

CHAPTER 104

CONSUMER AND COMMERCIAL TRANSACTIONS

HOUSE BILL 96-1357

BY REPRESENTATIVE Schauer;
also SENATOR Schroeder.**AN ACT****CONCERNING THE REGULATION OF BUSINESS CREDIT TRANSACTIONS, AND, IN CONNECTION THEREWITH, REMOVING CONSUMER RELATED SALES AND LOANS FROM THE "UNIFORM CONSUMER CREDIT CODE".***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 5-1-108 (1), Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:**5-1-108. Effect of code on powers of organizations.** (1) This code prescribes maximum charges for all creditors, except lessors and those excluded (section 5-1-202), extending consumer credit including consumer credit sales (section 5-2-104), AND consumer loans (section 5-3-104), ~~and consumer related sales and loans (section 5-2-602 and section 5-3-602);~~ and displaces existing limitations on the powers of those creditors based on maximum charges.**SECTION 2.** 5-1-202 (6) and (7), Colorado Revised Statutes, 1992 Repl. Vol., are amended, and the said 5-1-202 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:**5-1-202. Exclusions.** This code does not apply to:(6) The disclosure of rates and charges in connection with transactions in securities and commodities accounts by a broker-dealer registered with the securities and exchange commission; ~~or~~

(7) Loans made, originated, disbursed, serviced, or guaranteed by an agency, instrumentality, or political subdivision of the state pursuant to article 3.1 of title 23,

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

C.R.S.; OR

(8) A COMMERCIAL CREDIT PLAN AS DEFINED IN SECTION 5-12-107 AND EXTENSIONS OF CREDIT MADE PURSUANT THERETO, UNLESS THE AGREEMENT EVIDENCING THE PLAN EXPRESSLY STATES THAT IT IS SUBJECT TO THE PROVISIONS OF THIS CODE APPLYING TO:

(a) CONSUMER CREDIT SALES OR LOANS (SECTION 5-2-601 AND SECTION 5-3-601);
OR

(b) SALES OTHER THAN CONSUMER CREDIT SALES (SECTION 5-2-605).

SECTION 3. 5-1-303, Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

5-1-303. Index of definitions in code. Definitions in this code and the sections in which they appear are:

"Actuarial method"	Section 5-1-301 (1)
"Administrator"	Section 5-1-301 (2)
"Administrator"	Section 5-6-103
"Agreement"	Section 5-1-301 (3)
"Agricultural purpose"	Section 5-1-301 (4)
"Amount financed"	Section 5-2-111
"Annual percentage rate" (sale)	Section 5-2-304
"Annual percentage rate" (loan)	Section 5-3-304
"Business day"	Section 5-1-301 (18)
"Cash price"	Section 5-2-110
"Closing costs"	Section 5-1-301 (5)
"Conspicuous"	Section 5-1-301 (6)
"Consumer credit insurance"	Section 5-4-103 (1)
"Consumer credit sale"	Section 5-2-104
"Consumer credit transaction"	Section 5-1-301 (6.5)
"Consumer insurance premium loan"	Section 5-1-301 (6.7)
"Consumer lease"	Section 5-2-106
"Consumer loan"	Section 5-3-104
"Consumer related loan"	Section 5-3-602
"Consumer related sale"	Section 5-2-602
"Corresponding nominal annual percentage rate" (sale)	Section 5-2-304
"Corresponding nominal annual percentage rate" (loan)	Section 5-3-304
"Credit"	Section 5-1-301 (7)
"Credit Insurance Act"	Section 5-4-103 (2)
"Credit service charge"	Section 5-2-109
"Dwelling"	Section 5-1-301 (7.5)
"Earnings"	Section 5-1-301 (8)
"Federal Consumer Credit Protection Act"	Section 5-1-302
"Goods"	Section 5-2-105 (1)

"Home solicitation sale"	Section 5-2-501
"Insurance premium loan"	Section 5-1-301 (8.3)
"Investment purpose"	Section 5-1-301 (8.5)
"Lender"	Section 5-3-107 (1)
"Lender credit card or similar arrangement"	Section 5-1-301 (9)
"Loan"	Section 5-3-106
"Loan finance charge"	Section 5-3-109
"Loan primarily secured by an interest in land"	Section 5-3-105
"Material disclosures"	Section 5-1-301 (9.5)
"Merchandise certificate"	Section 5-2-105 (2)
"Mobile home"	Section 5-1-301 (9.7)
"Official fees"	Section 5-1-301 (10)
"Organization"	Section 5-1-301 (11)
"Payable in installments"	Section 5-1-301 (12)
"Person"	Section 5-1-301 (13)
"Person related to"	Section 5-1-301 (14)
"Precomputed" (loan)	Section 5-3-107 (2)
"Precomputed" (sale)	Section 5-2-105 (7)
"Presumed" or "Presumption"	Section 5-1-301 (15)
"Principal"	Section 5-3-107 (3)
"Receive"	Section 5-1-201 (11)
"Residence"	Section 5-1-201 (7)
"Revolving charge account"	Section 5-2-108
"Revolving loan account"	Section 5-3-108
"Sale of goods"	Section 5-2-105 (4)
"Sale of an interest in land"	Section 5-2-105 (6)
"Sale of services"	Section 5-2-105 (5)
"Seller"	Section 5-2-107
"Seller credit card"	Section 5-1-301 (16)
"Services"	Section 5-2-105 (3)
"Supervised financial organization"	Section 5-1-301 (17)
"Supervised lender"	Section 5-3-501 (2)
"Supervised loan"	Section 5-3-501 (1)

SECTION 4. 5-2-102, Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

5-2-102. Scope. This article applies to consumer credit sales, including home solicitation sales, and consumer leases; in addition, part 6 of this article applies to ~~consumer related~~ sales OTHER THAN CONSUMER CREDIT SALES and the provisions concerning credit card surcharges (section 5-2-109 (3)) apply to all sales and leases.

SECTION 5. 5-2-103, Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

5-2-103. Definitions in article. The following definitions apply to this code and appear in this article as follows:

"Amount financed"	Section 5-2-111
"Annual percentage rate"	Section 5-2-304 (2)
"Cash price"	Section 5-2-110
"Consumer credit sale"	Section 5-2-104
"Consumer lease"	Section 5-2-106
"Consumer related sale"	Section 5-2-602
"Corresponding nominal annual percentage rate"	Section 5-2-304 (3)
"Credit service charge"	Section 5-2-109
"Goods"	Section 5-2-105 (1)
"Home solicitation sale"	Section 5-2-501
"Merchandise certificate"	Section 5-2-105 (2)
"Precomputed"	Section 5-2-105 (7)
"Revolving charge account"	Section 5-2-108
"Sale of goods"	Section 5-2-105 (4)
"Sale of an interest in land"	Section 5-2-105 (6)
"Sale of services"	Section 5-2-105 (5)
"Seller"	Section 5-2-107
"Services"	Section 5-2-105 (3)

SECTION 6. 5-2-605, Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

5-2-605. Credit service charge for other sales. With respect to a sale other than a consumer credit sale, ~~or a consumer related sale,~~ the parties may contract for the payment by the buyer of any credit service charge.

SECTION 7. 5-3-102, Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

5-3-102. Scope. This article applies to consumer loans, including supervised loans, ~~in addition, part 6 of this article applies to consumer related loans~~ and the provisions concerning credit card surcharges (section 5-3-110) apply to all sales and leases.

SECTION 8. 5-3-103, Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

5-3-103. Definitions in article. The following definitions apply to this code and appear in this article as follows:

"Annual percentage rate"	Section 5-3-304 (2)
"Consumer loan"	Section 5-3-104
"Consumer related loan"	Section 5-3-602 (1)
"Corresponding nominal annual percentage rate"	Section 5-3-304 (3)
"Lender"	Section 5-3-107 (1)
"Loan"	Section 5-3-106
"Loan finance charge"	Section 5-3-109
"Loan primarily secured by an interest in land"	Section 5-3-105
"Precomputed"	Section 5-3-107 (2)

"Principal"	Section 5-3-107 (3)
"Revolving loan account"	Section 5-3-108
"Supervised lender"	Section 5-3-501 (2)
"Supervised loan"	Section 5-3-501 (1)

SECTION 9. 5-3-605, Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

5-3-605. Loan finance charge for other loans. With respect to a loan ~~which~~ THAT is ~~otherwise a consumer loan (section 5-3-104), or a consumer related loan (section 5-3-602), but~~ is specifically exempt from the rate ceilings of this code by the provisions of ~~this code~~ SECTION 5-3-105, the parties may contract for the payment by the debtor of any loan finance charge up to a rate not to exceed an annual percentage rate of forty-five percent. The rate of the loan finance charge shall be calculated on the unpaid balances of the debt on the assumption that the debt will be paid according to its terms and will not be paid before the end of the agreed term.

SECTION 10. 5-6-102 (1), Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

5-6-102. Applicability. This part 1 applies to persons who in this state:

(1) Make or solicit consumer credit sales, consumer leases, consumer loans, ~~consumer related sales (section 5-2-602), consumer related loans (section 5-3-602);~~ or insurance premium loans; or

SECTION 11. 5-10-202 (1) (d) and (1) (e), Colorado Revised Statutes, 1992 Repl. Vol., are repealed as follows:

5-10-202. Exclusions. (1) This article shall not apply to, and an agreement which complies with this article is not governed by the provision relating to:

(d) A ~~"consumer related loan" as that term is defined in section 5-3-602;~~

(e) A ~~"consumer related sale" as that term is defined in section 5-2-602;~~

SECTION 12. 5-12-103, Colorado Revised Statutes, 1992 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

5-12-103. Greater rate may be stipulated. (5) THIS SECTION SHALL NOT APPLY TO A COMMERCIAL CREDIT PLAN AS DEFINED IN SECTION 5-12-107 (8) AND EXTENSIONS OF CREDIT MADE PURSUANT THERETO, UNLESS THE BOND, BILL, PROMISSORY NOTE, INSTRUMENT, OR OTHER WRITTEN AGREEMENT EVIDENCING THE PLAN EXPRESSLY STATES THAT IT IS SUBJECT TO THIS SECTION.

SECTION 13. Article 12 of title 5, Colorado Revised Statutes, 1992 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

5-12-107. Commercial credit plans. (1) ANY CREDITOR MAY OFFER AND EXTEND CREDIT TO THE DEBTOR UNDER A COMMERCIAL CREDIT PLAN. WITHOUT LIMITATION, CREDIT MAY BE EXTENDED UNDER A COMMERCIAL CREDIT PLAN BY THE

CREDITOR'S ACQUISITION OF OBLIGATIONS INCLUDING, WITHOUT LIMITATION, OBLIGATIONS ARISING OUT OF THE HONORING BY A SELLER OR ANOTHER PERSON OF A CREDIT DEVICE MADE AVAILABLE TO THE DEBTOR UNDER A COMMERCIAL CREDIT PLAN. A CREDITOR MAY TAKE SUCH SECURITY IN CONNECTION WITH A COMMERCIAL CREDIT PLAN AS MAY BE ACCEPTABLE TO THE CREDITOR AND MAY, IF THE AGREEMENT GOVERNING THE COMMERCIAL CREDIT PLAN ALLOWS, ESTABLISH SEPARATE ACCOUNTS FOR DIFFERENT TYPES OF PURCHASES OR LOANS, OR BOTH, AND IMPOSE DIFFERENT TERMS FOR CREDIT EXTENDED WITH RESPECT TO EACH ACCOUNT.

(2) (a) A CREDITOR MAY CHARGE AND COLLECT PERIODIC INTEREST UNDER A COMMERCIAL CREDIT PLAN ON THE OUTSTANDING UNPAID INDEBTEDNESS AT A PERIODIC PERCENTAGE RATE OR RATES NOT EXCEEDING FORTY-FIVE PERCENT PER ANNUM. IF THE APPLICABLE PERIODIC PERCENTAGE RATE UNDER THE AGREEMENT GOVERNING THE PLAN IS OTHER THAN DAILY, PERIODIC INTEREST MAY BE CALCULATED ON AN AMOUNT NOT IN EXCESS OF THE AVERAGE OUTSTANDING UNPAID INDEBTEDNESS FOR THE APPLICABLE BILLING PERIOD. IF THE APPLICABLE PERIODIC PERCENTAGE RATE UNDER THE AGREEMENT GOVERNING THE PLAN IS DAILY, PERIODIC INTEREST MAY BE CALCULATED FOR EACH DAY IN THE BILLING PERIOD ON AN AMOUNT NOT IN EXCESS OF EITHER:

(I) THE OUTSTANDING UNPAID INDEBTEDNESS ON THAT DAY; OR

(II) THE AVERAGE OUTSTANDING UNPAID INDEBTEDNESS FOR THE APPLICABLE BILLING PERIOD. IF THE APPLICABLE PERIODIC PERCENTAGE RATE UNDER THE AGREEMENT GOVERNING THE PLAN IS MONTHLY, A BILLING PERIOD SHALL BE DEEMED TO BE A MONTH OR MONTHLY IF THE LAST DAY OF EACH BILLING PERIOD IS ON THE SAME DAY OF EACH MONTH OR DOES NOT VARY BY MORE THAN FOUR DAYS THEREFROM.

(b) THE RATE LIMITATION ESTABLISHED BY THIS SUBSECTION (2) FOR PERIODIC INTEREST SHALL NOT APPLY TO THE ADDITIONAL INTEREST CHARGES AUTHORIZED BY SUBSECTION (3) OF THIS SECTION REGARDLESS OF WHETHER SUCH ADDITIONAL INTEREST CHARGES ARE IMPOSED IN ADDITION TO OR IN LIEU OF PERIODIC INTEREST.

(3) (a) IN ADDITION TO OR IN LIEU OF INTEREST AT A PERIODIC RATE OR RATES, A CREDITOR MAY, IF THE AGREEMENT GOVERNING THE COMMERCIAL CREDIT PLAN SO PROVIDES, EITHER INITIALLY OR PURSUANT TO A CHANGE IN THE TERMS OF THE AGREEMENT MADE IN THE MANNER PRESCRIBED BY SUBSECTION (5) OF THIS SECTION, CHARGE AND COLLECT, IN SUCH MANNER, FORM, PERCENTAGES, OR AMOUNTS AS THE AGREEMENT GOVERNING THE PLAN MAY PROVIDE, ONE OR MORE OF THE FOLLOWING FEES OR CHARGES:

(I) A FEE FOR PARTICIPATION IN THE COMMERCIAL CREDIT PLAN, WHETHER ASSESSED ON AN ANNUAL OR OTHER PERIODIC BASIS;

(II) A TRANSACTION CHARGE FOR EACH SEPARATE PURCHASE OR LOAN UNDER THE PLAN;

(III) AN AUTOMATED TELLER MACHINE CHARGE OR SIMILAR ELECTRONIC OR INTERCHANGE FEE OR CHARGE;

(IV) A MINIMUM CHARGE FOR EACH SCHEDULED BILLING PERIOD UNDER THE COMMERCIAL CREDIT PLAN DURING ANY PORTION OF WHICH THERE IS AN OUTSTANDING UNPAID INDEBTEDNESS;

(V) A LATE PAYMENT CHARGE FOR EACH REQUIRED PAYMENT NOT MADE ON OR BEFORE ITS SCHEDULED DUE DATE;

(VI) FEES FOR SERVICES RENDERED OR FOR REIMBURSEMENT OF EXPENSES INCURRED BY THE CREDITOR OR OTHER PERSONS IN CONNECTION WITH THE COMMERCIAL CREDIT PLAN, OR OTHER FEES INCIDENTAL TO THE APPLICATION, OPENING, ADMINISTRATION, MAINTENANCE, OR TERMINATION OF A COMMERCIAL CREDIT PLAN;

(VII) RETURNED PAYMENT CHARGES;

(VIII) DOCUMENTARY EVIDENCE CHARGES INCLUDING WITHOUT LIMITATION CHARGES FOR FURNISHING COPIES OF SALES SLIPS, INVOICES, MONTHLY STATEMENTS, OR OTHER DOCUMENTS; AND

(IX) ANY SIMILAR FEES OR CHARGES PROVIDED FOR IN THE AGREEMENT GOVERNING THE COMMERCIAL CREDIT PLAN, WHETHER INITIALLY OR PURSUANT TO A CHANGE IN THE TERMS OF THE AGREEMENT MADE IN THE MANNER PRESCRIBED BY SUBSECTION (5) OF THIS SECTION; EXCEPT THAT IN NO EVENT SHALL THIS AUTHORIZATION TO CHARGE AND COLLECT ANY SIMILAR FEES OR CHARGES BE CONSTRUED TO AUTHORIZE THE IMPOSITION OF PERIODIC INTEREST ON THE OUTSTANDING UNPAID INDEBTEDNESS IN ADDITION TO THE PERIODIC INTEREST AUTHORIZED BY SUBSECTION (2) OF THIS SECTION.

(b) NOTWITHSTANDING THE FACT THAT THEY ARE NOT SUBJECT TO THE RATE LIMITATION ESTABLISHED BY SUBSECTION (2) OF THIS SECTION FOR PERIODIC INTEREST, ALL OF THE FEES AND CHARGES PERMITTED BY THIS SUBSECTION (3) ARE INTEREST.

(4) THE AGREEMENT GOVERNING A COMMERCIAL CREDIT PLAN MAY PROVIDE FOR THE PAYMENT BY THE DEBTOR OF REASONABLE ATTORNEY'S FEES OF THE CREDITOR IF THE ACCOUNT OF THE DEBTOR IS REFERRED FOR COLLECTION TO AN ATTORNEY NOT A SALARIED EMPLOYEE OF THE CREDITOR. THE AGREEMENT ALSO MAY PROVIDE FOR THE PAYMENT BY THE DEBTOR OF ALL COURT AND OTHER COLLECTION COSTS ACTUALLY INCURRED BY THE DEBTOR.

(5) (a) UPON WRITTEN NOTICE FURNISHED AT LEAST FIFTEEN DAYS PRIOR TO THE EFFECTIVE DATE OF THE CHANGE, A CREDITOR MAY CHANGE THE TERMS OF THE AGREEMENT GOVERNING THE COMMERCIAL CREDIT PLAN INCLUDING, WITHOUT LIMITATION, PERIODIC INTEREST AND ADDITIONAL INTEREST CHARGES SO LONG AS THE DEBTOR DOES NOT, PRIOR TO THE EFFECTIVE DATE OF THE CHANGE SET FORTH IN THE NOTICE, FURNISH WRITTEN NOTICE TO THE CREDITOR THAT THE DEBTOR DOES NOT AGREE TO ABIDE BY THE CHANGE. THE CHANGE MAY BE MADE EFFECTIVE WITH RESPECT TO EXISTING BALANCES IF SO PROVIDED IN THE WRITTEN NOTICE.

(b) UPON RECEIPT BY THE CREDITOR OF A TIMELY WRITTEN NOTICE STATING THAT THE DEBTOR DOES NOT AGREE TO ABIDE BY THE CHANGE, THE DEBTOR SHALL HAVE

THE REMAINDER OF THE TIME UNDER THE EXISTING TERMS IN WHICH TO PAY ALL SUMS OWED TO THE CREDITOR AS OF THE EFFECTIVE DATE OF THE CHANGE SET FORTH IN THE NOTICE. IF THERE IS AN AUTHORIZED CHARGE TO THE ACCOUNT ON OR AFTER THE EFFECTIVE DATE OF THE CHANGE SET FORTH IN THE NOTICE, THE DEBTOR SHALL BE DEEMED TO HAVE ACCEPTED THE NEW TERMS EVEN IF THE DEBTOR PREVIOUSLY SUBMITTED TO THE CREDITOR A TIMELY WRITTEN NOTICE STATING THAT THE DEBTOR DOES NOT AGREE TO ABIDE BY THE CHANGE.

(6) ALL TERMS, CONDITIONS, AND OTHER PROVISIONS OF AND RELATING TO A COMMERCIAL CREDIT PLAN AS CONTAINED IN THIS SECTION OR IN THE AGREEMENT GOVERNING SUCH PLAN, OTHER THAN THOSE FEES AND CHARGES THAT ARE INTEREST UNDER THIS SECTION, SHALL BE AND HEREBY ARE DEEMED TO BE MATERIAL TO THE DETERMINATION OF INTEREST APPLICABLE TO A COMMERCIAL CREDIT PLAN UNDER COLORADO LAW, UNDER THE MOST FAVORED LENDER DOCTRINE, AND UNDER THE "NATIONAL BANK ACT", 12 U.S.C. SEC. 85 OR SECTION 521, 522, OR 523 OF THE "DEPOSITORY INSTITUTIONS DEREGULATION AND MONETARY CONTROL ACT OF 1980", 12 U.S.C. SECS. 1463 (g), 1785 (g), AND 1831d.

(7) A COMMERCIAL CREDIT PLAN ESTABLISHED BY A CREDITOR AND THE EXTENSIONS OF CREDIT MADE PURSUANT THERETO SHALL BE GOVERNED BY COLORADO LAW. UNLESS THE AGREEMENT GOVERNING THE COMMERCIAL CREDIT PLAN EXPRESSLY STATES THAT IT IS SUBJECT TO ANOTHER LAW OF THIS STATE, A COMMERCIAL CREDIT PLAN SHALL BE GOVERNED EXCLUSIVELY BY THIS SECTION AND SHALL NOT BE SUBJECT TO ANY OTHER LAW OF THIS STATE THAT OTHERWISE WOULD APPLY TO THE COMMERCIAL CREDIT PLAN INCLUDING, BUT NOT LIMITED TO, LAWS LIMITING THE AMOUNT OR DURATION OF CREDIT OR THE RATE OR AMOUNT OF INTEREST OR OTHER CHARGES THAT MAY BE CHARGED, TAKEN, COLLECTED, RECEIVED, OR RESERVED.

(8) AS USED IN THIS SECTION:

(a) "AVERAGE OUTSTANDING UNPAID INDEBTEDNESS" MEANS THE AMOUNT DETERMINED BY DIVIDING THE TOTAL OF THE AMOUNTS OF THE OUTSTANDING UNPAID INDEBTEDNESS FOR EACH DAY IN THE APPLICABLE BILLING PERIOD BY THE NUMBER OF DAYS IN THE BILLING PERIOD.

(b) "COMMERCIAL CREDIT PLAN" OR "PLAN" MEANS A PLAN CONTEMPLATING THE EXTENSION OF CREDIT PURSUANT TO AN ACCOUNT GOVERNED BY AN AGREEMENT BETWEEN A CREDITOR AND A DEBTOR, WHETHER OR NOT PROVIDING FOR A SECURITY INTEREST, PURSUANT TO WHICH:

(I) A CREDITOR PERMITS THE DEBTOR AND, IF ALLOWED BY A CREDITOR, PERSONS ACTING ON BEHALF OF OR WITH AUTHORIZATION FROM THE DEBTOR, FROM TIME TO TIME TO MAKE PURCHASES ON CREDIT OR OBTAIN LOANS, OR BOTH, WHETHER OR NOT BY USE OF A CREDIT DEVICE;

(II) THE PURCHASES ON CREDIT ARE MADE OR THE LOANS ARE OBTAINED PRIMARILY FOR BUSINESS, COMMERCIAL, INVESTMENT, OR AGRICULTURAL PURPOSES;

(III) THE INDEBTEDNESS OF THE DEBTOR ARISING FROM SUCH PURCHASES OR LOANS, OR BOTH, AND OTHER CHARGES PROVIDED FOR IN THIS SECTION ARE DEBITED

TO THE ACCOUNT; AND

(IV) (A) THE DEBTOR UNDERTAKES AN OBLIGATION TO PAY THE OUTSTANDING UNPAID INDEBTEDNESS AT ONE TIME; OR

(B) THE DEBTOR HAS THE PRIVILEGE OF PAYING THE OUTSTANDING UNPAID INDEBTEDNESS IN ONE OR MORE INSTALLMENTS.

(c) "CREDIT" MEANS THE RIGHT GRANTED BY A CREDITOR TO THE DEBTOR TO DEFER PAYMENT OF DEBT OR TO INCUR DEBT AND DEFER ITS PAYMENT.

(d) "CREDIT DEVICE" MEANS ANY CARD, CHECK, IDENTIFICATION CODE, ACCOUNT NUMBER, OR OTHER MEANS OF IDENTIFICATION CONTEMPLATED BY THE AGREEMENT GOVERNING THE PLAN.

(e) "CREDITOR" MEANS ANY SELLER OR ANY LENDER LOCATED OR MAINTAINING A PLACE OF BUSINESS IN THIS STATE THAT ENTERS INTO A COMMERCIAL CREDIT PLAN AGREEMENT WITH A DEBTOR WHEREVER LOCATED, INCLUDING, WITHOUT LIMITATION, SELLERS OF GOODS OR SERVICES, SMALL LOAN COMPANIES, LICENSED LENDERS, INDUSTRIAL BANKS, COMMERCIAL BANKS AND TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, AND SAVINGS BANKS. THE TERM "CREDITOR" INCLUDES ANY TRANSFEREE, WHETHER SUCH TRANSFEREE ACQUIRES ITS INTEREST BY ASSIGNMENT OR OTHERWISE.

(f) "DEBTOR" MEANS ANY NATURAL PERSON OR INDIVIDUAL OR ANY CORPORATION, PARTNERSHIP, COOPERATIVE, ASSOCIATION, GOVERNMENT OR GOVERNMENTAL SUBDIVISION OR AGENCY, TRUST, ESTATE, OR OTHER ENTITY.

(g) "INTEREST" INCLUDES BOTH PERIODIC INTEREST AUTHORIZED BY SUBSECTION (2) OF THIS SECTION AND ADDITIONAL INTEREST CHARGES AUTHORIZED BY SUBSECTION (3) OF THIS SECTION.

(h) "LOANS" MEANS CASH ADVANCES OR LOANS TO BE PAID TO OR FOR THE ACCOUNT OF THE DEBTOR.

(i) "OUTSTANDING UNPAID INDEBTEDNESS" MEANS ON ANY DAY AN AMOUNT NOT IN EXCESS OF THE TOTAL AMOUNT OF PURCHASES, LOANS, AND OTHER DEBITS CHARGED TO THE DEBTOR'S ACCOUNT UNDER THE PLAN THAT IS OUTSTANDING AND UNPAID AT THE END OF THE DAY, AFTER ADDING THE AGGREGATE AMOUNT OF ANY NEW PURCHASES, LOANS, AND OTHER DEBITS CHARGED TO THE ACCOUNT AS OF THAT DAY, INCLUDING, WITHOUT LIMITATION, THE AMOUNT OF ANY PERIODIC INTEREST, ADDITIONAL INTEREST CHARGES, AND OTHER CHARGES PERMITTED BY THIS SECTION THAT HAVE ACCRUED, OR BEEN CHARGED, TO THE ACCOUNT AS OF THAT DAY, AND DEDUCTING THE AGGREGATE AMOUNT OF ANY PAYMENTS AND OTHER CREDITS APPLIED TO THAT INDEBTEDNESS AS OF THAT DAY.

(j) "PURCHASES" MEANS PAYMENT OBLIGATIONS FOR PROPERTY OF WHATEVER NATURE, REAL OR PERSONAL, TANGIBLE OR INTANGIBLE, AND PAYMENT OBLIGATIONS FOR SERVICES INCLUDING, WITHOUT LIMITATION, INSURANCE, LICENSES, TAXES, OFFICIAL FEES, FINES, PRIVATE OR GOVERNMENTAL OBLIGATIONS, OR ANY OTHER THING OF VALUE.

SECTION 14. 18-15-101 (6), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-15-101. Definitions. As used in this article, unless the context otherwise requires:

(6) (a) "Loan finance charge" means the sum of all charges payable directly or indirectly by the debtor and imposed directly or indirectly by the lender as an incident to or as a condition of the extension of credit, whether paid or payable by the debtor, the lender, or any other person on behalf of the debtor to the lender or to a third party, including, but not limited to, any of the following types of charges ~~which~~ THAT are applicable:

(I) Interest or any amount payable under a point, discount, or other system of charges, however denominated;

(II) Premium or other charge for any guarantee of insurance protecting the lender against the debtor's default or other credit loss;

(III) Charges incurred for investigating the collateral or credit-worthiness of the debtor or for commissions or brokerage for obtaining the credit.

(b) The term does not include the charges as a result of additional charges as defined in section 5-2-202 or 5-3-202, C.R.S., delinquency charges as defined in section 5-2-203 or 5-3-203, C.R.S., deferral charges as defined in section 5-2-204 or 5-3-204, C.R.S., ~~or~~ similar charges specifically authorized by law, OR ADDITIONAL INTEREST CHARGES PERMITTED BY SECTION 5-12-107 (3), C.R.S.

SECTION 15. 18-15-104 (4) (b) and (4) (c), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended, and the said 18-15-104 (4) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

18-15-104. Engaging in criminal usury. (4) This section shall not apply to:

(b) Credit card charges and fees not exceeding those permitted for consumer transactions under articles 1 to 6 of title 5, C.R.S., when imposed upon or collected from a person or in a transaction not subject to said provisions; ~~and~~

(c) A reverse mortgage as defined in section 11-38-102, C.R.S.; AND

(d) ADDITIONAL INTEREST CHARGES PERMITTED BY SECTION 5-12-107 (3), C.R.S.

SECTION 16. Repeal. 5-2-602, 5-2-603, 5-2-604, 5-3-602, 5-3-603, and 5-3-604, Colorado Revised Statutes, 1992 Repl. Vol., are repealed.

SECTION 17. Effective date - applicability. This act shall take effect on July 1, 1996, and shall apply to any credit arrangement which constitutes a commercial credit plan, whether initially or pursuant to a change in the terms of an account agreement entered into prior to, on or after said date.

SECTION 18. 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 17, 1996