

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0766.01 Josh Schultz x5486

HOUSE BILL 23-1229

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A BILL FOR AN ACT

101 **CONCERNING CHANGES TO CONSUMER LENDING LAWS TO LIMIT**
102 **CHARGES TO CONSUMERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill amends the Colorado "Uniform Consumer Credit Code" to change the terms and interest rates that a lender may charge in a consumer credit transaction.

The bill amends the calculation of the total amount of the finance charge that a supervised lender or seller may contract for and receive to include the total cost of specific additional charges in connection with a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
3rd Reading Unamended
April 11, 2023

HOUSE
Amended 2nd Reading
April 10, 2023

consumer credit transaction.

The bill modifies the requirements for alternative charges for loans not exceeding \$1,000 as follows:

- Reduces the permissible acquisition charge on the original loan or any refinanced loan to 5% of the amount financed;
- Reduces the permissible amount for a monthly installment account handling charge;
- Increases the minimum loan term;
- Eliminates delinquency charges for the loan;
- Amends the conditions upon which an acquisition charge must be refunded to the consumer;
- Details the requirements for an application for the loan and specifies how the loan application requirements impact a determination of unconscionability of the loan; and
- Limits the number of times a lender may refinance a consumer loan to once in a year.

The bill also opts Colorado out of the amendments to the "Federal Deposit Insurance Act", the federal "National Housing Act", and the "Federal Credit Union Act" and specifies that rates established in the Colorado "Uniform Consumer Credit Code" apply to consumer credit transactions in this state.

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

2



3 **SECTION 1. In Colorado Revised Statutes, repeal and reenact,**
4 **with amendments, 5-2-213 as follows:**

5 **5-2-213. General-purpose credit cards - definitions. (1) As**
6 **USED IN THIS SECTION:**

7 **(a) "GENERAL-PURPOSE CREDIT CARD" MEANS ANY CARD, PLATE,**
8 **OR OTHER SINGLE CREDIT DEVICE THAT MAY BE USED FROM TIME TO TIME**
9 **TO OBTAIN CONSUMER CREDIT UNDER AN OPEN-END CREDIT PLAN OFFERED**
10 **BY A SUPERVISED FINANCIAL ORGANIZATION, AS DEFINED IN SECTION**
11 **5-1-301 (45), THAT:**

12 **(I) IS ACCEPTED BY ANY MERCHANT THAT PARTICIPATES IN A**
13 **WIDELY ACCEPTED PAYMENT CARD NETWORK AND IS ACCEPTED UPON**

1 PRESENTATION AT MULTIPLE, UNAFFILIATED MERCHANTS FOR GOODS OR
2 SERVICES;

3 (II) DOES NOT CHARGE FEES, INCLUDING PRE-ACCOUNT OPENING
4 FEES, WHICH EXCEED FIFTEEN PERCENT OF THE CREDIT LINE; AND

5 (III) DOES NOT INCLUDE AN OVERDRAFT LINE OF CREDIT THAT IS
6 ACCESSED BY A DEBIT OR PREPAID CARD OR AN ACCOUNT NUMBER.

7 (b) "OPEN-END CREDIT PLAN" MEANS CONSUMER CREDIT
8 EXTENDED BY A CREDITOR UNDER A PLAN IN WHICH:

9 (I) THE CREDITOR REASONABLY CONTEMPLATES REPEATED
10 TRANSACTIONS;

11 (II) THE CREDITOR MAY IMPOSE A FINANCE CHARGE FROM TIME TO
12 TIME ON AN OUTSTANDING UNPAID BALANCE; AND

13 (III) THE AMOUNT OF CREDIT THAT MAY BE EXTENDED TO THE
14 CONSUMER DURING THE TERM OF THE PLAN, UP TO ANY LIMIT SET BY THE
15 CREDITOR, IS GENERALLY MADE AVAILABLE TO THE EXTENT THAT ANY
16 OUTSTANDING BALANCE IS REPAYED.

17 (2) LIMITATIONS IN STATE LAW ON FINANCE CHARGES AND FEES
18 APPLICABLE TO CONSUMER CREDIT TRANSACTIONS IN SECTIONS 5-2-201,
19 5-2-202, AND 5-2-203 SHALL NOT APPLY TO GENERAL-PURPOSE CREDIT
20 CARDS.

21 **SECTION 2.** In Colorado Revised Statutes, 5-2-214, **amend** (1),
22 (2), (3), (5), and (8); **repeal** (4); and **add** (5.5) as follows:

23 **5-2-214. Alternative charges for loans not exceeding one**
24 **thousand dollars.** (1) For a consumer loan where the amount financed
25 is not more than one thousand dollars, a supervised lender may charge, in
26 lieu of the loan finance charges permitted by section 5-2-201, the
27 following finance charges:

1 (a) An acquisition charge for making the original loan OR ANY
2 REFINANCED LOAN, not to exceed ~~ten~~ EIGHT percent of the amount
3 financed; AND

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

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

8 Amount financed	Per month charge
9 \$100.00 - \$300	\$12.50 \$8.50
10 \$300.01 - \$500	\$15.00 \$11.50
11 \$500.01 - \$750	\$17.50 \$14.50
12 \$750.01 - \$1,000	\$20.00 \$17.50

13 (2) The minimum term of a loan made pursuant to this section
14 ~~shall be ninety days~~ IS SIX MONTHS. The maximum term of a loan made
15 pursuant to this section ~~shall be~~ IS twelve months. All loans shall be
16 scheduled to be payable in substantially equal installments at equal
17 periodic intervals.

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

24 (4) ~~The acquisition charge authorized in this section shall be fully~~
25 ~~earned at the time the loan is made and shall not be subject to refund;~~
26 ~~except that, if the loan is prepaid in full, refinanced, or consolidated~~
27 ~~within the first sixty days, the first ten dollars of the acquisition charge~~

1 ~~shall be retained by the lender and the remainder of the acquisition charge~~
2 ~~shall be refunded at a rate of one-sixtieth of the remainder of the~~
3 ~~acquisition charge per day, beginning on the day after the date of the~~
4 ~~prepayment, refinancing, or consolidation and ending on the sixtieth day~~
5 ~~after the loan was made.~~

6 (5) Upon the prepayment of a loan made pursuant to this section,
7 the unearned portion of the ~~installment account~~ ACQUISITION CHARGE AND
8 THE TOTAL MONTHLY INSTALLMENT handling charge shall be refunded to
9 the consumer. The unearned portion of the ~~installment account handling~~
10 ~~charge that is refunded~~ THESE CHARGES shall be calculated pursuant to the
11 provisions on rebate upon prepayment contained in section 5-2-211 on the
12 date of refinancing; except that, for the purpose of computing this
13 amount, ~~no~~ A minimum FINANCE charge described in section 5-2-201
14 ~~shall be~~ OF NO MORE THAN TEN DOLLARS IS allowed IF CONTRACTED WITH
15 THE CONSUMER IN THE LOAN AGREEMENT.

16 (5.5) (a) A LENDER SHALL REQUIRE A CONSUMER TO FILL OUT A
17 LOAN APPLICATION FOR EVERY LOAN UNDER THIS SECTION AND SHALL
18 MAINTAIN THE APPLICATION ON FILE. THE APPLICATION MUST BE SIGNED
19 AND DATED BY THE CONSUMER.

20 (b) A LENDER SHALL REQUIRE THE CONSUMER TO PROVIDE A PAY
21 STUB OR OTHER EVIDENCE OF INCOME IN EVERY APPLICATION FOR A LOAN
22 UNDER THIS SECTION AND SHALL MAINTAIN THIS APPLICATION ON FILE.
23 THE PAY STUB OR OTHER EVIDENCE OF INCOME MUST HAVE BEEN ISSUED
24 OR DATED WITHIN FORTY-FIVE DAYS BEFORE THE DATE OF THE
25 APPLICATION. IF A LENDER REQUIRES A CONSUMER TO PRESENT A BANK
26 STATEMENT TO SECURE A LOAN, THE LENDER SHALL ALLOW THE
27 CONSUMER TO DELETE FROM THE STATEMENT THE INFORMATION

1 REGARDING TO WHOM THE DEBITS LISTED ON THE STATEMENT WERE
2 PAYABLE. IF THE AMOUNT BORROWED IS NOT MORE THAN TWENTY-FIVE
3 PERCENT OF THE CONSUMER'S MONTHLY GROSS INCOME AND BENEFITS, AS
4 EVIDENCED BY A PAYCHECK STUB OR OTHERWISE SUBSTANTIATED, A
5 LENDER IS NOT OBLIGATED TO INVESTIGATE THE CONSUMER'S CONTINUED
6 DEBT POSITION, AND THE CONSUMER'S ABILITY TO REPAY THE LOAN NEED
7 NOT BE FURTHER DEMONSTRATED.

8 (c) IF A LENDER COMPLIES WITH THE REQUIREMENTS OF
9 SUBSECTIONS (5.5)(a) AND (5.5)(b) OF THIS SECTION, AND THE LOAN
10 OTHERWISE COMPLIES WITH THIS ARTICLE 2 AND OTHER APPLICABLE LAW,
11 NEITHER THE CONSUMER'S INABILITY TO REPAY THE LOAN NOR THE
12 LENDER'S DECISION TO OBTAIN OR NOT OBTAIN ADDITIONAL INFORMATION
13 CONCERNING THE CONSUMER'S CREDITWORTHINESS SHALL BE CAUSE TO
14 DETERMINE THAT A LOAN IS UNCONSCIONABLE.

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

17 **SECTION 3.** In Colorado Revised Statutes, **add** 5-13-106 as
18 follows:

19 **5-13-106. Other loans - legislative declaration.** IN ACCORDANCE
20 WITH SECTION 525 OF THE FEDERAL "DEPOSITORY INSTITUTIONS
21 DEREGULATION AND MONETARY CONTROL ACT OF 1980", PUB.L. 96-221,
22 THE GENERAL ASSEMBLY DECLARES THAT THE STATE OF COLORADO DOES
23 NOT WANT THE AMENDMENTS TO THE "FEDERAL DEPOSIT INSURANCE
24 ACT", 12 U.S.C. SEC. 1811 ET SEQ.; THE FEDERAL "NATIONAL HOUSING
25 ACT", 12 U.S.C. SEC. 1701 ET SEQ.; AND THE "FEDERAL CREDIT UNION
26 ACT", 12 U.S.C. SEC. 1757, MADE BY SECTIONS 521 TO 523 OF THE
27 FEDERAL "DEPOSITORY INSTITUTIONS DEREGULATION AND MONETARY

1 CONTROL ACT OF 1980", PUB.L. 96-221, PRESCRIBING INTEREST RATES
2 AND PREEMPTING STATE INTEREST RATES TO APPLY TO CONSUMER CREDIT
3 TRANSACTIONS IN THIS STATE. THE RATES ESTABLISHED IN ARTICLES 1 TO
4 9 OF THIS TITLE 5 CONTROL CONSUMER CREDIT TRANSACTIONS IN THIS
5 STATE.

6 **SECTION 4. In Colorado Revised Statutes, 5-1-107, amend (1)**
7 **as follows:**

8 **5-1-107. Effect of code on powers of organizations. (1) This**
9 **code prescribes maximum charges for all creditors extending consumer**
10 **credit except lessors and those excluded in sections 5-1-202 and 5-2-213**
11 **(2)(b) and displaces existing limitations on the powers of those creditors**
12 **based on maximum charges.**

13 **SECTION 5. In Colorado Revised Statutes, 5-1-303, "Index of**
14 **definitions in code", repeal the line "Credit card bank or financial**
15 **institution" section 5-2-213 (1).**

16 **SECTION 6. Effective date - applicability.** This act takes effect
17 upon passage and applies to loans made or renewed on or after the
18 applicable effective date of this act; except that section 2 of this act takes
19 effect January 1, 2024, and applies to loans made or renewed on or after
20 January 1, 2024.

21 **SECTION 7. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety. ■