

CHAPTER 375

CONSUMER AND COMMERCIAL TRANSACTIONS

HOUSE BILL 23-1229

BY REPRESENTATIVE(S) Weissman and Mabrey, Amabile, Bacon, Boesenecker, Brown, deGruy Kennedy, Epps, Froelich, Garcia, Gonzales-Gutierrez, Jodeh, Joseph, Kipp, Lieder, Lindstedt, Michaelson Jenet, Ortiz, Parenti, Sharbini, Sirota, Story, Titone, Velasco, Vigil, Willford, Woodrow, Young, Dickson, Duran, English, Hamrick, Herod, Lindsay, McCormick, Snyder, Valdez, Ricks;
also SENATOR(S) Gonzales, Fields, Buckner, Cutter, Kolker, Moreno, Priola, Rodriguez, Sullivan.

AN ACT**CONCERNING CHANGES TO CONSUMER LENDING LAWS TO LIMIT CHARGES TO CONSUMERS.**

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

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

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

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

(I) IS ACCEPTED BY ANY MERCHANT THAT PARTICIPATES IN A WIDELY ACCEPTED PAYMENT CARD NETWORK AND IS ACCEPTED UPON PRESENTATION AT MULTIPLE, UNAFFILIATED MERCHANTS FOR GOODS OR SERVICES;

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

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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

(I) THE CREDITOR REASONABLY CONTEMPLATES REPEATED TRANSACTIONS;

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

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

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

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

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 OR ANY REFINANCED LOAN, not to exceed ~~ten~~ EIGHT percent of the amount financed; AND

~~(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 \$8.50
\$300.01 - \$500	\$15.00 \$11.50
\$500.01 - \$750	\$17.50 \$14.50
\$750.01 - \$1,000	\$20.00 \$17.50

(2) The minimum term of a loan made pursuant to this section ~~shall be ninety days~~ IS SIX MONTHS. The maximum term of a loan made pursuant to this section ~~shall be~~ IS 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~~ ACQUISITION CHARGE AND THE TOTAL MONTHLY INSTALLMENT handling charge shall be refunded to the consumer. The unearned portion of the ~~installment account handling charge that is refunded~~ THESE CHARGES 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~~ A minimum FINANCE charge described in section 5-2-201 ~~shall be~~ OF NO MORE THAN TEN DOLLARS IS allowed IF CONTRACTED WITH THE CONSUMER IN THE LOAN AGREEMENT.

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

(b) A LENDER SHALL REQUIRE THE CONSUMER TO PROVIDE A PAY STUB OR OTHER EVIDENCE OF INCOME IN EVERY APPLICATION FOR A LOAN UNDER THIS SECTION AND SHALL MAINTAIN THIS APPLICATION ON FILE. THE PAY STUB OR OTHER EVIDENCE OF INCOME MUST HAVE BEEN ISSUED OR DATED WITHIN FORTY-FIVE DAYS BEFORE THE DATE OF THE APPLICATION. IF A LENDER REQUIRES A CONSUMER TO PRESENT A BANK STATEMENT TO SECURE A LOAN, THE LENDER SHALL ALLOW THE CONSUMER TO DELETE FROM THE STATEMENT THE INFORMATION REGARDING TO WHOM THE DEBITS LISTED ON THE STATEMENT WERE PAYABLE. IF THE AMOUNT BORROWED IS NOT MORE THAN TWENTY-FIVE PERCENT OF THE CONSUMER'S MONTHLY GROSS INCOME AND BENEFITS, AS EVIDENCED BY A PAYCHECK STUB OR OTHERWISE SUBSTANTIATED, A LENDER IS NOT OBLIGATED TO INVESTIGATE THE CONSUMER'S CONTINUED DEBT POSITION, AND THE CONSUMER'S ABILITY TO REPAY THE LOAN NEED NOT BE FURTHER DEMONSTRATED.

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

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

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

5-13-106. Other loans - legislative declaration. IN ACCORDANCE WITH SECTION 525 OF THE FEDERAL "DEPOSITORY INSTITUTIONS DEREGULATION AND MONETARY CONTROL ACT OF 1980", PUB.L. 96-221, THE GENERAL ASSEMBLY DECLARES THAT THE STATE OF COLORADO DOES NOT WANT THE AMENDMENTS TO THE "FEDERAL DEPOSIT INSURANCE ACT", 12 U.S.C. SEC. 1811 ET SEQ.; THE FEDERAL "NATIONAL HOUSING ACT", 12 U.S.C. SEC. 1701 ET SEQ.; AND THE "FEDERAL CREDIT UNION ACT", 12 U.S.C. SEC. 1757, MADE BY SECTIONS 521 TO 523 OF THE FEDERAL "DEPOSITORY INSTITUTIONS DEREGULATION AND MONETARY CONTROL ACT OF 1980", PUB.L. 96-221, PRESCRIBING INTEREST RATES AND PREEMPTING STATE INTEREST RATES TO APPLY TO CONSUMER CREDIT TRANSACTIONS IN THIS STATE. THE RATES ESTABLISHED IN ARTICLES 1 TO 9 OF THIS TITLE 5 CONTROL CONSUMER CREDIT TRANSACTIONS IN THIS STATE.

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

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.

SECTION 5. In Colorado Revised Statutes, 5-1-303, **amend** the "Credit card bank or financial institution" line as follows:

5-1-303. Index of definitions in code. Definitions in this code and the sections in which they appear are:

~~"Credit card bank or
financial institution"~~

section 5-2-213 (1)

SECTION 6. Effective date - applicability. (1) Except as otherwise provided in this section, this act takes effect on passage.

(2) Sections 1, 4, and 5 of this act take effect July 1, 2024, and apply to consumer credit transactions made or renewed on or after July 1, 2024.

(3) Section 2 of this act takes effect January 1, 2024, and applies to consumer credit transactions made or renewed on or after January 1, 2024.

(4) Section 3 of this act takes effect July 1, 2024, and applies to consumer credit transactions made or renewed on or after July 1, 2024.

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

Approved: June 5, 2023