

CHAPTER 41

CONSUMER AND COMMERCIAL TRANSACTIONS

HOUSE BILL 09-1141

BY REPRESENTATIVE(S) Ferrandino, Green, McCann, Ryden;
also SENATOR(S) White.

AN ACT

CONCERNING LAWS ENFORCED BY THE ADMINISTRATOR OF THE "UNIFORM CONSUMER CREDIT CODE".

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

SECTION 1. 5-2-102, Colorado Revised Statutes, is amended to read:

5-2-102. Scope. For purposes of this article, "consumer credit transaction" applies to consumer loans, including supervised loans, consumer credit sales, and refinancing and consolidations of these transactions but does not include consumer leases EXCEPT FOR THE CHARGES AND PROCEDURES IN SECTIONS 5-2-202 AND 5-2-203. The provisions concerning credit card surcharges contained in section 5-2-212 apply to all sales and leases.

SECTION 2. The introductory portion to 5-2-202 (1), Colorado Revised Statutes, is amended to read:

5-2-202. Additional charges. (1) In addition to the finance charge permitted by this article AND IN A CONSUMER LEASE, a creditor may contract for and receive the following additional charges in connection with a consumer credit transaction:

SECTION 3. 5-2-302 (1), (8), and (9), Colorado Revised Statutes, are amended to read:

5-2-302. License to make supervised loans. (1) The administrator shall receive and act on all applications for licenses to make supervised loans under this code. Applications shall be filed in the manner prescribed by the administrator and shall contain such information as the administrator may reasonably require. No license shall be issued without payment of a nonrefundable license fee. ~~of four hundred~~

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

~~dollars.~~ The license year shall be the calendar year.

(8) Each license shall be renewed by payment of a nonrefundable license fee ~~of four hundred dollars~~ and the filing of a renewal form. The fee and renewal form shall be due each January 31. If a licensee fails to pay the prescribed fee on or before March 1, it ~~must~~ SHALL pay a penalty of five dollars per day per license from March 2 to the date the payment is postmarked. However, if a licensee fails to pay the appropriate renewal and penalty fees by March 15, its license shall automatically expire.

(9) ~~In addition to the other fees required by this section, each licensee shall pay an additional nonrefundable annual volume fee in the amount of ten dollars for each one hundred thousand dollars, or part thereof, in excess of two million dollars of the original unpaid balance arising from all consumer insurance premium finance loans made to residents of this state within the preceding calendar year and held by the lender for more than thirty days after the inception of the loan giving rise to the obligation. A refinancing of a loan resulting in an increase in the amount of the obligation shall be considered a new loan to the extent of the amount of the increase.~~

SECTION 4. 5-6-201 (1) (a), Colorado Revised Statutes, is amended to read:

5-6-201. Applicability. (1) Except as provided in subsections (2) and (3) of this section, this part 2 applies if a person:

(a) Makes consumer credit sales and charges or collects a finance charge, or makes consumer leases. ~~and if the person collects payments under the obligation for more than thirty days after inception of the consumer credit sale or consumer lease;~~
or

SECTION 5. 5-6-203, Colorado Revised Statutes, is amended to read:

5-6-203. Fees. (1) A person required to file notification shall, with the first notification and on or before January 31 of each year thereafter, pay to the administrator a nonrefundable annual notification fee. ~~of twenty dollars~~ THE ADMINISTRATOR IS ENTITLED TO EXAMINE THE LOANS, BUSINESS, AND RECORDS OF SUCH PERSON WITHOUT ISSUANCE OF A SUBPOENA.

(2) ~~Persons required to file notification who are sellers or lessors shall pay an additional nonrefundable annual volume fee on or before January 31 of each year in the amount of twelve dollars for each one hundred thousand dollars, or part thereof, in excess of one hundred thousand dollars, of the original unpaid balances arising from consumer credit sales or consumer leases made in this state within the preceding calendar year and held either by the creditor for more than thirty days after the inception of the sale or lease giving rise to the obligations or by an assignee who has not filed notification. A refinancing of a sale or lease resulting in an increase in the amount of an obligation is considered a new sale or lease to the extent of the amount of the increase.~~

(3) Persons required to file notification who are assignees of consumer credit sales or consumer leases shall pay an additional nonrefundable annual volume fee

on or before January 31 of each year ~~in the amount of twelve dollars~~ for each one hundred thousand dollars, or part thereof, of the unpaid balances at the time of the assignment of obligations arising from consumer credit sales or consumer leases made in this state and taken by assignment during the preceding calendar year. ~~but an assignee need not pay a volume fee with respect to an obligation on which the assignor or other person has already paid a volume fee.~~

(4) A penalty of five dollars per day shall be imposed on any person failing to comply with this section; except that, if the fees required by this section are paid on or before March 1 of each year, no penalty shall be imposed. If a person required to file notification and pay a notification fee fails to do so, the consumer shall have no obligation to pay the finance charge due under the consumer credit transaction, and any finance charges paid shall be refunded to the consumer. In addition, if the administrator ~~shall be entitled to examine~~ EXAMINES the loans, business, ~~and~~ OR records of such person, ~~without issuance of a subpoena and~~ the person shall pay the reasonable and necessary examination expenses of the administrator.

(5) ~~Notwithstanding the amount specified for any fee in this section or in section 5-2-302 (1), the administrator by rule or as otherwise provided by law may~~ THE ADMINISTRATOR SHALL DETERMINE THE AMOUNT OF THE NOTIFICATION, VOLUME, AND LICENSE FEES REQUIRED IN THIS SECTION AND IN SECTION 5-2-302 AND MAY PERIODICALLY reduce OR INCREASE the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3) AND (4), C.R.S., to reduce the uncommitted reserves of the UNIFORM CONSUMER CREDIT CODE CASH fund CREATED IN SECTION 5-6-204 to which all of any portion of one or more of the fees is credited; ~~After the uncommitted reserves of the fund are sufficiently reduced, the administrator by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402 (4), C.R.S.~~ EXCEPT THAT THE FUND SHALL BE SUBJECT TO AN ALTERNATIVE RESERVE BALANCE OF ONE-THIRD OF THE AMOUNT EXPENDED DURING THE PREVIOUS FISCAL YEAR.

SECTION 6. Repeal. 12-14-117 (2), Colorado Revised Statutes, is repealed as follows:

12-14-117. Powers and duties of the administrator. (2) ~~The administrator is authorized to develop any examination required for the administration of this article and to determine the amount of any examination fee. The administrator shall offer each such examination at least twice a year, or more frequently if demand warrants, and shall establish a passing score for each examination that reflects a minimum level of competency.~~

SECTION 7. The introductory portion to 12-14.5-103 (2) and 12-14.5-103 (2) (a), Colorado Revised Statutes, are amended to read:

12-14.5-103. Definitions. As used in this part 1, unless the context otherwise requires:

(2) "Credit services organization" means any person, INCLUDING A NONPROFIT ORGANIZATION EXEMPT FROM TAXATION UNDER SECTION 501 (c) (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", who, with respect to the extension of credit by others, represents that such person can or will, in return for the payment

of money or other valuable consideration by the buyer, improve or attempt to improve a buyer's credit record, history, or rating. The term "credit services organization" does not include the following:

(a) ~~Any nonprofit organization exempt from taxation under section 501(c)(3) of the federal "Internal Revenue Code of 1986"; or~~

SECTION 8. 12-14.5-107 (1) (a), Colorado Revised Statutes, is amended to read:

12-14.5-107. Content of written disclosure. (1) The information statement required pursuant to section 12-14.5-106 shall be printed in at least ten-point type and shall include:

(a) The following statements concerning consumer credit reports and consumer credit agencies:

RIGHTS UNDER COLORADO AND FEDERAL LAW

You have a right to obtain a copy of your credit report from a credit bureau AT NO CHARGE ONCE PER YEAR WITH ADDITIONAL COPIES AVAILABLE for a small fee. You have a right to dispute inaccurate information by contacting the credit bureau directly. However, you have no right to have accurate information removed from your credit bureau report. Under the federal "Fair Credit Reporting Act", the credit bureau must remove accurate negative information from your report only if it is over 7 years old. Bankruptcy can be reported for 10 years. Even when a debt has been completely repaid, your report can show that it was paid late if that is accurate. You have a right to sue a credit repair company that violates the "Colorado Credit Services Organization Act". This law prohibits deceptive practices by repair companies. The "Colorado Credit Services Organization Act" also gives you a right to cancel your contract for any reason within 5 working days from the date you sign it.

The Federal Trade Commission enforces the federal "Fair Credit Reporting Act". For more information, call or write the Federal Trade Commission. The administrator of the "Uniform Consumer Credit Code" enforces the "Colorado Credit Services Organization Act". For more information, call or write the Colorado attorney general's office.

SECTION 9. 12-14.5-203 (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-14.5-203. Exempt agreements and persons. (b) This part 2 does not apply to a provider to the extent that the provider:

(4) IS SUBJECT TO THE "COLORADO FORECLOSURE PROTECTION ACT", PART 11 OF ARTICLE 1 OF TITLE 6, C.R.S.

SECTION 10. Effective date - applicability. This act shall take effect July 1, 2009, and shall apply to acts occurring on or after said date; except that sections 3,

4, and 5 of this act shall take effect January 1, 2010, and shall apply to acts occurring on or after said date.

SECTION 11. 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 20, 2009