXCEED FIFTEEN DOLLARS, AND NO MORE THAN ONE DELINQUENCY CHARGE SHALL BE COLLECTED ON ANY MINIMUM PAYMENT DUE REGARDLESS OF THE PERIOD OF TIME DURING WHICH THE PAYMENT REMAINS IN DEFAULT. A DELINQUENCY CHARGE MAY BE COLLECTED ANYTIME AFTER IT ACCRUES IF NO OTHER DELINQUENCY CHARGE HAS BEEN COLLECTED ON THE SAME UNPAID AMOUNT. A SELLER SHALL NOT ASSESS A DELINQUENCY CHARGE UNLESS THE DELINQUENCY CHARGE IS ASSESSED WITHIN NINETY DAYS AFTER THE SCHEDULED DUE DATE OF THE DELINQUENT MINIMUM PAYMENT. A SELLER WHO HAS IMPOSED A DELINQUENCY CHARGE PURSUANT TO THIS SUBSECTION (4) SHALL NOTIFY THE BUYER IN WRITING EITHER BEFORE, ON, OR WITH THE NEXT PERIODIC STATEMENT AFTER THE DELINQUENCY CHARGE HAS BEEN ASSESSED OF THE AMOUNT OF THE DELINQUENCY CHARGE. NO CREDIT SERVICE CHARGE SHALL BE ASSESSED ON THE DELINQUENCY CHARGE.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SECTION 2. 5-3-203, Colorado Revised Statutes, 1992 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

5-3-203. Delinquency charges. (6) THE PARTIES TO A REVOLVING LOAN ACCOUNT FOR WHICH A LENDER CREDIT CARD IS ISSUED AND WHICH IS NOT SECURED BY AN INTEREST IN LAND MAY CONTRACT TO IMPOSE A DELINQUENCY CHARGE ON ANY MINIMUM PAYMENT DUE IN CONNECTION WITH A BILLING CYCLE THAT REMAINS UNPAID TEN DAYS AFTER SUCH MINIMUM PAYMENT'S SCHEDULED DUE DATE. NO DELINQUENCY CHARGE MAY BE COLLECTED ON ANY MINIMUM PAYMENT DUE WHICH IS PAID IN FULL WITHIN TEN DAYS AFTER THE SCHEDULED DUE DATE, EVEN THOUGH AN EARLIER MINIMUM PAYMENT WAS NOT PAID IN FULL. PAYMENTS SHALL BE APPLIED FIRST TO THE CURRENT PORTION OF THE MINIMUM PAYMENT DUE AND THEN TO ANY DELINQUENT PORTION OF THE MINIMUM PAYMENT DUE. NO DELINQUENCY CHARGE SHALL EXCEED FIFTEEN DOLLARS, AND NO MORE THAN ONE DELINQUENCY CHARGE SHALL BE COLLECTED ON ANY MINIMUM PAYMENT DUE REGARDLESS OF THE PERIOD OF TIME DURING WHICH THE PAYMENT REMAINS IN DEFAULT. A DELINQUENCY CHARGE MAY BE COLLECTED ANYTIME AFTER IT ACCRUES IF NO OTHER DELINQUENCY CHARGE HAS BEEN COLLECTED ON THE SAME UNPAID AMOUNT. A LENDER SHALL NOT ASSESS A DELINQUENCY CHARGE UNLESS THE DELINQUENCY CHARGE IS ASSESSED WITHIN NINETY DAYS AFTER THE SCHEDULED DUE DATE OF THE DELINQUENT MINIMUM PAYMENT. A LENDER WHO HAS IMPOSED A DELINQUENCY CHARGE PURSUANT TO THIS SUBSECTION (6) SHALL NOTIFY THE DEBTOR IN WRITING EITHER BEFORE, ON, OR WITH THE NEXT PERIODIC STATEMENT AFTER THE DELINQUENCY CHARGE HAS BEEN ASSESSED OF THE AMOUNT OF THE DELINQUENCY CHARGE. NO FINANCE CHARGE SHALL BE ASSESSED ON THE DELINQUENCY CHARGE.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 26, 1993