

## CHAPTER 13

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**CONSUMER AND COMMERCIAL TRANSACTIONS**

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**HOUSE BILL 01-1099**

BY REPRESENTATIVE(S) Berry, and Smith;  
also SENATOR(S) Matsunaka, Nichol, and Tate.

**AN ACT**

CONCERNING TECHNICAL CORRECTIONS TO THE "UNIFORM CONSUMER CREDIT CODE", AND, IN CONNECTION THEREWITH, AMENDING OR REPEALING OBSOLETE, INCONSISTENT, AND CONFLICTING PROVISIONS OF LAW AND CLARIFYING THE LANGUAGE TO REFLECT THE LEGISLATIVE INTENT OF THE LAWS.

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

**SECTION 1.** 5-1-301 (1), (5) (b) (II), (15) (a) (III), and (26) (c), Colorado Revised Statutes, are amended to read:

**5-1-301. General definitions.** In addition to definitions appearing in subsequent articles, as used in this code, unless the context otherwise requires:

(1) "Actuarial method" means the method, defined by rules promulgated by the administrator in accordance with article 4 of title 24, C.R.S., of allocating payments made on a debt between the amount financed and finance charge pursuant to which a payment is applied first to the accumulated ~~loan~~ finance charge and the balance subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

(5) "Amount financed" means the total of the following items to the extent that payment is deferred:

(b) In the case of a loan:

(II) The amount of any discount excluded from the ~~loan~~ finance charge described in section 5-1-301 (20) (c); and

(15) (a) Except as provided in paragraph (b) of this subsection (15) and except

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

with respect to a loan primarily secured by an interest in land as defined in subsection 26 of this section, "consumer loan" means a loan made or arranged by a person regularly engaged in the business of making loans in which:

(III) Either the debt is by written agreement payable in installments or a ~~loan~~ finance charge is made; and

(26) (c) With respect to loans secured by a first mortgage or deed of trust lien against a dwelling to refinance an existing loan to finance the acquisition of the dwelling and providing additional sums for any other purpose that are not subject to this code pursuant to paragraph (a) of this subsection (26), the lender shall disclose to the consumer that the refinance loan creates a lien against the dwelling or property and that the limits set forth in ~~section 5-5-111~~ SECTION 5-5-112 on the amount of attorney fees that a lender may charge the consumer are not applicable.

**SECTION 2.** 5-2-201 (4) (b), Colorado Revised Statutes, is amended to read:

**5-2-201. Finance charge for consumer credit transactions.** (4) (b) A ~~supervised~~ seller or lender may contract for the payment by a consumer of a prepaid finance charge. In addition to any other disclosure required by this code, a ~~supervised~~ seller or lender shall disclose to the consumer the amount of any such prepaid finance charge.

**SECTION 3.** The introductory portion to 5-2-211 (3) (b) and 5-2-211 (5) (d) (I), Colorado Revised Statutes, are amended to read:

**5-2-211. Rebate upon prepayment.** (3) (b) With respect to a precomputed transaction entered into on or after October 28, 1975, and payable according to its original terms in more than sixty-one installments or on any precomputed transaction entered into on or after January 1, 1982, the unearned portion of the ~~loan~~ finance charge is, at the option of the lender, either:

(5) (d) If the computational period is one week and:

(I) If the number of days in the interval to the due date of the first scheduled installment is less than five days or more than nine days but not more than eleven days, the unearned finance charge shall be increased by an adjustment for each day by which the interval is less than seven days and, at the option of the creditor, may be reduced by an adjustment for each day by which the interval is more than seven days; the adjustment for each day shall be one-seventh of that part of the ~~loan~~ finance charge earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one week; and

**SECTION 4.** 5-3-101 (1), Colorado Revised Statutes, is amended to read:

**5-3-101. Applicability - information required.** (1) For purposes of this ~~article~~ SECTION, a consumer credit transaction includes a transaction secured primarily by an interest in land without regard to the rate of the finance charge if the consumer credit transaction is otherwise a consumer credit transaction.

**SECTION 5.** 5-3-106, Colorado Revised Statutes, is amended to read:

**5-3-106. Disclosures for real estate secured consumer credit transactions.** With respect to a real estate secured consumer credit transaction OTHER THAN ONE PURSUANT TO A REVOLVING CREDIT ACCOUNT, if the creditor credits payments made after the due date as of the date of receipt rather than the date payment was due, the creditor must clearly and conspicuously disclose to the consumer at or before the time that credit is extended the effect of untimely payments using language in substantially the following form:

"The dollar amount of the finance charge disclosed to you for this credit transaction is based upon your payments being received by the creditor on the date payments are due. If your payments are received after the due date, even if received before the date a late fee applies, you may owe additional and substantial money at the end of the credit transaction and there may be little or no reduction of principal. This is due to the accrual of daily interest until a payment is received."

**SECTION 6.** 5-3.1-102 (5) (b), Colorado Revised Statutes, is amended to read:

**5-3.1-102. Definitions.** As used in this article, unless the context otherwise requires:

(5) (b) Lender includes, but is not limited to, a supervised financial organization as defined in ~~section 5-1-301 (17)~~ SECTION 5-1-301 (45).

**SECTION 7.** 5-3.1-103, Colorado Revised Statutes, is amended to read:

**5-3.1-103. Written agreement requirements.** Each deferred deposit loan transaction and renewal shall be documented by a written agreement signed by both the lender and consumer. The written agreement shall contain the name of the consumer, the transaction date, the amount of the instrument, the annual percentage rate charged, and a statement of the total amount of finance charges charged, expressed both as a dollar amount and an annual percentage rate. In addition, the written agreement shall include all disclosures required by ~~section 5-3-301 (2)~~ SECTION 5-3-101 (2). The written agreement shall set a date, not more than forty days after the loan transaction date, upon which the instrument may be deposited or negotiated.

**SECTION 8.** 5-3.1-107, Colorado Revised Statutes, is amended to read:

**5-3.1-107. Multiple outstanding transactions notice.** A lender shall provide the following notice in a prominent place on each deferred deposit loan agreement in at least ten-point type:

"STATE LAW PROHIBITS DEFERRED DEPOSIT LOANS EXCEEDING FIVE HUNDRED DOLLARS (\$500) TOTAL ~~DEBT FROM~~ DEBT PLUS APPLICABLE FINANCE CHARGES PERMITTED BY LAW FROM A DEFERRED DEPOSIT LENDER. EXCEEDING THIS AMOUNT MAY CREATE FINANCIAL HARDSHIPS FOR YOU AND YOUR FAMILY. YOU HAVE THE RIGHT TO RESCIND THIS TRANSACTION BY 5 P.M. THE NEXT BUSINESS DAY FOLLOWING THIS TRANSACTION."

**SECTION 9.** 5-3.1-108 (4), Colorado Revised Statutes, is amended to read:

**5-3.1-108. Renewal.** (4) Nothing in this section prohibits a lender from refinancing a deferred deposit loan as a supervised loan subject to the provision of this code, articles 1 to 9 of this title; EXCEPT THAT THE LENDER MAY NOT CONTRACT FOR OR RECEIVE THE MINIMUM FINANCE CHARGE CONTAINED IN SECTION 5-2-201 (7).

**SECTION 10.** 5-3.1-115, Colorado Revised Statutes, is amended to read:

**5-3.1-115. Records and annual reports.** A lender shall maintain records and file an annual report in accordance with ~~section 5-3-505~~ SECTION 5-2-304.

**SECTION 11.** 5-3.1-116, Colorado Revised Statutes, is amended to read:

**5-3.1-116. License requirement.** In accordance with ~~section 5-3-502~~ SECTION 5-2-301, no person shall engage in the business of deferred deposit loans without having first obtained a supervised lender's license pursuant to ~~section 5-3-503~~ SECTION 5-2-302. A separate license shall be required for each location where such business is conducted.

**SECTION 12.** 5-3.1-117, Colorado Revised Statutes, is amended to read:

**5-3.1-117. Examination and investigation.** A lender may be examined and investigated in accordance with ~~section 5-3-506~~ SECTION 5-2-305.

**SECTION 13.** 5-3.1-118 (1), Colorado Revised Statutes, is amended to read:

**5-3.1-118. Denial of license - discipline.** (1) The administrator may deny a license or discipline a lender in accordance with ~~sections 5-3-503, 5-3-504, and 5-3-507~~ SECTIONS 5-2-302, 5-2-303, AND 5-2-306.

**SECTION 14.** 5-6-204, Colorado Revised Statutes, is amended to read:

**5-6-204. Cash fund created.** All fees collected under this code and under article 10 of this title shall be credited to the uniform consumer credit code cash fund, which fund is hereby created, and all moneys credited to such fund shall be used for the administration and enforcement of this code, article 10 of this title, and article 14.5 of title 12, C.R.S. Interest earned on the fund shall be credited to the fund. The general assembly shall make annual appropriations out of the fund for the administration and enforcement of this code, article 10 of this title, and article 14.5 of title 12, C.R.S.; except that expenditures by the administrator for consumer and creditor education resulting from the penalties provided in ~~sections 5-2-303 (8) (f), 5-6-109 (1), 5-6-110, and 5-6-114 (2)~~ SECTIONS 5-2-303 (7) (f), 5-6-109 (1), 5-6-110, AND 5-6-114 (2) shall not require appropriation by the general assembly if such expenditures do not exceed twenty-five thousand dollars per fiscal year and do not include the hiring of any full-time equivalents.

**SECTION 15. Repeal.** Article 7 of title 5, Colorado Revised Statutes, is repealed.

**SECTION 16. 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: March 9, 2001