

Colorado Statutes

§ 5-1-101. Short title

Articles 1 to 9 of this title shall be known and may be cited as the “Uniform Consumer Credit Code”, referred to in said articles as the “code”.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-1-102. Purposes--rules of construction

(1) This code shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this code are:

(a) To simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;

(b) To provide rate ceilings to assure an adequate supply of credit to consumers;

(c) To further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;

(d) To protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;

(e) To permit and encourage the development of fair and economically sound consumer credit practices;

(f) To conform the regulation of consumer credit transactions to the policies of the federal “Truth in Lending Act” and the federal “Consumer Leasing Act”; and

(g) To make uniform the law, including administrative rules, among the various jurisdictions.

(3) A reference to a requirement imposed by this code includes reference to a related rule of the administrator adopted pursuant to this code.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-1-103. Supplementary general principles of law applicable

Unless displaced by the particular provisions of this code, the “Uniform Commercial Code” and the principles of law and equity, including the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause, supplement the provisions of this code.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-1-104. Construction against implicit repeal

This code being a general act intended as a unified coverage of its subject matter, no part of it is deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-1-105. Severability clause

If any provision of this code or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this code which can be given effect without the invalid provision or application, and to this end the provisions of this code are declared to be severable.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-1-106. Waiver--agreement to forego rights--settlement of claims

(1) Except as otherwise provided in this code, a consumer may not waive or agree to forego rights or benefits under this code.

(2) A claim by a consumer against a creditor for an excess charge, other violation of this code, or civil penalty, or a claim against a consumer for default or breach of a duty imposed by this code, if disputed in good faith, may be settled by agreement.

(3) A claim, whether or not disputed, against a consumer, may be settled for less value than the amount claimed.

(4) A settlement in which the consumer waives or agrees to forego rights or benefits under this code is invalid if the court as a matter of law finds the settlement to have been unconscionable at the time it was made. The competence of the consumer, any deception or coercion practiced upon the consumer, the nature and extent of the legal advice received by the consumer, and the value of the consideration are relevant to the issue of unconscionability.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-1-107. Effect of code on powers of organizations

(1) This code prescribes maximum charges for all creditors extending consumer credit except lessors and those excluded in sections 5-1-202 and 5-2-213(2)(b) and displaces existing limitations on the powers of those creditors based on maximum charges.

(2) With respect to sellers of goods or services, small loan companies, licensed lenders, consumer and sales finance companies, loan companies, and commercial banks and trust companies, this code displaces existing limitations on their powers based solely on amount or duration of credit.

(3) Except as provided in subsection (1) of this section, this code does not displace limitations on powers of credit unions, savings banks, savings and loan associations, or other thrift institutions whether organized for the profit of shareholders or as mutual organizations.

(4) Except as provided in subsections (1) and (2) of this section, this code does not displace:

(a) Limitations on powers of supervised financial organizations, as defined in section 5-1-301(45), with respect to the amount of a loan to a single borrower, the ratio of a loan to the value of collateral, the duration of a loan secured by an interest in land, or other similar restrictions designed to protect deposits; or

(b) Limitations on powers an organization is authorized to exercise under the laws of this state or the United States.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2013, Ch. 282, § 19, eff. July 1, 2013.

§ 5-1-201. Territorial application—definitions

(1) Except as otherwise provided in this section, this code applies to consumer credit transactions made in this state and to modifications, including refinancing, consolidations, and deferrals, made in this state, of consumer credit transactions, wherever made. For purposes of this code, a consumer credit transaction is made in this state if:

(a) A written agreement evidencing the obligation or offer of the consumer is received by the creditor in this state; or

(b) A consumer who is a resident of this state enters into the transaction with a creditor who has solicited or advertised in this state by any means, including but not limited to mail, brochure, telephone, print, radio, television, internet, or any other electronic means.

(2) Notwithstanding paragraph (b) of subsection (1) of this section, unless made subject to this code by agreement of the parties, a consumer credit transaction is not made in this state if a resident of this state enters into the transaction while physically present in another state.

(3) Part 1 of article 5 of this title and sections 5-3-104 and 5-3-105 apply to actions or other proceedings brought in this state to enforce rights arising out of a consumer credit transaction, or modification thereof, wherever made.

(4) If a consumer credit transaction, or modification thereof, is made in another state with a person who is a resident of this state when the consumer credit transaction or modification is made, the following provisions apply as though the transaction occurred in this state:

(a) A creditor, or assignee of the creditor's rights, may not collect charges through actions or other proceedings in excess of those permitted by this code; and

(b) A creditor, or assignee of the creditor's rights, may not enforce rights against the consumer that violate the provisions of this code on limitations on agreements and practices.

(5) Except as provided in subsection (3) of this section, a consumer credit transaction, or modification thereof, made in another state with a person who was not a resident of this state when the consumer credit transaction or modification was made is valid and enforceable in this state according to its terms to the extent that it is valid and enforceable under the laws of the state applicable to the transaction.

(6) For the purposes of this code, the "residence" of a consumer is the address given by the consumer as the consumer's residence in any writing provided by the consumer in connection with a credit transaction. Until the consumer notifies the creditor of a new or different address, the given address is presumed to be unchanged.

(7) Notwithstanding other provisions of this section:

(a) Except as provided in subsection (3) of this section, this code does not apply if the consumer is not a resident of this state at the time of a credit transaction and the parties then agree that the law of the consumer's residence applies; and

(b) This code applies if the consumer is a resident of this state at the time of a credit transaction and the parties then agree that the law of this state applies.

(8) Except as provided in subsection (7) of this section, an agreement by a consumer is invalid with respect to consumer credit transactions, or modifications thereof, to which this code applies when such agreement provides that:

(a) The law of another state shall apply;

(b) The consumer consents to the jurisdiction of another state; or

(c) Venue is fixed.

(9) The following provisions of this code specify the applicable law governing certain cases:

(a) Section 5-6-102 on the powers and functions of the administrator; and

(b) Section 5-6-201 on notification and fees.

(10) For the purpose of subsection (1) of this section, “receive” means obtained as a result of physical delivery, transmission, or communication to one who has actual or apparent authority to act for the creditor in this state whether or not approval, acceptance, or ratification by any other agent or representative of such creditor in some other state is necessary to give legal consequence to the consumer credit transaction.

(11) Notwithstanding any other provision of this section, this code applies to any consumer insurance premium loan made to a resident of this state.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-1-202. Exclusions

(1) This code does not apply to:

(a) Extensions of credit to government or governmental agencies or instrumentalities;

(b) Except as otherwise provided in article 4 of this title, the sale of insurance if there is no legal obligation to pay installments of the premium and the insurance may terminate or be canceled after nonpayment of an installment of the premium;

(c) Transactions under public utility or common carrier tariffs if a subdivision or agency of this state or of the United States regulates the charges for the services involved, the charges for delayed payment, and any discount allowed for early payment;

(d)(I) With respect to contracts for purchase entered into by a pawnbroker, as the terms are defined in section 29-11.9-101, the rates and charges, and the disclosure of rates and charges, if the rates and charges do not exceed the fixed price permitted by section 29-11.9-101(2). The exclusion in this subsection (1)(d)(I) applies to pawnbrokers who are:

(A) Licensed by a local licensing authority pursuant to section 29-11.9-102; or

(B) Regulated, with respect to rates and charges, by a local governing authority pursuant to section 29-11.9-102.(II) The exclusion in

subparagraph (I) of this paragraph (d) also applies to pawnbrokers authorized to make supervised loans under section 5-2-301 with respect to contracts for purchase; except that the exclusion does not apply to the disclosure of rates and charges of pawnbrokers authorized to make supervised loans.

(e) 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;

(f) 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, C.R.S.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2012, Ch. 218, § 1, eff. Aug. 8, 2012; Laws 2017, Ch. 246, § 4, eff. Aug. 9, 2017.

§ 5-1-203. Jurisdiction and service of process

(1) The court of record of any judicial district in this state may exercise jurisdiction over any creditor with respect to any conduct in this state governed by this code or with respect to any claim arising from a transaction subject to this code. In addition to any other method provided by the Colorado rules of civil procedure or by statute, personal jurisdiction over a creditor may be acquired in a civil action or proceeding instituted in the court of record by the service of process in the manner provided by this section.

(2) If a creditor is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by this code or engages in a transaction subject to this code, the creditor may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the secretary of state. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the secretary of state, but service upon the secretary of state is not effective unless the plaintiff or petitioner forthwith mails a copy of the process and pleading by registered or certified mail to the defendant or respondent at his or her last reasonably ascertainable address. An affidavit of compliance with this section shall be filed with the clerk of the court on or before the return day of the process, if any, or within any further time the court allows.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 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 finance charge and the balance subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

(2) “Administrator” means the administrator designated in section 5-6-103.

(3) “Agreement” means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance.

(4) “Agricultural purpose” means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products. “Agricultural products” includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.

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

(a) In the case of a sale:

(I) The cash price of the goods, services, or interest in land, less the amount of any down payment whether made in cash or in property traded in; and

(II) The amount actually paid or to be paid by the seller pursuant to an agreement with the buyer to discharge a security interest in or a lien on property traded in;

(b) In the case of a loan:

(I) The net amount paid to, receivable by, or paid or payable for the account of the debtor; and

(II) The amount of any discount excluded from the finance charge described in paragraph (c) of subsection (20) of this section; and

(c) In the case of a sale or loan, to the extent that payment is deferred and the amount is not otherwise included in the cash price:

(I) Any applicable sales, use, excise, or documentary stamp taxes;

(II) Amounts actually paid or to be paid by the creditor for registration, certificate

of title, or license fees; and

(III) Additional charges permitted by this code described in section 5-2-202.

(6) “Business day” means any calendar day except Sunday, New Year’s day, the third Monday in January observed as the birthday of Dr. Martin Luther King, Jr., Washington-Lincoln day, Memorial day, Independence day, Labor day, Columbus day, Veterans’ day, Thanksgiving day, and Christmas day.

(7)(a) “Cash price” means, except as the administrator may otherwise prescribe by rule promulgated in accordance with article 4 of title 24, C.R.S., the price at which goods, services, or an interest in land is offered for sale by the seller to cash buyers in the ordinary course of business and may include the cash price of accessories or related services such as delivery, installation, servicing, repairs, alterations, modifications, and improvements and, if individually itemized, may also include:

(I) Applicable sales, use, and excise and documentary stamp taxes; and

(II) Amounts actually paid or to be paid by the seller for registration, certificate of title, or license fees.

(b) The cash price stated by the seller to the buyer pursuant to the provisions on disclosure contained in section 5-3-101 is presumed to be the cash price.

(8) “Closing costs” with respect to a debt secured by an interest in land includes:

(a) Fees or premiums for title examination, title insurance, or similar purposes including surveys;

(b) Fees for preparation of a deed, settlement statement, or other documents;

(c) Escrows for future payments of taxes and insurance;

(d) Fees for notarizing deeds and other documents;

(e) Appraisal fees; and

(f) Credit reports.

(9) “Conspicuous” means a term or clause that is so written that a reasonable person against whom it is to operate ought to have noticed it. Whether a term or clause is conspicuous or not is for decision by the court. A printed heading in capitals (as: WARRANTY) is conspicuous, and language in the body of the form is conspicuous if it is in larger or other contrasting type or color. In a telegram, any stated term is conspicuous.

(10) “Consumer” means a person other than an organization who is the buyer, lessee, or debtor to whom credit is granted in a consumer credit transaction.

(11)(a) “Consumer credit sale” means, except as provided in paragraph (b) of this subsection (11), a sale of goods, services, a mobile home, or an interest in land in which:

(I) Credit is granted or arranged by a person who regularly engages as a seller in credit transactions of the same kind or pursuant to a seller credit card;

(II) The buyer is a person other than an organization;

(III) The goods, services, mobile home, or interest in land are purchased primarily for a personal, family, or household purpose;

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

(V) With respect to a sale of goods or services, the amount financed does not exceed seventy-five thousand dollars.

(b) Unless the sale is made subject to this code by section 5-2-501, “consumer credit sale” does not include:

(I) A sale in which the seller allows the buyer to purchase goods or services pursuant to a lender credit card or similar arrangement;

(II)(A) Except as required by the federal “Truth in Lending Act” or the federal “Consumer Leasing Act” with respect to disclosure contained in section 5-3-101 and consumers’ remedies for transactions secured by interests in land as contained in section 5-5-204, a sale of a mobile home or a sale of an interest in land if the finance charge does not exceed twelve percent per year calculated according to the actuarial method on the unpaid balances of the amount financed on the assumption that the debt will be paid according to the agreed terms and will not be paid before the end of the agreed term or, notwithstanding the rate of the finance charge with respect to the sale of an interest in land, the sale is secured by a first mortgage or deed of trust lien against a dwelling to finance the acquisition of that dwelling.

(B) For the purposes of this subparagraph (II), “dwelling” means any improved real property or portion thereof that is used or intended to be used as a residence and contains not more than four dwelling units, and “first mortgage or deed of trust” means a mortgage or deed of trust having priority as a lien over the lien of any other mortgage or deed of trust on the same dwelling and subject to the lien of taxes levied on that dwelling.

(III) A sale for a business, investment, or commercial purpose; or

(IV) A sale primarily for an agricultural purpose.

(12) “Consumer credit transaction” means a consumer credit sale or consumer loan, or a refinancing or consolidation thereof, or a consumer lease.

(13) “Consumer insurance premium loan” means a consumer loan that:

(a) Is made for the sole purpose of financing the payment by or on behalf of an insured of the premium on one or more policies or contracts issued by or on behalf of an insurer;

(b) Is secured by an assignment by the insured to the lender of the unearned premium on the policy or contract; and

(c) Contains an authorization to cancel the policy or contract so financed.

(14)(a) “Consumer lease” means a lease of goods and includes any insurance incidental to the lease and any other services merely incidental to upkeep or repair of the goods:

(I) That a lessor regularly engaged in the business of leasing makes to a person, other than an organization, who takes under the lease primarily for a personal, family, or household purpose;

(II) In which the amount payable under the lease does not exceed seventy-five thousand dollars; and

(III) That is for a term exceeding four months.

(b) “Consumer lease” does not include a lease made pursuant to a lender credit card or similar arrangement.

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

(I) The consumer is a person other than an organization;

(II) The debt is incurred primarily for a personal, family, or household purpose;

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

(IV) Either the principal does not exceed seventy-five thousand dollars or the debt is secured by an interest in land.

(b) Unless the loan is made subject to this code by an agreement described in section 5-2-

501, “consumer loan” does not include:

- (I) A loan for a business, investment, or commercial purpose;
- (II) A loan primarily for an agricultural purpose; or
- (III) A reverse mortgage as defined in section 11-38-102, C.R.S.

(c) Unless the loan is made subject to this code by an agreement described in section 5-2-501 and except as provided with respect to the disclosure described in section 5-3-101, consumers’ remedies for transactions secured by interests in land as described in section 5-5-204, and powers and functions of the administrator under part 1 of article 6 of this title, “consumer loan” does not include a “loan primarily secured by an interest in land” as defined in subsection (26) of this section.

(16) “Credit” means the right granted by a creditor to a consumer to defer payment of debt or to incur debt and defer its payment.

(16.5) “Credit card” means a lender credit card or a seller credit card, except as otherwise provided in this code.

(17) “Creditor” means the seller, lessor, lender, or person who makes or arranges a consumer credit transaction and to whom the transaction is initially payable, or the assignee of a creditor’s right to payment, but use of the term does not in itself impose on an assignee any obligation of his or her assignor. In case of credit granted pursuant to a credit card, “creditor” means the card issuer and not another person honoring the credit card.

(18) “Dwelling” means a residential structure or mobile home that contains one to four family housing units or individual units of condominiums or cooperatives.

(19) “Earnings” means compensation paid or payable to an individual or for the individual’s account for personal services rendered or to be rendered by the individual, whether denominated as wages, salary, fees, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension, retirement, or disability program.

(20) “Finance charge” means:

(a) The sum of all charges payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, whether paid or payable by the consumer, the creditor, or any other person on behalf of the consumer to the creditor or to a third party, including any of the following types of charges that are applicable:

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

(II) Time-price differential, credit service, service, carrying, or other charge, however denominated;

(III) Premium, or other charge for any guarantee or insurance protecting the creditor against the consumer's default or other credit loss; and

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

(b) The term does not include charges as a result of default described in section 5-3-302, additional charges described in section 5-2-202, delinquency charges described in section 5-2-203, or deferral charges described in section 5-2-204.

(c) If a creditor makes a loan to a consumer by purchasing or satisfying obligations of the consumer pursuant to a credit card or similar arrangement and the purchase or satisfaction is made at less than the face amount of the obligation, the discount is not part of the finance charge.

(21) "Goods" includes goods not in existence at the time the transaction is entered into and merchandise certificates but excludes money, chattel paper, documents of title, and instruments.

(22) "Investment purpose" means that the primary purpose of the credit sale or loan is for future financial gain rather than for a present personal, family, or household use.

(23) "Lender" includes an assignee of the lender's right to payment, unless otherwise provided in this code, but use of the term does not in itself impose on an assignee any obligation of the lender with respect to events occurring before the assignment.

(24) "Lender credit card or similar arrangement" means an arrangement or loan agreement, other than a seller credit card, pursuant to which a lender gives a consumer the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises:

(a) By the lender's honoring a draft or similar order for the payment of money drawn or accepted by the consumer;

(b) By the lender's payment or agreement to pay the consumer's obligations; or

(c) By the lender's purchase from the obligee of the consumer's obligations.

(25) "Loan" includes:

(a) Except as otherwise provided in paragraph (b) of this subsection (25):

(I) The creation of debt by the lender's payment of or agreement to pay money to the consumer or to a third party for the account of the consumer;

(II) The creation of debt by a credit to an account with the lender upon which the

consumer is entitled to draw immediately;

(III) The creation of debt pursuant to a lender credit card in any manner, including a cash advance or the card issuer's honoring a draft or similar order for the payment of money drawn or accepted by the consumer, paying or agreeing to pay the consumer's obligation, or purchasing or otherwise acquiring the consumer's obligation from the obligee or his or her assignees;

(IV) The forbearance of debt arising from a loan; and

(V) The creation of debt by a cash advance to a consumer pursuant to a seller credit card.

(b) "Loan" does not include:

(I) A card issuer's payment or agreement to pay money to a third person for the account of a consumer if the debt of the consumer arises from a sale or lease and results from use of a seller credit card; or

(II) The forbearance of debt arising from a sale or lease.

(26)(a) "Loan primarily secured by an interest in land" means a consumer loan secured by a mobile home or primarily secured by an interest in land if, at the time the loan is made the value of the collateral is substantial in relation to the amount of the loan, and:

(I) The rate of the finance charge does not exceed twelve percent per year calculated according to the actuarial method on the unpaid balances of the principal on the assumption that the debt will be paid according to the agreed terms and will not be paid before the end of the agreed term; or

(II) Notwithstanding the rate of the finance charge, and other than a precomputed loan as defined in subsection (35) of this section, the loan is secured by a first mortgage or deed of trust lien against a dwelling to:

(A) Finance the acquisition of that dwelling; or

(B) To refinance, by amendment, payoff, or otherwise, an existing loan made to finance the acquisition of that dwelling, including a refinance loan providing additional sums for any purpose whether or not related to acquisition or construction.

(b) As to any refinance loan in the form of a revolving loan account that is in whole or in part for purposes other than acquisition or construction, section 5-3-103 shall apply.

(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 5-5-112 on the amount of attorney fees that a lender may charge the consumer are not applicable.

(d) For purposes of this subsection (26):

(I) A “loan secured by a first mortgage or deed of trust lien against a dwelling to finance the acquisition of the dwelling” includes a loan secured by a first mortgage or deed of trust lien against a dwelling to finance the original construction of such dwelling or to refinance any such construction loan;

(II) “Dwelling” means any improved real property, or portion thereof, that is used or intended to be used as a residence and contains not more than four dwelling units; and

(III) “First mortgage or deed of trust” means a mortgage or deed of trust having priority as a lien over the lien of any other mortgage or deed of trust on the same dwelling and subject to the lien of taxes levied on that dwelling.

(27) “Material disclosures” means the disclosure, as required by this code, of the annual percentage rate, the method of determining the finance charge and the balance upon which a finance charge will be imposed, the amount of the finance charge, the amount to be financed, the total of payments, the number and amount of payments, and the due dates or periods of payments scheduled to repay the indebtedness.

(28) “Merchandise certificate” means a writing not redeemable in cash and usable in its face amount in lieu of cash in exchange for goods or services.

(29) “Mobile home” means a dwelling that is built on a chassis designed for long-term residential occupancy, that is capable of being installed in a permanent or semi-permanent location, with or without a permanent foundation, and with major appliances and plumbing, gas, and electrical systems installed but needing the appropriate connections to make them operable, and that may be occasionally drawn over the public highways, by special permit, as a unit or in sections to its permanent or semi-permanent location.

(30) “Official fees” means:

(a) Fees and charges prescribed by law that actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit transaction; or

(b) Premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the consumer credit transaction if the premium does not exceed the fees and charges described in paragraph (a) of this subsection (30) that would otherwise be payable.

(31) “Organization” means a corporation, limited liability company, government or governmental subdivision or agency, trust, estate, partnership, limited liability partnership, cooperative, or association.

(32) “Payable in installments” means that payment is required or permitted by agreement to be made in more than four periodic payments, excluding a down payment. If any periodic payment other than the down payment under an agreement requiring or permitting two or more periodic payments is more than twice the amount of any other periodic payment, excluding the down payment, the consumer credit transaction is “payable in installments”.

(33) “Person” includes a natural person or an individual and an organization.

(34)(a) “Person related to” means, with respect to an individual, the spouse of the individual; a brother, brother-in-law, sister, or sister-in-law of the individual; an ancestor or lineal descendant of the individual or the individual’s spouse; and any other relative, by blood or marriage, of the individual or the individual’s spouse who shares the same home with the individual.

(b) “Person related to” means, with respect to an organization, a person directly or indirectly controlling, controlled by, or under common control with the organization; an officer or director of the organization or a person performing similar functions with respect to the organization or to a person related to the organization; the spouse of a person related to the organization; and a relative by blood or marriage of a person related to the organization who shares the same home with such person.

(35) “Precomputed” means a consumer credit sale or consumer loan in which the debt is expressed as a sum comprising the amount financed and the amount of the finance charge computed in advance or in which any portion of the finance charge is prepaid and the amount of that portion of the finance charge either computed in advance or prepaid constitutes more than one-half of the total finance charge applicable to the consumer credit sale or consumer loan.

(36) “Presumed” or “presumption” means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced that would support a finding of its nonexistence.

(37) “Regularly” has the same meaning as stated in the federal “Truth in Lending Act” and the federal “Consumer Leasing Act”.

(38) “Revolving credit” means an arrangement pursuant to which:

(a) A creditor may permit a consumer, from time to time, to purchase or lease on credit from the creditor or to obtain loans from the creditor;

(b) The amounts financed and the finance and other appropriate charges are debited to an account;

- (c) The finance charge, if made, is computed on the account periodically; and
- (d) Either the consumer has the privilege of paying in full or in installments or the creditor periodically imposes charges computed on the account for delaying payment and permits the consumer to continue to purchase or lease on credit.

(39) "Sale of goods" includes any agreement in the form of a bailment or lease of goods if the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the goods involved and it is agreed that the bailee or lessee will become, or for no other or a nominal consideration has the option to become, the owner of the goods upon full compliance with his or her obligations under the agreement.

(40) "Sale of an interest in land" includes a lease in which the lessee has an option to purchase the interest and all or a substantial part of the rental or other payments previously made by him are applied to the purchase price.

(41) "Sale of services" means furnishing or agreeing to furnish services and includes making arrangements to have services furnished by another.

(42) "Seller", except as otherwise provided, includes an assignee of the seller's right to payment, but use of the term does not in itself impose on an assignee any obligation of the seller with respect to events occurring before the assignment.

(43) "Seller credit card" means an arrangement pursuant to which a person gives to a buyer or lessee the privilege of using a credit card, letter of credit, or other credit confirmation or identification primarily for the purpose of purchasing or leasing goods or services from that person or from that person and any other person.

(44) "Services" includes:

- (a) Work, labor, and other personal services;
- (b) Privileges with respect to transportation, hotel and restaurant accommodations, education, entertainment, recreation, physical culture, hospital accommodations, funerals, cemetery accommodations, and the like; and
- (c) Insurance provided by a person other than the insurer.

(45) "Supervised financial organization" means a person, other than an insurance company or other organization primarily engaged in an insurance business:

- (a) Organized, chartered, or holding an authorization certificate under the laws of any state or of the United States that authorize the person to make loans and to receive deposits, including a savings, share, certificate, or deposit account; and
- (b) Subject to supervision by an official or agency of any state or of the United States.

(46) “Supervised lender” means a person authorized to make or take assignments of supervised loans under a license issued by the administrator or as a supervised financial organization.

(47) “Supervised loan” means a consumer loan, including a loan made pursuant to a revolving credit account, in which the rate of the finance charge exceeds twelve percent per year as determined according to the provisions on finance charges contained in section 5-2-201.

(48) “Written” or “in writing” means any record conveying information and that is in a form the consumer may retain, or is capable of being displayed in visual text in a form the consumer may retain, including paper, electronic, digital, magnetic, optical, and electromagnetic.

Credits

Amended by Laws 2000, Ch. 128, § 2, eff. July 1, 2000. Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2001, Ch. 13, § 1, eff. March 9, 2001; Laws 2003, Ch. 295, § 1, eff. July 1, 2003; Laws 2004, Ch. 316, § 6, eff. Aug. 4, 2004.

§ 5-1-302. Definitions--federal “Truth in Lending Act” and federal “Consumer Leasing Act”

In this code, federal “Truth in Lending Act”, 15 U.S.C. sec. 1601 et seq., and federal “Consumer Leasing Act”, 15 U.S.C. sec. 1667 et seq., mean chapters of the “Consumer Credit Protection Act” (Public Law 90-321; 82 Stat. 146), as amended¹ from time to time, and include regulations issued pursuant to those acts.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 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”	sections 5-1-301(2) and 5-6-103
“Agreement”	section 5-1-301(3)
“Agricultural purpose”	section 5-1-301(4)
“Amount financed”	section 5-1-301(5)
“Business day”	section 5-1-301(6)

“Cash price”	section 5-1-301(7)
“Closing costs”	section 5-1-301(8)
“Conspicuous”	section 5-1-301(9)
“Consumer”	section 5-1-301(10)
“Consumer credit insurance”	section 5-4-103(1)
“Consumer credit sale”	section 5-1-301(11)
“Consumer credit transaction”	section 5-1-301(12)
“Consumer insurance premium loan”	section 5-1-301(13)
“Consumer lease”	section 5-1-301(14)
“Consumer loan”	section 5-1-301(15)
“Credit”	section 5-1-301(16)
“Credit card bank or financial institution”	section 5-2-213(1)
“Creditor”	section 5-1-301(17)
“Credit Insurance Act”	section 5-4-103(2)
“Dwelling”	section 5-1-301(18)
“Earnings”	section 5-1-301(19)

“Federal ‘Truth In Lending Act’ ” and “Federal ‘Consumer Leasing Act’ ”	section 5-1-302
“Finance charge”	section 5-1-301(20)
“Goods”	section 5-1-301(21)
“Home solicitation sale”	section 5-3-401
“Investment purpose”	section 5-1-301(22)
“Lender”	section 5-1-301(23)
“Lender credit card or similar arrangement”	section 5-1-301(24)
“Loan”	section 5-1-301(25)
“Loan primarily secured by an interest in land”	section 5-1-301(26)
“Material disclosures”	section 5-1-301(27)
“Merchandise certificate”	section 5-1-301(28)
“Mobile home”	section 5-1-301(29)
“Official fees”	section 5-1-301(30)
“Organization”	section 5-1-301(31)

“Payable in installments”	section 5-1-301(32)
“Person”	section 5-1-301(33)
“Person related to”	section 5-1-301(34)
“Precomputed”	section 5-1-301(35)
“Presumed” or “Presumption”	section 5-1-301(36)
“Receive”	section 5-1-201(10)
“Regularly”	section 5-1-301(37)
“Residence”	section 5-1-201(6)
“Revolving credit”	section 5-1-301(38)
“Sale of goods”	section 5-1-301(39)
“Sale of an interest in land”	section 5-1-301(40)
“Sale of services”	section 5-1-301(41)
“Seller”	section 5-1-301(42)
“Seller credit card”	section 5-1-301(43)
“Services”	section 5-1-301(44)

“Supervised financial organization”	section 5-1-301(45)
“Supervised lender”	section 5-1-301(46)
“Supervised loan”	section 5-1-301(47)
“Written” or “In writing”	section 5-1-301(48)

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-101. Short title

This article shall be known and may be cited as “Uniform Consumer Credit Code -- Finance Charges and Related Provisions”.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 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.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2009, Ch. 41, § 1, eff. July 1, 2009.

§ 5-2-201. Finance charge for consumer credit transactions

(1) With respect to a consumer loan other than a supervised loan, including a revolving loan, a lender may contract for and receive a finance charge calculated according to the actuarial method not exceeding twelve percent per year on the unpaid balance of the amount financed.

(2) With respect to a supervised loan or a consumer credit sale, except for a loan or sale pursuant to a revolving account, a supervised lender or seller may contract for and receive a finance charge, calculated according to the actuarial method, not exceeding the equivalent of the greater of either of the following:

(a) The total of:

(I) Thirty-six percent per year on that part of the unpaid balances of the amount financed that is one thousand dollars or less;

(II) Twenty-one percent per year on that part of the unpaid balances of the amount financed that is more than one thousand dollars but does not exceed three thousand dollars; and

(III) Fifteen percent per year on that part of the unpaid balances of the amount financed that is more than three thousand dollars; or

(b) Twenty-one percent per year on the unpaid balances of the amount financed.

(3)(a) Except as provided in paragraph (b) of this subsection (3), the finance charge for a supervised loan or consumer credit sale pursuant to a revolving credit account, calculated according to the actuarial method, may not exceed twenty-one percent per year on the unpaid balance of the amount financed.

(b) Notwithstanding paragraph (a) of this subsection (3), if there is an unpaid balance on the date as of which the finance charge is applied, the creditor may contract for and receive a minimum finance charge not exceeding fifty cents.

(4)(a) Except as provided in paragraph (b) of this subsection (4), this section does not limit or restrict the manner of contracting for the finance charge, whether by way of add-on, discount, single annual percentage rate, or otherwise, so long as the rate of the finance charge does not exceed that permitted by this section.

(b) A 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 seller or lender shall disclose to the consumer the amount of any such prepaid finance charge.

(c) If the consumer credit transaction is precomputed:

(I) The finance charge may be calculated on the assumption that all scheduled payments will be made when due;

(II) The effect of prepayment is governed by the provisions on rebate upon prepayment contained in section 5-2-211.

(5) Except as provided in subsection (8) of this section, the term of a consumer credit transaction, for the purposes of this section, commences on the date the consumer credit transaction is made. Differences in the lengths of months are disregarded and a day may be counted as one-thirtieth of a month. Subject to classifications and differentiations the creditor may reasonably establish, a part of a month in excess of fifteen days may be treated as a full month if periods of fifteen days or less are disregarded and that procedure is not consistently used to obtain a greater yield than

would otherwise be permitted.

(6) Subject to classifications and differentiations the creditor may reasonably establish, the creditor may make the same finance charge on all amounts financed within a specified range. A finance charge so made does not violate this section if:

(a) When applied to the median amount within each range, it does not exceed the maximum permitted in this section; and

(b) When applied to the lowest amount within each range, it does not produce a rate of finance charge exceeding the rate calculated according to paragraph (a) of this subsection (6) by more than eight percent of such rate.

(7) Notwithstanding the provisions of subsections (1), (2), and (3) of this section, the creditor, in connection with a consumer credit transaction other than a deferred deposit loan as defined in section 5-3.1-102(3) or one pursuant to a revolving credit account, may contract for and receive a minimum loan finance charge of not more than twenty-five dollars.

(8) With respect to a consumer insurance premium loan, the term of the loan commences on the earliest inception date of a policy or contract of insurance on which payment of the premium is financed by the loan.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2001, Ch. 13, § 2, eff. March 9, 2001; Laws 2003, Ch. 295, § 2, eff. July 1, 2003.

§ 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:

(a) Official fees and taxes;

(b) Charges for insurance as described in subsection (3) of this section;

(c) Annual charges, payable in advance, for the privilege of using a credit card or similar arrangement;

(d) Charges for other benefits conferred on the consumer, including insurance, if the benefits are of value to the consumer and if the charges are reasonable in relation to the benefits, are of a type that is not for credit, and are authorized as permissible additional charges by rule adopted by the administrator;

(e) The following charges if agreed to by the parties:

(I) A charge, not to exceed the greater of two dollars or two and one-half percent of the amount advanced, for each cash advance transaction made pursuant to a credit card; and

(II) A fee, not to exceed twenty-five dollars, assessed upon return or dishonor of a check or other instrument tendered as payment.

(2) No finance charge may be assessed on any charge listed in paragraph (e) of subsection (1) of this section.

(3) An additional charge may be made for insurance written in connection with the transaction, other than insurance protecting the creditor against the consumer's default or other credit loss, if:

(a) With respect to insurance against loss of or damage to property or against liability, the creditor furnishes a clear and specific statement in writing to the consumer setting forth the cost of the insurance if obtained from or through the creditor and stating that the consumer may choose the person through whom the insurance is to be obtained; and

(b) With respect to consumer credit insurance providing life, accident, or health coverage, the insurance coverage is not a factor in the approval by the creditor of the extension of credit and this fact is clearly disclosed in writing to the consumer and if, in order to obtain the insurance in connection with the extension of credit, the consumer gives specific affirmative written indication of the consumer's desire to do so after written disclosure to the consumer of the cost thereof.

(4) With respect to a debt secured by an interest in land, bona fide and reasonable closing costs described in section 5-1-301(8) are additional charges.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2002, Ch. 269, § 2, eff. June 1, 2002; Laws 2009, Ch. 41, § 2, eff. July 1, 2009.

§ 5-2-203. Delinquency charges

(1) With respect to a consumer credit transaction, the parties may contract for a delinquency charge on any installment or minimum payment not paid in full within ten days after its scheduled due date in an amount not exceeding:

(a) Fifteen dollars for a transaction not secured by an interest in land; except that, if the transaction is precomputed, the amount may not exceed the greater of fifteen dollars or the deferral charge described in section 5-2-204(1) that would be permitted to defer the unpaid amount of the installment for the period that it is delinquent; or

(b) Five percent of the unpaid amount of the installment or minimum payment due for a

transaction secured by an interest in land.

(2) A delinquency charge under this section may be collected only once on an installment or minimum payment however long it remains in default. No delinquency charge may be collected if the installment or minimum payment has been deferred and a deferral charge described in section 5-2-204 has been paid or incurred until ten days after the deferred due date. A delinquency charge may be collected at the time it accrues or at any time thereafter.

(3) No delinquency charge may be collected on an installment or minimum payment that is paid in full within ten days after its scheduled installment due date even though an earlier maturing installment, minimum payment, or a delinquency charge on an earlier installment or minimum payment may not have been paid in full. For purposes of this subsection (3), payments are applied first to current installments or minimum payments due and then to delinquent installments or minimum payments due.

(4)(a) A creditor who has imposed a delinquency charge shall notify the consumer in writing of the amount of the delinquency charge assessed as follows:

(I) Before the due date of the next scheduled payment;

(II) If the creditor provides the consumer with periodic statements for each installment, on or with the next periodic statement provided to the consumer after the delinquency charge has been assessed; or

(III) For a revolving credit account for which a credit card is issued and that is not secured by an interest in land, before, on, or with the next periodic statement after the delinquency charge has been assessed.

(b) A creditor shall not assess a delinquency charge unless the delinquency charge is assessed within thirty days after the scheduled due date of any installment not paid in full or, for a revolving credit account for which a credit card is issued and that is not secured by an interest in land, within ninety days after the scheduled due date of the delinquent minimum payment.

(5) No finance charge may be assessed on any delinquency charge. For purposes of this section, for revolving credit, an installment is the minimum payment that the debtor is required to make during any billing cycle excluding any past-due amount from any previous billing cycle.

(6) If two installments or parts thereof of a precomputed transaction are in default for ten days or more, the creditor may elect to convert the transaction from a precomputed transaction to one in which the finance charge is based on unpaid balances, and the terms of the converted transaction shall be no less favorable to the consumer than the terms of the original transaction. In this event the creditor shall make a rebate pursuant to the provisions on rebate upon prepayment contained in section 5-2-211 as of the maturity date of the first delinquent installment and thereafter may make a finance charge as authorized by the provisions on finance charges. The amount of the rebate shall not be reduced by the amount of any permitted minimum charge described in

5-2-201. If the creditor proceeds under this subsection (6), any delinquency or deferral charges made with respect to installments due at or after the maturity date of the first delinquent installment shall be rebated and no further delinquency or deferral charges shall be made.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2007, Ch. 217, § 1, eff. May 14, 2007.

§ 5-2-204. Deferral charges

(1) With respect to a precomputed consumer credit transaction, the parties before or after default may agree in writing to a deferral of all or part of one or more unpaid installments, and the creditor may make and collect a charge not exceeding the rate previously stated to the consumer pursuant to the provisions on disclosure contained in section 5-3-101 applied to the amount or amounts deferred for the period of deferral calculated without regard to differences in the lengths of months, but proportionally for a part of a month, counting each day as one-thirtieth of a month. A deferral charge may be collected at the time it is assessed or at any time thereafter.

(2) The creditor, in addition to the deferral charge, may make appropriate additional charges described in section 5-2-202, and the amount of these charges that is not paid in cash may be added to the amount deferred for the purpose of calculating the deferral charge.

(3) The parties may agree in writing at the time of a precomputed consumer credit transaction that, if an installment is not paid within ten days after its due date, the creditor may unilaterally grant a deferral and make charges as provided in this section. No deferral charge may be made for a period after the date that the creditor elects to accelerate the maturity of the agreement.

(4) A delinquency charge made by the creditor on an installment may not be retained if a deferral charge is made pursuant to this section with respect to the period of delinquency.

(5) A deferral charge made according to this section is earned pro rata during the period in which no installment is scheduled to be paid by reason of the deferral and is fully earned on the last day of that period.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-205. Finance charge on refinancing

(1) With respect to a consumer credit transaction, the creditor may by agreement with the consumer refinance the unpaid balance and may contract for and receive a finance charge based on the amount financed resulting from the refinancing at a rate not exceeding that permitted by the provisions on finance charges. For the purpose of determining the finance charge permitted, the amount financed resulting from the refinancing comprises the following:

(a) If the transaction was not precomputed, the total of the unpaid balance and the

accrued charges on the date of the refinancing, or, if the transaction was precomputed, the amount that the consumer would have been required to pay upon prepayment pursuant to the provisions on rebate upon prepayment contained in section 5-2-211 on the date of refinancing; except that, for the purpose of computing this amount, no minimum charge described in section 5-2-201 shall be allowed; and

(b) Appropriate additional charges described in section 5-2-202, payment of which is deferred.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-206. Finance charge on consolidation

If a consumer owes an unpaid balance to a creditor with respect to a consumer credit transaction and becomes obligated on another consumer credit transaction with the same creditor, the parties may agree to a consolidation resulting in a single schedule of payments. If the previous consumer credit transaction was not precomputed, the parties may agree to add the unpaid amount of the amount financed and accrued charges on the date of consolidation to the amount financed with respect to the subsequent consumer credit transaction. If the previous consumer credit transaction was precomputed, the parties may agree to refinance the unpaid balance pursuant to the provisions on refinancing contained in section 5-2-205 and to consolidate the amount financed resulting from the refinancing by adding it to the amount financed with respect to the subsequent consumer credit transaction. In either case, the creditor may contract for and receive a finance charge based on the aggregate amount financed resulting from the consolidation at a rate not in excess of that permitted by the provisions on finance charges.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-207. Prepaid finance charge

(1) Subject to the provisions of subsection (2) of this section, a creditor may contract for the payment by the consumer of a prepaid finance charge; except that the total finance charge contracted for and received by the creditor shall not exceed that permitted for consumer credit transactions.

(2) With respect to a refinancing pursuant to section 5-2-205 or consolidation pursuant to section 5-2-206 of a previous consumer credit transaction for which a prepaid finance charge was imposed, if said refinancing or consolidation is consummated within one year after the previous transaction, a new prepaid finance charge may be imposed:

(a) Only on that portion of the aggregate amount financed resulting from the refinancing or consolidation that exceeds the unpaid balance of the previous transaction determined in accordance with the provisions of section 5-2-205 or section 5-2-206, whichever is appropriate; or

(b) On the aggregate amount financed resulting from the refinancing or consolidation; except that any unearned portion of the prepaid finance charge imposed in connection with the previous transaction shall be rebated to the consumer in accordance with the actuarial method as defined in section 5-1-301 and applicable rules adopted by the administrator.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-208. Conversion to revolving account

The parties may agree to add to a revolving account the unpaid balance of a consumer credit transaction not made pursuant to a revolving account. The unpaid balance is an amount equal to the amount financed determined according to the provisions on refinancing contained in section 5-2-205.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-209. Advances to perform covenants of consumer

(1) If the agreement with respect to a consumer credit transaction contains covenants by the consumer to perform certain duties pertaining to insuring or preserving collateral, and the creditor pursuant to the agreement pays for performance of the duties on behalf of the consumer, the creditor may add the amounts paid to the debt if:

- (a) The expenditure is reasonable to protect the risk of loss or damage to the property;
- (b) The creditor has mailed to the consumer, at the consumer's last known address, written notice of the consumer's nonperformance and has given the consumer reasonable opportunity after such notice to so perform; and
- (c) In the absence of performance, the creditor has made all expenditures on behalf of the consumer in good faith and in a commercially reasonable manner.

(2) Within a reasonable time after advancing any sums, the creditor shall state to the consumer in writing the amount of the sums advanced, any charges with respect to this amount, and any revised payment schedule, and, if the duties of the consumer performed by the creditor pertain to insurance, a brief description of the insurance paid for by the creditor including the type and amount of coverage. No further information need be given.

(3) A finance charge may be made for sums advanced pursuant to this section at a rate not exceeding the rate stated to the consumer pursuant to the provisions on disclosure contained in section 5-3-101 with respect to the consumer credit transaction; except that, with respect to a revolving account, the amount of the advance may be added to the unpaid balance of the debt and the creditor may make a finance charge not exceeding that permitted by the provisions on finance charges.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-210. Right to prepay

Subject to the provisions on rebate upon prepayment contained in section 5-2-211, the consumer may prepay in full, or in part if payment is no less than five dollars, the unpaid balance of a consumer credit transaction at any time without penalty. A payment in the amount of a scheduled installment, other than the last scheduled installment, not identified by the consumer as a partial prepayment shall not be deemed to be a partial prepayment regardless of when the payment is made if the amount equals the next scheduled installment. If such a payment is applied by the creditor to the scheduled installment, the payment shall be deemed to have been made on the due date for the scheduled installment to which it was applied.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-211. Rebate upon prepayment—definitions

(1) Except as otherwise provided in this section, upon prepayment in full of the unpaid balance of a precomputed consumer credit transaction, an amount not less than the unearned portion of the finance charge calculated according to this section shall be rebated to the consumer. If the rebate otherwise required is less than one dollar, no rebate need be made.

(2) Upon prepayment in full of a consumer credit transaction, other than one pursuant to a revolving account, a refinancing, or a consolidation, whether or not precomputed, the creditor may collect or retain a minimum charge within the limits stated in this subsection (2) if the finance charge earned at the time of prepayment is less than any minimum charge contracted for. The minimum charge may not exceed the lesser of the amount of finance charge contracted for or twenty-five dollars.

(3)(a) Except as otherwise provided in this section, the unearned portion of the finance charge is a fraction of the finance charge of which the numerator is the sum of the periodic balances scheduled to follow the computational period in which prepayment occurs, and the denominator is the sum of all periodic balances under either the consumer credit agreement or, if the balance owing resulted from a refinancing described in section 5-2-205 or a consolidation described in section 5-2-206, under the refinancing agreement or consolidation agreement.

(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 finance charge is, at the option of the lender, either:

(I) That portion that is applicable to all fully unexpired computational periods as originally scheduled, or if deferred, as deferred, that follow the date of prepayment. For this purpose, the applicable charge is the total of that which would have been made for each such period, had the consumer credit transaction not been precomputed, by applying to unpaid balances of the amount financed, according to the actuarial method, the annual percentage rate of charge previously stated to the consumer pursuant to the provisions on disclosure contained in section 5-3-101 based upon the assumption that all payments were made as originally scheduled, or if deferred, as deferred. The creditor, at the creditor's option, may round the annual percentage rate to the nearest one-half of one percent so long as such procedure is not consistently used to obtain a greater yield than would otherwise be permitted; or

(II) The total finance charge minus the earned finance charge. The earned finance charge shall be determined by applying the annual percentage rate previously stated to the consumer pursuant to the provisions on disclosure contained in section 5-3-101 according to the actuarial method to the actual unpaid balances for the actual time the balances were unpaid up to the date of prepayment. If a delinquency or deferral charge was collected, it shall be treated as a payment.

(c) In the case of a consumer credit transaction primarily secured by an interest in land, reasonable sums actually paid or payable to persons not related to the creditor for customary closing costs included in the finance charge shall be deducted from the finance charge before the calculation prescribed by this subsection (3) is made.

(4) As used in this section, unless the context otherwise requires:

(a) "Computational period" means one month if one-half or more of the intervals between scheduled payments under the agreement is one month or more and otherwise means one week.

(b) The "interval" to the due date of the first scheduled installment or the final scheduled payment date is measured from the date of a consumer credit transaction and includes either the first or last day of the interval. If the interval to the due date of the first scheduled installment does not exceed one month by more than fifteen days when the computational period is one month or eleven days when the computational period is one week, the interval shall be considered as one computational period.

(c) "Periodic balance" means the amount scheduled to be outstanding on the last day of a

computational period before deducting the payment, if any, scheduled to be made on that day.

(5)(a) This subsection (5) applies only if the schedule of payments is not regular.

(b) If the computational period is one month and:

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

(II) If the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full month, the additional number of days shall be considered a computational period only if sixteen days or more. This subparagraph (II) applies whether or not subparagraph (I) of this paragraph (b) applies.

(c) Notwithstanding paragraph (b) of this subsection (5), if the computational period is one month, the number of days in the interval to the due date of the first installment exceeds one month by not more than fifteen days and the schedule of payments is otherwise regular, the creditor at the creditor's option may exclude the extra days and the charge for the extra days in computing the unearned finance charge; but if the creditor does so and a rebate is required before the due date of the first scheduled installment, the creditor shall compute the earned charge for each elapsed day as one-thirtieth of the amount the earned charge would have been if the first interval had been one month.

(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 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

(II) If the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full week, the additional number of days shall be considered a computational period only if four days or more. This subparagraph (II) applies whether or not subparagraph (I) of

this paragraph (d) applies.

(6) Except as otherwise provided in paragraph (b) of subsection (3) of this section, if a deferral described in section 5-2-204 has been agreed to, the unearned portion of the finance charge is the portion thereof attributable according to the sum of the balances method to the period from the first day of the computational period following that in which prepayment occurs; except that the numerator of the fraction is the sum of the periodic balances, after rescheduling to give effect to any deferral, scheduled to follow the computational period in which prepayment occurs. A separate rebate of the deferral charge is not required unless the unpaid balance of the transaction is paid in full during the deferral period, in which event the creditor shall also rebate the unearned portion of the deferral charge.

(7) Except as otherwise provided in paragraph (b) of subsection (3) of this section, this section does not preclude the collection or retention by the creditor of delinquency charges described in section 5-2-203.

(8) If the maturity is accelerated for any reason and judgment is obtained, the consumer is entitled to the same rebate as if payment had been made on the date judgment is entered.

(9) Upon prepayment in full of a consumer credit transaction by the proceeds of consumer credit insurance described in section 5-4-103, the consumer or the consumer's estate is entitled to the same rebate as though the consumer had prepaid the agreement on the date the proceeds of the insurance are paid to the creditor but no later than ten business days after satisfactory proof of loss is furnished to the creditor.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2001, Ch. 13, § 3, eff. March 9, 2001.

§ 5-2-212. Surcharges on credit transactions—prohibition

(1) Except as otherwise provided in sections 24-19.5-103(3) and 29-11.5-103(3), C.R.S., no seller or lessor in any sales or lease transaction or any company issuing credit or charge cards may impose a surcharge on a holder who elects to use a credit or charge card in lieu of payment by cash, check, or similar means. A surcharge is any additional amount imposed at the time of the sales or lease transaction by the merchant, seller, or lessor that increases the charge to the buyer or lessee for the privilege of using a credit or charge card. For purposes of this section, charge card includes those cards pursuant to which unpaid balances are payable on demand.

(2) A discount offered by a seller or lessor for the purpose of inducing payment by cash, check, or other means not involving the use of a seller or lender credit card shall not constitute a finance charge if such discount is offered to all prospective buyers and its availability is disclosed to all prospective buyers clearly and conspicuously in accordance with regulations of the administrator.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2003, Ch. 201, § 3, eff. April 29, 2003.

§ 5-2-213. Lender and seller credit cards

(1) For purposes of this section, “credit card bank or financial institution” means a commercial bank, credit union, thrift, savings and loan association, savings bank, or other state or federally supervised institution in this state that issues credit cards and may export rates and fees pursuant to the “National Bank Act”, 12 U.S.C. sec. 85, “Depository Institutions Deregulation and Monetary Control Act of 1980”, 12 U.S.C. secs. 1463, 1785, and 1831d, “Federal Credit Union Act”, 12 U.S.C. sec. 1757, or “Alternative Mortgage Transaction Parity Act of 1982”, 12 U.S.C. secs. 3801 to 3805, and any regulations under those acts.

(2) Notwithstanding any other provisions of this part 2, with respect to a lender or seller credit card issued by a credit card bank or financial institution:

(a) The finance charge, calculated according to the actuarial method, may not exceed the amounts provided in section 5-2-201; and

(b) Any fees imposed for a minimum finance charge described in section 5-2-201(3)(b), annual charges described in section 5-2-202(1)(c), cash advances described in section 5-2-202(1)(e)(I), return or dishonor of a check described in section 5-2-202(1)(e)(II), delinquency described in section 5-2-203, or exceeding the credit limit may be in an amount established by written agreement of the parties.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2013, Ch. 282, § 20, eff. July 1, 2013.

§ 5-2-214. Alternative charges for loans not exceeding one thousand dollars

(1) For a consumer loan where the amount financed is not more than one thousand dollars, a supervised lender may charge, in lieu of the loan finance charges permitted by section 5-2-201, the following finance charges:

(a) An acquisition charge for making the original loan, not to exceed ten percent of the amount financed;

(a.5) An acquisition charge for making any refinanced loan, not to exceed seven and one-half percent of the amount financed; and

(b) A monthly installment account handling charge, not to exceed the following amounts:

Amount financed

Per month charge

\$100.00-\$ 300	\$12.50
\$300.01-\$ 500	\$15.00
\$500.01-\$ 750	\$17.50
\$750.01-\$1,000	\$20.00

(2) The minimum term of a loan made pursuant to this section shall be ninety days. The maximum term of a loan made pursuant to this section shall be twelve months. All loans shall be scheduled to be payable in substantially equal installments at equal periodic intervals.

(3) On a loan subject to the alternative charges authorized by this section, no other finance charge or any other charge or fee is permitted except as specifically provided for in this section and except for the delinquency charges provided for in section 5-2-203, reasonable attorney fees provided for in section 5-5-112, and the fee for a dishonored check provided for in section 5-2-202(1)(e)(II).

(4) The acquisition charge authorized in this section shall be fully earned at the time the loan is made and shall not be subject to refund; except that, if the loan is prepaid in full, refinanced, or consolidated within the first sixty days, the first ten dollars of the acquisition charge shall be retained by the lender and the remainder of the acquisition charge shall be refunded at a rate of one-sixtieth of the remainder of the acquisition charge per day, beginning on the day after the date of the prepayment, refinancing, or consolidation and ending on the sixtieth day after the loan was made.

(5) Upon the prepayment of a loan made pursuant to this section, the unearned portion of the installment account handling charge shall be refunded to the consumer. The unearned portion of the installment account handling charge that is refunded shall be calculated pursuant to the provisions on rebate upon prepayment contained in section 5-2-211 on the date of refinancing; except that, for the purpose of computing this amount, no minimum charge described in section 5-2-201 shall be allowed.

(6) The rates and charges permitted by this section shall not apply to deferred deposit loans subject to article 3.1 of this title.

(7) A lender shall not take collateral from a consumer as security for payment for any loan made pursuant to this section.

(8) A lender may not refinance a loan made pursuant to this section more than three times in one year.

Credits

Added by Laws 2004, Ch. 184, § 1, eff. Aug. 4, 2004. Amended by Laws 2007, Ch. 193, §§ 1, 2, eff. Aug. 3, 2007.

§ 5-2-301. Authority to make supervised loans

(1) Unless a person is a supervised financial organization or has first obtained a license from the administrator authorizing him or her to make supervised loans, he or she shall not engage in the business of:

(a) Making supervised loans or undertaking direct collection of payments from or enforcement of rights against consumers arising from supervised loans he or she has previously made; or

(b) Taking assignments of and undertaking direct collection of payments from or enforcement of rights against consumers arising from supervised loans; except that a person who is licensed by the administrator as a collection agency pursuant to article 16 of this title 5 or is licensed by the Colorado supreme court to practice law, and who takes assignment of supervised loans only after such loans are in default, is not required to obtain a supervised lender license to engage in the activities described in this subsection (1)(b).

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2006, Ch. 142, § 1, eff. April 18, 2006; Laws 2017, Ch. 260, § 6, eff. Aug. 9, 2017.

§ 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. The license year shall be the calendar year.

(2) No license shall be issued unless the administrator, upon investigation, finds that the financial responsibility, character, and fitness of the applicant and of the members, managers, partners, officers, and directors thereof are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this code. In determining financial responsibility of an applicant proposing to engage in making consumer insurance premium loans, the administrator shall consider the liabilities the lender may incur for erroneous cancellation of insurance. The administrator may deny an application for licensure for any of the grounds provided in section 5-2-303.

(3)(a) Upon written request, the applicant is entitled to a hearing on the question of the applicant's qualifications for a license if:

(I) The administrator has notified the applicant in writing that his or her application has been denied; or

(II) The administrator has not issued a license within sixty days after the application for the license was filed.

(b) A request for a hearing may not be made more than sixty days after the administrator has mailed a writing to the applicant notifying the applicant that the application has been denied and stating in substance the administrator's findings supporting denial of the application.

(4) If a supervised lender has more than one place of business, it must obtain a master license. The administrator may authorize the addition of branch locations to the master license. A separate license fee and proof of financial responsibility shall be required for each authorized branch location. Each master license and branch location license shall remain in full force and effect until surrendered, suspended, or revoked.

(5)(a) The application for approval of a branch location license may be more abbreviated than the application for a new or master supervised lender's license. An application for a branch location license may be filed by any means, including facsimile or electronic filing, followed by the license fee required by this section.

(b) Upon receipt of a completed branch location license application and the required license fee, the branch location is automatically licensed for a temporary period not to exceed one hundred twenty days. If the administrator does not deny the branch location application on or before the end of that period, the temporary branch location license shall become permanent. The administrator may deny an application for a branch location for any of the grounds provided in subsection (2) of this section and section 5-2-303.

(c) The administrator's approval of an additional branch location license may be provided by letter. No license certificate need be issued for a licensed branch location. All provisions of this part 3 relating to licenses apply equally to branch location licenses.

(6) No licensee shall change the location of any place of business or license without giving the administrator at least fifteen days prior written notice. The administrator may by rule promulgated in accordance with article 4 of title 24, C.R.S., establish an administrative fee for such a change of address.

(7) A licensee shall not engage in the business of making supervised loans at any place of business for which the licensee does not hold a license, nor shall a licensee engage in business under any other name than that in the license. The administrator may by rule establish an administrative fee for such a change of name. For the purposes of this subsection (7), a consumer insurance premium loan is made at the lender's business office.

(8) Each license shall be renewed by payment of a nonrefundable license fee 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 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) Deleted by Laws 2009, Ch. 41, § 3, eff. Jan. 1, 2010.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2009, Ch. 41, § 3, eff. Jan. 1, 2010.

§ 5-2-303. Denial and discipline of license

(1) The administrator may deny an application for a license or take disciplinary action against a person licensed to make supervised loans if the administrator finds that:

- (a) The applicant or licensee has violated this code or any rule or order lawfully made pursuant thereto;
- (b) Facts or conditions exist that would clearly have justified the administrator in refusing to grant a license had these facts or conditions been known to exist at the time the application for the license was made;
- (c) The applicant has failed to complete an application for licensure;
- (d) The applicant or licensee has failed to provide information required by the administrator within a reasonable time as fixed by the administrator;
- (e) The applicant or licensee has failed to provide or maintain proof of financial responsibility;
- (f) The applicant or licensee is insolvent;
- (g) The applicant or licensee has made, in any document or statement filed with the administrator, a false representation of a material fact or has omitted to state a material fact;
- (h) The applicant, licensee, or its owners, partners, members, officers, or directors have been convicted of or entered a plea of guilty or nolo contendere to a crime specified in part 4 of article 4 of title 18, C.R.S., or in part 1, 2, 3, 5, or 7 of article 5 of title 18, C.R.S., to a crime involving fraud or deceit, or to any similar crime under the jurisdiction of any federal court or court of another state;
- (i) The applicant or licensee has failed to make, maintain, or produce records which comply with section 5-2-304 and any regulation adopted by the administrator;
- (j) The applicant or licensee has been the subject of any disciplinary action by any state or federal agency;

(k) A final judgment has been entered against the applicant or licensee for violations of this code, any state or federal law concerning consumer finance, banking, or mortgage brokers or lenders, or any state or federal law prohibiting deceptive or unfair trade or business practices; or

(l) The applicant or licensee has failed to, in a timely manner as fixed by the administrator, take or provide proof of the corrective action required by the administrator subsequent to an examination or investigation pursuant to section 5-2-305 or 5-6-106.

(2) The administrator may summarily suspend a license as provided in section 24-4-104, C.R.S.

(3) Whenever the administrator denies a license application or takes disciplinary action pursuant to this section, the administrator shall enter an order to that effect and notify the licensee or applicant of the denial or disciplinary action. The notification required by this subsection (3) shall be given by personal service or by mail to the last known address of the licensee or applicant as shown on the application, license, or as subsequently furnished in writing to the administrator.

(4) Any person holding a license to make supervised loans may relinquish the license by notifying the administrator in writing of its relinquishment. The revocation, suspension, expiration, or relinquishment of a license shall not affect the licensee's liability for acts previously committed nor impair the administrator's ability to issue a final agency order or impose discipline against the licensee.

(5) No revocation, suspension, or relinquishment of a license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any consumer.

(6) The administrator may reinstate a license, terminate a suspension, or grant a new license to a person whose license has been revoked or suspended if no fact or condition then exists that clearly would have justified the administrator in refusing to grant a license.

(7) After a finding of one or more of the conditions stated in subsection (1) of this section, the administrator may take any or all of the following actions:

(a) Deny an application for licensure including an application for a branch office license;

(b) Revoke the license;

(c) Suspend the license for a period of time;

(d) Issue an order to the licensee to cease and desist from such acts;

(e) Order the licensee to make refunds to consumers of excess charges under this code;

(f) Impose penalties of up to a maximum of one thousand dollars for each violation all or part of which may be specifically designated for consumer and creditor educational expenses;

(g) Bar the person from applying for or holding a license for a period of five years following revocation of his or her license;

(h) Issue a letter of admonition; or

(i) Impose a penalty of two hundred dollars per day for failure to make, produce, or retain records required to be maintained under this code within forty-eight hours after the administrator's written demand. If the administrator has provided advance written notice of forty-eight hours or more to a licensee prior to conducting an examination pursuant to section 5-2-305, the penalty may be imposed without allowing additional time.

(8) The discipline stated in paragraphs (h) and (i) of subsection (7) of this section may be imposed without a hearing, but the licensee may, within thirty days thereafter, file with the administrator a written notice requesting a hearing. If such request is timely made, the letter of admonition shall be deemed vacated and a hearing shall be held. If, after such hearing, there is a finding that one or more of the grounds for discipline exist, any or all of the forms of discipline listed in this section may be imposed.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2003, Ch. 295, § 3, eff. July 1, 2003.

§ 5-2-304. Records--annual reports--proof of financial responsibility

(1) Every licensee shall maintain records in conformity with this code, rules adopted thereunder, and generally accepted accounting principles and practices in a manner that will enable the administrator to determine whether the licensee is complying with the provisions of this code. The record-keeping system of a licensee shall be sufficient if the licensee makes the required information reasonably available. The records need not be kept in the place of business where supervised loans are made if the administrator is given free access to the records wherever located. The records pertaining to any loan need not be preserved for more than four years after making the final entry relating to the loan, but, in the case of a revolving loan account, the four years is measured from the date of each entry.

(2) On or before June 1 of each year, every licensee shall file with the administrator an annual report in the form prescribed by the administrator relating to all supervised loans made by the licensee, which report shall also demonstrate satisfactory proof of the licensee's financial responsibility. At all other times, the licensee shall maintain satisfactory proof of financial responsibility. The administrator shall consult with comparable officials in other states for the purpose of making the kinds of information required in annual reports uniform among the states.

Information contained in annual reports shall be confidential and may be published only in composite form. The administrator may, by rule, determine the types and amounts of financial responsibility deemed to be satisfactory.

(3) If a licensee fails to file the annual report or proof of financial responsibility by July 1, the administrator may impose a penalty of five dollars per day from July 2 to the date the filing is postmarked. However, if a licensee fails to file and pay the appropriate penalty by July 15, or, at all other times, fails to provide satisfactory proof of financial responsibility within thirty days after receiving notice from the administrator, its license shall automatically expire.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000. Amended by Laws 2003, Ch. 295, § 4, eff. July 1, 2003.

§ 5-2-305. Examinations and investigations

(1) The administrator shall examine periodically, at intervals the administrator deems appropriate, the loans, business, and records of every licensee. In addition, for the purpose of discovering violations of this code or securing information lawfully required, the administrator or, in lieu thereof, the official or agency to whose supervision the organization is subject pursuant to section 5-6-105, may at any time investigate the loans, business, and records of any supervised lender or any supervised financial organization. For these purposes the administrator shall have free and reasonable access to the offices, places of business, and records of the lender.

(2)(a) If the lender's records are located outside this state, the lender shall, at the lender's option, either make them available to the administrator at a convenient location within this state or pay the reasonable and necessary expenses for the administrator or the administrator's representative to examine them at the place where they are maintained; except that the lender shall make the records available for examination at the administrator's office or at any other location the administrator deems appropriate, at the cost of the lender, if the administrator determines that the examination of the records at the location where the records are maintained endangers the safety of the administrator's representative or that there are not adequate facilities at the location where the records are maintained to conduct the examination. The administrator may designate representatives, including comparable officials of the state in which the records are located, to inspect them on the administrator's behalf.

(b) The administrator may require any lender whose records are located within the state to make its records available for examination at the administrator's office or at any other location the administrator deems appropriate at the cost of the lender if the administrator determines that the examination of the records at the location where the records are maintained endangers the safety of the administrator's representative or that there are not adequate facilities at the location where the records are maintained to conduct the examination.

(3) For the purposes of this section, the administrator may administer oaths or affirmations, and, upon the administrator's own motion or upon request of any party, may subpoena witnesses,

compel their attendance, adduce evidence, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(4) Upon failure without lawful excuse to obey a subpoena or to give testimony, the administrator may apply to the district court in the city and county of Denver for an order compelling compliance.

(5) After the administrator has examined a licensee pursuant to this section, the administrator shall provide a report of the examination to the licensee and request the licensee to take the corrective action required therein. The licensee shall, within a time and manner as fixed by the administrator, take the corrective action required in the report and provide proof that the corrective action was taken. The corrective action required may include refunds of excess charges and corrections of disclosures required by this code. This subsection (5) does not require the administrator to allow a licensee to take corrective action prior to the administrator filing legal or administrative action for repeated or willful violations of this code.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-306. Administrative procedures—applicability

Except as otherwise provided, the provisions of sections 24-4-102 to 24-4-106, C.R.S., apply to and govern all rules promulgated and all administrative action taken by the administrator pursuant to this code; except that section 24-4-104(3), C.R.S., shall not apply to any such action.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-307. Judicial review

Any person aggrieved by any final action or order of the administrator and affected thereby is entitled to a review thereof by the court of appeals by appropriate proceedings under section 24-4-106(11), C.R.S.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-308. Regular schedule of payments--maximum loan term

(1) Supervised loans not made pursuant to a revolving credit account and in which the principal is three thousand dollars or less shall be scheduled to be payable in substantially equal installments at equal periodic intervals except to the extent that the schedule of payments is adjusted to the seasonal or irregular income of the debtor and:

(a) Over a period of not more than thirty-seven months if the principal is more than one thousand dollars; or

(b) Over a period of not more than twenty-five months if the principal is one thousand dollars or less.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-309. Conduct of business other than making loans

A supervised lender may not carry on any other business for the purpose of evasion or violation of this code nor may the supervised lender extend credit on the condition or requirement that the consumer obtain additional credit, goods, or services from the supervised lender or a person related to the supervised lender unless otherwise permitted by law.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-310. Application of other provisions

Except as otherwise provided, all provisions of this code applying to consumer loans apply to supervised loans.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-501. Transactions subject to code by agreement of parties

The parties to a transaction other than a consumer credit transaction may agree in a writing signed by the parties that the transaction is subject to the provisions of this code. If the parties so agree, the transaction is a consumer credit transaction for the purposes of this code.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.

§ 5-2-502. Finance charge for other transaction

With respect to a transaction that is specifically exempt from the rate ceilings of this code by the provisions of section 5-1-301(15)(c), the parties may contract for the payment by the consumer of any finance charge up to a rate not to exceed an annual percentage rate of forty-five percent pursuant to section 18-15-104, C.R.S. The rate of the 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.

Credits

Repealed and reenacted by Laws 2000, Ch. 265, § 1, eff. July 1, 2000.