

## CHAPTER 98

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**CONSUMER AND COMMERCIAL TRANSACTIONS**


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**HOUSE BILL 07-1261**

BY REPRESENTATIVE(S) Benefield, Balmer, Borodkin, McFadyen, Todd, Butcher, Carroll M., Carroll T., Hodge, Labuda, Massey, and Pommer;  
also SENATOR(S) Tochtrop, Tapia, and Windels.

**AN ACT**

**CONCERNING THE MANDATORY OFFER OF A VOLUNTARY PAYMENT PLAN BY A DEFERRED DEPOSIT LENDER TO A CONSUMER WHO HAS RECEIVED CONSECUTIVE DEFERRED DEPOSIT LOANS.**

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

**SECTION 1.** 5-3.1-108, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**5-3.1-108. Renewal - new loan - consecutive loans - payment plan.** (5) (a) AT THE TIME OF ORIGINATION OF A FOURTH CONSECUTIVE DEFERRED DEPOSIT LOAN MADE TO A CONSUMER BY A LENDER OR AN AFFILIATE OF THE LENDER, AND AT THE TIME OF ORIGINATION OF ANY SUBSEQUENT CONSECUTIVE DEFERRED DEPOSIT LOANS, THE LENDER SHALL OFFER THE CONSUMER IN WRITING THE OPTION TO PARTICIPATE IN A VOLUNTARY PAYMENT PLAN.

(b) TO CONVERT A DEFERRED DEPOSIT LOAN INTO A PAYMENT PLAN, THE CONSUMER SHALL RETURN TO THE LENDER'S POINT OF SALE LOCATION AND REQUEST A PAYMENT PLAN PRIOR TO THE CLOSE OF BUSINESS ON THE BUSINESS DAY PRIOR TO THE MATURITY DATE OF THE LOAN.

(c) THE PAYMENT PLAN SHALL PROVIDE THE CONSUMER WITH THE OPTION TO PAY OFF THE EXISTING DEBT, BOTH THE PRINCIPAL AND THE FEE, IN AT LEAST SIX EQUAL PAYMENTS THAT COINCIDE WITH THE CONSUMER'S PERIODIC PAY DATES OR THE DATE THE CONSUMER IS SCHEDULED TO RECEIVE BENEFITS. THE PAYMENTS MADE PURSUANT TO THE VOLUNTARY PAYMENT PLAN SHALL BE APPLIED DIRECTLY TO THE EXISTING DEBT, AND THE LENDER SHALL NOT CHARGE THE CONSUMER ANY ADDITIONAL FEE FOR PARTICIPATION IN THE PAYMENT PLAN.

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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.*

(d) THE LENDER SHALL PROVIDE A WRITTEN COPY OF THE PAYMENT PLAN AGREEMENT TO THE CONSUMER. THE LENDER SHALL BE PROHIBITED FROM ENGAGING IN COLLECTION ACTIVITIES WHILE THE CONSUMER CONTINUES TO MAKE PAYMENTS IN ACCORDANCE WITH THE PAYMENT PLAN. THE LENDER OR AFFILIATE OF THE LENDER IS PROHIBITED FROM MAKING ANY ADDITIONAL DEFERRED DEPOSIT LOANS TO THE CONSUMER PRIOR TO THE CONSUMER'S COMPLETION OF THE PAYMENT PLAN.

(e) THE LENDER MAY REQUIRE THE CONSUMER TO PROVIDE A POST-DATED CHECK OR ELECTRONIC AUTHORIZATION FOR FUNDS TRANSFERRED FOR EACH PAYMENT DUE UNDER THE PAYMENT PLAN. IF ANY CHECK OR ELECTRONIC AUTHORIZATION ACCEPTED BY THE LENDER IS DISHONORED, THE LENDER MAY NOT CHARGE THE CONSUMER A FEE FOR THE DISHONORED INSTRUMENT.

(f) IF THE CONSUMER FAILS TO MAKE PAYMENTS IN ACCORDANCE WITH A PAYMENT PLAN UNDER PARAGRAPH (a) OF THIS SUBSECTION (5), THE LENDER IS ENTITLED TO TAKE ACTION AS ALLOWED UNDER THIS ARTICLE TO COLLECT THE REMAINING FUNDS DUE AND MAY CHARGE THE CONSUMER A ONE-TIME DEFAULT FEE OF TWENTY-FIVE DOLLARS.

(g) FOR THE PURPOSES OF THIS SUBSECTION (5):

(I) "AFFILIATE" MEANS ANY ENTITY OWNED BY A LENDER, AN ENTITY THAT OWNS THE LENDER, AN ENTITY THAT IS UNDER COMMON OWNERSHIP WITH THE LENDER, OR AN ENTITY THAT IS A PERSON RELATED TO THE LENDER.

(II) "CONSECUTIVE DEFERRED DEPOSIT LOAN" MEANS A DEFERRED DEPOSIT LOAN MADE BY A LENDER WITHIN FIVE CALENDAR DAYS AFTER THE REPAYMENT OF A PREVIOUS DEFERRED DEPOSIT LOAN BY RENEWAL OR OTHERWISE.

(III) "LENDER'S POINT OF SALE LOCATION" MEANS:

(A) THE LENDER'S STORE WHERE THE CONSUMER ORIGINATED THE LOAN;

(B) ANOTHER STORE OPERATED BY THE LENDER IN THIS STATE; OR

(C) A WEB SITE, TELEPHONE NUMBER, OR OTHER REMOTE LOCATION WHERE THE CONSUMER ORIGINATED THE LOAN.

(IV) "PERSON RELATED TO" SHALL HAVE THE SAME MEANING AS IN SECTION 5-1-301 (34) (b).

**SECTION 2. Effective date - applicability.** This act shall take effect July 1, 2007, and shall apply to deferred deposit loans made to a consumer on or after said date.

**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 2, 2007