

CHAPTER 188

CONSUMER AND COMMERCIAL TRANSACTIONS

SENATE BILL 02-089

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AN ACT**CONCERNING DISCLOSURE OF CREDIT SCORING INFORMATION TO CONSUMERS FOR CONSUMER
LOANS SECURED BY A DWELLING.**

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

SECTION 1. 12-14.3-102, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

12-14.3-102. Definitions. As used in this article, unless the context otherwise requires:

(4.7) "DWELLING" MEANS A RESIDENTIAL STRUCTURE THAT CONTAINS ONE TO FOUR UNITS, WHETHER OR NOT THAT STRUCTURE IS ATTACHED TO REAL PROPERTY. THE TERM INCLUDES ANY INDIVIDUAL CONDOMINIUM UNIT, COOPERATIVE UNIT, MOBILE HOME, OR TRAILER, IF IT IS USED AS A RESIDENCE.

(7.5) "KEY FACTORS" MEANS ALL RELEVANT ELEMENTS OR REASONS ADVERSELY AFFECTING A SPECIFIC CREDIT SCORE ASSIGNED TO A CONSUMER, LISTED IN THE ORDER OF THEIR IMPORTANCE, BASED ON THEIR RESPECTIVE EFFECTS ON THE CREDIT SCORE.

SECTION 2. Article 14.3 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

12-14.3-104.3. Credit scoring related to the extension of credit secured by a dwelling. (1) IN CONNECTION WITH AN APPLICATION FOR AN EXTENSION OF CREDIT FOR A CONSUMER PURPOSE THAT IS TO BE SECURED BY A DWELLING, THE CONSUMER REPORTING AGENCY SHALL, UPON THE WRITTEN REQUEST OF THE CONSUMER, CONTAINED EITHER IN THE APPLICATION FOR AN EXTENSION OF CREDIT OR IN A

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

SEPARATE DOCUMENT, DISCLOSE TO THE CONSUMER THE FOLLOWING:

(a) THE CONSUMER'S CURRENT CREDIT SCORE OR THE MOST RECENT CREDIT SCORE OF THE CONSUMER THAT WAS PREVIOUSLY CALCULATED BY THE CONSUMER REPORTING AGENCY;

(b) THE RANGE OF POSSIBLE CREDIT SCORES UNDER THE MODEL USED;

(c) THE KEY FACTORS, IF ANY, NOT TO EXCEED FOUR, THAT ADVERSELY AFFECTED THE CREDIT SCORE OF THE CONSUMER IN THE MODEL USED;

(d) THE DATE ON WHICH THE CREDIT SCORE WAS CREATED; AND

(e) THE NAME OF THE PERSON OR ENTITY THAT PROVIDED THE CREDIT SCORE OR THE CREDIT FILE ON THE BASIS OF WHICH THE CREDIT SCORE WAS CREATED.

(2) (a) NOTHING IN SUBSECTION (1) OF THIS SECTION SHALL BE CONSTRUED TO COMPEL A CONSUMER REPORTING AGENCY TO DEVELOP OR DISCLOSE A CREDIT SCORE IF THE AGENCY DOES NOT:

(I) DISTRIBUTE SCORES THAT ARE USED IN CONNECTION WITH EXTENSIONS OF CREDIT SECURED BY RESIDENTIAL REAL ESTATE; OR

(II) DEVELOP CREDIT SCORES THAT ASSIST CREDITORS IN UNDERSTANDING THE GENERAL CREDIT BEHAVIOR OF THE CONSUMER AND PREDICTING FUTURE CREDIT BEHAVIOR.

(b) NOTHING IN SUBSECTION (1) OF THIS SECTION SHALL BE CONSTRUED TO REQUIRE A CONSUMER REPORTING AGENCY THAT DISTRIBUTES CREDIT SCORES DEVELOPED BY ANOTHER PERSON OR ENTITY TO PROVIDE FURTHER EXPLANATION OF THOSE SCORES OR TO PROCESS A DISPUTE THAT MAY ARISE ABOUT INFORMATION; EXCEPT THAT THE CONSUMER REPORTING AGENCY SHALL BE REQUIRED TO PROVIDE TO THE CONSUMER THE NAME OF, AND CURRENT CONTACT INFORMATION FOR, THE PERSON OR ENTITY THAT DEVELOPED THE SCORE OR DEVELOPED THE METHODOLOGY FOR THE SCORE.

(c) NOTHING IN SUBSECTION (1) OF THIS SECTION SHALL BE CONSTRUED TO REQUIRE A CONSUMER REPORTING AGENCY TO MAINTAIN CREDIT SCORES IN ITS FILES.

(d) NOTHING IN SUBSECTION (3) OF THIS SECTION SHALL BE CONSTRUED TO COMPEL DISCLOSURES OF A CREDIT SCORE EXCEPT UPON SPECIFIC REQUEST OF A CONSUMER. IF A CONSUMER REQUESTS A CREDIT FILE AND NOT THE CREDIT SCORE, THEN THE CONSUMER SHALL BE PROVIDED WITH THE CREDIT FILE TOGETHER WITH A STATEMENT THAT THE CONSUMER MAY REQUEST AND OBTAIN A CREDIT SCORE.

(3) PURSUANT TO SUBSECTION (1) OF THIS SECTION, A CONSUMER REPORTING AGENCY SHALL SUPPLY TO A CONSUMER:

(a) A CREDIT SCORE THAT IS DERIVED FROM A CREDIT SCORING MODEL THAT IS WIDELY DISTRIBUTED TO USERS OF CREDIT SCORES BY THAT CONSUMER REPORTING AGENCY IN CONNECTION WITH ANY EXTENSION OF CREDIT SECURED BY A DWELLING;

OR

(b) A CREDIT SCORE ACCOMPANIED BY INFORMATION SPECIFICALLY REQUIRED TO BE DISCLOSED PURSUANT TO SUBSECTION (1) OF THIS SECTION THAT ASSISTS THE CONSUMER IN UNDERSTANDING THE CREDIT SCORING ASSESSMENT OF THE CREDIT BEHAVIOR OF THE CONSUMER AND PREDICTIONS ABOUT FUTURE CREDIT BEHAVIOR.

(4) FOR PURPOSES OF THIS SECTION, "CREDIT SCORE" MEANS A NUMERICAL VALUE OR A CATEGORIZATION DERIVED FROM A STATISTICAL TOOL OR MODELING SYSTEM USED BY A PERSON WHO MAKES OR ARRANGES A LOAN TO PREDICT THE LIKELIHOOD OF CERTAIN CREDIT BEHAVIORS, INCLUDING DEFAULT. THE NUMERICAL VALUE OR THE CATEGORIZATION DERIVED FROM THIS ANALYSIS MAY ALSO BE REFERRED TO AS A "RISK PREDICTOR" OR "RISK SCORE". "CREDIT SCORE" DOES NOT INCLUDE ANY MORTGAGE SCORE OR RATING OF AN AUTOMATED UNDERWRITING SYSTEM THAT CONSIDERS ONE OR MORE FACTORS IN ADDITION TO CREDIT INFORMATION, INCLUDING, BUT NOT LIMITED TO, THE LOAN VALUE RATIO, THE AMOUNT OF DOWN PAYMENT, OR A CONSUMER'S FINANCIAL ASSETS. "CREDIT SCORE" DOES NOT INCLUDE OTHER ELEMENTS OF THE UNDERWRITING PROCESS OR UNDERWRITING DECISION.

(5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE TO THE CONTRARY, A CONSUMER REPORTING AGENCY MAY CHARGE A REASONABLE FEE FOR DISCLOSING A CREDIT SCORE.

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

5-3-106. Disclosures for real estate secured consumer credit transactions - definition. (1) 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."

(2) A CREDITOR THAT MAKES OR ARRANGES FOR EXTENSIONS OF CONSUMER LOANS SECURED BY A DWELLING AND THAT USES CREDIT SCORES FOR THAT PURPOSE SHALL, UPON REQUEST OF THE CONSUMER, PROVIDE TO THE CONSUMER TO WHOM THE CREDIT REPORT RELATES, AS SOON AS PRACTICABLE AND REASONABLE, BUT IN A PERIOD NOT TO EXCEED THIRTY DAYS, A COPY OF THE INFORMATION SPECIFICALLY REQUIRED TO BE DISCLOSED PURSUANT TO SECTION 12-14.3-104.3 (1), C.R.S., IN SUCH FORM AS OBTAINED FROM A CONSUMER REPORTING AGENCY AS DEFINED IN SECTION 12-14.3-102 (4), C.R.S. THE CREDITOR MAY CHARGE A REASONABLE FEE FOR MAKING SUCH INFORMATION AVAILABLE TO THE CONSUMER AND SUCH CHARGE SHALL BE AN ADDITIONAL CHARGE WITHIN THE MEANING OF SECTION 5-2-202 AND NOT PART OF THE FINANCE CHARGE.

(3) (a) NOTHING IN SUBSECTION (2) OF THIS SECTION SHALL REQUIRE THE CREDITOR TO:

(I) EXPLAIN TO THE CONSUMER THE INFORMATION SPECIFICALLY REQUIRED TO BE DISCLOSED PURSUANT TO SECTION 12-14.3-104.3 (1), C.R.S.

(II) DISCLOSE ANY INFORMATION OTHER THAN THE INFORMATION REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION;

(III) DISCLOSE ANY CREDIT SCORE OR RELATED INFORMATION OBTAINED BY THE CREDITOR AFTER THE TRANSACTION OCCURS; OR

(IV) PROVIDE MORE THAN ONE DISCLOSURE TO ANY ONE CONSUMER PER CREDIT TRANSACTION.

(b) THE CREDITOR'S OBLIGATION PURSUANT TO SUBSECTION (2) OF THIS SECTION AND THIS SUBSECTION (3) SHALL BE LIMITED TO PROVIDING A COPY OF THE INFORMATION THAT WAS RECEIVED FROM A CONSUMER REPORTING AGENCY, AS DEFINED IN SECTION 12-14.3-102 (4), C.R.S. A CREDITOR WHO USES A CREDIT SCORE HAS NO LIABILITY UNDER THIS SUBSECTION (3) OR SUBSECTION (2) OF THIS SECTION FOR THE CONTENT OF THE CREDIT SCORE INFORMATION RECEIVED FROM A CONSUMER REPORTING AGENCY OR FROM THE OMISSION OF ANY INFORMATION WITHIN THE REPORT PROVIDED BY THE CONSUMER REPORTING AGENCY.

SECTION 4. Part 1 of article 3 of title 5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

5-3-111. Use of credit scores. ANY PROVISION IN A CONTRACT THAT PROHIBITS THE DISCLOSURE OF A CREDIT SCORE BY A CONSUMER REPORTING AGENCY OR A PERSON WHO MAKES OR ARRANGES LOANS SECURED BY A DWELLING IS VOID. FOR THE PURPOSES OF THIS SECTION, "DWELLING" MEANS A RESIDENTIAL STRUCTURE THAT CONTAINS ONE TO FOUR UNITS, WHETHER OR NOT THAT STRUCTURE IS ATTACHED TO REAL PROPERTY. THE TERM INCLUDES AN INDIVIDUAL CONDOMINIUM UNIT, COOPERATIVE UNIT, MOBILE HOME, OR TRAILER, IF IT IS USED AS A RESIDENCE.

SECTION 5. Effective date - applicability. This act shall take effect July 1, 2003, and shall apply to credit scoring used for applications for consumer loans secured by a dwelling on or after said date.

SECTION 6. 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: May 28, 2002