

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 09-0428.01 Thomas Morris

HOUSE BILL 09-1141

HOUSE SPONSORSHIP

Ferrandino,

SENATE SPONSORSHIP

White,

House Committees

Business Affairs and Labor

Senate Committees

Business, Labor and Technology

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Applies fee caps and procedural requirements for the sale of credit insurance and other products in the "Uniform Consumer Credit Code" (UCCC) to consumer leases. Eliminates statutory fees and allows the administrator of the UCCC to set the fees. Creates an alternative reserve balance for the uniform consumer credit code cash fund of 1/3 of the previous fiscal year's expenditures. Repeals outdated provisions.

Includes nonprofit organizations within the definition of a "credit

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
March 2, 2009

HOUSE
3rd Reading Unamended
February 10, 2009

HOUSE
Amended 2nd Reading
February 9, 2009

services organization". Updates a disclosure regarding the availability of free credit reports. Exempts providers of debt-management services that are subject to the "Colorado Foreclosure Protection Act" from the "Uniform Debt-Management Services Act".

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

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

4 **5-2-102. Scope.** For purposes of this article, "consumer credit
5 transaction" applies to consumer loans, including supervised loans,
6 consumer credit sales, and refinancing and consolidations of these
7 transactions but does not include consumer leases EXCEPT FOR THE
8 CHARGES AND PROCEDURES IN SECTIONS 5-2-202 AND 5-2-203. The
9 provisions concerning credit card surcharges contained in section 5-2-212
10 apply to all sales and leases.

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

13 **5-2-202. Additional charges.** (1) In addition to the finance
14 charge permitted by this article AND IN A CONSUMER LEASE, a creditor
15 may contract for and receive the following additional charges in
16 connection with a consumer credit transaction:

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

19 **5-2-302. License to make supervised loans.** (1) The
20 administrator shall receive and act on all applications for licenses to make
21 supervised loans under this code. Applications shall be filed in the
22 manner prescribed by the administrator and shall contain such
23 information as the administrator may reasonably require. No license shall

1 be issued without payment of a nonrefundable license fee. ~~of four~~
2 ~~hundred dollars~~. The license year shall be the calendar year.

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

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

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

22 **5-6-201. Applicability.** (1) Except as provided in subsections (2)
23 and (3) of this section, this part 2 applies if a person:

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

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

3 **5-6-203. Fees.** (1) A person required to file notification shall,
4 with the first notification and on or before January 31 of each year
5 thereafter, pay to the administrator a nonrefundable annual notification
6 fee. ~~of twenty dollars~~ THE ADMINISTRATOR IS ENTITLED TO EXAMINE THE
7 LOANS, BUSINESS, AND RECORDS OF SUCH PERSON WITHOUT ISSUANCE OF
8 A SUBPOENA.

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

20 (3) Persons required to file notification who are assignees of
21 consumer credit sales or consumer leases shall pay an additional
22 nonrefundable annual volume fee on or before January 31 of each year ~~in~~
23 ~~the amount of twelve dollars~~ for each one hundred thousand dollars, or
24 part thereof, of the unpaid balances at the time of the assignment of
25 obligations arising from consumer credit sales or consumer leases made
26 in this state and taken by assignment during the preceding calendar year.
27 ~~but an assignee need not pay a volume fee with respect to an obligation~~

1 ~~on which the assignor or other person has already paid a volume fee.~~

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

14 (5) ~~Notwithstanding the amount specified for any fee in this~~
15 ~~section or in section 5-2-302 (1), the administrator by rule or as otherwise~~
16 ~~provided by law may~~ THE ADMINISTRATOR SHALL DETERMINE THE
17 AMOUNT OF THE NOTIFICATION, VOLUME, AND LICENSE FEES REQUIRED IN
18 THIS SECTION AND IN SECTION 5-2-302 AND MAY PERIODICALLY reduce OR
19 INCREASE the amount of one or more of the fees if necessary pursuant to
20 section 24-75-402 (3) AND (4), C.R.S., to reduce the uncommitted
21 reserves of the UNIFORM CONSUMER CREDIT CODE CASH fund CREATED IN
22 SECTION 5-6-204 to which all of any portion of one or more of the fees is
23 credited; ~~After the uncommitted reserves of the fund are sufficiently~~
24 ~~reduced, the administrator by rule or as otherwise provided by law may~~
25 ~~increase the amount of one or more of the fees as provided in section~~
26 ~~24-75-402 (4), C.R.S.~~ EXCEPT THAT THE FUND SHALL BE SUBJECT TO AN
27 ALTERNATIVE RESERVE BALANCE OF ONE-THIRD OF THE AMOUNT

1 EXPENDED DURING THE PREVIOUS FISCAL YEAR.

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

4 **12-14-117. Powers and duties of the administrator.** (2) The
5 administrator is authorized to develop any examination required for the
6 administration of this article and to determine the amount of any
7 examination fee. The administrator shall offer each such examination at
8 least twice a year, or more frequently if demand warrants, and shall
9 establish a passing score for each examination that reflects a minimum
10 level of competency.

11 **SECTION 7. Repeal.** 12-14.5-103 (2) (a), Colorado Revised
12 Statutes, is repealed as follows:

13 **12-14.5-103. Definitions.** As used in this part 1, unless the
14 context otherwise requires:

15 (2) "Credit services organization" means any person, INCLUDING
16 A NONPROFIT ORGANIZATION EXEMPT FROM TAXATION UNDER SECTION
17 501 (c) (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", who,
18 with respect to the extension of credit by others, represents that such
19 person can or will, in return for the payment of money or other valuable
20 consideration by the buyer, improve or attempt to improve a buyer's credit
21 record, history, or rating. The term "credit services organization" does
22 not include the following:

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

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

27 **12-14.5-107. Content of written disclosure.** (1) The

1 information statement required pursuant to section 12-14.5-106 shall be
2 printed in at least ten-point type and shall include:

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

5 **RIGHTS UNDER COLORADO**
6 **AND FEDERAL LAW**

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

25 The Federal Trade Commission enforces the federal
26 "Fair Credit Reporting Act". For more information, call or
27 write the Federal Trade Commission. The administrator of

1 the "Uniform Consumer Credit Code" enforces the
2 "Colorado Credit Services Organization Act". For more
3 information, call or write the Colorado attorney general's
4 office.

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

7 **12-14.5-203. Exempt agreements and persons.** (b) This part 2
8 does not apply to a provider to the extent that the provider:

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

11 **SECTION 10. Effective date - applicability.** This act shall take
12 effect July 1, 2009, and shall apply to acts occurring on or after said date;
13 except that sections 3, 4, and 5 of this act shall take effect January 1,
14 2010, and shall apply to acts occurring on or after said date.

15 **SECTION 11. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.