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0155 Uniform Consumer Credit Code

Report to the Colorado General Assembly:

UNIFORM

CONSUMER

CREDIT

CODE



COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 155

November , 1970

LEGISLATIVE COUNCIL
OF THE
COLORADO GENERAL ASSEMBLY

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Joe Calabrese
John Fuhr
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Speaker

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Vice Chairman
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Vincent Massari
Ruth Stockton
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Lt. Governor

* * * * *

The Legislative Council, which is composed of five Senators, six Representatives, and the presiding officers of the two houses, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

THE UNIFORM CONSUMER
CREDIT CODE

Legislative Council
Report To The
Colorado General Assembly

Research Publication No. 155
November, 1970

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LEGISLATIVE COUNCIL

ROOM 46 STATE CAPITOL
DENVER, COLORADO 80203
892-2285
AREA CODE 303

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REP. JOHN FUHR
REP. CARL GUSTAFSON
REP. BEN KLEIN
REP. CLARENCE QUINLAN

November 20, 1970

To Members of the Forty-eighth Colorado General Assembly:

In accordance with provisions of House Joint Resolution No. 1034, 1969 regular session, the Legislative Council undertook a study relating to the adoption of the Uniform Consumer Credit Code in Colorado.

The report and recommendations of the Committee appointed to carry out this study was adopted, with favorable recommendation, by the Legislative Council at its November 20, 1970 meeting for transmission to the members of the First Regular Session of the Forty-eighth Colorado General Assembly.

Respectfully submitted,

/s/ Representative C. P. (Doc) Lamb
Chairman

CPL/mp

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LEGISLATIVE COUNCIL

ROOM 46 STATE CAPITOL
DENVER, COLORADO 80203
892-2285
AREA CODE 303

November 20, 1970

Representative C. P. (Doc) Lamb
Chairman
Colorado Legislative Council
Room 46, State Capitol
Denver, Colorado 80203

Dear Mr. Chairman:

Your Committee on the Uniform Consumer Credit Code submits its report and recommendations on the Uniform Consumer Credit Code.

House Joint Resolution No. 1034 of the 1969 Session directed that the Legislative Council study this uniform act and the effect that passage of the Code would have on consumer problems in Colorado. In carrying this responsibility, the Committee has carefully reviewed the Code and the alternatives submitted by interested parties to various sections of the Code.

As Committee Chairman, I believe the Committee has arrived at a good balance in preparing legislation that fairly considers legitimate interests of all concerned -- the consumers, businessmen, and financial institutions. Thus, the report and recommendations of the Committee are submitted with confidence in the benefits which Colorado citizens will receive from enactment of the Code in the 1971 Session.

Respectfully submitted,

Carl H. Gustafson

Representative Carl Gustafson
Chairman
Committee on the Uniform
Consumer Credit Code

CG/mp

FOREWORD

The Legislative Council Committee on the Uniform Consumer Credit Code was created pursuant to a directive in House Joint Resolution No. 1034, 1969 Session. The directive stated that a study be made of the Code as promulgated by the National Conference of Commissioners on Uniform State Laws and the effect which passage of the Code would have on consumer problems in Colorado. Members of the Committee were:

Rep. Carl Gustafson, Chairman	Rep. James A. Braden
Sen. Norman W. Ohlson, Vice-Chairman	Rep. Charles J. DeMoulin
Sen. Fay DeBerard	Rep. Thomas T. Farley
Sen. William S. Garnsey	Rep. Harold R. Koster
Sen. Donald H. McManus	Rep. Ronald H. Strahle
Sen. Vincent Massari	
Sen. Joe Shoemaker	

The Committee report describes the procedures followed in formulating the Committee's recommendations. However, special recognition should be given to Representative Ronald Strahle who prepared a section-by-section analysis of the Code which was of great value to the Committee throughout its detailed consideration of the Code.

A seminar for legislators, sponsored by the National Conference of Commissioners on Uniform State Laws, was held in Denver in April of this year assisted the Committee in developing greater understanding of the Code. Note should be made of the assistance which the Committee received from Senator Bryce Baggett of Oklahoma and others in that state who attended meetings of the Committee in Colorado and assisted a subcommittee which met in Oklahoma City with numerous persons directly concerned with the operation of the Oklahoma UCCC.

James C. Wilson, Director of the Legislative Drafting Office, was extremely helpful in preparing the legislation to enact the UCCC in Colorado. Incidentally, the preparation of the Code in bill form was facilitated through use of the computer services in the Legislative Drafting Office.

Stanley Elofson, Principal Analyst, Robert Crites, Senior Research Assistant, and Mitchel Beville, Research Associate, were the Legislative Council staff members assigned to the Committee.

November, 1970

Lyle C. Kyle
Director

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COMMITTEE REPORT AND RECOMMENDATIONS

Under House Joint Resolution No. 1034 of the 1969 Session, the Legislative Council was directed to study the Uniform Consumer Credit Code, a uniform act promulgated by the National Conference of Commissioners on Uniform State Laws, and the effect which passage of the Code would have on consumer problems in Colorado. The Committee appointed to conduct the study submits, with favorable recommendation, a bill to adopt the UCCC in Colorado.

Before commenting on some of the basic decisions made by the Committee in preparing the Code, the Committee's procedures might be noted. After the 1969 Session, the Committee met with individuals and organizations interested in the Code to obtain their recommendations for Committee action. Then, in November, 1969, a subcommittee of Representative Gustafson, Committee Chairman, and Senator MacManus attended a meeting in Oklahoma City at which a committee of the Oklahoma Legislative Council was reviewing the operation of the UCCC as enacted in that state in 1969.

Last April a conference in Denver, sponsored by the National Conference of Commissioners on Uniform State Laws, was held for state legislators and other state officials interested in the Code. Panelists at this conference included a number of the Code drafters who were highly qualified to discuss the UCCC. Following that meeting, the Committee reviewed the Code, section by section, making its decisions on the alternative sections contained in the Code and considering other amendments suggested in the meetings. In conducting this work a valuable analysis of the UCCC had been prepared by Representative Strahle, a member of the Committee.

Status of the Code

Two states -- Oklahoma and Utah -- have adopted the Uniform Consumer Credit Code, with both enactments occurring in 1969. After adopting the Code, Oklahoma applied for and received an exemption from federal administration of the federal truth in lending statute, officially known as the Federal Consumer Credit Protection Act.

Utah has not received an exemption and it is understood that further amendment of the Code will be necessary before an exemption is granted. The federal law provides that if state statutes and rules and regulations are "substantially identical" to the federal act and federal rules and regulations, the Federal Reserve Board may provide an exemption for that state from regulation by the Federal Trade Commission. The Code provisions

on this subject are known generally as "disclosure" and are found in the articles on credit sales (Article 2) and loans (Article 3).

Advantages seen for seeking this exemption are that problems of compliance can be settled more readily through offices within the state than through the regional and Washington offices of the Federal Trade Commission (FTC). The regional FTC office for Colorado is located in Kansas City, Missouri, and includes all of five states and parts of seven other states. The regional office staff for truth in lending administration is small, especially considering the large area and population to be served. Thus, it is argued that all interests in Colorado -- businesses, consumers, and financial institutions -- would be better served by state administration which is possible by obtaining an exemption from federal regulation of the truth in lending act.

Three states -- Connecticut, Maine, and Massachusetts -- have adopted state truth in lending acts which have been approved for exemptions from FTC regulation. Virginia has an application pending based on a state truth in lending act. This situation raises the question "Why adopt the entire UCCC if all that is desired is an exemption to federal truth in lending regulation?" Other ramifications of the UCCC are considered below.

What Would the UCCC Cover?

Unless excepted by the UCCC, transactions involving consumer credit sales, consumer leases, and consumer loans would be covered under the Code. Cash sales, and the familiar three-payment, 90-day, interest free charge accounts would not be governed by the Code.

Generally speaking, transactions not under the UCCC are:

- (a) Extensions of credit to the government;
- (b) The sale of insurance by an insurer, except for credit related insurance;
- (c) Transactions under public utility or common carrier tariffs if regulated by the state or federal governments; and
- (d) The rates and charges of licensed pawnbrokers.

(Items (a) through (d) are in section 73-1-202).

- (e) Certain other transactions, not ordinarily under the Code, may be given the Code's protection by written

agreement of the parties concerned. Section 73-2-602 defines a "credit related sale" which would provide Code coverage for: (a) credit sales by sellers not regularly engaged in such credit transactions; (b) credit sales to individuals for business purposes; and (c) sales of dwellings if the amount financed does not exceed \$25,000.

- (f) Interest rates on home mortgages would normally not be subject to the Code. These rates ordinarily would be under the rate level at which individuals or organizations must be licensed as a "supervised lender", viz. 12 percent (73-3-501). However, Code provisions for disclosure (73-3-301) and debtor's remedies (73-5-201) apply to loans secured primarily to an interest in land, and thus to most home mortgages. Second mortgages, usually having higher interest rates than first mortgages, would probably be under the Code.

Is Uniformity Needed?

Uniformity of the law governing consumer credit transactions is one of the stated purposes of the Code. In most states the laws in this area are scattered throughout their statute books. Further, these statutes differ widely in their provisions, both between states and with statutes in the same states. In Colorado, there are five separate acts affected by the Code.* These statutes set loan ceilings, maximum terms, rates, default charges, and other fees for consumer credit transactions. (See Appendix to this report.) Since credit transactions frequently are made across state lines, greater uniformity and codification of the law should be beneficial to all concerned.

*The Code would apply in Colorado to transactions presently covered by the following Colorado statutes which would be repealed: the personal property installment sales act (C.R.S. Ch. 121, Art. 2); the motor vehicle installment sales act (C.R.S. Ch. 13, Art. 16); the act pertaining to loans over \$1,500 (C.R.S. Ch. 73, Art. 2); and the act pertaining to loans of \$1,500 or less (C.R.S. Ch. 73, Art. 3). The interest provisions in the industrial bank act would also be repealed. (Section 14-17-7 (2) to (7), C.R.S. 1963, as amended).

As for territorial application, the Colorado UCCC would apply to transactions made in Colorado and modifications made in Colorado to transactions made elsewhere (73-1-201). Again stated generally, the intent of the Code drafters was that most of the Code's major substantive protections would apply to Colorado residents when enforcement actions are brought against them in Colorado. Section 73-1-203 would bestow jurisdiction on Colorado courts over creditors who violate the act.

The Code's Interest Rates

Present statutory interest rate limitations in Colorado would be replaced by the rate limitations adopted in the UCCC. Terms and rates for the present Colorado statutes dealing with consumer finance are included in the Appendix of this report.

The Committee recommends use of the suggested Code rates, although it is recognized that this area will involve considerable discussion in the 1971 Session. The Code rates for consumer credit loans are:

36% per year on unpaid balances of \$300.00 or less.

21% per year on unpaid balances of more than \$300.00 but not exceeding \$1,000.00.

15% per year on unpaid balances of more than \$1,000.00, OR

18% per year on unpaid balances of the principal.
(73-3-508)

Drafters of the UCCC concluded that the maximum interest rates contained in the Code would not be of primary importance in controlling the rate limits actually used in the lending market. The Code drafters concluded that competition, not statutory limits, would set the actual rates within the rate ceilings of the Code. Thus, the Code was designed to obtain maximum competition in interest through the use of free entry into the lending field.

Interest rates, if set too low by statute, would have several effects on the lending market. One effect is that capital would leave the state and will be used in states where the interest ceiling is not as low.

Secondly, statutory rate ceilings do not limit the rates charged but they do define the number of people who can obtain loans. A lower rate ceiling will have the effect of keeping marginal loan risks from obtaining loans. If a large market cannot

be served within the legal rates, an illegal market with exorbitant interest rates, commonly known as loan sharking, will develop. Loan sharks prey on the economically disadvantaged who are frequently in great need of small loans. Thus, the question of maximum rates involves a determination of how many people will be able to obtain financing and what are the social consequences of a group of persons not being able to obtain financing when it is needed.

One further consideration is that extremely low interest ceilings will result in cash buyers subsidizing credit buyers. If merchants cannot at least break even on interest rates for credit customers, the cash price of goods will be increased in order for the merchant to make a profit.

Various evasive techniques, such as point systems, monthly interest rates, and minimum fees, have been used in order to evade usury statutes in states where maximum rates have been too low. The Code has been described as straight-forward in setting out the maximum rates. Because the fixed costs of lending money are the same whether the loan is large or small, the Code allows a higher interest rate for small loans than is allowed for larger loans.

Holder in Due Course

Many businesses selling consumer goods will sell their consumer credit contracts to a financial institution such as a commercial bank, an industrial bank, or a small loan company. The consumer then pays the contract by monthly payments to the financial institution which has become "the holder in due course" or the assignee of the contract.

Consumer problems have sometimes developed from this type of arrangement since the financial institution, as a holder in due course, is not subject to the defenses the consumer would have had against the seller. That is, if the consumer was defrauded by the seller but the contract is passed on to the financial institution immediately, no action can be taken against the financial institution. Sometimes the seller is a transient merchant who leaves town and is not available to fulfill warranties or guarantees on the merchandise. At times the merchandise is not delivered, is defective or broken, or is totally unsatisfactory.

To alleviate this situation, the Committee recommends adoption of "Alternative B" of section 73-2-404 of the Code. This section gives the consumer a three-month period of time to assert the consumer defenses of the act against the holder in due course. The Committee believes that the adoption of this alternative would not hinder consumer credit transactions as

would Alternative A which subjects financial institutions to claims and defenses of the buyer for the entire length of the contract. It was thought that Alternative A would discourage financial institutions from assuming contracts from legitimate sellers and thus would unduly restrict consumer purchasing power.

Further, Alternative B should be sufficient to assure that the financial institution will be careful that the seller from whom it purchases paper will be a reputable merchant willing to stand behind the products sold. It is argued that the financial institution is in a better position than an individual to evaluate the business practices and reputation of merchants.

It is significant to note that courts in Colorado and in other states have been steadily restricting the negotiability of consumer paper. In a recent case (Gross v. Appelgren, Colo. 467 P.2d 789), it was held that a financial institution closely connected with the entire transaction could not attain status of a holder in due course. It is possible that changes recommended in the UCCC will not be as great as changes in the doctrine that may be decreed by the courts.

Deficiency Judgments

One of the more difficult areas for Committee decision involved placing of restrictions on deficiency judgments. (Section 73-5-103). An example of how this provision works may be helpful. A person purchases a used automobile for \$1,500 under a credit sale. After a short time, the car may be damaged and, after missing some payments, the car is repossessed or is surrendered. The dealer then resells the vehicle for \$900. The original purchaser, however, made payments for only a few months which reduced the note to \$1,200. Under the theory of deficiency judgments, the original purchaser would be liable for the balance due between the amount for which the automobile was resold (\$900) and the amount of the unpaid balance on the note (\$300 -- i.e., \$1,200 remaining on the first note less \$900 received in reselling the car).

The Committee recommends that the Code's deficiency judgment provisions apply to transactions involving a cash price of \$500 or more. Drafters of the UCCC had recommended a cut off point of \$1,000 but the lower figure was considered advisable in Colorado.

Certain items, notably the automobile, become necessities in today's society. Persons need automobiles to first obtain employment and then to travel to and from their jobs. If auto dealers do not have recourse to deficiency judgments, the Committee fears that the availability of low priced used cars will be greatly diminished in Colorado. In other words, few used cars of

under \$1,000 will be available as dealers will not want to sell these vehicles without the protection of deficiency judgments.

Referral Sales

The Code would eliminate referral sales under which a cash discount would be given to the buyer for additional sales made to persons whose names the buyer furnishes to the seller. This technique is based on misrepresentation of the number of additional sales that can be made to friends of the buyer. Frequently the product purchased is extremely high priced but the buyer is led to believe that he will get the product at a much lower cost because of the number of referral sales that can be made. (73-2-411).

Home Solicitation Sales

Two provisions of the Code relate to home solicitation sales. Section 73-2-502 provides a three-day rescission period during which the buyer has the right to cancel the contract. Both the seller and the buyer have certain obligations in the sections which follow. The Committee believes that this particular provision will enable consumers to protect themselves from home solicitation sales in which misrepresentations may have been made.

Secondly, the modifications to the holder in due course doctrine, as discussed above, affect home solicitation sales because most of the consumer credit sales paper written for such sales are immediately sold to a financial institution which becomes the holder in due course. Under the Committee's recommendations, the holder in due course (the assignee) would be subject to the buyer's defenses against the seller for three months after the assignment takes place.

Garnishment Limitations

Garnishment or withholding of wages to pay a debt is limited to 25 percent of the debtor's disposable income or to an amount by which the debtor's earnings exceed 40 times the federal minimum hourly wage, whichever is less. Discharge from employment for garnishment and garnishment before judgment have been prohibited. (73-5-104, 73-5-105, and 73-5-106).

Unconscionability

One law dictionary defines the term unconscionable conduct as "conduct that is monstrously harsh and shocking to the conscience." This principle has been included in the UCCC to

provide the courts with a flexible tool to deal with cases of consumer credit that "shock the conscience."* Specific use of this term is made in 73-5-108 in the Article concerning remedies and penalties; in 73-6-111, which permits the Code administrator to seek an injunction against unconscionable practices; and in 73-4-106, which pertains to unconscionability in insurance written under the UCCC.

Three additional points might be noted about the use of this term. Consideration was given by the Committee and a subcommittee in attempting to define more specifically the situations in which this concept should be applied by the courts. The effort was considered futile, however, since the concept is an evolving one, based on a case by case approach. Putting rigid standards for this term would simply result in new means of evasion because the fact situations will differ in each case. All situations can be covered only by the general guidelines contained in the Code.

Use of a general legal concept such as unconscionability is not uncommon in the law. Many other terms are expected to be interpreted by the courts on a case by case approach. "Reasonable man," "negligence," "nuisance," and "mental anguish" are only a few of the words which a legislature cannot define precisely but on which the courts are asked to make rulings every day.

One of the purposes of the Code drafters in using the term is to provide a means of dealing with new, unforeseen conduct which is so one-sided that it cannot be justified. A body of existing case law references is contained in the comments to the "Official Text" of the UCCC.**

Balloon Payments

For a number of reasons, the final payment on a credit sale or a loan commonly will not be the same as the earlier payments. Sometimes these "balloon" payments have been abused by sellers who induce a buyer into a credit sale or loan by offering small installment payments until the final payment, which will be too high for the buyer to meet. The goods might be repossessed or the loan might be refinanced at higher rates. The

*Black's Law Dictionary, Fourth Edition.

**Uniform Consumer Credit Code. West Publishing Co., St. Paul, Minn. (Pages 172 and 195).

Code does not outlay balloon payments, but it does offer protection to the consumer by requiring that if the final payment is more than twice as high as previous payments, the seller or lender must refinance the remainder on terms at least as favorable as in the original sales contract (73-2-405 and 73-3-402).

Administration

It is recommended that the Attorney General be designated the Code Administrator in Colorado. This official is presently the administrator for the consumer protection statutes in Colorado so this area will not be an entirely new field for the office. As an elected officer, the administrator would be responsible to the electorate for actions taken under the Code. Further, regulatory agencies have a tendency to represent the philosophy of the businesses they regulate. Alternative approaches to Code administration in Colorado are effectively limited to creating a new elective office for this purpose or placing it under a new or existing civil service position. Neither of these alternatives were considered as viable as use of the office of Attorney General.

THE FIRST MINORITY REPORT

Senator Garnsey and Senator DeBerard

We, the undersigned members of the Legislative Council Committee on the Uniform Consumer Credit Code submit the following minority report in which we recommend that the 1971 Session of the General Assembly not enact the Uniform Consumer Credit Code in Colorado. Our reasons for opposition are briefly outlined below.

First, the Uniform Consumer Credit Code is a misnomer because it is not uniform in any respect. Only two states have enacted the Code -- Oklahoma and Utah -- and the proposed Colorado act differs from the Code adoptions in both of these states as well as from the "official" Code draft promulgated by the National Conference of Commissioners on Uniform State Laws. It is also of major significance that the major commercial states of New York, Illinois, Pennsylvania, California, Ohio, and Michigan have not adopted the Code.

The Code sets forth many provisions far beyond the scope of the federal truth in lending act. Several existing and proven Colorado statutes would be repealed by the Code which, by the addition of a few amendments, could provide a workable truth in lending act for Colorado. For example, the Motor Vehicle Retail Installment Sales Act could be amended to provide for a statement of annual interest and other terminology to make the act conform with truth in lending requirements.

There appears to be a misconception about the extent of federal regulation that would be exempted by adoption of the UCCC. Even if FTC exemption is given for the disclosure provisions in Colorado, at least nine federal agencies would continue to enforce federal statutes and rules and regulations in areas of concern to the Code. A partial list of these agencies includes the Federal Reserve Board, which supervises state banks in the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency supervising national banks, the FTC for the truth in lending act other than disclosure, and the U.S. Department of Labor in the wage garnishment area. The UCCC would apply state regulation only to regulation of credit term disclosure under the truth in lending act, and all other federal regulation would remain the same.

In meetings of the committee, members who support the Code have conceded that the Code will make it more difficult for the poor to borrow money. The reason for this situation is largely due to the Code's removal of remedies which creditors may now use to enforce collection of debts. Obviously, creditors are going to take a closer look at persons to whom they lend money and it will be more difficult for the poor to obtain loans. The

signers of the minority report believe, however, that the persons who need to borrow money for such things as transportation to employment ought to be able to obtain loans from legitimate sources and ought to be able to set their own priorities regarding their needs for such loans.

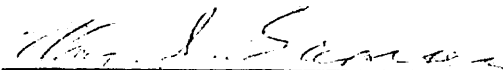
"Unconscionability" is a theory in the law for which there is virtually no precise meaning. There are few statutory guidelines offered in the Code to assist the Code Administrator or the courts with the meaning of this term. Thus, the administration of the parts of the Code to which the term applies would largely depend on the personal judgment of the administrator and the judge rather than on statutory standards.

As for the administration, the committee members signing this report believe that the Code would be administered more economically and with greater expertise through the office of bank commissioner rather than by the Attorney General. The Attorney General would superimpose a second state administrative agency over financial institutions already regulated by the bank commissioner. Further, personnel under the bank commissioner would have greater knowledge of business practices and the businesses subject to Code regulation than would be the case with administration under the Attorney General.

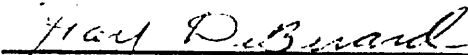
This report has touched on a few of the reasons for which the undersigned do not support the Code. Numerous other objections and inequities could be mentioned but perhaps it is sufficient to state that we believe the Code will create more problems than it will solve.

This minority report is submitted to the Legislative Council and to the General Assembly for consideration in the 1971 Session.

Respectfully submitted,



Senator William S. Garnsey



Senator Fay DeBerard

THE SECOND MINORITY REPORT

Representative DeMoulin and Representative Farley

We, the undersigned members of the Legislative Council Committee on the Uniform Consumer Credit Code, submit the following minority report which states our objections to the Code as recommended by the Committee. We submit the following three reasons as our objections to the Code as presently drafted:

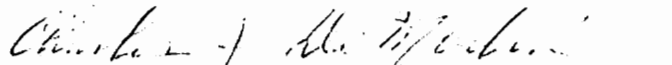
First, the holder in due course doctrine should be eliminated, not modified to apply only for a 90-day time period. Five states have abolished this doctrine and Colorado should adopt Alternative A to Code section 73-2-404 to eliminate this doctrine.

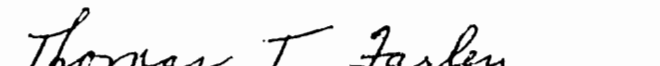
Secondly, the Code draft, which includes higher maximum permissible interest rates for certain categories of loans, would set the maximum rates for credit cards at two percent per month instead of the commonly charged rate of one and one-half percent per month. While there is a statutory void in Colorado that probably should be filled, the maximum rate for credit cards should be set at the customary rate charged of one and one-half percent per month. We find no compensating benefits provided to the debtor to offset the increased maximum permissible interest rates.

The third point is that the deficiency judgment provision should be eliminated but, if it must be included, the limitation should be at \$1,000, not at \$500. This change would at least bring the provision in conformance with the official text of the Code. We believe that there are many used cars and other items sold at the \$500 to \$1,000 range that should be exempted from deficiency judgment actions.

We submit this minority report to the Legislative Council and to the General Assembly for consideration in the 1971 Session.

Respectfully submitted,


Representative Charles J. DeMoulin


Representative Thomas T. Farley

EXPLANATION

A BILL FOR AN ACT

1
2 ENACTING THE "UNIFORM CONSUMER CREDIT CODE", RELATING TO CERTAIN
3 CONSUMER AND OTHER CREDIT TRANSACTIONS; AND CONSOLIDATING
4 AND REVISING CERTAIN ASPECTS OF THE LAW RELATING TO
5 CONSUMER AND OTHER LOANS, CONSUMER AND OTHER SALES OF
6 GOODS, SERVICES, AND INTERESTS IN LAND, AND CONSUMER
7 LEASES; REVISING THE LAW RELATING TO INTEREST AND USURY;
8 REGULATING CERTAIN PRACTICES RELATING TO INSURANCE IN
9 CONSUMER CREDIT TRANSACTIONS; PROVIDING FOR ADMINISTRATIVE
10 REGULATION OF CERTAIN CONSUMER CREDIT TRANSACTIONS; AND
11 MAKING UNIFORM THE LAW WITH RESPECT THERETO.
12

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

14 SECTION 1. Chapter 73, Colorado Revised Statutes 1963, as
15 amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

16 ARTICLE 1

17 GENERAL PROVISIONS AND DEFINITIONS

18 (SHORT TITLE, CONSTRUCTION, GENERAL PROVISIONS)

19 73-1-101. Short title. Articles 1 through 9 of this
20 chapter shall be known and may be cited as the "Uniform Consumer
21 Credit Code", hereinafter referred to as "code".
22

23 73-1-102. Purposes - rules of construction. (1) This
24 code shall be liberally construed and applied to promote its
25 underlying purposes and policies.

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

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

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

32 (c) To further consumer understanding of the terms of
33 credit transactions and to foster competition among suppliers of
34 consumer credit so that consumers may obtain credit at reason-
35 able cost;

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

Colorado's separate consumer credit laws would be combined, simplified, and coordinated under the Code. This act would repeal and reenact Chapter 73 which contains the following articles: Art. 1 -- interest; Art. 2 -- loans over \$1,500; Art. 3 -- loans \$1,500 or less; and Art. 4 -- insurance as security for loans. The Code's repealer section (73-9-103) provides for the repeal of the personal property installment sales act (C.R.S. Ch. 121, Art. 2); the motor vehicle installment sales act (C.R.S. Ch. 13, Art. 16); and interest provisions in the industrial bank act (Section 14-17-7 (2) to (7), C.R.S. 1963, as amended).

Act brings all consumer credit rates into one act.

Reference is to disclosure provisions.

Reference is to certain creditor's remedies abused in the past.

TEXT

EXPLANATION

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

3 (f) To conform the regulation of consumer credit trans-
4 actions to the policies of the "Federal Consumer Credit
5 Protection Act"; and

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

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

11 73-1-103. Supplementary general principles of law
12 applicable. Unless displaced by the particular provisions of
13 this code, the "Uniform Commercial Code" and the principles of
14 law and equity, including the law relative to capacity to
15 contract, principal and agent, estoppel, fraud,
16 misrepresentation, duress, coercion, mistake, bankruptcy, or
17 other validating or invalidating cause, supplement the
18 provisions of this code.

19 73-1-104. Construction against implicit repeal. This code
20 being a general act intended as a unified coverage of its sub-
21 ject matter, no part of it shall be deemed to be impliedly
22 repealed by subsequent legislation if such construction can
23 reasonable be avoided.

24 73-1-105. Severability clause. If any provision of this
25 code or the application thereof to any person or circumstances
26 is held invalid, such invalidity shall not affect other
27 provisions or applications of this code which can be given
28 effect without the invalid provision or application, and to this
29 end the provisions of this code are declared to be severable.

30 73-1-106. Adjustment of dollar amounts - recommendations
31 by administrator. On or before January 1 of each year, or as
32 soon thereafter as possible, the administrator shall report to
33 the governor and the general assembly recommended changes in
34 dollar amounts specified in this code, as determined by changes
35 in the consumer price index for urban wage earners and clerical
36 workers, using December, 1967, as the reference base index, and
37 as determined or recommended by administrators in other states
38 enacting any laws similar to this code, which changes in dollar
39 amounts would maintain uniformity between this state and such

Drafters attempted to prepare act fair to both creditors and consumers.

Purpose is to provide state (not federal) regulation of "truth in lending".

Uniformity is a purpose of Code since credit transactions often cross state lines.

Existing laws would continue unless specifically changed by UCCC.

Provides that repeal by implication of part of this act, as the result of later legislation, should not be decreed if it is possible to fit the later legislation into the spirit and intent of the Code. Similar to provision in Uniform Commercial Code.

This section is the same as in H.B. 1289, 1969 Session. The Code language was not used because of possible constitutional problems in delegating legislative authority.

TEXT

EXPLANATION

1 other states enacting such similar laws.
2 73-1-107. Waiver - agreement to forego rights - settlement
3 of claims. (1) Except as otherwise provided in this code, a
4 buyer, lessee, or debtor may not waive or agree to forego rights
5 or benefits under this code.
6 (2) A claim by a buyer, lessee, or debtor against a
7 creditor for an excess charge, other violation of this code, or
8 civil penalty, or a claim against a buyer, lessee, or debtor for
9 default or breach of a duty imposed by this code, if disputed in
10 good faith, may be settled by agreement.
11 (3) A claim, whether or not disputed, against a buyer,
12 lessee, or debtor, may be settled for less value than the amount
13 claimed.
14 (4) A settlement in which the buyer, lessee, or debtor
15 waives or agrees to forego rights or benefits under this code is
16 invalid if the court as a matter of law finds the settlement to
17 have been unconscionable at the time it was made. The
18 competence of the buyer, lessee, or debtor, any deception or
19 coercion practiced upon him, the nature and extent of the legal
20 advice received by him, and the value of the consideration are
21 relevant to the issue of unconscionability.
22
23
24
25
26 73-1-108. Effect of code on powers of organizations. (1)
27 This code prescribes maximum charges for all creditors, except
28 lessors and those excluded (section 73-1-202), extending
29 consumer credit including consumer credit sales (section
30 73-2-104), consumer loans (section 73-3-104), and consumer
31 related sales and loans (section 73-2-602 and section 73-3-602),
32 and displaces existing limitations on the powers of those
33 creditors based on maximum charges.
34 (2) With respect to sellers of goods or services, small
35 loan companies, licensed lenders, consumer and sales finance
36 companies, industrial banks and loan companies, and commercial
37 banks and trust companies, this code displaces existing
38 limitations on their powers based solely on amount or duration
39 of credit.

Subsections (1), (2), and (3): Rights granted buyers and debtors by the UCCC cannot be waived by them; good faith settlement of disputes is permitted.

Subsection (4) would allow courts to find a settlement unconscionable at the time it was made. Various items are to be considered in determining the issue of "unconscionability" but no blanket definition can be made of the term. Each case must be settled on its merits. Sections 73-4-106, 73-5-108, and 73-6-111 pertain to the application of unconscionability in credit transactions. (Pages 87, 96, and 109).

Section describes organizations and activities under (and not under) the Code.

TEXT

EXPLANATION

1 (3) Except as provided in subsection (1) of this section,
2 and in the article on effective date and repealer (article 9 of
3 this code), this code does not displace limitations on powers of
4 credit unions, savings banks, savings and loan associations, or
5 other thrift institutions whether organized for the profit of
6 shareholders or as mutual organizations.

7 (4) Except as provided in subsections (1) and (2) of this
8 section, and in the article on effective date and repealer
9 (article 9 of this code), this code does not displace:

10 (a) Limitations on powers of supervised financial
11 organizations (subsection (17) of section 73-1-301) with respect
12 to the amount of a loan to a single borrower, the ratio of a
13 loan to the value of collateral, the duration of a loan secured
14 by an interest in land, or other similar restrictions designed
15 to protect deposits, or

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

18 (Omitted section numbers reserved for expansion)

19 (SCOPE AND JURISDICTION)

20 73-1-201. Territorial application. (1) Except as
21 otherwise provided in this section, this code applies to sales,
22 leases, and loans made in this state and to modifications,
23 including refinancings, consolidations, and deferrals, made in
24 this state, of sales, leases, and loans, wherever made. For
25 purposes of this code:

26 (a) A sale or modification of a sale agreement is made in
27 this state if the buyer's agreement or offer to purchase or to
28 modify is received by the seller in this state;

29 (b) A lease or modification of a lease agreement is made
30 in this state if the lessee's agreement or offer to lease or to
31 modify is received by the lessor in this state; and

32 (c) A loan or modification of a loan agreement is made in
33 this state if a writing signed by the debtor and evidencing the
34 debt is received by the lender in this state.

35 (2) With respect to sales made pursuant to a revolving
36 charge account (section 73-2-108), this code applies if the
37 buyer's communication or indication of his intention to
38 establish the account is received by the seller in this state.
39 If no communication or indication of intention is given by the

This section sets out the territorial requirements for bringing a transaction under the UCCC in Colorado. Generally, transactions made in Colorado, and modifications made in Colorado of transactions occurring elsewhere, would be under the Colorado UCCC.

TEXT

EXPLANATION

1 ratification by any other agent or representative of such
2 seller, lessor, or lender in some other state is necessary to
3 give legal consequence to the sale, lease, or loan transaction.

4 73-1-202. Exclusions. This code does not apply to:

5 (1) Extensions of credit to government or governmental
6 agencies or instrumentalities;

7 (2) The sale of insurance by an insurer, except as other-
8 wise provided in the article on insurance (article 4 of this
9 code);

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

15 (4) The rates and charges and the disclosure of rates and
16 charges of a licensed pawnbroker established in accordance with
17 a statute or ordinance concerning these matters.

18 73-1-203. Jurisdiction and service of process. (1) The
19 court of record of any judicial district in this state may
20 exercise jurisdiction over any creditor with respect to any
21 conduct in this state governed by this code or with respect to
22 any claim arising from a transaction subject to this code. In
23 addition to any other method provided by the Colorado rules of
24 civil procedure or by statute, personal jurisdiction over a
25 creditor may be acquired in a civil action or proceeding
26 instituted in the court of record by the service of process in
27 the manner provided by this section.

28 (2) If a creditor is not a resident of this state or is a
29 corporation not authorized to do business in this state and
30 engages in any conduct in this state governed by this code, or
31 engages in a transaction subject to this code, he may designate
32 an agent upon whom service of process may be made in this state.
33 The agent shall be a resident of this state or a corporation
34 authorized to do business in this state. The designation shall
35 be in writing and filed with the secretary of state. If no
36 designation is made and filed or if process cannot be served in
37 this state upon the designated agent, process may be served upon
38 the secretary of state, but service upon him is not effective
39 unless the plaintiff or petitioner forthwith mails a copy of the

UCCC would not apply to credit to govern-
mental entities, to insurance sales (except
as specifically provided in the UCCC), to
transactions regulated by the PUC, or to
pawnbrokers.

Jurisdictional section defining the courts
which are empowered to enforce the act and
how jurisdiction over a creditor is acqui-
red.

TEXT

EXPLANATION

1 process and pleading by registered or certified mail to the
2 defendant or respondent at his last reasonably ascertainable
3 address. An affidavit of compliance with this section shall be
4 filed with the clerk of the court on or before the return day of
5 the process, if any, or within any further time the court
6 allows.

7 (Omitted section numbers reserved for expansion)

8 (DEFINITIONS)

9 73-1-301. General definitions. In addition to definitions
10 appearing in subsequent articles, in this code:

11 (1) "Actuarial method" means the method, defined by rules
12 adopted by the administrator, of allocating payments made on a
13 debt between principal or amount financed and loan finance
14 charge or credit service charge pursuant to which a payment is
15 applied first to the accumulated loan finance charge or credit
16 service charge and the balance is applied to the unpaid
17 principal or unpaid amount financed.

18 (2) "Administrator" means the administrator designated in
19 section 73-6-103.

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

24 (4) "Agricultural purpose" means a purpose related to the
25 production, harvest, exhibition, marketing, transportation,
26 processing, or manufacture of agricultural products by a natural
27 person who cultivates, plants, propagates, or nurtures the
28 agricultural products. "Agricultural products" includes
29 agricultural, horticultural, viticultural, and dairy products,
30 livestock, wildlife, poultry, bees, forest products, fish and
31 shellfish, and any products thereof, including processed and
32 manufactured products, and any and all products raised or
33 produced on farms and any processed or manufactured products
34 thereof.

35 (5) "Closing costs" with respect to a debt secured by an
36 interest in land includes:

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

39 (b) Fees for preparation of a deed, settlement statement,

Committee recommends Attorney General as
Code administrator in Colorado.

TEXT

EXPLANATION

1 or other documents,
2 (c) Escrows for future payments of taxes and insurance,
3 (d) Fees for notarizing deeds and other documents,
4 (e) Appraisal fees, and
5 (f) Credit reports.
6 (6) "Conspicuous": A term or clause is conspicuous when
7 it is so written that a reasonable person against whom it is to
8 operate ought to have noticed it. Whether a term or clause is
9 conspicuous or not is for decision by the court. A printed
10 heading in capitals (as: WARRANTY) is conspicuous, and language
11 in the body of the form is conspicuous if it is in larger or
12 other contrasting type or color. In a telegram, any stated term
13 is conspicuous.
14 (7) "Credit" means the right granted by a creditor to a
15 debtor to defer payment of debt or to incur debt and defer its
16 payment.
17 (8) "Earnings" means compensation paid or payable to an
18 individual or for his account for personal services rendered or
19 to be rendered by him, whether denominated as wages, salary,
20 fees, commission, bonus, or otherwise, and includes periodic
21 payments pursuant to a pension, retirement, or disability
22 program.
23 (9) "Lender credit card or similar arrangement" means an
24 arrangement or loan agreement, other than a seller credit card,
25 pursuant to which a lender gives a debtor the privilege of using
26 a credit card, letter of credit, or other credit confirmation or
27 identification in transactions out of which debt arises:
28 (a) By the lender's honoring a draft or similar order for
29 the payment of money drawn or accepted by the debtor;
30 (b) By the lender's payment or agreement to pay the
31 debtor's obligations; or
32 (c) By the lender's purchase from the obligee of the
33 debtor's obligations.
34 (10) "Official fees" means:
35 (a) Fees and charges prescribed by law which actually are
36 or will be paid to public officials for determining the
37 existence of or for perfecting, releasing, or satisfying a
38 security interest related to a consumer credit sale, consumer
39 lease, or consumer loan; or

Intent is that credit cards and revolving credit plans be covered by the act. Colorado does not now define and regulate transactions based on these devices. Note distinction made between a seller credit card, such as one issued by an oil company, and a lender credit card, such as a bank credit card.

TEXT

EXPLANATION

1 (b) Premiums payable for insurance in lieu of perfecting a
2 security interest otherwise required by the creditor in
3 connection with the sale, lease, or loan, if the premium does
4 not exceed the fees and charges described in paragraph (a) of
5 this subsection which would otherwise be payable.

6 (11) "Organization" means a corporation, government or
7 governmental subdivision or agency, trust, estate, partnership,
8 cooperative, or association.

9 (12) "Payable in instalments" means that payment is
10 required or permitted by agreement to be made in (a) two or more
11 periodic payments, excluding a down payment, with respect to a
12 debt arising from a consumer credit sale pursuant to which a
13 credit service charge is made, (b) four or more periodic pay-
14 ments, excluding a down payment, with respect to a debt arising
15 from a consumer credit sale pursuant to which no credit service
16 charge is made, or (c) two or more periodic payments with
17 respect to a debt arising from a consumer loan. If any periodic
18 payment other than the down payment under an agreement requiring
19 or permitting two or more periodic payments is more than twice
20 the amount of any other periodic payment, excluding the down
21 payment, the consumer credit sale, consumer lease, or consumer
22 loan is "payable in instalments".

23 (13) "Person" includes a natural person or an individual,
24 and an organization.

25 (14) "Person related to" with respect to an individual
26 means the spouse of the individual; a brother, brother-in-law,
27 sister, or sister-in-law of the individual; an ancestor or
28 lineal descendant of the individual or his spouse; and any other
29 relative, by blood or marriage, of the individual or his spouse
30 who shares the same home with the individual. "Person related
31 to" with respect to an organization means a person directly or
32 indirectly controlling, controlled by or under common control
33 with the organization; an officer or director of the
34 organization or a person performing similar functions with
35 respect to the organization or to a person related to the
36 organization; the spouse of a person related to the
37 organization; and a relative by blood or marriage of a person
38 related to the organization who shares the same home with him.

39

Self-explanatory, but note that the phrase "payable in installments" is applied differently to sales, depending on whether or not there is a service charge made, and in still a different manner to consumer loans. Three-payment, 90-day accounts, without credit charges, are not under the definition.

TEXT

EXPLANATION

1 (15) "Presumed" or "presumption" means that the trier of
2 fact must find the existence of the fact presumed unless and
3 until evidence is introduced which would support a finding of
4 its nonexistence.

5 (16) "Seller credit card" means an arrangement pursuant to
6 which a person gives to a buyer or lessee the privilege of using
7 a credit card, letter of credit, or other credit confirmation or
8 identification primarily for the purpose of purchasing or
9 leasing goods or services from that person, a person related to
10 that person, or others licensed or franchised to do business
11 under his business or trade name or designation.

12 (17) "Supervised financial organization" means a person,
13 other than an insurance company or other organization primarily
14 engaged in an insurance business,

15 (a) Organized, chartered, or holding an authorization
16 certificate under the laws of this state or of the United States
17 which authorize the person to make loans and to receive
18 deposits, including a savings, share, certificate or deposit
19 account, and

20 (b) Subject to supervision by an official or agency of
21 this state or of the United States.

22 (18) A "business day" is any calendar day except Sunday,
23 new year's day, Washington's birthday, memorial day,
24 independence day, labor day, veterans day, Thanksgiving, and
25 Christmas.

26 73-1-302. Definition: "Federal Consumer Credit Protection
27 Act". In this code, "Federal Consumer Credit Protection Act"
28 means the Consumer Credit Protection Act (Public Law 90-321; 82
29 Stat. 146), as amended, and includes regulations issued pursuant
30 to that act.

31 73-1-303. Index of definitions in code. Definitions in
32 this code and the sections in which they appear are:

33	"Actuarial method"	Section 73-1-301 (1)
34	"Administrator"	Section 73-1-301 (2)
35	"Administrator"	Section 73-6-103
36	"Agreement"	Section 73-1-301 (3)
37	"Agricultural purpose"	Section 73-1-301 (4)
38	"Amount financed"	Section 73-2-111

See note for subsection (9), above.

Reference is to the Federal "truth in lending" act and to Regulation Z (among other regulations) of the Federal Reserve Board.

TEXTEXPLANATION

1	"Annual percentage rate" (sale)	Section 73-2-304
2	"Annual percentage rate" (loan)	Section 73-3-304
3	"Cash price"	Section 73-2-110
4	"Closing costs"	Section 73-1-301 (5)
5	"Conspicuous"	Section 73-1-301 (6)
6	"Consumer credit insurance"	Section 73-4-103 (1)
7	"Consumer credit sale"	Section 73-2-104
8	"Consumer lease"	Section 73-2-106
9	"Consumer loan"	Section 73-3-104
10	"Consumer related loan"	Section 73-3-602
11	"Consumer related sale"	Section 73-2-602
12	"Corresponding nominal	
13	annual percentage rate" (sale)	Section 73-2-304
14	"Corresponding nominal	
15	annual percentage rate" (loan)	Section 73-3-304
16	"Credit"	Section 73-1-301 (7)
17	"Credit Insurance Act"	Section 73-4-103 (2)
18	"Credit service charge"	Section 73-2-109
19	"Earnings"	Section 73-1-301 (8)
20	"Federal Consumer Credit	
21	Protection Act"	Section 73-1-302
22	"Goods"	Section 73-2-105 (1)
23	"Home solicitation sale"	Section 73-2-501
24	"Lender"	Section 73-3-107 (1)
25	"Lender credit card	
26	or similar arrangement"	Section 73-1-301 (9)
27	"Loan"	Section 73-3-106
28	"Loan finance charge"	Section 73-3-109
29	"Loan primarily secured by an	
30	interest in land"	Section 73-3-105
31	"Merchandise certificate"	Section 73-2-105 (2)
32	"Official fees"	Section 73-1-301 (10)
33	"Organization"	Section 73-1-301 (11)
34	"Payable in instalments"	Section 73-1-301 (12)
35	"Person"	Section 73-1-301 (13)
36	"Person related to"	Section 73-1-301 (14)
37	"Precomputed" (loan)	Section 73-3-107 (2)
38	"Precomputed" (sale)	Section 73-2-105 (7)
39	"Presumed" or "Presumption"	Section 73-1-301 (15)

TEXT

EXPLANATION

1	"Principal"	Section 73-3-107 (3)
2	"Revolving charge account"	Section 73-2-108
3	"Revolving loan account"	Section 73-3-108
4	"Sale of goods"	Section 73-2-105 (4)
5	"Sale of an interest in land"	Section 73-2-105 (6)
6	"Sale of services"	Section 73-2-105 (5)
7	"Seller"	Section 73-2-107
8	"Seller credit card"	Section 73-1-301 (16)
9	"Services"	Section 73-2-105 (3)
10	"Supervised financial organization"	Section 73-1-301 (17)
11	"Supervised lender"	Section 73-3-501 (4)
12	"Supervised loan"	Section 73-3-501 (3)

ARTICLE 2

CREDIT SALES

(GENERAL PROVISIONS)

16 73-2-101. Short title. This article shall be known and
17 may be cited as "Uniform Consumer Credit Code - Credit Sales".

18 73-2-102. Scope. This article applies to consumer credit
19 sales, including home solicitation sales, and consumer leases;
20 in addition, sections 73-2-601 to 73-2-605 apply to consumer
21 related sales.

22 73-2-103. Definitions in article. The following
23 definitions apply to this code and appear in this article as
24 follows:

25	"Amount financed"	Section 73-2-111
26	"Annual percentage rate"	Section 73-2-304 (2)
27	"Cash price"	Section 73-2-110
28	"Consumer credit sale"	Section 73-2-104
29	"Consumer lease"	Section 73-2-106
30	"Consumer related sale"	Section 73-2-602
31	"Corresponding nominal 32 annual percentage rate"	Section 73-2-304 (3)
33	"Credit service charge"	Section 73-2-109
34	"Goods"	Section 73-2-105 (1)
35	"Home solicitation sale"	Section 73-2-501
36	"Merchandise certificate"	Section 73-2-105 (2)
37	"Precomputed"	Section 73-2-105 (7)
38	"Revolving charge account"	Section 73-2-108
39	"Sale of goods"	Section 73-2-105 (4)

Article 2 applies to consumer credit sales,
not to consumer loans, which are covered
in Article 3. The format of Articles 2 and
3 is similar.

TEXT

EXPLANATION

1 "Sale of an interest
2 in land" Section 73-2-105 (6)
3 "Sale of services" Section 73-2-105 (5)
4 "Seller" Section 73-2-107
5 "Services" Section 73-2-105 (3)
6 73-2-104. Definition: "consumer credit sale". (1) Except
7 as provided in subsection (2) of this section, "consumer credit
8 sale" is a sale of goods, services, or an interest in land in
9 which:
10 (a) Credit is granted or arranged by a person who
11 regularly engages as a seller in credit transactions of the same
12 kind,
13 (b) The buyer is a person other than an organization,
14 (c) The goods, services, or interest in land are purchased
15 primarily for a personal, family, household, or agricultural
16 purpose,
17 (d) Either the debt is payable in instalments or a credit
18 service charge is made, and
19 (e) With respect to a sale of goods or services, the
20 amount financed does not exceed twenty-five thousand dollars.
21 (2) Unless the sale is made subject to this code by
22 agreement (section 73-2-601), "consumer credit sale" does not
23 include:
24 (a) A sale in which the seller allows the buyer to
25 purchase goods or services pursuant to a lender credit card or
26 similar arrangement, or
27 (b) Except as provided with respect to disclosure (section
28 73-2-301) and debtors' remedies (section 73-5-201), a sale of an
29 interest in land if the credit service charge does not exceed
30 ten percent per year calculated according to the actuarial
31 method on the unpaid balances of the amount financed on the
32 assumption that the debt will be paid according to the agreed
33 terms and will not be paid before the end of the agreed term.
34 (c) A sale for a business or commercial purpose.
35 73-2-105. Definitions: "goods"; "merchandise
36 certificate"; "services"; "sale of goods"; "sale of services";
37 "sale of an interest in land"; "precomputed". (1) "Goods"
38 includes goods not in existence at the time the transaction is
39

The definition of a consumer credit sale is an extremely important part of the act. A consumer credit sale does not exist unless all of the requirements in Subsection (1) are met. Two of the controversial aspects of this definition appear in (c), where agricultural purchases are included in the Code, and in (e), where the top limit of a sale under the UCCC is set at \$25,000. Sales involving lender credit cards and most sales of land are specifically exempted.

Money, negotiable instruments, bills of lading, warehouse receipts, and similar instruments, even though saleable, are specifically excluded.

TEXT

EXPLANATION

1 entered into and merchandise certificates, but excludes money,
2 chattel paper, documents of title, and instruments.

3 (2) "Merchandise certificate" means a writing issued by a
4 seller not redeemable in cash and usable in its face amount in
5 lieu of cash in exchange for goods or services.

6 (3) "Services" includes (a) work, labor, and other
7 personal services; (b) privileges with respect to
8 transportation, hotel and restaurant accommodations, education,
9 entertainment, recreation, physical culture, hospital
10 accommodations, funerals, cemetery accommodations, and the like;
11 and (c) insurance provided by a person other than the insurer.

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

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

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

27 (7) A sale, refinancing, or consolidation is "precomputed"
28 if the debt is expressed as a sum comprising the amount financed
29 and the amount of the credit service charge computed in advance.

30 73-2-106. Definition: "consumer lease". (1) "Consumer
31 lease" means a lease of goods:

32 (a) Which a lessor regularly engaged in the business of
33 leasing makes to a person, other than an organization, who takes
34 under the lease primarily for a personal, family, household, or
35 agricultural purpose;

36 (b) In which the amount payable under the lease does not
37 exceed twenty-five thousand dollars; and

38 (c) Which is for a term exceeding four months.

39

Sales of services are regulated if they meet the definition of a consumer credit sale.

This subsection prevents the use of leases to defeat the purposes of the act.

Definition of "consumer lease" is self-explanatory. Note that subsection (c) requires a lease to have a term exceeding four months before it is regulated under the UCCC.

TEXT

EXPLANATION

1 (2) "Consumer lease" does not include a lease made
2 pursuant to a lender credit card or similar arrangement.
3 73-2-107. Definition: "seller". Except as otherwise
4 provided, "seller" includes an assignee of the seller's right to
5 payment, but use of the term does not in itself impose on an
6 assignee any obligation of the seller with respect to events
7 occurring before the assignment.

8
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11 73-2-108. Definition: "revolving charge account". "Re-
12 volving charge account" means an arrangement between a seller
13 and a buyer pursuant to which (1) the seller may permit the
14 buyer to purchase goods or services on credit either from the
15 seller or pursuant to a seller credit card; (2) the unpaid
16 balances of amounts financed arising from purchases and the
17 credit service and other appropriate charges are debited to an
18 account; (3) a credit service charge if made is not precomputed
19 but is computed on the outstanding unpaid balances of the
20 buyer's account from time to time; and (4) the buyer has the
21 privilege of paying the balances in instalments.

22 73-2-109. Definition: "credit service charge". "Credit
23 service charge" means the sum of (1) all charges payable
24 directly or indirectly by the buyer and imposed directly or
25 indirectly by the seller as an incident to or as a condition of
26 the extension of credit, whether paid or payable by the buyer,
27 the seller, or any other person on behalf of the buyer, to the
28 creditor or a third party, including any of the following types
29 of charges which are applicable: Time price differential;
30 service, carrying, or other charge, however denominated; premium
31 or other charge for any guarantee or insurance protecting the
32 seller against the buyer's default or other credit loss; and (2)
33 charges incurred for investigating the collateral or
34 credit-worthiness of the buyer or for commissions or brokerage
35 for obtaining the credit. The term does not include charges as
36 a result of default, additional charges (section 73-2-202),
37 delinquency charges (section 73-2-203), or deferral charges
38 (section 73-2-204).

39

Section makes it clear that the term "sel-
ler" includes persons or institutions who
buy consumer paper (the assignee). Note,
however, the assignee does not acquire any
obligations of the seller solely because
of this definition, if they involve events
occurring before he acquired the paper.

Sets out the differences between a revolv-
ing charge account and a traditional charge
account.

"Credit service charge" includes charges
for the privilege of purchasing on time,
plus charges for credit reports or the
services of a credit broker.

TEXT

EXPLANATION

1 73-2-110. Definition: "cash price". Except as the
2 administrator may otherwise prescribe by rule, the "cash price"
3 of goods, services, or an interest in land means the price at
4 which the goods, services, or interest in land are offered for
5 sale by the seller to cash buyers in the ordinary course of
6 business, and may include the cash price of accessories, or
7 related services such as delivery, installation, servicing,
8 repairs, alterations, and improvements; and, if individually
9 itemized, may also include (1) applicable sales, use, and excise
10 and documentary stamp taxes, and (2) amounts actually paid or to
11 be paid by the seller for registration, certificate of title, or
12 license fees. The cash price stated by the seller to the buyer
13 pursuant to the provisions on disclosure (sections 73-2-301 to
14 73-2-313) of this article is presumed to be the cash price.

15 73-2-111. Definition: "amount financed". "Amount
16 financed" means the total of the following items to the extent
17 that payment is deferred:

18 (1) The cash price of the goods, services, or interest in
19 land, less the amount of any down payment whether made in cash
20 or in property traded in,

21 (2) The amount actually paid or to be paid by the seller
22 pursuant to an agreement with the buyer to discharge a security
23 interest in or a lien on property traded in, and

24 (3) If not included in the cash price:

25 (a) Any applicable sales, use, excise, or documentary
26 stamp taxes,

27 (b) Amounts actually paid or to be paid by the seller for
28 registration, certificate of title, or license fees, and

29 (c) Additional charges permitted by this article (section
30 73-2-202).

31 (Omitted section numbers reserved for expansion)

32 (MAXIMUM CHARGES)

33 73-2-201. Credit service charge for consumer credit sales
34 other than revolving charge accounts. (1) With respect to a
35 consumer credit sale, other than a sale pursuant to a revolving
36 charge account, a seller may contract for and receive a credit
37 service charge not exceeding that permitted by this section.

38
39

Briefly, "cash price" means the purchase price in full at the time of purchase.

Essentially, the "amount financed" is the cash price as defined in 73-2-110. Anything added in deferred payment charges is the credit service charge.

Section sets maximum charges for consumer credit sales, except for revolving charge accounts, which are dealt with later. The maximum can be figured either as a percentage rate which decreases as the amount of the loan increases, or as an overall rate of 18 percent per annum.

TEXT

EXPLANATION

1 (2) The credit service charge, calculated according to the
2 actuarial method, may not exceed the equivalent of the greater
3 of either of the following:

4 (a) The total of:

5 (i) Thirty-six percent per year on that part of the unpaid
6 balances of the amount financed which is three hundred dollars
7 or less;

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

11 (iii) Fifteen percent per year on that part of the unpaid
12 balances of the amount financed which is more than one thousand
13 dollars; or

14 (b) Eighteen percent per year on the unpaid balances of
15 the amount financed.

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34 (3) This section does not limit or restrict the manner of
35 contracting for the credit service charge, whether by way of
36 add-on, discount, or otherwise, so long as the rate of the
37 credit service charge does not exceed that permitted by this
38 section. If the sale is precomputed,
39

The committee recommends the rate charges suggested in the UCCC text, although some of these rates are above present Colorado maximums. The committee believes that actual rates charged in many cases will be substantially lower, depending upon economic conditions and competition. Further, the higher rate ceilings will permit the extension of credit to more of the people who are most in need of credit, i.e., persons in lower economic levels.

The rate for small transactions is a higher percentage figure than that for larger transactions because the cost to the seller of extending credit involves many items which are essentially fixed, and are as high for a small transaction as for a large one.

All the rates are calculated as a percentage of the unpaid principal balance (simple interest), rather than with precomputed or add-on interest which has commonly been used in the past.

Even if the UCCC is not passed, the interest figure must be expressed as a percentage of the unpaid principal balance under federal law. The federal act does not set rates; this is still a function of the states.

(3) Calculation of the credit service charge in any manner, including precomputed interest, is permitted as long as the maximum Code rate is not exceeded. Rules for calculating rates are set out and a minimum credit service charge is allowed.

TEXT

EXPLANATION

1 (a) The credit service charge may be calculated on the
2 assumption that all scheduled payments will be made when due,
3 and

4 (b) The effect of prepayment is governed by the provisions
5 on rebate upon prepayment (section 73-2-210).

6 (4) For the purposes of this section, the term of a sale
7 agreement commences with the date the credit is granted or, if
8 goods are delivered or services performed ten days or more after
9 that date, with the date of commencement of delivery or
10 performance. Differences in the lengths of months are
11 disregarded and a day may be counted as one-thirtieth of a
12 month. Subject to classifications and differentiations the
13 seller may reasonably establish, a part of a month in excess of
14 fifteen days may be treated as a full month if periods of
15 fifteen days or less are disregarded and that procedure is not
16 consistently used to obtain a greater yield than would otherwise
17 be permitted.

18 (5) Subject to classifications and differentiations the
19 seller may reasonably establish, he may make the same credit
20 service charge on all amounts financed within a specified range.
21 A credit service charge so made does not violate subsection (2)
22 of this section if

23 (a) When applied to the median amount within each range,
24 it does not exceed the maximum permitted by subsection (2) of
25 this section, and

26 (b) When applied to the lowest amount within each range,
27 it does not produce a rate of credit service charge exceeding
28 the rate calculated according to paragraph (a) of this
29 subsection by more than eight percent of the rate calculated
30 according to paragraph (a) of this subsection.

31 (6) Notwithstanding subsection (2) of this section, the
32 seller may contract for and receive a minimum credit service
33 charge of not more than five dollars when the amount financed
34 does not exceed seventy-five dollars, or seven dollars fifty
35 cents when the amount financed exceeds seventy-five dollars.

36 73-2-202. Additional charges. (1) In addition to the
37 credit service charge permitted by sections 73-2-201 to
38 73-2-210, a seller may contract for and receive the following
39 additional charges in connection with a consumer credit sale:

(5) Credit service charges for transac-
tions within specified ranges are permitted
to facilitate use of tables by a seller.

Provides for certain additional charges
which can legally be collected.

TEXT

EXPLANATION

1 (a) Official fees and taxes;
2 (b) Charges for insurance as described in subsection (2)
3 of this section; and

4 (c) Charges for other benefits, including insurance,
5 conferred on the buyer, if the benefits are of value to him and
6 if the charges are reasonable in relation to the benefits, are
7 of a type which is not for credit, and are excluded as
8 permissible additional charges from the credit service charge by
9 rule adopted by the administrator.

10 (2) An additional charge may be made for insurance written
11 in connection with the sale, other than insurance protecting the
12 seller against the buyer's default or other credit loss,

13 (a) With respect to insurance against loss of or damage to
14 property, or against liability, if the seller furnishes a clear
15 and specific statement in writing to the buyer, setting forth
16 the cost of the insurance if obtained from or through the
17 seller, and stating that the buyer may choose the person through
18 whom the insurance is to be obtained; and

19 (b) With respect to consumer credit insurance providing
20 life, accident, or health coverage, if the insurance coverage is
21 not a factor in the approval by the seller of the extension of
22 credit and this fact is clearly disclosed in writing to the
23 buyer, and if, in order to obtain the insurance in connection
24 with the extension of credit, the buyer gives specific
25 affirmative written indication of his desire to do so after
26 written disclosure to him of the cost thereof.

27 (3) For the purposes of the Part on Disclosure and
28 Advertising (Part 3), reasonable closing costs are additional
29 charges.

30 73-2-203. Delinquency charges. (1) With respect to a
31 precomputed consumer credit sale, refinancing, or consolidation,
32 the parties may contract for a delinquency charge on any
33 instalment not paid in full within twenty days after its
34 scheduled due date in an amount not exceeding the greater of:

35 (a) An amount, not exceeding five dollars, which is five
36 percent of the unpaid amount of the instalment, or

37 (b) The deferral charge (subsection (1) of section
38 73-2-204) that would be permitted to defer the unpaid amount of
39 the instalment for the period that it is delinquent.

Section recognizes that in dealing with a delinquent buyer, a seller incurs added expense. Consequently, if the buyer is more than ten days delinquent, the seller is permitted to collect a delinquency charge on sales in which the service charge is precomputed.

TEXT

EXPLANATION

1 (2) A delinquency charge under paragraph (a) of subsection
2 (1) of this section may be collected only once on an instalment
3 however long it remains in default. No delinquency charge may
4 be collected if the instalment has been deferred and a deferral
5 charge (section 73-2-204) has been paid or incurred until ten
6 days after the deferred due date. A delinquency charge may be
7 collected at the time it accrues or at any time thereafter.

8 (3) No delinquency charge may be collected on an
9 instalment which is paid in full within ten days after its
10 scheduled instalment due date even though an earlier maturing
11 instalment or a delinquency charge on an earlier instalment may
12 not have been paid in full. For purposes of this subsection,
13 payments are applied first to current instalments and then to
14 delinquent instalments.

15 73-2-204. Deferral charges. (1) With respect to a pre-
16 computed consumer credit sale, refinancing, or consolidation,
17 the parties before or after default may agree in writing to a
18 deferral of all or part of one or more unpaid instalments, and
19 the seller may make and collect a charge not exceeding the rate
20 previously stated to the buyer pursuant to the provisions on
21 disclosure (sections 73-2-301 to 73-2-313) applied to the amount
22 or amounts deferred for the period of deferral calculated
23 without regard to differences in lengths of months, but
24 proportionally for a part of a month, counting each day as
25 one-thirtieth of a month. A deferral charge may be collected at
26 the time it is assessed or at any time thereafter.

27 (2) The seller, in addition to the deferral charge, may
28 make appropriate additional charges (section 73-2-202), and the
29 amount of these charges which is not paid in cash may be added
30 to the amount deferred for the purpose of calculating the
31 deferral charge.

32 (3) The parties may agree in writing at the time of a
33 precomputed consumer credit sale, refinancing, or consolidation,
34 that if an instalment is not paid within ten days after its due
35 date, the seller may unilaterally grant a deferral and make
36 charges as provided in this section. No deferral charge may be
37 made for a period after the date that the seller elects to
38 accelerate the maturity of the agreement.

39

Seller may defer payments on a precomputed sale to a buyer who cannot make payments as per the original contract. In such deferral, the seller may charge a credit service charge on the deferred payments equal to that made in the original contract.

TEXT

EXPLANATION

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

5 73-2-205. Credit service charge on refinancing. With
6 respect to a consumer credit sale, refinancing, or
7 consolidation, the seller may by agreement with the buyer
8 refinance the unpaid balance and may contract for and receive a
9 credit service charge based on the amount financed resulting
10 from the refinancing at a rate not exceeding that permitted by
11 the provisions on credit service charge for consumer credit
12 sales (section 73-2-201). For the purpose of determining the
13 credit service charge permitted, the amount financed resulting
14 from the refinancing comprises the following:

15 (1) If the transaction was not precomputed, the total of
16 the unpaid balance and accrued charges on the date of
17 refinancing, or, if the transaction was precomputed, the amount
18 which the buyer would have been required to pay upon prepayment
19 pursuant to the provisions on rebate upon prepayment (section
20 73-2-210) on the date of refinancing, except that for the
21 purpose of computing this amount no minimum credit service
22 charge (subsection (6) of section 73-2-201) shall be allowed;
23 and

24 (2) Appropriate additional charges (section 73-2-202),
25 payment of which is deferred.

26 73-2-206. Credit service charge on consolidation. If a
27 buyer owes an unpaid balance to a seller with respect to a
28 consumer credit sale, refinancing, or consolidation, and becomes
29 obligated on another consumer credit sale, refinancing, or con-
30 solidation, with the same seller, the parties may agree to a
31 consolidation resulting in a single schedule of payments
32 pursuant to either of the following subsections:

33 (1) The parties may agree to refinance the unpaid balance
34 with respect to the previous sale pursuant to the provisions on
35 refinancing (section 73-2-205) and to consolidate the amount
36 financed resulting from the refinancing by adding it to the
37 amount financed with respect to the subsequent sale. The seller
38 may contract for and receive a credit service charge based on
39 the aggregate amount financed resulting from the consolidation

If deferral, as in above section, is inad-
equiate to relieve the buyer's problems,
the entire remaining balance can be refi-
nanced, provided the total credit service
charge does not exceed the permitted maxi-
mum.

Section permits consolidation of the debt
of a second transaction with the unpaid
balance of the first transaction. The
credit service charge on both transactions
cannot exceed the permitted maximum.

TEXT

EXPLANATION

1 at a rate not exceeding that permitted by the provisions on
2 credit service charge for consumer credit sales (section
3 73-2-201).

4 (2) The parties may agree to consolidate by adding
5 together the unpaid balances with respect to the two sales.

6 73-2-207. Credit service charge for revolving charge
7 accounts. (1) With respect to a consumer credit sale made
8 pursuant to a revolving charge account, the parties to the sale
9 may contract for the payment by the buyer of a credit service
10 charge not exceeding that permitted in this section.

11 (2) A charge may be made in each billing cycle which is a
12 percentage of an amount no greater than:

13 (a) The average daily balance of the account,

14 (b) The unpaid balance of the account on the same day of
15 the billing cycle, or

16 (c) The median amount within a specified range within
17 which the average daily balance of the account or the unpaid
18 balance of the account on the same day of the billing cycle is
19 included. A charge may be made pursuant to this paragraph only
20 if the seller, subject to classifications and differentiations
21 he may reasonable establish, makes the same charge on all
22 balances within the specified range and if the percentage when
23 applied to the median amount within the range does not produce a
24 charge exceeding the charge resulting from applying that
25 percentage to the lowest amount within the range by more than
26 eight percent of the charge on the median amount.

27 (3) If the billing cycle is monthly, the charge may not
28 exceed two percent of that part of the amount pursuant to
29 subsection (2) which is five hundred dollars or less and one and
30 one-half percent on that part of this amount which is more than
31 five hundred dollars. If the billing cycle is not monthly, the
32 maximum charge is that percentage which bears the same relation
33 to the applicable monthly percentage as the number of days in
34 the billing cycle bears to thirty. For the purposes of this
35 section, a variation of not more than four days from month to
36 month is "the same day of the billing cycle."

37 (4) Notwithstanding subsection (3) of this section, if
38 there is an unpaid balance on the date as of which the credit
39 service charge is applied, the seller may contract for and

Section regulates credit service charges for revolving charge accounts and seller credit cards (e.g., gasoline company cards). Subsection (2) allows the computation of the amount financed to be either the average daily balance; by taking a given day of the month and using the balance unpaid on that day of each month; or, subject to limitations, by taking a median amount within a specified range to facilitate use of tables similar to Section 73-2-201 (5).

Maximum charges for this kind of account are set forth; 2% per month on balances under \$500.00; 1 1/2% per month on balances over \$500.00.

(4) Minimum charge of fifty cents per month is permitted.

TEXT

EXPLANATION

1 receive a charge not exceeding fifty cents, if the billing cycle
2 is monthly or longer, or the pro rata part of fifty cents which
3 bears the same relation to fifty cents as the number of days in
4 the billing cycle bears to thirty, if the billing cycle is
5 shorter than monthly.

6 73-2-208. Advances to perform covenants of buyer. (1)
7 If the agreement with respect to a consumer credit sale,
8 refinancing, or consolidation contains covenants by the buyer to
9 perform certain duties pertaining to insuring or preserving
10 title to collateral, and the seller pursuant to the agreement
11 pays for performance of the duties on behalf of the buyer, the
12 seller may add the amounts paid to the debt. Within a
13 reasonable time after advancing any sums, he shall state to the
14 buyer in writing the amount of the sums advanced, any charges
15 with respect to this amount, and any revised payment schedule
16 and, if the duties of the buyer performed by the seller pertain
17 to insurance, a brief description of the insurance paid for by
18 the seller including the type and amount of coverages. No
19 further information need be given.

20 (2) A credit service charge may be made for sums advanced
21 pursuant to subsection (1) of this section at a rate not
22 exceeding the rate stated to the buyer pursuant to the
23 provisions on disclosure (sections 73-2-301 to 73-2-313), with
24 respect to the sale, refinancing, or consolidation, except that
25 with respect to a revolving charge account the amount of the
26 advance may be added to the unpaid balance of the account and
27 the seller may make a credit service charge not exceeding that
28 permitted by the provisions on credit service charge for
29 revolving charge accounts (section 73-2-207).

30 73-2-209. Right to prepay. Subject to the provisions on
31 rebate upon prepayment (section 73-2-210), the buyer may prepay
32 in full the unpaid balance of a consumer credit sale,
33 refinancing, or consolidation at any time without penalty.

34 73-2-210. Rebate upon prepayment. (1) Except as provided
35 in subsection (2) of this section, upon prepayment in full of
36 the unpaid balance of a precomputed consumer credit sale, re-
37 financing, or consolidation, an amount not less than the
38 unearned portion of the credit service charge, calculated
39 according to this section, shall be rebated to the buyer. If

Many consumer credit sales involving substantial cost require that the buyer insure the property and pay taxes on it. Section permits the seller to pay taxes, insurance, and similar items if the buyer does not and to charge the same amount for this money as is charged on the principal debt.

Permits prepayment without penalty.

Section provides rules for computation of a rebate if a debt, upon which the service charge was precomputed, is prepaid. Generally, installment loans, when prepaid, are to use a rebate formula in which the credit service charge is multiplied by a

TEXT

EXPLANATION

1 the rebate otherwise required is less than one dollar, no rebate
2 need be made.

3 (2) Upon prepayment in full of a consumer credit sale, re-
4 financing, or consolidation, other than one pursuant to a
5 revolving charge account, if the credit service charge then
6 earned is less than any permitted minimum credit service charge
7 (subsection (6) of section 73-2-201) contracted for, whether or
8 not the sale, refinancing, or consolidation is precomputed, the
9 seller may collect or retain the minimum charge, as if earned,
10 not exceeding the credit service charge contracted for.

11 (3) Except as otherwise provided in this subsection with
12 respect to a sale of an interest in land or a consumer credit
13 sale secured by an interest in land, the unearned portion of the
14 credit service charge is a fraction of the credit service charge
15 of which the numerator is the sum of the periodic balances
16 scheduled to follow the computational period in which prepayment
17 occurs, and the denominator is the sum of all periodic balances
18 under either the sale agreement or, if the balance owing
19 resulted from a refinancing (section 73-2-205) or a con-
20 solidation (section 73-2-206), under the refinancing agreement
21 or consolidation agreement. In the case of a sale of an
22 interest in land or a consumer credit sale secured by an
23 interest in land, reasonable sums actually paid or payable to
24 persons not related to the seller for customary closing costs
25 included in the credit service charge are deducted from the
26 credit service charge before the calculation prescribed by this
27 subsection is made.

28 (4) In this section:

29 (a) "Periodic balance" means the amount scheduled to be
30 outstanding on the last day of a computational period before
31 deducting the payment, if any, scheduled to be made on that day;

32 (b) "Computational period" means one month if one-half or
33 more of the intervals between scheduled payments under the
34 agreement is one month or more, and otherwise means one week;

35 (c) The "interval" to the due date of the first scheduled
36 instalment or the final scheduled payment date is measured from
37 the date of a sale, refinancing, or consolidation, or any later
38 date prescribed for calculating maximum credit service charges
39 (subsection (4) of section 73-2-201), and includes either the

fraction in which the numerator is the sum
of the remaining payments and the denomi-
nator is the sum of all the payments. If
the sale was refinanced, consolidated, or
secured by land, or if the payment sched-
ule was irregular, the computation is more
complicated. Usually, computations involv-
ing prepayment are computed by using
tables and formulae from publishers serv-
ing consumer credit agencies.

TEXT

EXPLANATION

1 first or last day of the interval;

2 (d) If the interval to the due date of the first scheduled
3 instalment does not exceed one month by more than fifteen days
4 when the computational period is one month, or eleven days when
5 the computational period is one week, the interval shall be
6 considered as one computational period.

7 (5) This subsection applies only if the schedule of
8 payments is not regular:

9 (a) If the computational period is one month and

10 (i) If the number of days in the interval to the due date
11 of the first scheduled instalment is less than one month by more
12 than five days, or more than one month by more than five but not
13 more than fifteen days, the unearned credit service charge shall
14 be increased by an adjustment for each day by which the interval
15 is less than one month, and, at the option of the seller, may be
16 reduced by an adjustment for each day by which the interval is
17 more than one month; the adjustment for each day shall be
18 one-thirtieth of that part of the credit service charge earned
19 in the computational period prior to the due date of the first
20 scheduled instalment assuming that period to be one month; and

21 (ii) If the interval to the final scheduled payment date
22 is a number of computational periods plus an additional number
23 of days less than a full month, the additional number of days
24 shall be considered a computational period only if sixteen days
25 or more. This subparagraph (ii) applies whether or not sub-
26 paragraph (i) of this paragraph applies.

27 (b) Notwithstanding paragraph (a) of this subsection (5),
28 if the computational period is one month, the number of days in
29 the interval to the due date of the first instalment exceeds one
30 month by not more than fifteen days, and the schedule of
31 payments is otherwise regular, the seller at his option may
32 exclude the extra days and the charge for the extra days in
33 computing the unearned credit service charge; but if he does so
34 and a rebate is required before the due date of the first
35 scheduled instalment, he shall compute the earned charge for
36 each elapsed day as one-thirtieth of the amount the earned
37 charge would have been if the first interval had been one month.

38 (c) If the computational period is one week and

39

TEXT

EXPLANATION

1 (i) If the number of days in the interval to the due date
2 of the first scheduled instalment is less than five days, or
3 more than nine days but not more than eleven days, the unearned
4 credit service charge shall be increased by an adjustment fo
5 each day by which the interval is less than seven days and, at
6 the option of the seller, may be reduced by an adjustment for
7 each day by which the interval is more than seven days; the ad-
8 justment for each day shall be one-seventh of that part of the
9 credit service charge earned in the computational period prior
10 to the due date of the first scheduled instalment assuming that
11 period to be one week; and

12 (ii) If the interval to the final scheduled payment date
13 is a number of computational periods plus an additional number
14 of days less than a full week, the additional number of days
15 shall be considered a computational period only if four days or
16 more. This subparagraph (ii) applies whether or not
17 subparagraph (i) of this paragraph applies.

18 (6) If a deferral (section 73-2-204) has been agreed to,
19 the unearned portion of the credit service charge shall be
20 computed without regard to the deferral. The amount of deferral
21 charge earned at the date of prepayment shall also be
22 calculated. If the deferral charge earned is less than the
23 deferral charge paid, the difference shall be added to the
24 unearned portion of the credit service charge. If any part of a
25 deferral charge has been earned but has not been paid, that part
26 shall be subtracted from the unearned portion of the credit
27 service charge, or shall be added to the unpaid balance.

28 (7) This section does not preclude the collection or
29 retention by the seller of delinquency charges (section
30 73-2-203).

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

34 (9) Upon prepayment in full of a consumer credit sale by
35 the proceeds of consumer credit insurance (section 73-4-103),
36 the buyer or his estate is entitled to the same rebate as though
37 the buyer had prepaid the agreement on the date the proceeds of
38 the insurance are paid to the seller, but no later than ten
39

TEXT

EXPLANATION

1 business days after satisfactory proof of loss is furnished to
2 the seller.

3 (Omitted section numbers reserved for expansion)

4 (DISCLOSURE AND ADVERTISING)

5 73-2-301. Applicability; information required. (1) For
6 purposes of sections 73-2-301 to 73-2-313, consumer credit sale
7 includes the sale of an interest in land without regard to the
8 rate of the credit service charge if the sale is otherwise a
9 consumer credit sale (section 73-2-104).

10 (2) The seller shall disclose to the buyer to whom credit
11 is extended with respect to a consumer credit sale the
12 information required by either this Part, or the Federal
13 Consumer Credit Protection Act.

14 (3) For the purposes of subsection (2), information which
15 would otherwise be required pursuant to the Federal Consumer
16 Credit Protection Act is sufficient even though the transaction
17 is one of a class of credit transactions exempted from that Act
18 pursuant to regulation of the Board of Governors of the Federal
19 Reserve System.

20 (4) The lessor shall disclose to the lessee to whom credit
21 is extended with respect to a consumer lease the information
22 required by sections 73-2-301 to 73-2-313.

23 73-2-302. General disclosure requirements and provisions.

24 (1) The disclosures required by sections 73-2-301 to 73-2-313:

25 (a) Shall be made clearly and conspicuously;

26 (b) Shall be in writing, a copy of which shall be
27 delivered to the buyer or lessee;

28 (c) May use terminology different from that employed in
29 sections 73-2-301 to 73-2-313 if it conveys substantially the
30 same meaning;

31 (d) Except as the rules adopted by the administrator
32 otherwise prescribe, need not be contained in a single writing
33 or made in the order set forth in sections 73-2-301 to 73-2-313;

34 (e) May be supplemented by additional information or
35 explanations supplied by the seller or lessor;

36 (f) Need be made only to the extent applicable and only as
37 to those items for which the seller or lessor makes a separate
38 charge to the buyer or lessee;

39

Here the intention of the Code is to provide that the UCCC disclosure provisions would substitute for provisions of the federal act. Regulation of "truth in lending" would then be by the state, rather than by the federal government. Except for state administration, this portion of the act will not cause any substantial change in the manner in which sellers and lenders are now doing business, since the federal act is already in effect.

Disclosure must be in accordance with all of the requirements of Subsection (1).

TEXT

EXPLANATION

1 (g) Shall be made on the assumption that all scheduled
2 payments will be made when due; and
3 (h) Will comply with sections 73-2-301 to 73-2-313
4 although rendered inaccurate by any act, occurrence, or
5 agreement subsequent to the required disclosure.
6 (2) Except with respect to sales made by telephone or mail
7 (section 73-2-305),
8 (a) The disclosures required by sections 73-2-301 to
9 73-2-313 shall be made before credit is extended, but may be
10 made in the sale, refinancing, or consolidation agreement,
11 lease, or other evidence of indebtedness to be signed by the
12 buyer or lessee if set forth conspicuously therein, and need be
13 made only to one buyer or lessee if there is more than one, and
14 (b) If an evidence of indebtedness is signed by the buyer
15 or lessee, the seller or lessor shall give him a copy when the
16 writing is signed.
17 (c) No evidence of indebtedness shall be signed when it
18 contains blank spaces to be filled in after execution, except
19 that this provision shall not apply to serial numbers or other
20 identifying marks which are not available for description at the
21 time of execution of such evidence of indebtedness.
22 (3) Except as provided with respect to rescission by a
23 buyer (section 73-5-204) and civil liability for violations of
24 disclosure provisions (subsection (4) of section 73-5-203),
25 written acknowledgment of receipt by a buyer or lessee to whom a
26 statement is required to be given pursuant to sections 73-2-301
27 to 73-2-313:
28 (a) In an action or proceeding by or against the original
29 seller or lessor, creates a presumption that the statement was
30 given, and
31 (b) In an action or proceeding by or against an assignee
32 without knowledge to the contrary when he acquires the
33 obligation, is conclusive proof of the delivery of the statement
34 and, unless the violation is apparent on the face of the
35 statement, of compliance with said sections.
36 73-2-303. Overstatement. The disclosure of an amount or
37 percentage which is greater than the amount or percentage
38 required to be disclosed under sections 73-2-301 to 73-2-313
39 does not in itself constitute a violation of said sections if

Subsection (2) provides that disclosures may be made prior to the time credit is extended. If the buyer signs a note or similar instrument, he must be given a copy (exception made for telephone or mail sales).

In (3), if a seller has a written instrument from the buyer acknowledging receipt of the required written notice, it is presumptive of delivery in the case of the seller and conclusive of delivery in the case of an assignee of the seller.

Unintentional over-statement of the interest being paid is not a violation of the disclosure law.

TEXT

EXPLANATION

1 the overstatement is not materially misleading and is not used
2 to avoid meaningful disclosure.

3 73-2-304. Calculation of rate to be disclosed. (1)
4 Except as otherwise specifically provided, if a seller is
5 required to give to a buyer a statement of the rate of the
6 credit service charge, he shall state the rate in terms of an
7 annual percentage rate as defined in subsection (2) of this
8 section or in terms of a corresponding nominal annual percentage
9 rate as defined in subsection (3) of this section, whichever is
10 appropriate.

11 (2) "Annual percentage rate",

12 (a) With respect to a consumer credit sale other than one
13 made pursuant to a revolving charge account, is either:

14 (i) That nominal annual percentage rate which, when
15 applied to the unpaid balances of the amount financed
16 calculated according to the actuarial method, will yield a sum
17 equal to the amount of the credit service charge, or

18 (ii) That rate determined by any method prescribed by rule
19 by the administrator as a method which materially simplifies
20 computation while retaining reasonable accuracy as compared with
21 the rate determined pursuant to subparagraph (i) of this
22 paragraph;

23 (b) With respect to a consumer credit sale made pursuant
24 to a revolving charge account, is the quotient expressed as a
25 percentage of the total credit service charge for the period to
26 which it relates divided by the amount upon which the credit
27 service charge for that period is based, multiplied by the
28 number of these periods in a year.

29 (3) "Corresponding nominal annual percentage rate" is the
30 percentage or percentages used to calculate the credit service
31 charge for one billing cycle or other period pursuant to a re-
32 volving charge account multiplied by the number of billing
33 cycles or periods in a year.

34 (4) If a seller is permitted to make the same credit
35 service charge for all amounts financed within a specified range
36 (subsection (5) of section 73-2-201) or for all balances within
37 a specified range (subsection (2) of section 73-2-207), he
38 shall state the annual percentage rate or corresponding nominal
39 annual percentage rate, whichever is appropriate, as applied to

Rate disclosed must be stated in terms of an annual percentage rate, except for a revolving charge account, in which the disclosure is in terms of either an annual rate or a corresponding nominal annual rate.

Section permits the administrator to issue rules approving methods of rate determination. Thus tables, which greatly simplify the calculations involved, may be approved for use.

TEXT

EXPLANATION

1 the median amount of the range within which the actual amount
2 financed or balance is included.

3 (5) A statement of rate complies with sections 73-2-301 to
4 73-2-313 if it does not vary from the accurately computed rate
5 by more than the following tolerances:

6 (a) The annual percentage rate may be rounded to the
7 nearest quarter of one percent for consumer credit sales payable
8 in substantially equal instalments when a seller determines the
9 total credit service charge on the basis of a single add-on,
10 discount, periodic, or other rate, and the rate is converted
11 into an annual percentage rate under procedures prescribed by
12 rule by the administrator;

13 (b) The administrator may authorize by rule the use of
14 rate tables or charts which may provide for the disclosure of
15 annual percentage rates which vary from the rate determined in
16 accordance with paragraph (a) of this subsection by not more
17 than the tolerances the administrator may allow; the
18 administrator may not allow a tolerance greater than eight
19 percent of that rate except to simplify compliance where
20 irregular payments are involved; and

21 (c) In case a seller determines the annual percentage rate
22 in a manner other than as described in paragraphs (a) or (b) of
23 this subsection, the administrator may authorize by rule other
24 reasonable tolerances.

25 73-2-305. Sales made by telephone or mail. (1) With
26 respect to a consumer credit sale, other than a sale made
27 pursuant to a revolving charge account, if the seller receives a
28 purchase order or offer by mail or telephone without personal
29 solicitation, the seller complies with sections 73-2-301 to
30 73-2-313 if (a) he makes the disclosures at the time and in the
31 manner provided in the general disclosure requirements and
32 provisions (subsection (2) of section 73-2-302), or (b) the
33 seller's catalog or other printed material distributed to the
34 public sets forth the cash price, the method of determining the
35 deferred payment price, and the terms of financing, including
36 the annual percentage rate, and before the first payment is due
37 on the sale, he gives the information required by said sections
38 including the notice prescribed in subsection (2) of this
39 section.

Sales by mail or telephone make it impractical for disclosure to be made before the credit is extended, as contemplated by section 73-2-302. Therefore, this section permits disclosure either in the regular manner or by other means prior to the first payment.

TEXT

EXPLANATION

1 (2) The notice shall be in writing and conspicuous and
2 shall provide that if the buyer does not wish to make the
3 purchase on credit, within fifteen days after receiving the
4 notice he may prepay the obligation as to that purchase for an
5 amount stated or identified in the notice and avoid the payment
6 of any credit service charge as to that purchase. A prepayment
7 under this section is subject to the provisions of this code on
8 prepayment, except that no credit service charge shall be made
9 if prepayment in full is made within the period specified in the
10 notice. Payment by mail is effective when posted.

11 73-2-306. Consumer credit sales not pursuant to revolving
12 charge accounts. (1) This section applies to a consumer credit
13 sale not made pursuant to a revolving charge account (section
14 73-2-310).

15 (2) The seller shall give to the buyer the following
16 information:

17 (a) A brief description or identification of the goods,
18 services, or interest in land;

19 (b) The cash price of the goods, services, or interest in
20 land, and any applicable sales, use, excise, transfer, or
21 documentary stamp taxes if not individually itemized in the cash
22 price; if property and related services are sold as part of one
23 transaction, the price of the property and services may be
24 separately stated or combined;

25 (c) The amount of the down payment and a statement of the
26 portion paid in money and the portion paid by an allowance for
27 property traded in; if there is a security interest in the
28 property traded in which the seller agrees to discharge, the
29 seller shall also state the amount which the seller agrees to
30 pay to discharge the security interest and this amount may be
31 deducted from the allowance for property traded in;

32 (d) The difference between the amount of cash price
33 (paragraph (b) of this subsection) and the amount of down
34 payment (paragraph (c) of this subsection);

35 (e) The amount paid or payable for registration,
36 certificate of title, or license fees, if not individually
37 itemized in the cash price, and a description or identification
38 of the fees;

39

Section specifies exactly what must be disclosed by the seller to the buyer. (except for revolving charge accounts).

TEXT

EXPLANATION

1 (f) The amount of official fees and taxes, if not
2 individually itemized in the cash price, and a description or
3 identification of them;

4 (g) A brief description of insurance to be provided or
5 paid for by the seller including the type and amount of the
6 coverages, and, if a separate charge is made, the amount of the
7 charge;

8 (h) The amount of other additional charges (section
9 73-2-202), and a brief description or identification of them;

10 (i) The amount financed (sum of amounts stated in
11 paragraphs (d), (e), (f), (g), and (h) of this subsection);

12 (j) except in the case of a sale of a dwelling, the amount
13 of the credit service charge and the amount of the unpaid
14 balance (amount financed plus credit service charge);

15 (k) The rate of the credit service charge as applied to
16 the amount financed in accordance with the provisions on
17 calculation of rate (section 73-2-304), except in the case of a
18 credit service charge which does not exceed five dollars when
19 the amount financed does not exceed seventy-five dollars, or
20 seven dollars fifty cents when the amount financed exceeds
21 seventy-five dollars;

22 (l) The number of payments, amount of each payment, due
23 date of first payment, and the due date of subsequent payments
24 or interval between payments;

25 (m) Any default, delinquency, or similar charges payable
26 in the event of late payments; and

27 (n) The description of any security interest held or to be
28 retained or acquired by the seller in connection with the
29 extension of credit, and a clear identification of the property
30 to which the security interest relates.

31 (o) If the property includes a motor vehicle and the
32 contract does not provide for automobile liability insurance,
33 the following clause shall be in the contract in capital letters
34 and bold-face type: "THIS CONTRACT DOES NOT PROVIDE FOR
35 AUTOMOBILE LIABILITY INSURANCE, AND SAID BUYER ALSO STATES THAT
36 HE HAS, HE HAS NOT (STRIKE WORDS NOT APPLICABLE) IN EFFECT AN
37 AUTOMOBILE LIABILITY POLICY AS DEFINED IN SECTION 13-7-3 (11),
38 COLORADO REVISED STATUTES 1963, ON THE MOTOR VEHICLE SOLD BY
39 THIS CONTRACT".

TEXT

EXPLANATION

1 73-2-307. Refinancing. If the seller refinances the
2 balance owing with respect to a consumer credit sale,
3 refinancing, or consolidation pursuant to the provisions on
4 refinancing (section 73-2-205), he shall state to the buyer the
5 following:

6 (1) The unpaid balance, including accrued charges, before
7 refinancing;

8 (2) The amount and a brief itemization of rebates to which
9 buyer would have been entitled if the debt had been prepaid pur-
10 suant to the provisions on rebate upon prepayment (section
11 73-2-210) on the date of refinancing, except that for the
12 purpose of computing this amount no minimum credit service
13 charge (subsection (6) of section 73-2-201) shall be allowed;

14 (3) The amount and a brief itemization of additional
15 charges in connection with the refinancing and a brief
16 indication of any change in the type or terms of insurance;

17 (4) The amount financed resulting from the refinancing;

18 (5) The amount of credit service charge;

19 (6) The amount of unpaid balance;

20 (7) The number of payments, amount of each payment, due
21 date of first payment, and the due date of subsequent payments
22 or interval between payments; and

23 (8) The rate of the credit service charge as applied to
24 the amount financed in accordance with the provisions on
25 calculation of rate (section 73-2-304), except in the case of a
26 credit service charge which does not exceed five dollars when
27 the amount financed does not exceed seventy-five dollars, or
28 seven dollars fifty cents when the amount financed exceeds
29 seventy-five dollars.

30 73-2-308. Consolidation. (1) Except as provided in sub-
31 section (2) of this section, if the parties agree to consolidate
32 an existing unpaid balance from a previous consumer credit sale,
33 refinancing, or consolidation, with the amount financed from a
34 subsequent consumer credit sale, refinancing, or consolidation,
35 the seller shall state:

36 (a) With respect to the refinanced unpaid balance, the
37 information required by the provisions on refinancing
38 (subsections (1) through (4) of section 73-2-307);

39

In refinancing the seller must also make disclosures to the buyer. This requirement is based on the theory that a buyer has the alternative of either refinancing or of procuring a cash loan to pay off the balance. Disclosure requirements are designed to give the buyer enough information to make an informed choice.

The act permits consolidation of two indebtednesses and specifies the disclosures which must be made under such circumstances.

TEXT

EXPLANATION

1 (b) With respect to the subsequent sale, the information
2 required by the provisions on consumer credit sales other than
3 revolving charge accounts (paragraphs (a) through (j) of
4 subsection (2) of section 73-2-306);

5 (c) The aggregate amount financed, the amount of the
6 credit service charge, the amount of the unpaid balance, the
7 number of payments, the amount of each payment, the due date of
8 the first payment, and the due dates of subsequent payments or
9 the interval between payments; and

10 (d) The rate of the credit service charge as applied to
11 the aggregate amount financed in accordance with the provisions
12 on calculation of rate (section 73-2-304), except in the case of
13 a credit service charge which does not exceed five dollars when
14 the aggregate amount financed does not exceed seventy-five
15 dollars, or seven dollars fifty cents when the amount financed
16 exceeds seventy-five dollars.

17 (2) If a consumer credit sale is made pursuant to an
18 agreement providing for the addition of the unpaid balance re-
19 sulting from a subsequent sale to an existing unpaid balance
20 resulting from a previous sale, and the buyer has approved in
21 writing both the annual percentage rate or rates and the method
22 of computing the credit service charge or charges,

23 (a) The information required to be given with respect to
24 the subsequent sale (section 73-2-306) may be given on or before
25 the due date of the first instalment under the consolidated
26 schedule of payments; and

27 (b) With respect to the consolidation, the seller, on or
28 before the due date of the first instalment under the
29 consolidated schedule of payments, shall state to the buyer the
30 amount of the consolidated unpaid balance, the number of
31 payments, amount of each payment, the due date of the first
32 payment, and the due dates of subsequent payments or the
33 interval between payments.

34 73-2-309. Deferral. If the seller makes a deferral pur-
35 suant to the provisions on deferral charges (section 73-2-204),
36 he shall state to the buyer, at the time of or promptly after
37 the deferral:

38 (1) The amount deferred;

39 (2) Any appropriate additional charges (section 73-2-202);

Section covers disclosures to be made in the event of a deferral.

TEXT

EXPLANATION

1 (3) The aggregate amount deferred, which is the sum of the
2 amount in subsection (1) of this section, and any unpaid amount
3 included in subsection (2);

4 (4) The time to which payment is deferred; and

5 (5) The amount and annual percentage rate of the deferral
6 charge and when it is payable.

7 73-2-310. Revolving charge accounts. (1) Before making a
8 consumer credit sale pursuant to a revolving charge account, the
9 seller shall give to the buyer the following information:

10 (a) The conditions under which a credit service charge may
11 be made, including the time period, if any, within which any
12 credit extended may be repaid without incurring a credit service
13 charge;

14 (b) The method of determining the balance upon which a
15 credit service charge will be computed;

16 (c) The method of determining the amount of the credit
17 service charge, including the periodic percentage or percentages
18 used to calculate the credit service charge and the amount of
19 any minimum credit service charge;

20 (d) The corresponding nominal annual percentage rate
21 (subsection (3) of section 73-2-304); if more than one
22 corresponding nominal annual percentage rate may be used, the
23 amount of a balance to which each corresponding nominal annual
24 percentage rate applies shall also be stated;

25 (e) If the seller elects he may also state either:

26 (i) The average effective annual percentage rate of return
27 received from revolving charge accounts for a representative
28 period of time; or

29 (ii) If circumstances are such that the computation of a
30 rate under subparagraph (i) of this paragraph would not be
31 feasible or practical, or would be misleading or meaningless, a
32 projected rate of return to be received from revolving charge
33 accounts; the administrator shall prescribe rules, consistent
34 with commonly accepted standards for accounting or statistical
35 procedures, to carry out the purposes of this paragraph (e);

36 (f) The conditions under which additional charges may be
37 made and the method by which they will be determined; and

38 (g) The conditions under which the seller may retain or
39 acquire a security interest in property to secure the balances

Section covers disclosures to be made by seller in sales pursuant to revolving charge accounts. Because the balances under revolving charge accounts vary widely from time to time, and the payment schedule is not necessarily regular, disclosure provisions for usual installment loans cannot be applied to revolving charge accounts. These disclosures are more general than in the case of usual installment loans until there is a balance due. At that time, specific information must be given (subsection (2)).

TEXT

EXPLANATION

1 resulting from sales made pursuant to the revolving charge
2 account, and a description of the interest or interests which
3 may be retained or acquired.

4 (2) If there is an outstanding balance owing at the end of
5 the billing cycle or if a credit service charge is made with
6 respect to the billing cycle, the seller shall give to the buyer
7 the following information within a reasonable time after the end
8 of the billing cycle:

9 (a) The outstanding balance at the beginning of the
10 billing cycle;

11 (b) The cash price and date of each sale during the
12 billing cycle and, unless previously furnished, a brief
13 description or identification of the goods or services sold;

14 (c) The amount credited to the account during the billing
15 cycle;

16 (d) The amount of credit service charge and additional
17 charges debited during the billing cycle, with an itemization or
18 explanation to show the total amount of credit service charge,
19 if any, due to the application of one or more periodic
20 percentages and the amount, if any, imposed as a minimum charge;

21 (e) The periodic percentage used to calculate the credit
22 service charge; if more than one periodic percentage is used,
23 each percentage and the amount of the balance to which each
24 applies;

25 (f) The balance on which the credit service charge is
26 computed and a statement of how the balance is determined; if
27 the balance is determined without first deducting all amounts
28 credited during the period, that fact and the amounts credited
29 shall also be stated;

30 (g) If the credit service charge for the billing cycle
31 exceeds fifty cents for a monthly or longer billing cycle, or
32 the pro rata part of fifty cents for a billing cycle shorter
33 than monthly, the credit service charge expressed as an annual
34 percentage rate (paragraph (b) of subsection (2) of section
35 73-2-304); if more than one periodic percentage is used to cal-
36 culate the credit service charge, the seller, in lieu of stating
37 a single annual percentage rate, may state more than one annual
38 percentage rate and the amount of the balance to which each
39 annual percentage rate applies;

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EXPLANATION

1 (h) If the credit service charge for the billing cycle
2 does not exceed fifty cents for a monthly or longer billing
3 cycle, or the pro rata part of fifty cents for a billing cycle
4 shorter than monthly, the corresponding nominal annual
5 percentage rate (subsection (3) of section 73-2-304);

6 (i) If the seller elects, the average effective annual
7 percentage rate of return or the projected rate as prescribed in
8 paragraph (e) of subsection (1) of this section;

9 (j) The outstanding balance at the end of the billing
10 cycle; and

11 (k) The date by which, or period within which, payment
12 must be made to avoid additional credit service charges.

13 73-2-311. Consumer leases. With respect to a consumer
14 lease the lessor shall give to the lessee the following
15 information:

16 (1) A brief description or identification of the goods;

17 (2) The amount of any payment required at the inception of
18 the lease;

19 (3) The amount paid or payable for official fees,
20 registration, certificate of title, or license fees or taxes;

21 (4) The amount of other charges not included in the
22 periodic payments and a brief description of the charges;

23 (5) A brief description of insurance to be provided or
24 paid for by the lessor, including the types and amounts of the
25 coverages;

26 (6) The number of periodic payments, the amount of each
27 payment, the due date of the first payment, the due dates of
28 subsequent payments or interval between payments, and the total
29 amount payable by the lessee;

30 (7) A statement of the conditions under which the lessee
31 may terminate the lease prior to the end of the term; and

32 (8) A statement of the liabilities the lease imposes upon
33 the lessee at the end of the term.

34 73-2-312. Content of periodic statements. A creditor who
35 transmits periodic statements in connection with any consumer
36 credit sale not made pursuant to a revolving charge account,
37 shall set forth in each statement each of the following items:

38 (1) The annual percentage rate of the credit service
39 charge with respect to each consumer credit sale to which the

Where the lease to a consumer is essentially a consumer sale, disclosure must also take place.

If a seller sends periodic statements to the buyer, the seller must state the annual percentage rate of each sale in the statement and the date by which the buyer must pay to avoid further charges. Provision does not apply to revolving charge

TEXT

EXPLANATION

1 statement relates;
2 (2) The date by which or the period, if any, within which
3 payment must be made in order to avoid further credit service
4 charges or other charges; and
5 (3) To the extent the administrator may require by rule as
6 appropriate to the terms and conditions under which the consumer
7 credit sale is made, the other items set forth in the provisions
8 on disclosure with respect to revolving charge accounts
9 (subsection (2) of section 73-2-310).
10 73-2-313. Advertising. (1) No seller or lessor shall
11 engage in this state in false or misleading advertising
12 concerning the terms or conditions of credit with respect to a
13 consumer credit sale or consumer lease.
14 (2) Without limiting the generality of subsection (1) of
15 this section, and without requiring a statement of rate of
16 credit service charge if the credit service charge is not more
17 than five dollars when the amount financed does not exceed
18 seventy-five dollars, or seven dollars fifty cents when the
19 amount financed exceeds seventy-five dollars, an advertisement
20 with respect to a consumer credit sale made by the posting of a
21 public sign, or by catalog, magazine, newspaper, radio,
22 television, or similar mass media, is misleading if
23 (a) It states the rate of credit service charge and the
24 rate is not stated in the form required by the provisions on
25 calculation of rate to be disclosed (section 73-2-304), or
26 (b) It states the dollar amounts of the credit service
27 charge or instalment payments, and does not also state the rate
28 of any credit service charge and the number and amount of the
29 instalment payments.
30 (3) In this section a catalog or other multiple-page
31 advertisement is considered a single advertisement if it clearly
32 and conspicuously displays a credit terms table setting forth
33 the information required by this section.
34 (4) This section imposes no liability on the owner or
35 personnel, as such, of any medium in which an advertisement
36 appears or through which it is disseminated.
37 (5) Advertising which complies with the Federal Consumer
38 Credit Protection Act does not violate subsection (2) of this
39 section.

account transactions.

If a seller advertises credit, this section requires clear and understandable statement of the terms and conditions of the credit.

TEXT

EXPLANATION

1 (Omitted section numbers reserved for expansion)
2 (LIMITATIONS ON AGREEMENTS AND PRACTICES)
3 73-2-401. Scope. Sections 73-2-401 through 73-2-416 of
4 this article apply to consumer credit sales and consumer leases.
5 73-2-402. Use of multiple agreements. A seller may not
6 use multiple agreements with intent to obtain a higher credit
7 service charge than would otherwise be permitted by this article
8 or to avoid disclosure of an annual percentage rate pursuant to
9 the provisions on disclosure and advertising (sections 73-2-301
10 to 73-2-313). The excess amount of credit service charge
11 provided for in agreements in violation of this section is an
12 excess charge for the purposes of the provisions on the effect
13 of violations on rights of parties (section 73-5-202) and the
14 provisions on civil actions by administrator (section 73-6-113).
15 73-2-403. Certain negotiable instruments prohibited. In a
16 consumer credit sale or consumer lease, other than a sale or
17 lease primarily for an agricultural purpose, the seller or
18 lessor may not take a negotiable instrument other than a check
19 as evidence of the obligation of the buyer or lessee. A holder
20 is not in good faith if he takes a negotiable instrument with
21 notice that it is issued in violation of this section. A holder
22 in due course is not subject to the liabilities set forth in the
23 provisions on the effect of violations on rights of parties
24 (section 73-5-202) and the provisions on civil actions by
25 administrator (section 73-6-113).
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30 73-2-404. When assignee not subject to defenses. (1)
31 With respect to a consumer credit sale or consumer lease, other
32 than a sale or lease primarily for an agricultural purpose, an
33 agreement by the buyer or lessee not to assert against an
34 assignee a claim or defense, other than those claims or defenses
35 permitted by Colorado Revised Statutes 1963, section 155-3-305,
36 arising out of the sale or lease is enforceable only by an
37 assignee not related to the seller or lessor who acquires the
38 buyer's or lessee's contract in good faith and for value, who
39 gives the buyer or lessee notice of the assignment as provided

Because the highest rates are applicable to the lowest balances, an unscrupulous seller conceivably could break the balance down into several small balances, thus raising the overall rate. Section prohibits such practices.

Dishonest or unscrupulous vendors have used negotiable instruments to defraud unwary or unsophisticated customers. Vendors have taken a negotiable note for the unpaid balance, sold it to a financial institution, and absconded, leaving the buyer without the goods he bargained for. Because a financial institution has been regarded as the holder in due course, the consumer still had to pay the balance of the note. Section prohibits the use of negotiable instruments in non-agricultural consumer sales, thus reducing the chance of this kind of fraud.

This section pertains to the holder in due course doctrine and involves two alternatives. The committee selected Alternative B under which the assignee is subject to the buyer's defenses against the seller for three months after the assignment takes place.

Alternative A would provide that an assignee of such paper makes it subject to what-

TEXT

EXPLANATION

1 in this section and who, within three months after the mailing
2 of the notice of assignment, receives no written notice of the
3 facts giving rise to the buyer's or lessee's claim or defense.
4 This agreement is enforceable only with respect to claims or
5 defenses which have arisen before the end of the three-month
6 period after notice was mailed. The notice of assignment shall
7 be in writing and addressed to the buyer or lessee at his
8 address as stated in the contract, identify the contract,
9 describe the goods or services, state the names of the seller or
10 lessor and buyer or lessee, the name and address of the
11 assignee, the amount payable by the buyer or lessee and the
12 number, amounts, and due dates of the instalments, and contain a
13 conspicuous notice to the buyer or lessee that he has three
14 months within which to notify the assignee in writing of any
15 complaints, claims, or defenses he may have against the seller
16 or lessor and that if written notification of the complaints,
17 claims, or defenses is not received by the assignee within the
18 three-month period, the assignee will have the right to enforce
19 the contract free of any claims or defenses, other than those
20 claims or defenses permitted by Colorado Revised Statutes 1963,
21 section 155-3-305, the buyer or lessee may have against the
22 seller or lessor which have arisen before the end of the
23 three-month period after notice was mailed. The written
24 notification of the facts alleged need only be stated in such a
25 manner as to put a reasonable assignee on notice that there is a
26 complaint, claim, or defense; and if such written notification
27 is given, it does not waive the buyer's or lessee's rights as to
28 other complaints, claims, or defenses of which he may not have
29 been aware at the time of giving such notice.

30 (2) An assignee does not acquire a buyer's or lessee's
31 contract in good faith within the meaning of subsection (1) of
32 this section if the assignee has knowledge or, from his course
33 of dealing with the seller or lessor or his records, notice of
34 substantial complaints by other buyers or lessees of the
35 seller's or lessor's failure or refusal to perform his contracts
36 with them and of the seller's or lessor's failure to remedy his
37 defaults within a reasonable time after the assignee notifies
38 him of the complaints.

ever defenses the buyer has against the seller.

One theory used in modifying the holder in due course doctrine is that it is more reasonable to expect the financial institution purchasing consumer paper to know the reliability of the seller in making good his contracts than it is for the consumer to know about the seller.

TEXT

EXPLANATION

1 (3) To the extent that under this section an assignee is
2 subject to claims or defenses of the buyer or lessee against the
3 seller or lessor, the assignee's liability under this section
4 may not exceed the amount owing to the assignee at the time the
5 claim or defense is asserted against the assignee.

6 73-2-405. Balloon payments. With respect to a consumer
7 credit sale, other than one primarily for an agricultural
8 purpose or one pursuant to a revolving charge account, if any
9 scheduled payment is more than twice as large as the average of
10 earlier scheduled payments, the buyer has the right to refinance
11 the amount of that payment at the time it is due without
12 penalty, and the creditor shall disclose this right in writing
13 to the buyer at the time the sale contract is entered into. The
14 terms of the refinancing shall be no less favorable to the buyer
15 than the terms of the original sale. These provisions do not
16 apply to the extent that the payment schedule is adjusted to the
17 seasonal or irregular income of the buyer.

18 73-2-406. Restriction on liability in consumer lease. The
19 obligation of a lessee upon expiration of a consumer lease,
20 other than one primarily for an agricultural purpose, may not
21 exceed twice the average payment allocable to a monthly period
22 under the lease. This limitation does not apply to charges for
23 damages to the leased property or for other default.

24 73-2-407. Security in sales or leases. (1) With respect
25 to a consumer credit sale, a seller may take a security interest
26 in the property sold. In addition, a seller may take a security
27 interest in goods upon which services are performed or to which
28 goods sold are annexed, or in land to which the goods are
29 affixed or which is maintained, repaired or improved as a result
30 of the sale of the goods or services, if in the case of a
31 security interest in land the debt secured is one thousand
32 dollars or more, or in the case of a security interest in goods
33 the debt secured is three hundred dollars or more. The seller
34 may also take a security interest in any property of the buyer
35 to secure the debt arising from a consumer credit sale primarily
36 for an agricultural purpose. Except as provided with respect to
37 cross-collateral (section 73-2-408), a seller may not otherwise
38 take a security interest in property of the buyer to secure the
39 debt arising from a consumer credit sale.

Section is intended to deal with sellers who
avoid balloon payments by using them to make
the installments to be paid on a consumer
debt deceptively low. Then, when the balloon
payment is due, the buyer finds he cannot
meet it, and the goods are repossessed.
This section does not outlaw balloon payments.
It requires that, if balloon payments are
more than twice as high as the periodic pay-
ment, the seller must refinance on terms at
least as favorable as those of the original
sale contract.

If a lease is really what it says it is,
there is no purpose in a balloon payment.
Section outlaws balloon payments in the
case of consumer leases.

Section permits sellers to take a security
interest only in goods sold unless the
goods sold become closely connected with
other goods or land. In that case, the
other goods or land may be added to the
security interest of the seller.

TEXT

EXPLANATION

1 (2) With respect to a consumer lease other than a lease
2 primarily for an agricultural purpose, a lessor may not take a
3 security interest in property of the lessee to secure the debt
4 arising from the lease.

5 (3) A security interest taken in violation of this section
6 is void.

7 73-2-408. Cross-collateral. (1) In addition to
8 contracting for a security interest pursuant to the provisions
9 on security in sales or leases (section 73-2-407), a seller in a
10 consumer credit sale may secure the debt arising from the sale
11 by contracting for a security interest in other property if as a
12 result of a prior sale the seller has an existing security
13 interest in the other property. The seller may also contract
14 for a security interest in the property sold in the subsequent
15 sale as security for the previous debt.

16 (2) If the seller contracts for a security interest in
17 other property pursuant to this section, the rate of credit
18 service charge thereafter on the aggregate unpaid balances so
19 secured may not exceed that permitted if the balances so secured
20 were consolidated pursuant to the provisions on consolidation
21 involving a refinancing (subsection (1) of section 73-2-206).
22 The seller has a reasonable time after so contracting to make
23 any adjustments required by this section. "Seller" in this
24 section does not include an assignee not related to the original
25 seller.

26 73-2-409. Debt secured by cross-collateral. (1) If debts
27 arising from two or more consumer credit sales, other than sales
28 primarily for an agricultural purpose or pursuant to a revolving
29 charge account, are secured by cross-collateral (section
30 73-2-408), or consolidated into one debt payable on a single
31 schedule of payments, and the debt is secured by security
32 interests taken with respect to one or more of the sales,
33 payments received by the seller after the taking of the
34 cross-collateral or the consolidation are deemed, for the
35 purpose of determining the amount of the debt secured by the
36 various security interests, to have been first applied to the
37 payment of the debts arising from the sales first made. To the
38 extent debts are paid according to this section, security
39 interests in items of property terminate as the debts originally

Section permits "cross-collateral" arrangements. Where a buyer purchases more goods before previously purchased goods are paid for, the seller can take a cross-security interest in all the goods sold by that seller. (Note limitations in following section).

Section limits cross-collateral arrangements in 73-2-408 by requiring that payments made under such an arrangement go first to pay the balance remaining on the first sale. When the balance on the first sale is paid in full, the security interest ceases in the goods from the first sale.

TEXT

EXPLANATION

1 incurred with respect to each item are paid.

2 (2) Payments received by the seller upon a revolving
3 charge account are deemed, for the purpose of determining the
4 amount of the debt secured by the various security interests, to
5 have been applied first to the payment of credit service charges
6 in the order of their entry to the account and then to the
7 payment of debts in the order in which the entries to the
8 account showing the debts were made.

9 (3) If the debts consolidated arose from two or more sales
10 made on the same day, payments received by the seller are
11 deemed, for the purpose of determining the amount of the debt
12 secured by the various security interests, to have been applied
13 first to the payment of the smallest debt.

14 73-2-410. No assignment of earnings. A seller or lessor
15 may not take an assignment of earnings of the buyer or lessee
16 for payment or as security for payment of a debt arising out of
17 a consumer credit sale or a consumer lease. An assignment of
18 earnings in violation of this section is unenforceable by the
19 assignee of the earnings and revocable by the buyer or lessee.
20 This section does not prohibit an employee from authorizing
21 deductions from his earnings if the authorization is revocable
22 and this right to authorization and revocation is disclosed in
23 writing by the seller or lessor to the buyer or lessee.

24 73-2-411. Referral sales. With respect to a consumer
25 credit sale or consumer lease, the seller or lessor may not give
26 or offer to give a rebate or discount or otherwise pay or offer
27 to pay value to the buyer or lessee as an inducement for a sale
28 or lease in consideration of his giving to the seller or lessor
29 the names of prospective purchasers or lessees, or otherwise
30 aiding the seller or lessor in making a sale or lease to another
31 person, if the earning of the rebate, discount, or other value
32 is contingent upon the occurrence of an event subsequent to the
33 time the buyer or lessee agrees to buy or lease. If a buyer or
34 lessee is induced by a violation of this section to enter into a
35 consumer credit sale or consumer lease, the agreement is unen-
36 forceable by the seller or lessor, and the buyer or lessee, at
37 his option, may rescind the agreement or retain the goods
38 delivered and the benefit of any services performed, without any
39 obligation to pay for them.

Section prohibits the assignment of wages as payment or as security for consumer credit sales.

In referral sales, buyers are promised a credit against the purchase price for each subsequent purchaser whose name was furnished by the buyer.

Code drafters considered this technique to be misrepresentation in that the buyer's expectations are raised unrealistically high because he is led to believe that a great number of additional sales will be made, although this will not be the case. The buyer may be led to expect that he will get the merchandise free or may even make money through furnishing names of prospects.

TEXT

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73-2-412. Notice of assignment. The buyer or lessee is authorized to pay the original seller or lessor until the buyer or lessee receives notification of assignment of the rights to payment pursuant to a consumer credit sale or consumer lease and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the buyer or lessee, the assignee must seasonably furnish reasonable proof that the assignment has been made, and unless he does so the buyer or lessee may pay the seller or lessor.

73-2-413. Attorney's fees. With respect to a consumer credit sale or consumer lease the agreement may provide for the payment by the buyer or lessee of reasonable attorney's fees not in excess of fifteen percent of the unpaid debt after default and referral to an attorney not a salaried employee of the seller, or of the lessor or his assignee. A provision in violation of this section is unenforceable.

73-2-414. Limitation on default charges. Except for reasonable expenses incurred in realizing on a security interest, the agreement with respect to a consumer credit sale may not provide for any charges as a result of default by the buyer other than those authorized by this code. A provision in violation of this section is unenforceable.

73-2-415. Authorization to confess judgment prohibited. A buyer or lessee may not authorize any person to confess judgment on a claim arising out of a consumer credit sale or consumer lease. An authorization in violation of this section is void.

Section outlaws referral sales and provides that merchandise sold using a referral scheme can be kept with no obligation to pay for it. Or, the buyer may rescind the agreement, return the goods, and recover any payment.

If consumer paper is assigned, this section gives the buyer the right to make his payments to the seller until notified of an assignment.

Alternative A (not recommended) would prohibit provisions in notes that, if it is necessary for the holder of the note to hire an attorney to collect it, the holder may recover his attorney fees.

Alternative B (recommended by committee) would permit the inclusion of such provisions, but would limit the amount payable to 15% of the unpaid debt at the time of default.

If buyer defaults, seller can recover reasonable expenses incurred in enforcing his security interest; however, no other charges are permitted as a result of default except as provided by the UCCC.

So-called cognovit notes permit the holder of the note to procure a judgment without trial and without notice to the obligor. Section prohibits such notes in consumer credit transactions.

TEXT

EXPLANATION

1 73-2-416. Change in terms of revolving charge accounts.
2 (1) If a seller makes a change in the terms of a revolving
3 charge account without complying with this section, any
4 additional cost or charge to the buyer resulting from the change
5 is an excess charge and subject to the remedies available to
6 debtors (section 73-5-202) and to the administrator (section
7 73-6-113).

8 (2) A seller may change the terms of a revolving charge
9 account whether or not the change is authorized by prior
10 agreement. Except as provided in subsection (3) of this
11 section, the seller shall give to the buyer written notice of
12 any change at least three times, with the first notice at least
13 six months before the effective date of the change.

14 (3) The notice specified in subsection (2) of this section
15 is not required if

16 (a) The buyer after receiving notice of the change agrees
17 in writing to the change;

18 (b) The buyer elects to pay an amount designated on a
19 billing statement (subsection (2) of section 73-2-310) as
20 including a new charge for a benefit offered to the buyer when
21 the benefit and charge constitute the change in terms and when
22 the billing statement also states the amount payable if the new
23 charge is excluded;

24 (c) The change involves no significant cost to the buyer;

25 (d) The buyer has previously consented in writing to the
26 kind of change made and notice of the change is given to the
27 buyer in two billing cycles prior to the effective date of the
28 change; or

29 (e) The change applies only to purchases made or
30 obligations incurred after a date specified in a notice of the
31 change given in two billing cycles prior to the effective date
32 of the change.

33 (4) The notice provided for in this section is given to
34 the buyer when mailed to him at the address used by the seller
35 for sending periodic billing statements.

36 (Omitted section numbers reserved for expansion)

37 (HOME SOLICITATION SALES)

38 73-2-501. Definition: "home solicitation sale". "Home
39 solicitation sale" means a consumer credit sale of goods, other

Because of the continuing nature of revolving charge accounts, the seller needs to be able to change its terms where necessary. Section permits such changes, but requires sufficient notice of the change to protect the buyer.

This part places special limiting factors on sales made in the home. Code drafters

TEXT

EXPLANATION

1 than farm equipment, or services in which the seller or a person
2 acting for him engages in a personal solicitation of the sale at
3 a residence of the buyer and the buyer's agreement or offer to
4 purchase is there given to the seller or a person acting for
5 him. It does not include a sale made pursuant to a pre-existing
6 revolving charge account, or a sale made pursuant to prior
7 negotiations between the parties at a business establishment at
8 a fixed location where goods or services are offered or
9 exhibited for sale.

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16 73-2-502. Buyer's right to cancel. (1) Except as
17 provided in subsection (5) of this section, in addition to any
18 right otherwise to revoke an offer, the buyer has the right to
19 cancel a home solicitation sale until midnight of the third
20 business day after the day on which the buyer signs an agreement
21 or offer to purchase which complies with sections 73-2-501 to
22 73-2-505.

23 (2) Cancellation occurs when the buyer gives written
24 notice of cancellation to the seller at the address stated in
25 the agreement or offer to purchase.

26 (3) Notice of cancellation, if given by mail; is given
27 when it is deposited in a mail box properly addressed and
28 postage prepaid.

29 (4) Notice of cancellation given by the buyer need not
30 take a particular form and is sufficient if it indicates by any
31 form of written expression the intention of the buyer not to be
32 bound by the home solicitation sale.

33 (5) The buyer may not cancel a home solicitation sale if
34 the buyer requests the seller to provide goods or services
35 without delay because of an emergency, and

36 (a) The seller in good faith makes a substantial beginning
37 of performance of the contract before the buyer gives notice of
38 cancellation, and

39

felt that special regulation was warranted because these sales are particularly susceptible to high pressure sales tactics and because the home has always been the subject of special protection under our system of jurisprudence.

Section 73-2-501 defines home solicitation sales and exempts sales made pursuant to a pre-existing revolving charge account and sales where the seller has a fixed business location, operates it as such, and conducts at least some of the negotiations at his place of business.

If a sale is a home solicitation sale, the buyer is given the right to cancel at any time prior to midnight of the third business day after the signing of an agreement involving consumer credit. Several requirements are set out in detail and are self-explanatory.

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1 (b) In the case of goods, the goods cannot be returned to
2 the seller in substantially as good condition as when received
3 by the buyer.

4 (6) If a home solicitation sale is also subject to the
5 provisions on debtor's right to rescind certain transactions
6 (section 73-5-204), the buyer may proceed either under those
7 provisions or under sections 73-2-501 to 73-2-505.

8 73-2-503. Form of agreement or offer; statement of buyer's
9 rights. (1). In a home solicitation sale, unless the buyer re-
10 quests the seller to provide goods or services without delay in
11 an emergency, the seller must present to the buyer and obtain
12 his signature to a written agreement or offer to purchase which
13 designates as the date of the transaction the date on which the
14 buyer actually signs and contains a statement of the buyer's
15 rights which complies with subsection (2) of this section.

16 (2) The statement must

17 (a) Appear under the following caption: "Buyer's Right to
18 Cancel", and in type no smaller than largest type appearing
19 elsewhere in the contract, except for the type used for
20 identifying the seller; and

21 (b) Read as follows: "If this agreement was solicited at
22 your residence and you do not want the goods or services, you
23 may cancel this agreement by mailing a notice to the seller.
24 The notice must say that you do not want the goods or services
25 and must be mailed before midnight on the third business day
26 after you sign this agreement. The notice must be mailed to:

27 _____ . If you cancel,
28 (insert name and mailing address of seller)

29 the seller may keep as a cancellation fee five percent of the cash
30 price but not exceeding the amount of your cash down payment."

31 (3) Until the seller has complied with this section, the
32 buyer may cancel the home solicitation sale by notifying the
33 seller in any manner and by any means of his intention to
34 cancel.

35 73-2-504. Restoration of down payment; retention of
36 cancellation fee. (1) Except as provided in this section,
37 within ten days after a home solicitation sale has been
38 cancelled or an offer to purchase revoked, the seller must
39 tender to the buyer any payments made by the buyer and any note

The right to cancel would be meaningless unless the buyer knows it exists, so this section requires notice of the buyer's right to cancel.

In the event of cancellation, the seller must return the down payment, trade-in, and the security instrument within ten days. If a cash down payment is involved, the seller can keep either the down payment or

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1 or other evidence of indebtedness.

2 (2) If the down payment includes goods traded in, the
3 goods must be tendered in substantially as good condition as
4 when received by the seller. If the seller fails to tender the
5 goods as provided by this section, the buyer may elect to re-
6 cover an amount equal to the trade-in allowance stated in the
7 agreement.

8 (3) The seller may retain as a cancellation fee five
9 percent of the cash price but not exceeding the amount of the
10 cash down payment. If the seller fails to comply with an
11 obligation imposed by this section, or if the buyer avoids the
12 sale on any ground independent of his right to cancel provided
13 by the provisions on the buyer's right to cancel (subsection (1)
14 of section 73-2-502) or revokes his offer to purchase, the
15 seller is not entitled to retain a cancellation fee.

16 (4) Until the seller has complied with the obligations
17 imposed by this section, the buyer may retain possession of
18 goods delivered to him by the seller and has a lien on the goods
19 in his possession or control for any recovery to which he is
20 entitled.

21 73-2-505. Duty of buyer; no compensation for services
22 prior to cancellation. (1) Except as provided by the
23 provisions on retention of goods by the buyer subsection (4) of
24 section 73-2-504), within a reasonable time after a home
25 solicitation sale has been cancelled or an offer to purchase
26 revoked, the buyer upon demand must tender to the seller any
27 goods delivered by the seller pursuant to the sale but he is not
28 obligated to tender at any place other than his residence. If
29 the seller fails to demand possession of goods within a
30 reasonable time after cancellation or revocation, the goods
31 become the property of the buyer without obligation to pay for
32 them. For the purpose of this section, forty days is presumed
33 to be a reasonable time.

34 (2) The buyer has a duty to take reasonable care of the
35 goods in his possession before cancellation or revocation and
36 for a reasonable time thereafter, during which time the goods
37 are otherwise at the seller's risk.

38 (3) If the seller has performed any services pursuant to a
39 home solicitation sale prior to its cancellation, the seller in

five percent of the total purchase price,
whichever is less. When this section has
been complied with, the buyer must return
the goods.

After cancellation, the buyer has duty to
return the goods to the seller upon the
seller's compliance with preceding sec-
tion. Buyer also must keep the goods with
reasonable care. Seller is to call for the
goods within 40 days or the buyer may keep
the goods.

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1 entitled to no compensation except the cancellation fee provided
2 in sections 73-2-501 to 73-2-505.

3 (Omitted section numbers reserved for expansion)

4 (SALES OTHER THAN CONSUMER CREDIT SALES)

5 73-2-601. Sales subject to code by agreement of parties.

6 The parties to a sale other than a consumer credit sale may
7 agree in a writing signed by the parties that the sale is
8 subject to the provisions of this code applying to consumer
9 credit sales. If the parties so agree, the sale is a consumer
10 credit sale for the purposes of this code.

11 73-2-602. Definition: "consumer related sale"; rate of
12 credit service charge. (1) A "consumer related sale" is a sale
13 of goods, services, or an interest in land which is not subject
14 to the provisions of this code applying to consumer credit sales
15 and in which the amount financed does not exceed twenty-five
16 thousand dollars if

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

18 (b) The debt is secured primarily by a security interest
19 in a one or two family dwelling occupied by a person related to
20 the debtor.

21 (2) With respect to a consumer related sale not made
22 pursuant to a revolving charge account, the parties may contract
23 for the payment by the buyer of an amount comprising the amount
24 financed and a credit service charge not in excess of eighteen
25 percent per year calculated according to the actuarial method on
26 the unpaid balances of the amount financed.

27 (3) With respect to a consumer related sale made pursuant
28 to a revolving charge account, the parties may contract for the
29 payment of a credit service charge not in excess of that
30 permitted by the provisions on credit service charge for
31 revolving charge accounts (section 73-2-207).

32 73-2-603. Applicability of other provisions to consumer
33 related sales. Except for the rate of the credit service charge
34 and the rights to prepay and to rebate upon prepayment, the
35 provisions of sections 73-2-201 to 73-2-210 apply to a consumer
36 related sale.

37 73-2-604. Limitation on default charges in consumer
38 related sales. (1) The agreement with respect to a consumer
39 related sale may provide for only the following charges as a

Even if a sale is not of the sort normally covered by this act, it can be made subject to act if both parties agree in writing.

Certain sales, such as those involving a business purpose, are not strictly covered by the Code but were thought to require regulation as to rate and other matters. Such loans are covered in this section and the two following sections.

See above.

See above.

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EXPLANATION

1 result of the buyer's default:
 2 (a) Reasonable attorney's fees and reasonable expenses
 3 incurred in realizing on a security interest;
 4 (b) Deferral charges not in excess of eighteen percent per
 5 year of the amount deferred for the period of deferral; and
 6 (c) Other charges that could have been made had the sale
 7 been a consumer credit sale.
 8 (2) A provision in violation of this section is
 9 unenforceable.
 10 73-2-605. Credit service charge for other sales. With
 11 respect to a sale other than a consumer credit sale or a
 12 consumer related sale, the parties may contract for the payment
 13 by the buyer of any credit service charge.

24 ARTICLE 3
 25 LOANS
 26 (GENERAL PROVISIONS)

27 73-3-101. Short title. This article shall be known and
 28 may be cited as "Uniform Consumer Credit Code - Loans".
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 31
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33
 34 73-3-102. Scope. This article applies to consumer loans,
 35 including supervised loans; in addition, sections 73-3-601 to
 36 73-3-605 apply to consumer related loans.
 37
 38
 39

Two classes of credit sales are left entirely unregulated as the result of this section. These are sales over \$25,000.00 and sales to organizations (presumably corporations) except where the loan is to the organization but security is the residence of the buyer or someone related to him. In these types of transactions, the buyers are usually sophisticated enough to take care in negotiating credit transactions.

Article 2 covered consumer credit sales. Article 3 covers consumer credit loans. Many sections in Article 3 parallel sections in Article 2 and are identical in intent, although applying to sales and loans respectively.

Except for so-called consumer related loans, this section makes clear that Article 3 applies only to consumer loans.

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1 73-3-103. Definitions in article. The following
2 definitions apply to this code and appear in this article as
3 follows:

- 4 "Annual percentage rate" Section 73-3-304 (2)
- 5 "Consumer loan" Section 73-3-104
- 6 "Consumer related loan" Section 73-3-602 (1)
- 7 "Corresponding nominal annual
8 percentage rate" Section 73-3-304 (3)
- 9 "Lender" Section 73-3-107 (1)
- 10 "Loan" Section 73-3-106
- 11 "Loan finance charge" Section 73-3-109
- 12 "Loan primarily secured by
13 an interest in land" Section 73-3-105
- 14 "Precomputed" Section 73-3-107 (2)
- 15 "Principal" Section 73-3-107 (3)
- 16 "Revolving loan account" Section 73-3-108
- 17 "Supervised lender" Section 73-3-501 (2)
- 18 "Supervised loan" Section 73-3-501 (1)

19 73-3-104. Definition: "consumer loan". (1) Except with
20 respect to a loan primarily secured by an interest in land
21 (section 73-3-105), "consumer loan" is a loan made or arranged
22 by a person regularly engaged in the business of making loans in
23 which:

- 24 (a) The debtor is a person other than an organization;
- 25 (b) The debt is incurred primarily for a personal, family,
26 household, or agricultural purpose;
- 27 (c) Either the debt is payable in instalments or a loan
28 finance charge is made; and
- 29 (d) Either the principal does not exceed twenty-five
30 thousand dollars or the debt is secured by an interest in land.

31 (2) Unless the loan is made subject to this code by
32 agreement (section 73-3-601), "consumer loan" does not include a
33 loan for a business or commercial purpose.

34 73-3-105. Definition: "loan primarily secured by an
35 interest in land". Unless the loan is made subject to this code
36 by agreement (section 73-3-601), and except as provided with
37 respect to disclosure (section 73-3-301) and debtors' remedies
38 (section 73-5-201), "consumer loan" does not include a "loan
39 primarily secured by an interest in land, if at the time the

Self-explanatory.

Generally speaking, a consumer loan as de-
fined by this section is subject to the
same limitations as a consumer credit sale.

The ordinary home loan is not included in
the act unless the interest rate exceeds
12%. (The Code draft uses the figure of
10% interest rate.)

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1 loan is made the value of this collateral is substantial in
2 relation to the amount of the loan, and the loan finance charge
3 does not exceed twelve percent per year calculated according to
4 the actuarial method on the unpaid balances of the principal on
5 the assumption that the debt will be paid according to the
6 agreed terms and will not be paid before the end of the agreed
7 term.

8 73-3-106. Definition: "loan". "Loan" includes:

9 (1) The creation of debt by the lender's payment of or
10 agreement to pay money to the debtor or to a third party for the
11 account of the debtor;

12 (2) The creation of debt by a credit to an account with
13 the lender upon which the debtor is entitled to draw
14 immediately;

15 (3) The creation of debt pursuant to a lender credit card
16 or similar arrangement; and

17 (4) The forbearance of debt arising from a loan.

18 73-3-107. Definitions: "lender"; "precomputed";
19 "principal". (1) Except as otherwise provided, "lender"
20 includes an assignee of the lender's right to payment, but use
21 of the term does not in itself impose on an assignee any
22 obligation of the lender with respect to events occurring before
23 the assignment.

24 (2) A loan, refinancing, or consolidation is "precomputed"
25 if the debt is expressed as a sum comprising the principal and
26 the amount of the loan finance charge computed in advance.

27 (3) "Principal" of a loan means the total of

28 (a) The net amount paid to, receivable by, or paid or
29 payable for the account of the debtor,

30 (b) The amount of any discount excluded from the loan
31 finance charge (subsection (2) of section 73-3-109), and

32 (c) To the extent that payment is deferred,

33 (i) Amounts actually paid or to be paid by the lender for
34 registration, certificate of title, or license fees, and

35 (ii) Additional charges permitted by this article (section
36 73-3-202).

37 73-3-108. Definition: "revolving loan account".

38 "Revolving loan account" means an arrangement between a lender
39 and a debtor pursuant to which (1) the lender may permit the

The traditional definition of a loan is expanded to include: the crediting of an account upon which the borrower can draw; bank credit cards; and the extension of an existing loan.

Self-explanatory.

Definition of "revolving loan account" is similar to the earlier definition of "revolving charge account." Purpose is to

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EXPLANATION

1 debtor to obtain loans from time to time, (2) the unpaid
2 balances of principal and the loan finance and other appropriate
3 charges are debited to an account, (3) a loan finance charge if
4 made is not precomputed but is computed on the outstanding
5 unpaid balances of the debtor's account from time to time, and
6 (4) the debtor has the privilege of paying the balances in
7 instalments.

8 73-3-109. Definition: "loan finance charge". (1) "Loan
9 finance charge" means the sum of (a) all charges payable directly
10 or indirectly by the debtor and imposed directly or indirectly
11 by the lender as an incident to or as a condition of the
12 extension of credit, whether paid or payable by the debtor, the
13 lender, or any other person on behalf of the debtor to the
14 lender or to a third party, including any of the following types
15 of charges which are applicable: Interest or any amount payable
16 under a point, discount, or other system of charges, however
17 denominated, premium, or other charge for any guarantee or
18 insurance protecting the lender against the debtor's default or
19 other credit loss; and (b) charges incurred for investigating
20 the collateral or credit-worthiness of the debtor or for
21 commissions or brokerage for obtaining the credit. The term
22 does not include charges as a result of default, additional
23 charges (section 73-3-202), delinquency charges (section
24 73-3-203), or deferral charges (section 73-3-204).

25 (2) If a lender makes a loan to a debtor by purchasing or
26 satisfying obligations of the debtor pursuant to a lender credit
27 card or similar arrangement, and the purchase or satisfaction is
28 made at less than the face amount of the obligation, the
29 discount is not part of the loan finance charge.

30 (MAXIMUM CHARGES)

31 73-3-201. Loan finance charge for consumer loans other
32 than supervised loans. (1) With respect to a consumer loan
33 other than a supervised loan (section 73-3-501), a lender may
34 contract for and receive a loan finance charge, calculated
35 according to the actuarial method, not exceeding twelve percent
36 per year on the unpaid balances of the principal.

37 (2) This section does not limit or restrict the manner of
38 contracting for the loan finance charge, whether by way of
39 add-on, discount, or otherwise, so long as the rate of the loan

cover lender credit cards, balance-plus
accounts, and similar arrangements.

"Loan finance charge" essentially means
interest and any other charge for credit
reports or commissions to a loan broker.
Specifically excluded are charges made by
a credit card issuer to a seller, since
these are regarded as a fee to the issuer
of the card, and not interest.

Consumer loans other than supervised loans
are specified as being loans where the
true annual rate does not exceed 12%.
(Supervised loan interest rates are loans
with rates in excess of 12%.)

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1 finance charge does not exceed that permitted by this section.
2 If the loan is precomputed,
3 (a) The loan finance charge may be calculated on the
4 assumption that all scheduled payments will be made when due,
5 and
6 (b) The effect of prepayment is governed by the provisions
7 on rebate upon prepayment (section 73-3-210).
8 (3) For the purposes of this section, the term of a loan
9 commences with the date the loan is made. Differences in the
10 lengths of months are disregarded, and a day may be counted as
11 one-thirtieth of a month. Subject to classifications and
12 differentiations the lender may reasonably establish, a part of
13 a month in excess of fifteen days may be treated as a full month
14 if periods of fifteen days or less are disregarded and if that
15 procedure is not consistently used to obtain a greater yield
16 than would otherwise be permitted.
17 (4) With respect to a consumer loan made pursuant to a
18 revolving loan account,
19 (a) The loan finance charge shall be deemed not to exceed
20 twelve percent per year if the loan finance charge contracted
21 for and received does not exceed a charge in each monthly
22 billing cycle which is one percent of an amount no greater than:
23 (i) The average daily balance of the debt,
24 (ii) The unpaid balance of the debt on the same day of the
25 billing cycle, or
26 (iii) Subject to subsection (5) of this section, the
27 median amount within a specified range within which the average
28 daily balance or the unpaid balance of the debt, on the same day
29 of the billing cycle, is included; for the purposes of this
30 subparagraph and subparagraph (ii) of paragraph (a) of this
31 subsection, a variation of not more than four days from month to
32 month is "the same day of the billing cycle";
33 (b) If the billing cycle is not monthly, the loan finance
34 charge shall be deemed not to exceed twelve percent per year if
35 the loan finance charge contracted for an received does not
36 exceed a percentage which bears the same relation to one percent
37 as the number of days in the billing cycle bears to thirty; and
38 (c) Notwithstanding subsection (1) of this section, if
39 there is an unpaid balance on the date as of which the loan

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1 finance charge is applied, the lender may contract for and
2 receive a charge not exceeding fifty cents if the billing cycle
3 is monthly or longer, or the pro rata part of fifty cents which
4 bears the same relation to fifty cents as the number of days in
5 the billing cycle bears to thirty, if the billing cycle is
6 shorter than monthly, but no charge may be made pursuant to this
7 paragraph if the lender has made an annual charge for the same
8 period as permitted by the provisions on additional charges
9 (paragraph (c) of subsection (1) of section 73-3-202).

10 (5) Subject to classifications and differentiations the
11 lender may reasonably establish, he may make the same loan
12 finance charge on all amounts financed within a specified range.
13 A loan finance charge so made does not violate subsection (1) of
14 this section if

15 (a) When applied to the median amount within each range, it
16 does not exceed the maximum permitted by subsection (1) of this
17 section, and

18 (b) When applied to the lowest amount within each range,
19 it does not produce a rate of loan finance charge exceeding the
20 rate calculated according to paragraph (a) of this subsection by
21 more than eight percent of the rate calculated according to said
22 paragraph (a).

23 73-3-202. Additional charges. (1) In addition to the
24 loan finance charge permitted by sections 73-3-201 to 73-3-210,
25 a lender may contract for and receive the following additional
26 charges in connection with a consumer loan:

27 (a) Official fees and taxes;

28 (b) Charges for insurance as described in subsection (2)
29 of this section;

30 (c) Annual charges, payable in advance, for the privilege
31 of using a lender credit card or similar arrangement which
32 entitles the user to purchase goods or services from at least
33 one hundred persons not related to the issuer of the lender
34 credit card or similar arrangement, under an arrangement
35 pursuant to which the debts resulting from the purchases are
36 payable to the issuer; and

37 (d) Charges for other benefits, including insurance,
38 conferred on the debtor, if the benefits are of value to him and
39 if the charges are reasonable in relation to the benefits, are

Certain charges, including official fees and taxes, insurance under certain conditions, and other limited charges, are permitted in addition to loan finance charges. (Corresponds with 73-2-202. Page 19.)

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1 of a type which is not for credit, and are excluded as
2 permissible additional charges from the credit service charge by
3 rule adopted by the administrator.

4 (2) An additional charge may be made for insurance written
5 in connection with the loan, other than insurance protecting the
6 lender against the debtor's default or other credit loss,

7 (a) With respect to insurance against loss of or damage to
8 property, or against liability, if the lender furnishes a clear
9 and specific statement in writing to the debtor, setting forth
10 the cost of the insurance if obtained from or through the
11 lender, and stating that the debtor may choose the person
12 through whom the insurance is to be obtained; and

13 (b) With respect to consumer credit insurance providing
14 life, accident, or health coverage, if the insurance coverage is
15 not a factor in the approval by the lender of the extension of
16 credit, and this fact is clearly disclosed in writing to the
17 debtor, and if, in order to obtain the insurance in connection
18 with the extension of credit, the debtor gives specific
19 affirmative written indication of his desire to do so after
20 written disclosure to him of the cost thereof.

21 (3) For the purposes of the Part on Disclosure and
22 Advertising (Part 3), reasonable closing costs are additional
23 charges.

24 73-3-203. Delinquency charges. (1) With respect to a
25 precomputed consumer loan, refinancing, or consolidation, the
26 parties may contract for a delinquency charge on any instalment
27 not paid in full within twenty days after its scheduled due date
28 in an amount not exceeding the greater of

29 (a) An amount, not exceeding five dollars, which is five
30 percent of the unpaid amount of the instalment, or

31 (b) The deferral charge (subsection (1) of section
32 73-3-204) that would be permitted to defer the unpaid amount of
33 the instalment for the period that it is delinquent.

34 (2) A delinquency charge under paragraph (a) of subsection
35 (1) of this section may be collected only once on an instalment
36 however long it remains in default. No delinquency charge may
37 be collected if the instalment has been deferred and a deferral
38 charge (section 73-3-204) has been paid or incurred until ten
39 days after the deferred due date. A delinquency charge may be

Delinquency charges are permitted if in-
stallment is more than ten days overdue,
but they must not exceed \$5.00 or five
percent of the unpaid installment, which-
ever is greater. This section also pro-
vides other remedies in the event the loan
becomes seriously delinquent. (See 73-2-
203. Page 30.)

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1 collected at the time it accrues or at any time thereafter.

2 (3) No delinquency charge may be collected on an
3 instalment which is paid in full within ten days after its
4 scheduled instalment due date even though an earlier maturing
5 instalment or a delinquency charge on an earlier instalment may
6 not have been paid in full. For purposes of this subsection,
7 payments are applied first to current instalments and then to
8 delinquent instalments.

9 (4) If two instalments or parts thereof of a precomputed
10 loan are in default for ten days or more, the lender may elect
11 to convert the loan from a precomputed loan to one in which the
12 loan finance charge is based on unpaid balances; and the terms
13 of the converted loan shall be no less favorable to the debtor
14 than the terms of the original loan. In this event he shall
15 make a rebate pursuant to the provisions on rebate upon
16 prepayment (section 73-3-210) as of the maturity date of the
17 first delinquent instalment, and thereafter may make a loan
18 finance charge as authorized by the provisions on loan finance
19 charge for consumer loans (section 73-3-201) or the provisions
20 on loan finance charge for supervised loans (section 73-3-508),
21 whichever is appropriate. The amount of the rebate shall not be
22 reduced by the amount of any permitted minimum charge (section
23 73-3-210). If the lender proceeds under this subsection, any
24 delinquency or deferral charges made with respect to instalments
25 due at or after the maturity date of the first delinquent
26 instalment shall be rebated, and no further delinquency or
27 deferral charges shall be made.

28 73-3-204. Deferral charges. (1) With respect to a
29 precomputed consumer loan, refinancing, or consolidation, the
30 parties before or after default may agree in writing to a
31 deferral of all or part of one or more unpaid instalments, and
32 the lender may make and collect a charge not exceeding the rate
33 previously stated to the debtor pursuant to the provisions on
34 disclosure (sections 73-3-301 to 73-3-312) applied to the amount
35 or amounts deferred for the period of deferral calculated
36 without regard to differences in the lengths of months, but
37 proportionally for a part of a month, counting each day as
38 one-thirtieth of a month. A deferral charge may be collected at
39 the time it is assessed or at any time thereafter.

The lender can defer delinquent payments,
but he is permitted to charge a deferral
charge at the same rate charged on the
original loan. (See 73-2-204. Page 21).

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1 (2) The lender, in addition to the deferral charge, may
2 make appropriate additional charges (section 73-3-202), and the
3 amount of these charges which is not paid in cash may be added
4 to the amount deferred for the purpose of calculating the
5 deferral charge.

6 (3) The parties may agree in writing at the time of a
7 precomputed consumer loan, refinancing, or consolidation, that
8 if an instalment is not paid within ten days after its due date,
9 the lender may unilaterally grant a deferral and make charges as
10 provided in this section. No deferral charge may be made for a
11 period after the date that the lender elects to accelerate the
12 maturity of the agreement.

13 (4) A delinquency charge made by the lender on an
14 instalment may not be retained if a deferral charge is made
15 pursuant to this section with respect to the period of
16 delinquency.

17 73-3-205. Loan finance charge on refinancing. With
18 respect to a consumer loan, refinancing, or consolidation, the
19 lender may by agreement with the debtor refinance the unpaid
20 balance and may contract for and receive a loan finance charge
21 based on the principal resulting from the refinancing at a rate
22 not exceeding that permitted by the provisions on loan finance
23 charge for consumer loans (section 73-3-201) or the provisions
24 on loan finance charge for supervised loans (section 73-3-508),
25 whichever is appropriate. For the purpose of determining the
26 loan finance charge permitted, the principal resulting from the
27 refinancing comprises the following:

28 (1) If the transaction was not precomputed, the total of
29 the unpaid balance and the accrued charges on the date of the
30 refinancing, or, if the transaction was precomputed, the amount
31 which the debtor would have been required to pay upon prepayment
32 pursuant to the provisions on rebate upon prepayment (section
33 73-3-210) on the date of refinancing, except that for the
34 purpose of computing this amount no minimum charge (section
35 73-3-210) shall be allowed; and

36 (2) Appropriate additional charges (section 73-3-202),
37 payment of which is deferred.

38 73-3-206. Loan finance charge on consolidation. (1) If a
39 debtor owes an unpaid balance to a lender with respect to

A lender can refinance a delinquent loan and will be permitted to make loan finance charges on the same basis as if it were a new loan. (See 73-2-205. Credit service charge on refinancing. Page 22.)

Section permits consolidation of two loans and regulates the method of computing

TEXT

EXPLANATION

1 consumer loan, refinancing, or consolidation, and becomes
2 obligated on another consumer loan, refinancing, or
3 consolidation, with the same lender, the parties may agree to a
4 consolidation resulting in a single schedule of payments. If
5 the previous consumer loan, refinancing, or consolidation was
6 not precomputed, the parties may agree to add the unpaid amount
7 of principal and accrued charges on the date of consolidation to
8 the principal with respect to the subsequent loan. If the
9 previous consumer loan, refinancing, or consolidation was
10 precomputed, the parties may agree to refinance the unpaid
11 balance pursuant to the provisions on refinancing (section
12 73-3-205) and to consolidate the principal resulting from the
13 refinancing by adding it to the principal with respect to the
14 subsequent loan. In either case the lender may contract for and
15 receive a loan finance charge based on the aggregate principal
16 resulting from the consolidation at a rate not in excess of that
17 permitted by the provisions on loan finance charge for consumer
18 loans (section 73-3-201) or the provisions on loan finance
19 charge for supervised loans (section 73-3-508), whichever is
20 appropriate.

21 (2) The parties may agree to consolidate the unpaid
22 balance of a consumer loan with the unpaid balance of a consumer
23 credit sale. The parties may agree to refinance the previous
24 unpaid balance pursuant to the provisions on refinancing sales
25 (section 73-2-205) or the provisions on refinancing loans
26 (section 73-3-205), whichever is appropriate, and to consolidate
27 the amount financed resulting from the refinancing or the
28 principal resulting from the refinancing by adding it to the
29 amount financed or principal with respect to the subsequent sale
30 or loan. The aggregate amount resulting from the consolidation
31 shall be deemed principal, and the creditor may contract for and
32 receive a loan finance charge based on the principal at a rate
33 not in excess of that permitted by the provisions on loan
34 finance charge for consumer loans (section 73-3-201) or the
35 provisions on loan finance charge for supervised loans (section
36 73-3-508), whichever is appropriate.

37 73-3-207. Conversion to revolving loan account. The
38 parties may agree to add to a revolving loan account the unpaid
39 balance of a consumer loan, not made pursuant to a revolving

charges for a person borrowing more money
before repaying an existing loan.

Section permits borrower and lender to
agree to the conversion of a loan to a
revolving loan account.

TEXT

EXPLANATION

1 loan account, or a refinancing, or consolidation thereof, or the
2 unpaid balance of a consumer credit sale, refinancing, or
3 consolidation. For the purpose of this section:

4 (1) The unpaid balance of a consumer loan, refinancing, or
5 consolidation, is an amount equal to the principal determined
6 according to the provisions on refinancing (section 73-3-205);
7 and

8 (2) The unpaid balance of a consumer credit sale,
9 refinancing, or consolidation, is an amount equal to the amount
10 financed determined according to the provisions on refinancing
11 (section 73-2-205).

12 73-3-208. Advances to perform covenants of debtor. (1) If
13 the agreement with respect to a consumer loan, refinancing, or
14 consolidation, contains covenants by the debtor to perform
15 certain duties pertaining to insuring or preserving title to
16 collateral and if the lender pursuant to the agreement pays for
17 performance of the duties on behalf of the debtor the lender may
18 add the amounts paid to the debt. Within a reasonable time
19 after advancing any sums, he shall state to the debtor in
20 writing the amount of the sums advanced, any charges with
21 respect to this amount, and any revised payment schedule, and,
22 if the duties of the debtor performed by the lender pertain to
23 insurance, a brief description of the insurance paid for by the
24 lender including the type and amount of coverages. No further
25 information need be given.

26 (2) A loan finance charge may be made for sums advanced
27 pursuant to subsection (1) of this section at a rate not
28 exceeding the rate stated to the debtor pursuant to the
29 provisions on disclosure (sections 73-3-301 to 73-3-312) with
30 respect to the loan, refinancing, or consolidation, except that
31 with respect to a revolving loan account the amount of the
32 advance may be added to the unpaid balance of the debt and the
33 lender may make a loan finance charge not exceeding that
34 permitted by the provisions on loan finance charge for consumer
35 loans (section 73-3-201) or for supervised loans (section
36 73-3-508), whichever is appropriate.

37 73-3-209. Right to prepay. Subject to the provisions on
38 rebate upon prepayment (section 73-3-210), the debtor may prepay
39 in full the unpaid balance of a consumer loan, refinancing, or

If security for a loan is property which must be insured or upon which taxes must be paid, this section permits the lender to make the necessary payments and add them to his loan. (See 73-2-208. Advances to perform covenants to buyer. Page 24).

Debtor may prepay a consumer credit loan in full at any time without penalty.

TEXT

EXPLANATION

1 consolidation, at any time without penalty.
2 73-3-210. Rebate upon prepayment. (1) Except as provided
3 in subsection (2) of this section, upon prepayment in full of
4 the unpaid balance of a precomputed consumer loan, refinancing,
5 or consolidation, an amount not less than the unearned portion
6 of the loan finance charge calculated according to this section
7 shall be rebated to the debtor. If the rebate otherwise
8 required is less than one dollar, no rebate need be made.

9 (2) Upon prepayment in full of a consumer loan, other than
10 one pursuant to a revolving loan account, a refinancing, or
11 consolidation, whether or not precomputed, the lender may
12 collect or retain a minimum charge within the limits stated in
13 this subsection if the loan finance charge earned at the time of
14 prepayment is less than any minimum charge contracted for. The
15 minimum charge may not exceed the amount of loan finance charge
16 contracted for, or five dollars in a transaction which had a
17 principal of seventy-five dollars or less, or seven dollars
18 fifty cents in a transaction which had a principal of more than
19 seventy-five dollars.

20 (3) Except as otherwise provided in this subsection with
21 respect to a loan primarily secured by an interest in land, the
22 unearned portion of the loan finance charge is a fraction of the
23 loan finance charge of which the numerator is the sum of the
24 periodic balances scheduled to follow the computational period
25 in which prepayment occurs, and the denominator is the sum of
26 all periodic balances under either the loan agreement or, if the
27 balance owing resulted from a refinancing (section 73-3-205) or
28 a consolidation (section 73-3-206), under the refinancing
29 agreement or consolidation agreement. In the case of a loan
30 primarily secured by an interest in land, reasonable sums
31 actually paid or payable to persons not related to the lender
32 for customary closing costs included in the loan finance charge
33 are deducted from the loan finance charge before the calculation
34 prescribed by this subsection is made.

35 (4) In this section:

36 (a) "Periodic balance" means the amount scheduled to be
37 outstanding on the last day of a computational period before
38 deducting the payment, if any, scheduled to be made on that day;
39

Section covers rebates to be made on a precomputed loan which is prepaid. Methods of calculating the rebate are essentially the same as in 73-2-210. (Page 24).

TEXT

EXPLANATION

1 (b) "Computational period" means one month if one-half or
2 more of the intervals between scheduled payments under the
3 agreement is one month or more, and otherwise means one week;
4 (c) The "interval" to the due date of the first scheduled
5 instalment or the final scheduled payment date is measured from
6 the date of a loan, refinancing, or consolidation, and includes
7 either the first or last day of the interval;
8 (d) If the interval to the due date of the first scheduled
9 instalment does not exceed one month by more than fifteen days
10 when the computational period is one month, or eleven days when
11 the computational period is one week, the interval shall be
12 considered as one computation period.
13 (5) This subsection applies only if the schedule of
14 payments is not regular.
15 (a) If the computational period is one month and
16 (i) If the number of days in the interval to the due date
17 of the first scheduled instalment is less than one month by more
18 than five days, or more than one month by more than five but not
19 more than fifteen days, the unearned loan finance charge shall
20 be increased by an adjustment for each day by which the interval
21 is less than one month and, at the option of the lender, may be
22 reduced by an adjustment for each day by which the interval is
23 more than one month; the adjustment for each day shall be
24 one-thirtieth of that part of the loan finance charge earned in
25 the computational period prior to the due date of the first
26 scheduled instalment assuming that period to be one month; and
27 (ii) If the interval to the final scheduled payment date
28 is a number of computational periods plus an additional number
29 of days less than a full month, the additional number of days
30 shall be considered a computational period only if sixteen days
31 or more. This subparagraph applies whether or not subparagraph
32 (i) of this paragraph applies.
33 (b) Notwithstanding paragraph (a) of this subsection, if
34 the computational period is one month, the number of days in the
35 interval to the due date of the first instalment exceeds one
36 month by not more than fifteen days, and the schedule of
37 payments is otherwise regular, the lender at his option may
38 exclude the extra days and the charge for the extra days in
39 computing the unearned loan finance charge; but if he does so

TEXT

EXPLANATION

1 and a rebate is required before the due date of the first
2 scheduled instalment, he shall compute the earned charge for
3 each elapsed day as one-thirtieth of the amount the earned
4 charge would have been if the first interval had been one month.

5 (c) If the computational period is one week and

6 (i) If the number of days in the interval to the due date
7 of the first scheduled instalment is less than five days, or
8 more than nine days but not more than eleven days, the unearned
9 loan finance charge shall be increased by an adjustment for each
10 day by which the interval is less than seven days and, at the
11 option of the lender, may be reduced by an adjustment for each
12 day by which the interval is more than seven days; the
13 adjustment for each day shall be one-seventh of that part of the
14 loan finance charge earned in the computational period prior to
15 the due date of the first scheduled instalment assuming that
16 period to be one week; and

17 (ii) If the interval to the final scheduled payment date
18 is a number of computational periods plus an additional number
19 of days less than a full week, the additional number of days
20 shall be considered a computational period only if four days or
21 more. This subparagraph applies whether or not subparagraph (i)
22 of this paragraph applies.

23 (6) If a deferral (section 73-3-204) has been agreed to,
24 the unearned portion of the loan finance charge shall be
25 computed without regard to the deferral. The amount of deferral
26 charge earned at the date of prepayment shall also be
27 calculated. If the deferral charge earned is less than the
28 deferral charge paid, the difference shall be added to the
29 unearned portion of the loan finance charge. If any part of a
30 deferral charge has been earned but has not been paid, that part
31 shall be subtracted from the unearned portion of the loan
32 finance charge, or shall be added to the unpaid balance.

33 (7) This section does not preclude the collection or
34 retention by the lender of delinquency charges (section
35 73-3-203).

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

39

TEXT

EXPLANATION

1 (9) Upon prepayment in full of a consumer loan by the
2 proceeds of consumer credit insurance (section 73-4-103), the
3 debtor or his estate is entitled to the same rebate as though
4 the debtor had prepaid the agreement on the date the proceeds of
5 the insurance are paid to the lender, but no later than ten
6 business days after satisfactory proof of loss is furnished to
7 the lender.

8 (Omitted section numbers reserved for expansion)

9 (DISCLOSURE AND ADVERTISING)

10 73-3-301. Applicability; information required. (1) For
11 purposes of this Part, consumer loan includes a loan secured
12 primarily by an interest in land without regard to the rate of
13 the loan finance charge if the loan is otherwise a consumer loan
14 (section 73-3-104).

15 (2) The lender shall disclose to the debtor to whom credit
16 is extended with respect to a consumer loan the information
17 required by either this Part, or the Federal Consumer Credit
18 Protection Act.

19 (3) For the purposes of subsection (2), information which
20 would otherwise be required pursuant to the Federal Consumer
21 Credit Protection Act is sufficient even though the transaction
22 is one of a class of credit transactions exempted from that Act
23 pursuant to regulation of the Board of Governors of the Federal
24 Reserve System.

25 73-3-302. General disclosure requirements and provisions.

26 (1) The disclosures required by sections 73-3-301 to 73-3-312

27 (a) Shall be made clearly and conspicuously;

28 (b) Shall be in writing, a copy of which shall be
29 delivered to the debtor;

30 (c) May use terminology different from that employed in
31 sections 73-3-301 to 73-3-312 if it conveys substantially the
32 same meaning;

33 (d) Except as the rules adopted by the administrator
34 otherwise prescribe, need not be contained in a single writing
35 or made in the order set forth in sections 73-3-301 to 73-3-312;

36 (e) May be supplemented by additional information or
37 explanations supplied by the lender;

38 (f) Need be made only to the extent applicable and only as
39 to those items for which the lender makes a separate charge to

Purpose of these sections is to place the UCCC in compliance with the federal "truth in lending act" as to rate disclosures for consumer loans. Disclosure is to be required for real estate mortgages, even though such mortgages are not subject to the act.

See 73-2-302. Page 28.

TEXT

EXPLANATION

1 the debtor;
2 (g) Shall be made on the assumption that all scheduled
3 payments will be made when due; and
4 (h) Comply with sections 73-3-301 to 73-3-312 although
5 rendered inaccurate by any act, occurrence, or agreement
6 subsequent to the required disclosure.
7 (2) Except with respect to loans made by telephone or mail
8 (section 73-3-305), loans made pursuant to a binding commitment
9 (subsection (3) of section 73-3-306), and loans made pursuant to
10 a lender credit card (section 73-3-310),
11 (a) The disclosures required by sections 73-3-301 to
12 73-3-312 shall be made before credit is extended, but may be
13 made in the loan, refinancing, or consolidation agreement, or
14 other evidence of indebtedness to be signed by the debtor if set
15 forth conspicuously therein, and need be made only to one debtor
16 if there is more than one, and
17 (b) If an evidence of indebtedness is signed by the
18 debtor, the lender shall give him a copy when the writing is
19 signed.
20 (c) No evidence of indebtedness shall be signed when it
21 contains blank spaces to be filled in after execution, except
22 that this provision shall not apply to serial numbers or other
23 identifying marks which are not available for description at the
24 time of execution of such evidence of indebtedness.
25 (3) Except as provided with respect to rescission by a
26 debtor (section 73-5-204) and civil liability for violations of
27 disclosure provisions (subsection (4) of section 73-5-203),
28 written acknowledgment of receipt by a debtor to whom a
29 statement is required to be given pursuant to sections 73-3-301
30 to 73-3-312,
31 (a) In an action or proceeding by or against the original
32 lender, creates a presumption that the statement was given, and
33 (b) In an action or proceeding by or against an assignee
34 without knowledge to the contrary when he acquires the
35 obligation, is conclusive proof of the delivery of the statement
36 and, unless the violation is apparent on the face of the
37 statement, of compliance with sections 73-3-301 to 73-3-312.
38 73-3-303. Overstatement. The disclosure of an amount or
39 percentage which is greater than the amount or percentage

See 73-2-303. Page 29.

TEXT

EXPLANATION

1 required to be disclosed under sections 73-3-301 to 73-3-312
2 does not in itself constitute a violation of sections 73-3-301
3 to 73-3-312 if the overstatement is not materially misleading
4 and is not used to avoid meaningful disclosure.

5 73-3-304. Calculation of rate to be disclosed. (1)
6 Except as otherwise specifically provided, if a lender is
7 required to give to a debtor a statement of the rate of the loan
8 finance charge he shall state the rate in terms of an annual
9 percentage rate as defined in subsection (2) of this section, or
10 in terms of a corresponding nominal annual percentage rate as
11 defined in subsection (3) of this section, whichever is
12 appropriate.

13 (2) "Annual percentage rate"

14 (a) With respect to a consumer loan other than one made
15 pursuant to a revolving loan account, is either

16 (i) That nominal annual percentage rate which, when
17 applied to the unpaid balances of the principal calculated
18 according to the actuarial method, will yield a sum equal to the
19 amount of the loan finance charge, or

20 (ii) That rate determined by any method prescribed by rule
21 by the administrator as a method which materially simplifies
22 computation while retaining reasonable accuracy as compared with
23 the rate determined pursuant to subparagraph (i) of this
24 paragraph;

25 (b) With respect to a consumer loan made pursuant to a
26 revolving loan account, is the quotient expressed as a
27 percentage of the total loan finance charge for the period to
28 which it relates divided by the amount upon which the loan
29 finance charge for that period is based, multiplied by the
30 number of these periods in a year.

31 (3) "Corresponding nominal annual percentage rate" is the
32 percentage or percentages used to calculate the loan finance
33 charge for one billing cycle or other period pursuant to a
34 revolving loan account multiplied by the number of billing
35 cycles or periods in a year.

36 (4) If a lender is permitted to make the same loan finance
37 charge for all principal amounts within a specified range
38 (subsection (5) of section 73-3-201) or for all balances within
39 a specified range (subsection (4) of section 73-3-201 and

See 73-2-304. Page 30.

TEXT

EXPLANATION

1 subsection (5) of section 73-3-508), he shall state the annual
2 percentage rate or corresponding nominal annual percentage rate,
3 whichever is appropriate, as applied to the median amount of the
4 range within which the actual principal amount or balance is
5 included.

6 (5) A statement of rate complies with sections 73-3-301 to
7 73-3-312 if it does not vary from the accurately computed rate
8 by more than the following tolerances:

9 (a) The annual percentage rate may be rounded to the
10 nearest quarter of one percent for consumer loans payable in
11 substantially equal instalments when a lender determines the
12 total loan finance charge on the basis of a single add-one,
13 discount, periodic, or other rate, and the rate is converted
14 into an annual percentage rate under procedures prescribed by
15 rule by the administrator;

16 (b) The administrator may authorize by rule the use of
17 rate tables or charts which may provide for the disclosure of
18 annual percentage rates which vary from the rate determined in
19 accordance with paragraph (a) of this subsection by not more
20 than the tolerances the administrator may allow; the
21 administrator may not allow a tolerance greater than eight
22 percent of that rate except to simplify compliance where
23 irregular payments are involved; and

24 (c) In case a lender determines the annual percentage rate
25 in a manner other than as described in paragraph (a) or (b) of
26 this subsection, the administrator may authorize by rule other
27 reasonable tolerances.

28 73-3-305. Loans made by telephone or mail. With respect
29 to a consumer loan, other than a loan made pursuant to a
30 revolving loan account, if the lender receives a request for an
31 extension of credit by mail or telephone without personal
32 solicitation, the lender complies with sections 73-3-301 to
33 73-3-312 if the lender's printed material distributed to the
34 public, or the loan agreement or other printed material
35 delivered to the debtor, sets forth the terms of financing,
36 including the annual percentage rate for representative amounts
37 of credit, and if he gives the information required by sections
38 73-3-301 to 73-3-312 on or before the date the first payment is
39 due on the loan.

Section provides for a delay in disclosure for loans made by telephone or by mail. Disclosure may be made by advertising the general provisions and by providing specific disclosure prior to the date the first payment is due.

TEXT

EXPLANATION

1 73-3-306. Consumer loans not pursuant to revolving loan
2 account. (1) This section applies to a consumer loan not made
3 pursuant to a revolving loan account (section 73-3-309).
4 (2) The lender shall give to the debtor the following
5 information:
6 (a) The net amount paid to, receivable by, or paid or
7 payable for the account of the debtor or, in the case of a loan
8 resulting from a refinancing, the amount prescribed by the
9 provisions on loan finance charge on refinancing (subsection (1)
10 of section 73-3-205); if any amount is paid or payable to a
11 third person, a brief itemization, which may be contained in a
12 separate writing or writings, shall also be given;
13 (b) The amount paid or payable for registration,
14 certificate of title or license fees, and a description or
15 identification of the fees;
16 (c) The amount of official fees and taxes and a
17 description or identification of them;
18 (d) A brief description of insurance to be provided or
19 paid for by the lender including the type and the amount of the
20 coverages, and if a separate charge is made, the amount of the
21 charge;
22 (e) The amount of other additional charges (section
23 73-3-202), and a brief description or identification of them;
24 (f) The amount of principal (sum of amounts stated in
25 paragraphs (a), (b), (c), (d), and (e) of this subsection);
26 (g) Except in the case of a loan secured by a first lien
27 on a dwelling, made to finance the purchase of that dwelling,
28 the amount of the loan finance charge and the amount of the
29 unpaid balance (principal plus loan finance charge);
30 (h) The rate of the loan finance charge as applied to the
31 principal in accordance with the provisions on calculation of
32 rate (section 73-3-304), except in the case of a loan finance
33 charge which does not exceed five dollars when the principal
34 does not exceed seventy-five dollars, or seven dollars fifty
35 cents when the principal exceeds seventy-five dollars;
36 (i) The number of payments, amount of each payment, due
37 date of first payment, and the due date of subsequent payments
38 or interval between payments;
39

In addition to the rate disclosures re-
quired above, this section requires the
lender to give a statement to the borrower
indicating exactly what items have been
charged against the borrower.

TEXT

EXPLANATION

1 (j) Any default, delinquency, or similar charges payable
2 in the event of late payments; and

3 (k) The description of any security interest held or to be
4 retained or acquired by the lender in connection with the
5 extension of credit, and a clear identification of the property
6 to which the security interest relates.

7 (3) If a lender makes a binding commitment to make a
8 consumer loan by allowing the debtor to draw on the lender and
9 at the time the commitment is made the amount of the loan has
10 not been determined, the lender shall then give to the debtor a
11 statement of the terms under which the loan will be made,
12 including the rate of the loan finance charge calculated in
13 accordance with the provisions on calculation of rate (section
14 73-3-304). If the rate of the loan finance charge varies
15 according to the amount of the loan, the lender shall state the
16 minimum and maximum annual percentage rates which would be
17 applicable to the amounts which could be drawn pursuant to the
18 commitment. If additional charges (section 73-3-202) may be
19 made, the lender shall also state the conditions under which the
20 charges may be made, the amount or method of computing the
21 charges, and a brief description or identification of the
22 charges. Within a reasonable time after the loan is made, and
23 in any event on or before the due date of the first instalment,
24 the lender shall give the information required by this section.

25 73-3-307. Consolidation. If the parties to a consumer
26 loan or consumer credit sale agree to a consolidation (section
27 73-3-206), the creditor shall give to the debtor the information
28 required with respect to consumer loans not pursuant to a
29 revolving loan account (section 73-3-306). To comply with those
30 provisions (paragraph (a) of subsection (2) of section
31 73-3-306), the amount with respect to the previous loan or sale
32 to be consolidated shall be separately stated and shall be added
33 to the net amount paid to, receivable by, or paid or payable for
34 the account of the debtor in connection with the subsequent loan
35 or sale.

36 73-3-308. Deferral. If the lender makes a deferral
37 pursuant to the provisions on deferral charges (section
38 73-3-204), he shall state to the debtor, at the time of or
39 promptly after the deferral:

Section covers the information to be given
the borrower when a loan is consolidated.

See 73-2-309. Page

TEXT

EXPLANATION

1 (1) The amount deferred;
2 (2) Any appropriate additional charges (section 73-3-202);
3 (3) The aggregate amount deferred, which is the sum of the
4 amount in subsection (1) of this section and any unpaid amount
5 included in subsection (2) of this section;
6 (4) The time to which payment is deferred; and
7 (5) The amount and annual percentage rate of the deferral
8 charge and when it is payable.
9 73-3-309. Revolving loan accounts. (1) Before making a
10 consumer loan pursuant to a revolving loan account, the lender
11 shall give to the debtor the following information:
12 (a) The conditions under which a loan finance charge may
13 be made, including the time period, if any, within which any
14 credit extended may be repaid without incurring a loan finance
15 charge;
16 (b) The method of determining the balance upon which a
17 loan finance charge will be computed;
18 (c) The method of determining the amount of the loan
19 finance charge, including the periodic percentage or percentages
20 used to calculate the loan finance charge and the amount of any
21 minimum loan finance charge;
22 (d) The corresponding nominal annual percentage rate (sub-
23 section (3) of section 73-3-304); if more than one corresponding
24 nominal annual percentage rate may be used, the amount of a
25 balance to which each corresponding nominal annual percentage
26 rate applies shall also be stated;
27 (e) If the lender elects he may also state either:
28 (i) The average effective annual percentage rate of return
29 received from revolving loan accounts for a representative
30 period of time; or
31 (ii) If circumstances are such that the computation of a
32 rate under subparagraph (i) of this paragraph would not be
33 feasible or practical, or would be misleading or meaningless, a
34 projected rate of return to be received from revolving loan
35 accounts; the administrator shall prescribe rules, consistent
36 with commonly accepted standards for accounting or statistical
37 procedures, to carry out the purposes of this paragraph (e);
38 (f) The conditions under which additional charges may be
39 made and the method by which they will be determined; and

See 73-2-310. Revolving charge ac-
counts. (Page 36).

TEXT

EXPLANATION

1 (g) The conditions under which the lender may retain or
2 acquire a security interest in property to secure the balances
3 resulting from loans made pursuant to the revolving loan
4 account, and a description of the interest or interests which
5 may be retained or acquired.

6 (2) If there is an outstanding balance owing at the end of
7 the billing cycle or if a loan finance charge is made with
8 respect to the billing cycle, the lender shall give to the
9 debtor the following information within a reasonable time after
10 the end of the billing cycle:

11 (a) The outstanding balance at the beginning of the billing
12 cycle;

13 (b) A brief description or identification of loans made
14 during the billing cycle in a statement or in accompanying
15 cancelled checks, memoranda or the like;

16 (c) The amount credited to the account during the billing
17 cycle;

18 (d) The amount of loan finance charge and additional
19 charges debited during the billing cycle, with an itemization or
20 explanation to show the total amount of loan finance charge, if
21 any, due to the application of one or more periodic percentages
22 and the amount, if any, imposed as a minimum charge;

23 (e) The periodic percentage used to calculate the loan
24 finance charge; if more than one periodic percentage is used,
25 each percentage and the amount of the balance to which each
26 applies;

27 (f) The balance on which the loan finance charge is
28 computed and a statement of how the balance is determined; if
29 the balance is determined without first deducting all amounts
30 credited during the period, that fact and the amounts credited
31 shall also be stated;

32 (g) If the loan finance charge for the billing cycle
33 exceeds fifty cents for a monthly or longer billing cycle, or
34 the pro rata part of fifty cents for a billing cycle shorter
35 than monthly, the loan finance charge expressed as an annual
36 percentage rate (paragraph (b) of subsection (2) of section
37 73-3-304); if more than one periodic percentage is used to
38 calculate the loan finance charge, the lender, in lieu of
39 stating a single annual percentage rate, may state more than one

TEXT

EXPLANATION

1 annual percentage rate and the amount of the balance to which
2 each annual percentage rate applies;

3 (h) If the loan finance charge for the billing cycle does
4 not exceed fifty cents for a monthly or longer billing cycle, or
5 the pro rata part of fifty cents for a billing cycle shorter
6 than monthly, the corresponding nominal annual percentage rate
7 (subsection (3) of section 73-3-304);

8 (i) If the lender elects, the average effective annual
9 percentage rate of return or the projected rate as prescribed in
10 paragraph (e) of subsection (1) of this section;

11 (j) The outstanding balance at the end of the billing
12 cycle; and

13 (k) The date by which or period within which payment must
14 be made to avoid additional loan finance charges.

15 73-3-310. Loans pursuant to lender credit card or similar
16 arrangement. Before a consumer loan, other than one made
17 pursuant to a revolving loan account, is first made pursuant to
18 a lender credit card or similar arrangement, the lender shall
19 give to the debtor a statement of the annual percentage rate or
20 rates at which loans will be made to the debtor and a brief
21 description or identification of the additional charges that may
22 be made. The lender shall give to the debtor the information
23 required by sections 73-3-301 to 73-3-312 with respect to
24 consumer loans other than revolving loan accounts (section
25 73-3-306) within a reasonable time after a loan is made and in
26 any event before the due date of the first instalment.

27 73-3-311. Content of periodic statements. A creditor who
28 transmits periodic statements in connection with any consumer
29 loan not made pursuant to a revolving loan account shall set
30 forth in each statement each of the following items:

31 (1) The annual percentage rate of the loan finance charge
32 with respect to each consumer loan to which the statement
33 relates;

34 (2) The date by which or the period, if any, within which
35 payment must be made in order to avoid further loan finance
36 charges or other charges; and

37 (3) To the extent the administrator may require by rule as
38 appropriate to the terms and conditions under which the consumer
39 loan is made, the other items set forth in the provisions on

Lender credit cards and similar arrange-
ments preclude the giving of exact loan
information, since neither party knows
what the exact facts of the loan will be
when it is made. For these loans advance
disclosure is required only of the effec-
tive rates and any additional charges.
After the loan is made, disclosure is re-
quired prior to the due date of the first
installment. (See 73-2-310. Revolving
charge accounts. Page 36.)

See 73-2-312. Page 38.

TEXT

EXPLANATION

1 disclosure with respect to revolving loan accounts (subsection
2 (2) of section 73-3-309).

3 73-3-312. Advertising. (1) No lender shall engage in
4 this state in false or misleading advertising concerning the
5 terms or conditions of credit with respect to a consumer loan.

6 (2) Without limiting the generality of subsection (1) of
7 this section, and without requiring a statement of rate of loan
8 finance charge if the loan finance charge is not more than five
9 dollars when the principal does not exceed seventy-five dollars,
10 or seven dollars fifty cents when the principal exceeds
11 seventy-five dollars, an advertisement with respect to a
12 consumer credit loan made by the posting of a public sign, or by
13 catalog, magazine, newspaper, radio, television, or similar mass
14 media, is misleading if:

15 (a) It states the rate of the loan finance charge and the
16 rate is not stated in the form required by the provisions on
17 calculation of rate to be disclosed (section 73-3-304), or

18 (b) It states the dollar amounts of the loan finance
19 charge or instalment payments, and does not also state the rate
20 of any loan finance charge, and the number and amount of the
21 instalment payments.

22 (3) In this section a catalog or other multiple-page
23 advertisement is considered a single advertisement if it clearly
24 and conspicuously displays a credit terms table setting forth
25 the information required by this section.

26 (4) This section imposes no liability on the owner or
27 personnel, as such, of any medium in which an advertisement
28 appears or through which it is disseminated.

29 (5) Advertising which complies with the Federal Consumer
30 Credit Protection Act does not violate subsection (2) of this
31 section.

32 (Omitted section numbers reserved for expansion)

33 (LIMITATIONS ON AGREEMENTS AND PRACTICES)

34 73-3-401. Scope. Sections 73-3-401 to 73-3-409 apply to
35 consumer loans.

36 73-3-402. Balloon payments. With respect to a consumer
37 loan, other than one primarily for an agricultural purpose or
38 one pursuant to a revolving loan account, if any scheduled
39 payment is more than twice as large as the average of earlier

See 73-2-313. Page 39.

Self-explanatory.

See 73-2-405. Page 42.

TEXT

EXPLANATION

1 scheduled payments, the debtor has the right to refinance the
2 amount of that payment at the time it is due without penalty and
3 the lender shall disclose this right in writing to the debtor at
4 the time the loan is entered into. The terms of the refinancing
5 shall be no less favorable to the debtor than the terms of the
6 original loan. These provisions do not apply to the extent that
7 the payment schedule is adjusted to the seasonal or irregular
8 income of the debtor.

9 73-3-403. No assignment of earnings. (1) A lender may
10 not take an assignment of earnings of the debtor, other than
11 commissions or accounts receivable payable to the debtor for
12 services rendered, for payment or as security for payment of a
13 debt arising out of a consumer loan. An assignment of earnings
14 in violation of this section is unenforceable by the assignee of
15 the earnings and revocable by the debtor. This section does not
16 prohibit an employee from authorizing deductions from his
17 earnings if the authorization is revocable and this right to
18 authorization and revocation is disclosed in writing by the
19 lender to the debtor.

20 (2) A sale of unpaid earnings made in consideration of the
21 payment of money to or for the account of the seller of the
22 earnings is deemed to be a loan to him secured by an assignment
23 of earnings.

24 73-3-404. Attorney's fees. Except as provided by the
25 provisions on limitations on attorney's fees as to certain
26 supervised loans (section 73-3-514), with respect to a consumer
27 loan the agreement may provide for the payment by the debtor of
28 reasonable attorney's fees not in excess of fifteen percent of
29 the unpaid debt after default and referral to an attorney not a
30 salaried employee of the lender. A provision in violation of
31 this section is unenforceable.

32 73-3-405. Limitation on default charges. Except for
33 reasonable expenses incurred in realizing on a security
34 interest, the agreement with respect to a consumer loan may not
35 provide for charges as a result of default by the debtor other
36 than those authorized by this code. A provision in violation of
37 this section is unenforceable.

38 73-3-406. Notice of assignment. The debtor is authorized
39 to pay the original lender until he receives notification of

See 73-2-410. Page 44.

See 73-2-413. Page 45.

See 73-2-414. Page 45.

See 73-2-412. Page 45.

TEXT

EXPLANATION

1 assignment of rights to payment pursuant to a consumer loan and
2 that payment is to be made to the assignee. A notification
3 which does not reasonably identify the rights assigned is
4 ineffective. If requested by the debtor, the assignee must
5 seasonably furnish reasonable proof that the assignment has been
6 made and unless he does so the debtor may pay the original
7 lender.

8 73-3-407. Authorization to confess judgment prohibited. A
9 debtor may not authorize any person to confess judgment on a
10 claim arising out of a consumer loan. An authorization in
11 violation of this section is void.

12 73-3-408. Change in terms of revolving loan accounts. (1)
13 If a lender makes a change in the terms of a revolving loan
14 account without complying with this section, any additional cost
15 or charge to the debtor resulting from the change is an excess
16 charge and subject to the remedies available to debtors (section
17 73-5-202) and to the administrator (section 73-6-113).

18 (2) A lender may change the terms of a revolving loan
19 account whether or not the change is authorized by prior
20 agreement. Except as provided in subsection (3) of this
21 section, the lender shall give to the debtor written notice of
22 any change at least three times, with the first notice at least
23 six months before the effective date of the change.

24 (3) The notice specified in subsection (2) of this section
25 is not required if

26 (a) The debtor after receiving notice of the change agrees
27 in writing to the change;

28 (b) The debtor elects to pay an amount designated on a
29 billing statement (subsection (2) of section 73-3-309) as
30 including a new charge for a benefit offered to the debtor when
31 the benefit and charge constitute the change in terms and when
32 the billing statement also states the amount payable if the new
33 charge is excluded;

34 (c) The change involves no significant cost to the debtor;

35 (d) The debtor has previously consented in writing to the
36 kind of change made and notice of the change is given to the
37 debtor in two billing cycles prior to the effective date of the
38 change; or

39

See 73-2-415. Page 45.

See 73-2-416. Change in terms of revolving charge accounts. (Page 46.)

TEXT

EXPLANATION

1 (e) The change applies only to debts incurred after a date
2 specified in a notice of the change given in two billing cycles
3 prior to the effective date of the change.

4 (4) The notice provided for in this section is given to
5 the debtor when mailed to him at the address used by the lender
6 for sending periodic billing statements.

7 73-3-409. Use of multiple agreements. A lender may not
8 use multiple agreements with intent to avoid disclosure of an
9 annual percentage rate pursuant to the provisions on disclosure
10 and advertising (sections 73-3-301 to 73-3-312). The excess
11 amount of loan finance charge provided for in agreements in
12 violation of this section is an excess charge for the purposes
13 of the provisions on the effect of violations on rights of
14 parties (section 73-5-202) and the provisions on civil actions
15 by administrator (section 73-6-113).

16 (Omitted section numbers reserved for expansion)

17 (SUPERVISED LOANS)

18 73-3-501. Definitions: "supervised loan"; "supervised
19 lender". (1) "Supervised loan" means a consumer loan including
20 a loan made pursuant to a revolving loan account, in which the
21 rate of the loan finance charge exceeds twelve percent per year
22 as determined according to the provisions on loan finance charge
23 for consumer loans (section 73-3-201).

24 (2) "Supervised lender" means a person authorized to make
25 or take assignments of supervised loans.

26 73-3-502. Authority to make supervised loans. Unless a
27 person is a supervised financial organization or has first
28 obtained a license from the administrator authorizing him to
29 make supervised loans, he shall not engage in the business of:

- 30 (1) Making supervised loans, or
31 (2) Taking assignments of and undertaking direct
32 collection of payments from or enforcement of rights against
33 debtors arising from supervised loans, but he may collect and
34 enforce for three months without a license if he promptly
35 applies for a license and his application has not been denied.

36 73-3-503. License to make supervised loans. (1) The
37 administrator shall receive and act on all applications for
38 licenses to make supervised loans under this code. Applications
39 shall be filed in the manner prescribed by the administrator and

Section 73-3-306 exempts from disclosure certain loans where the principal balance is very small. This section prohibits the use of multiple agreements to exempt a larger loan from disclosure requirements. (Compare with 73-2-402. Page 40.)

The committee recommends a change from this section of the Code deleting the category of "regulated loan". Thus there would be two types of loans in Colorado -- supervised (over 12% rate) and non-supervised loans (rates 12% and under).

No person may make supervised loans or engage in the business of buying supervised loans unless licensed or qualified as a "supervised financial organization" as defined in 73-1-301 (17). (Page 11.)

Licensing requirements - supervised lenders.

TEXT

REVISION

1 shall contain the information the administrator requires by rule
2 to make an evaluation of the financial responsibility,
3 character, and fitness of the applicant.

4 (2) No license shall be issued unless the administrator,
5 upon investigation, finds that the financial responsibility,
6 character, and fitness of the applicant, and of the members
7 thereof (if the applicant is a copartnership or association) and
8 of the officers and directors thereof (if the applicant is a
9 corporation), are such as to warrant belief that the business
10 will be operated honestly and fairly within the purposes of this
11 code.

12 (3) Upon written request, the applicant is entitled to a
13 hearing on the question of his qualifications for a license if
14 (a) the administrator has notified the applicant in writing that
15 his application has been denied, or (b) the administrator has
16 not issued a license within sixty days after the application for
17 the license was filed. A request for a hearing may not be made
18 more than fifteen days after the administrator has mailed a
19 writing to the applicant notifying him that the application has
20 been denied and stating in substance the administrator's
21 findings supporting denial of the application.

22 73-3-504. Revocation or suspension of license. (1) The
23 administrator may issue to a person licensed to make supervised
24 loans an order to show cause why his license should not be
25 revoked or suspended for a period not in excess of six months.
26 The order shall state the place for a hearing and set a time for
27 the hearing that is no less than ten days from the date of the
28 order. After the hearing the administrator shall revoke or
29 suspend the license if he finds that:

30 (a) The licensee has willfully violated this code or any
31 rule or order lawfully made pursuant to this code; or

32 (b) Facts or conditions exist which would clearly have
33 justified the administrator in refusing to grant a license had
34 these facts or conditions been known to exist at the time the
35 application for the license was made.

36 (2) No revocation or suspension of a license is lawful
37 unless prior to institution of proceedings by the administrator
38 notice is given to the licensee of the facts or conduct which
39 warrant the intended action, and the licensee is given an

Revocation and suspension proceedings --
supervised lenders.

TEXT

EXPLANATION

1 opportunity to show compliance with all lawful requirements for
2 retention of the license.

3 (3) If the administrator finds that probable cause for
4 revocation of a license exists and that enforcement of this code
5 requires immediate suspension of the license pending
6 investigation, he may, after a hearing upon five days' written
7 notice, enter an order suspending the license for not more than
8 thirty days.

9 (4) Whenever the administrator revokes or suspends a
10 license, he shall enter an order to that effect and forthwith
11 notify the licensee of the revocation or suspension. Within
12 five days after the entry of the order he shall deliver to the
13 licensee a copy of the order and the findings supporting the
14 order.

15 (5) Any person holding a license to make supervised loans
16 may relinquish the license by notifying the administrator in
17 writing of its relinquishment, but this relinquishment shall not
18 affect his liability for acts previously committed.

19 (6) No revocation, suspension, or relinquishment of a
20 license shall impair or affect the obligation of any
21 pre-existing lawful contract between the licensee and any
22 debtor.

23 (7) The administrator may reinstate a license, terminate a
24 suspension, or grant a new license to a person whose license has
25 been revoked or suspended if no fact or condition then exists
26 which clearly would have justified the administrator in refusing
27 to grant a license.

28 73-3-505. Records; annual reports. (1) Every licensee
29 shall maintain records in conformity with generally accepted
30 accounting principles and practices in a manner that will enable
31 the administrator to determine whether the licensee is complying
32 with the provisions of this code. The record keeping system of
33 a licensee shall be sufficient if he makes the required
34 information reasonably available. The records need not be kept
35 in the place of business where supervised loans are made, if the
36 administrator is given free access to the records wherever
37 located. The records pertaining to any loan need not be
38 preserved for more than two years after making the final entry
39 relating to the loan, but in the case of a revolving loan

Record keeping requirements are flexible
but licensees are required to maintain
records and to file annual reports.

TEXT

EXPLANATION

1 account the two years is measured from the date of each entry.
2 (2) On or before April 15 of each year, every licensee
3 shall file with the administrator a composite annual report in
4 the form prescribed by the administrator relating to all
5 supervised loans made by him. The administrator shall consult
6 with comparable officials in other states for the purpose of
7 making the kinds of information required in annual reports
8 uniform among the states. Information contained in annual
9 reports shall be confidential and may be published only in
10 composite form.

11 73-3-506. Examinations and investigations. (1) The
12 administrator shall examine periodically, at intervals he deems
13 appropriate, the loans, business, and records of every licensee.
14 In addition, for the purpose of discovering violations of this
15 code or securing information lawfully required, the
16 administrator or, in lieu thereof, the official or agency to
17 whose supervision the organization is subject (section
18 73-6-105), may at any time investigate the loans, business, and
19 records of any supervised lender or any supervised financial
20 organization. For these purposes he shall have free and
21 reasonable access to the offices, places of business, and
22 records of the lender.

23 (2) If the lender's records are located outside this
24 state, the lender shall, at his option, either make them
25 available to the administrator at a convenient location within
26 this state, or pay the reasonable and necessary expenses for the
27 administrator or his representative to examine them at the place
28 where they are maintained. The administrator may designate
29 representatives, including comparable officials of the state in
30 which the records are located, to inspect them on his behalf.

31 (3) For the purposes of this section, the administrator
32 may administer oaths or affirmations, and upon his own motion or
33 upon request of any party may subpoena witnesses, compel their
34 attendance, adduce evidence, and require the production of any
35 matter which is relevant to the investigation, including the
36 existence, description, nature, custody, condition, and location
37 of any books, documents, or other tangible things and the
38 identity and location of persons having knowledge of relevant
39 facts, or any other matter reasonably calculated to lead to the

The administrator (recommended to be the Attorney General) is given broad powers under the act to examine, investigate, and inspect licensees and to require them to furnish necessary information.

TEXT

EXPLANATION

1 discovery of admissible evidence.

2 (4) Upon failure without lawful excuse to obey a subpoena
3 or to give testimony and upon reasonable notice to all persons
4 affected thereby, the administrator may apply to the district
5 court in the city and county of Denver for an order compelling
6 compliance.

7 73-3-507. Administrative procedures - applicability.
8 Except as otherwise provided, the provisions of sections 3-16-1
9 to 3-16-5, C.R.S. 1963, as amended, apply to and govern all
10 administrative action taken by the administrator pursuant to
11 this code.

12 73-3-508. Loan finance charge for supervised loans. (1)
13 With respect to a supervised loan, including a loan pursuant to
14 a revolving loan account, a supervised lender may contract for
15 and receive a loan finance charge not exceeding that permitted
16 by this section.

17 (2) The loan finance charge, calculated according to the
18 actuarial method, may not exceed the equivalent of the greater
19 of either of the following:

20 (a) The total of

21 (i) Thirty-six percent per year on that part of the unpaid
22 balances of the principal which is three hundred dollars or
23 less;

24 (ii) Twenty-one percent per year on that part of the
25 unpaid balances of the principal which is more than three
26 hundred dollars but does not exceed one thousand dollars; and

27 (iii) Fifteen percent per year on that part of the unpaid
28 balances of the principal which is more than one thousand
29 dollars; or

30 (b) Eighteen percent per year on the unpaid balances of
31 the principal.

32 (3) This section does not limit or restrict the manner of
33 contracting for the loan finance charge, whether by way of
34 add-on, discount, or otherwise, so long as the rate of the loan
35 finance charge does not exceed that permitted by this section.

36 If the loan is precomputed,

37 (a) The loan finance charge may be calculated on the
38 assumption that all scheduled payments will be made when due,
39 and

Reference is to the Administrative
Procedures Act.

Section sets rates for supervised loans
and is similar to Section 73-2-201 cover-
ing credit service charges for consumer
credit sales (other than revolving charge
accounts.) (Page 17.)

TEXT

EXPLANATION

1 (b) The effect of prepayment is governed by the provisions
2 on rebate upon prepayment (section 73-3-210).

3 (4) The term of a loan, for the purposes of this section,
4 commences on the date the loan is made. Differences in the
5 lengths of months are disregarded and a day may be counted as
6 one-thirtieth of a month. Subject to classifications and
7 differentiations the lender may reasonably establish, a part of
8 a month in excess of fifteen days may be treated as a full month
9 if periods of fifteen days or less are disregarded and that
10 procedure is not consistently used to obtain a greater yield
11 than would otherwise be permitted.

12 (5) Subject to classifications and differentiations the
13 lender may reasonably establish, he may make the same loan
14 finance charge on all principal amounts within a specified
15 range. A loan finance charge so made does not violate
16 subsection (2) of this section if:

17 (a) When applied to the median amount within each range,
18 it does not exceed the maximum permitted in subsection (2) of
19 this section. and

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

25 73-3-509. Use of multiple agreements. With respect to a
26 supervised loan, no lender may permit any person, or husband and
27 wife, to become obligated in any way under more than one loan
28 agreement with the lender or with a person related to the
29 lender, with intent to obtain a higher rate of loan finance
30 charge than would otherwise be permitted by the provisions on
31 loan finance charge for supervised loans (section 73-3-508) or
32 to avoid disclosure of an annual percentage rate pursuant to the
33 provisions on disclosure and advertising (sections 73-3-301 to
34 73-3-312). The excess amount of loan finance charge provided
35 for in agreements in violation of this section is an excess
36 charge for the purposes of the provisions on effect of
37 violations on rights of parties (section 73-5-202) and the
38 provisions on civil actions by administrator (section 73-6-113).

See 73-2-402. Page 40.

TEXT

EXPLANATION

1 73-3-510. Restrictions on interest in land as security.
2 With respect to a supervised loan in which the principal is one
3 thousand dollars or less, a lender may not contract for an
4 interest in land as security. A security interest taken in
5 violation of this section is void.

See 73-2-407. Security in sales or leases. (Page 42.)

6 73-3-511. Regular schedule of payments; maximum loan term.
7 Supervised loans, not made pursuant to a revolving loan account,
8 and in which the principal is one thousand dollars or less,
9 shall be scheduled to be payable in substantially equal
10 instalments at equal periodic intervals except to the extent
11 that the schedule of payments is adjusted to the seasonal or
12 irregular income of the debtor, and

Supervised loans (interest at the rate in excess of 12% per annum) must be paid in not more than 37 months if the principal is more than \$300.00 and less than \$1,000. If the principal is \$300.00 or less, the loan must be paid in not more than 25 months.

13 (a) Over a period of not more than thirty-seven months if
14 the principal is more than three hundred dollars, or

15 (b) Over a period of not more than twenty-five months if
16 the principal is three hundred dollars or less.

Self-explanatory.

17 73-3-512. Conduct of business other than making loans. A
18 licensee may carry on other business at a location where he
19 makes supervised loans unless he carries on other business for
20 the purpose of evasion or violation of this code.

Self-explanatory.

21 73-3-513. Application of other provisions. Except as
22 otherwise provided, all provisions of this code applying to
23 consumer loans apply to supervised loans.

Corresponds with 73-3-404. (Page 75.)

24 73-3-514. Limitation on attorney's fees. With respect to
25 a supervised loan the agreement may provide for the payment by
26 the debtor of reasonable attorney's fees not in excess of
27 fifteen percent of the unpaid debt after default and referral to
28 an attorney not a salaried employee of the lender. A provision
29 in violation of this section is unenforceable.

30 (Omitted section numbers reserved for expansion)

31 (LOANS OTHER THAN CONSUMER LOANS)

32 73-3-601. Loans subject to code by agreement of parties.
33 The parties to a loan other than a consumer loan may agree in a
34 writing signed by the parties that the loan is subject to the
35 provisions of this code applying to consumer loans. If the
36 parties so agree, the loan is a consumer loan for the purposes
37 of this code.

See 73-2-601. Page 50.

38 73-3-602. Definition: "consumer related loan"; rate of
39 loan finance charge. (1) A "consumer related loan" is a loan

This section and the following section provide for the concept of a consumer re-

TEXT

EXPLANATION

1 which is not subject to the provisions of this code applying to
2 consumer loans and in which the principal does not exceed
3 twenty-five thousand dollars, if

4 (a) The debtor is a person other than an organization, or

5 (b) The debt is secured primarily by a security interest
6 in a one or two family dwelling occupied by a person related to
7 the debtor.

8

9 (2) With respect to a consumer related loan, including one
10 made pursuant to a revolving loan account, the parties may
11 contract for the payment by the debtor of a loan finance charge
12 not in excess of eighteen percent per year.

13 73-3-603. Applicability of other provisions to consumer
14 related loans. Except for the rate of the loan finance charge
15 and the rights to prepay and to rebate upon prepayment, the pro-
16 visions of sections 73-3-201 to 73-3-210 apply to a consumer
17 related loan.

18 73-3-604. Limitation on default charges in consumer
19 related loans. (1) The agreement with respect to a consumer
20 related loan may provide for only the following charges as a
21 result of the debtor's default:

22 (a) Reasonable attorney's fees and reasonable expenses
23 incurred in realizing on a security interest;

24 (b) Deferral charges not in excess of eighteen percent per
25 year of the amount deferred for the period of deferral; and

26 (c) Other charges that could have been made had the loan
27 been a consumer loan.

28 (2) A provision in violation of this section is
29 unenforceable.

30 73-3-605. Loan finance charge for other loans. With
31 respect to a loan other than a consumer loan or a consumer
32 related loan, the parties may contract for the payment by the
33 debtor of any loan finance charge.

34

ARTICLE 4

35

INSURANCE

36

(INSURANCE IN GENERAL)

37

38 73-4-101. Short title. This article shall be known and
39 may be cited as "Uniform Consumer Credit Code - Insurance".

lated loan in which a smaller businessman,
not afforded the full protection of the
act, may avail himself of the protection
afforded to borrowers by the Code. Corres-
ponding section for sales transactions
is in 73-2-602. (Page 50.)

See comment above.

Section defines charges which can be made
for a consumer related loan.

Section removes rate restrictions, except
for consumer loans or consumer related
loans.

Self-explanatory.

TEXT

EXPLANATION

1 73-4-102. Scope; relation to credit insurance act;
2 applicability to parties. (1) Except as provided in subsection
3 (2) of this section, this article applies to insurance provided
4 or to be provided in relation to a consumer credit sale (section
5 73-2-104), a consumer lease (section 73-2-106), or a consumer
6 loan (section 73-3-104).

7 (2) The provision on cancellation by a creditor (section
8 73-4-304) applies to loans the primary purpose of which is the
9 financing of insurance. No other provision of this article
10 applies to insurance so financed.

11 (3) This article supplements and does not repeal the
12 "Model Credit Life Insurance and Credit Accident and Health
13 Insurance Act". The provisions of this code concerning
14 administrative controls, liabilities, and penalties do not apply
15 to persons acting as insurers, and the similar provisions of
16 said credit insurance act do not apply to creditors and debtors.

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35 73-4-103. Definitions: "consumer credit insurance";
36 "credit insurance act". In this code:

37 (1) "Consumer credit insurance" means insurance, other
38 than insurance on property, by which the satisfaction of debt in
39 whole or in part is a benefit provided, but does not include:

Section provides that insurance connected with consumer credit transactions shall be regulated by the Code, except for transactions where the loan is made to pay insurance premiums. The usual kinds of insurance which will be involved in consumer credit transactions are casualty, credit life, and credit health and accident.

Where the security interest involves property, either real or personal, both the borrower and the lender will want casualty insurance on the property. For this reason 73-2-202 and 73-3-202 permit the creditor to make an additional charge to the debtor for casualty insurance.

Credit life and credit health and accident insurance covering the unpaid balance can be a protection both to the creditor and to the debtor and his heirs. However, the necessity of this kind of insurance is not as clear as casualty insurance on the property which is security for the debt. As a result, the Code permits the creditor to require casualty insurance and to deduct the premiums as an expense of the loan. Premiums for credit life and health and accident insurance may only be charged against the debtor where the insurance is not required and the debtor has elected to take it.

Consumer credit insurance is defined as credit insurance providing life, accident or health coverage. Insurance unrelated to the credit transaction is not included. Because of the ten year limitation in (1)

TEXT

EXPLANATION

1 (a) Insurance provided in relation to a credit transaction
2 in which a payment is scheduled more than ten years after the
3 extension of credit;

4 (b) Insurance issued as an isolated transaction on the
5 part of the insurer not related to an agreement or plan for
6 insuring debtors of the creditor; or

7 (c) Insurance indemnifying the creditor against loss due
8 to the debtor's default.

9 (2) "Credit insurance act" means the "Model Credit Life
10 Insurance and Credit Accident and Health Insurance Act".

11 73-4-104. Creditor's provision of and charge for
12 insurance; excess amount of charge. (1) Except as otherwise
13 provided in this article, and subject to the provisions on
14 additional charges (sections 73-2-202 and 73-3-202) and maximum
15 charges (sections 73-2-201 to 73-2-210 and 73-3-201 to
16 73-3-210), a creditor may agree to provide insurance, and may
17 contract for and receive a charge for insurance separate from
18 and in addition to other charges. A creditor need not make a
19 separate charge for insurance provided or required by him. This
20 code does not authorize the issuance of any insurance prohibited
21 under any statute, or rule thereunder, governing the business of
22 insurance.

23 (2) The excess amount of a charge for insurance provided
24 for in agreements in violation of this article is an excess
25 charge for the purposes of the provisions of the article on
26 remedies and penalties (article 5) as to effect of violations on
27 rights of parties (section 73-5-202) and of the provisions of
28 the article on administration (article 6) as to civil actions by
29 the administrator (section 73-6-113).

30 73-4-105. Conditions applying to insurance to be provided
31 by creditor. If a creditor agrees with a debtor to provide
32 insurance:

33 (1) The insurance shall be evidenced by an individual
34 policy or certificate of insurance delivered to the debtor, or
35 sent to him at his address as stated by him, within thirty days
36 after the term of the insurance commences under the agreement
37 between the creditor and debtor; or

38 (2) The creditor shall promptly notify the debtor of any
39 failure or delay in providing the insurance.

(a), credit life on home loan mortgages is
excepted for all practical purposes.

Section permits creditors to provide insur-
ance subject to limitations in: 73-2-202
and 73-3-202 (Pages 19 and 56).

Creditor providing insurance to debtor
must have an individual policy issued and
delivered within 30 days.

TEXT

EXPLANATION

1 73-4-106. Unconscionability. (1) In applying the
2 provisions of this code on unconscionability (sections 73-5-108
3 and 73-6-111) to a separate charge for insurance, consideration
4 shall be given, among other factors, to:

5 (a) Potential benefits to the debtor including the
6 satisfaction of his obligations;

7 (b) The creditor's need for the protection provided by the
8 insurance; and

9 (c) The relation between the amount and terms of credit
10 granted and the insurance benefits provided.

11 (2) If consumer credit insurance otherwise complies with
12 this article and other applicable law, neither the amount nor
13 the term of the insurance nor the amount of a charge therefor is
14 in itself unconscionable.

15 73-4-107. Maximum charge by creditor for insurance. (1)
16 Except as provided in subsection (2) of this section, if a
17 creditor contracts for or receives a separate charge for
18 insurance, the amount charged to the debtor for the insurance
19 may not exceed the premium to be charged by the insurer, as
20 computed at the time the charge to the debtor is determined,
21 conforming to any rate filings required by law and made by the
22 insurer with the commissioner of insurance.

23 (2) A creditor who provides consumer credit insurance in
24 relation to a revolving charge account (section 73-2-108) or
25 revolving loan account (section 73-3-108) may calculate the
26 charge to the debtor in each billing cycle by applying the
27 current premium rate to:

28 (a) The average daily unpaid balance of the debt in the
29 cycle;

30 (b) The unpaid balance of the debt or a median amount
31 within a specified range of unpaid balances of debt on
32 approximately the same day of the cycle. The day of the cycle
33 need not be the day used in calculating the credit service
34 charge (section 73-2-207) or loan finance charge (section
35 73-3-201 and section 73-3-508), but the specified range shall be
36 the range used for that purpose; or

37 (c) The unpaid balances of principal calculated according
38 to the actuarial method.

39

Section sets general guidelines for the determination of what constitutes unconscionability to insurance under the Code. Guidelines will help in interpretation, but they will not relieve the courts of the responsibility of determining each case of alleged unconscionability on its own merits.

Because a few lenders have abused credit insurance by ordering coverage far in excess of the amount required to pay the loan, section requires that the amount of insurance shall relate closely to the amount of the debt.

TEXT

EXPLANATION

1 73-4-108. Refund or credit required; amount. (1) Upon
2 prepayment in full of a consumer credit sale or consumer loan by
3 the proceeds of consumer credit insurance, the debtor or his
4 estate is entitled to a refund of any portion of a separate
5 charge for insurance which by reason of prepayment is retained
6 by the creditor or returned to him by the insurer unless the
7 charge was computed from time to time on the basis of the
8 balances of the debtor's account.

9 (2) This article does not require a creditor to grant a
10 refund or credit to the debtor if all refunds and credits due to
11 the debtor under this article amount to less than one dollar,
12 and except as provided in subsection (1) of this section, does
13 not require the creditor to account to the debtor for any
14 portion of a separate charge for insurance because:

15 (a) The insurance is terminated by performance of the
16 insurer's obligation;

17 (b) The creditor pays or accounts for premiums to the
18 insurer in amounts and at times determined by the agreement
19 between them; or

20 (c) The creditor receives directly or indirectly under any
21 policy of insurance a gain or advantage not prohibited by law.

22 (3) Except as provided in subsection (2) of this section,
23 the creditor shall promptly make or cause to be made an
24 appropriate refund or credit to the debtor with respect to any
25 separate charge made to him for insurance if:

26 (a) The insurance is not provided or is provided for a
27 shorter term than that for which the charge to the debtor for
28 insurance was computed; or

29 (b) The insurance terminates prior to the end of the term
30 for which it was written because of prepayment in full or
31 otherwise.

32 (4) A refund or credit required by subsection (3) of this
33 section is appropriate as to amount if it is computed according
34 to a method prescribed or approved by the commissioner of
35 insurance or a formula filed by the insurer with the
36 commissioner of insurance at least thirty days before the
37 debtor's right to a refund or credit becomes determinable,
38 unless the method or formula is employed after the commissioner
39 of insurance notifies the insurer that he disapproves it.

If loan is prepaid, the debtor is entitled to have unused credit insurance premiums refunded. Section provides for the method of computing such refunds.

TEXT

EXPLANATION

1 73-4-109. Existing insurance; choice of insurer. If a
2 creditor requires insurance, upon notice to the creditor the
3 debtor shall have the option of providing the required insurance
4 through an existing policy of insurance owned or controlled by
5 the debtor, or through a policy to be obtained and paid for by
6 the debtor, but the creditor may for reasonable cause decline
7 the insurance provided by the debtor.

8 73-4-110. Charge for insurance in connection with a
9 deferral, refinancing, or consolidation; duplicate charges. (1)
10 A creditor may not contract for or receive a separate charge for
11 insurance in connection with a deferral (section 73-2-204 or
12 section 73-3-204), a refinancing (section 73-2-205 or section
13 73-3-205), or a consolidation (section 73-2-206 or section
14 73-3-206), unless:

15 (a) The debtor agrees at or before the time of the
16 deferral, refinancing, or consolidation that the charge may be
17 made;

18 (b) The debtor is or is to be provided with insurance for
19 an amount or a term, or insurance of a kind, in addition to that
20 to which he would have been entitled had there been no deferral,
21 refinancing, or consolidation;

22 (c) The debtor receives a refund or credit on account of
23 any unexpired term of existing insurance in the amount that
24 would be required if the insurance were terminated (section
25 73-4-108); and

26 (d) The charge does not exceed the amount permitted by
27 this article (section 73-4-107).

28 (2) A creditor may not contract for or receive a separate
29 charge for insurance which duplicates insurance with respect to
30 which the creditor has previously contracted for or received a
31 separate charge.

32 73-4-111. Cooperation between administrator and
33 commissioner of insurance. The administrator and the
34 commissioner of insurance are authorized and directed to consult
35 and assist one another in maintaining compliance with this
36 article. They may jointly pursue investigations, prosecute
37 suits, and take other official action, as may seem to them
38 appropriate, if either of them is otherwise empowered to take
39 the action. If the administrator is informed of a violation or

If a creditor requires insurance, the debtor may use an existing policy of insurance or may get the insurance from an agent of his choice.

If there is a deferral, a refinancing, or a consolidation, lender cannot require new credit insurance without the borrower's consent. No new charge can be made for credit insurance to which the borrower is already entitled as the result of the original loan.

The Code administrator and the insurance commissioner are directed to cooperate in every way to prevent and punish violations of this Article.

TEXT

EXPLANATION

1 suspected violation by an insurer of this article, or of the
2 insurance laws, rules, and regulations of this state, he shall
3 advise the commissioner of insurance of the circumstances.

4 73-4-112. Administrative action of commissioner of
5 insurance. (1) To the extent that his responsibility under
6 this article requires, the commissioner of insurance shall issue
7 rules with respect to insurers, and with respect to refunds
8 (section 73-4-108), forms, schedules of premium rates and
9 charges (section 73-4-203), and his approval or disapproval
10 thereof and, in case of violation, may make an order for
11 compliance.

12 (2) Sections 3-16-1 to 3-16-5, C.R.S. 1963, as amended,
13 apply to and govern all administrative action taken by the
14 commissioner of insurance pursuant to this section.

15 (Omitted section numbers reserved for expansion)

16 (CONSUMER CREDIT INSURANCE)

17 73-4-201. Term of insurance. (1) Consumer credit
18 insurance provided by a creditor may be subject to the
19 furnishing of evidence of insurability satisfactory to the
20 insurer. Whether or not such evidence is required, the term of
21 the insurance shall commence no later than when the debtor
22 becomes obligated to the creditor or when the debtor applies for
23 the insurance, whichever is later, except as follows:

24 (a) If any required evidence of insurability is not
25 furnished until more than thirty days after the term would
26 otherwise commence, the term may commence on the date when the
27 insurer determines the evidence to be satisfactory; or

28 (b) If the creditor provides insurance not previously
29 provided covering debts previously created, the term may
30 commence on the effective date of the policy.

31 (2) The originally scheduled term of the insurance shall
32 extend at least until the due date of the last scheduled payment
33 of the debt except as follows:

34 (a) If the insurance relates to a revolving charge account
35 or revolving loan account, the term need extend only until the
36 payment of the debt under the account and may be sooner
37 terminated after at least thirty days' notice to the debtor; or

38 (b) If the debtor is advised in writing that the insurance
39 will be written for a specified shorter time, the term need

Authority of insurance commissioner
conforms with present Colorado law.

Generally speaking, this section requires
the term of credit life insurance to con-
form to the term of the indebtedness.

TEXT

EXPLANATION

1 extend only until the end of the specified time.

2 (3) The term of the insurance shall not extend more than
3 thirty days after the originally scheduled due date of the last
4 scheduled payment of the debt except when extended without
5 additional cost to the debtor, unless the debtor has agreed in
6 writing, or as an incident to a deferral, refinancing, or
7 consolidation.

8 73-4-202. Amount of insurance. (1) Except as provided in
9 subsection (2) of this section,

10 (a) In the case of consumer credit insurance providing
11 life coverage, the amount of insurance may not initially exceed
12 the debt and, if the debt is payable in instalments, may not at
13 any time exceed the greater of the scheduled or actual amount of
14 the debt; or

15 (b) In the case of any other consumer credit insurance,
16 the total amount of periodic benefits payable may not exceed the
17 total of scheduled unpaid instalments of the debt, and the
18 amount of any periodic benefit may not exceed the original
19 amount of debt divided by the number of periodic instalments in
20 which it is payable.

21 (2) If consumer credit insurance is provided in connection
22 with a revolving charge account or revolving loan account, the
23 amounts payable as insurance benefits may be reasonably
24 commensurate with the amount of debt as it exists from time to
25 time. If consumer credit insurance is provided in connection
26 with a commitment to grant credit in the future, the amounts
27 payable as insurance benefits may be reasonably commensurate
28 with the total from time to time of the amount of debt and the
29 amount of the commitment. If the debt or the commitment is
30 primarily for an agricultural purpose, and there is no regular
31 schedule of payments, the amounts payable as insurance benefits
32 may equal the total of the initial amount of debt and the amount
33 of the commitment.

34 73-4-203. Filing and approval of rates and forms. (1) A
35 creditor may not use a form, or a schedule or premium rates or
36 charges, the filing of which is required by this section, if the
37 commissioner of insurance has disapproved the form or schedule
38 and has notified the insurer of his disapproval. A creditor may
39 not use a form or schedule unless:

Except for loan plans which permit fluctu-
ations in outstanding balances, the amount
of consumer credit insurance is to corres-
pond generally with the unpaid balance of
the loan.

Section gives the insurance commissioner
broad powers to set rates for credit in-
surance. Section conforms with rate-set-
ting legislation passed in the 1969 ses-
sion.

TEXT

EXPLANATION

1 (a) The form or schedule has been on file with the
2 commissioner of insurance for thirty days, or has earlier been
3 approved by him; and

4 (b) The insurer has complied with this section with
5 respect to the insurance.

6 (2) Except as provided in subsection (3) of this section,
7 all policies, certificates of insurance, notices of proposed
8 insurance, applications for insurance, endorsements and riders
9 relating to consumer credit insurance delivered or issued for
10 delivery in this state, and the schedules of premium rates or
11 charges pertaining thereto, shall be filed by the insurer with
12 the commissioner of insurance. Within thirty days after the
13 filing of any form or schedule, he shall disapprove it if the
14 premium rates or charges are unreasonable in relation to the
15 benefits provided under the form, or if the form contains
16 provisions which are unjust, unfair, inequitable, or deceptive,
17 or encourage misrepresentation of the coverage or are contrary
18 to any provision of chapter 72, C.R.S. 1963, as amended, or of
19 any rule or regulation promulgated thereunder. A premium rate
20 or schedule of premium rates shall be deemed reasonable for all
21 purposes under this code if the rate or schedule produces or
22 reasonably may be expected to produce a ratio of earned premium
23 (minus not to exceed forty percent for commission or
24 compensation, whether or not actually paid) divided into claims
25 incurred of sixty-six and two-thirds percent.

26 (3) If a group policy has been delivered in another state,
27 the forms to be filed by the insurer with the commissioner of
28 insurance are the group certificates and notices of proposed
29 insurance. He shall approve them if:

30 (a) They provide the information that would be required if
31 the group policy were delivered in this state; and

32 (b) The applicable premium rates or charges do not exceed
33 those established by his rules or regulations.

34 (Omitted section numbers reserved for expansion)

35 (PROPERTY AND LIABILITY INSURANCE)

36 73-4-301. Property insurance. (1) A creditor may not
37 contract for or receive a separate charge for insurance against
38 loss of or damage to property unless:

39 (a) The insurance covers a substantial risk of loss of or

A creditor is permitted to receive a separate charge for casualty insurance only if the property covered is related to the credit transaction, the coverage is reson-

TEXT

EXPLANATION

1 damage to property related to the credit transaction;
2 (b) The amount, terms, and conditions of the insurance are
3 reasonable in relation to the character and value of the
4 property insured or to be insured; and

5 (c) The term of the insurance is reasonable in relation to
6 the terms of credit.

7 (2) The term of the insurance is reasonable if it is
8 customary and does not extend substantially beyond a scheduled
9 maturity.

10 (3) A creditor may not contract for or receive a separate
11 charge for insurance against loss of or damage to property
12 unless the amount financed or principal exclusive of charges for
13 the insurance is three hundred dollars or more, and the value of
14 the property is three hundred dollars or more.

15 73-4-302. Insurance on creditor's interest only. If a
16 creditor contracts for or receives a separate charge for
17 insurance against loss of or damage to property, the risk of
18 loss or damage not willfully caused by the debtor is on the
19 debtor only to the extent of any deficiency in the effective
20 coverage of the insurance, even though the insurance covers only
21 the interest of the creditor.

22 73-4-303. Liability insurance. A creditor may not
23 contract for or receive a separate charge for insurance against
24 liability unless the insurance covers a substantial risk of
25 liability arising out of the ownership or use of property
26 related to the credit transaction.

27 73-4-304. Cancellation by creditor. A creditor shall not
28 request cancellation of a policy of property or liability
29 insurance except after the debtor's default or in accordance
30 with a written authorization by the debtor, and in either case
31 the cancellation does not take effect until written notice is
32 delivered to the debtor or mailed to him at his address as
33 stated by him. The notice shall state that the policy may be
34 cancelled on a date not less than ten days after the notice is
35 delivered, or, if the notice is mailed, not less than thirteen
36 days after it is mailed.

ably related to the condition and value of
the property, and if the term of the casu-
alty insurance policy is roughly comparable
to the term of the indebtedness. For loans
or property valued under \$300.00, no sepa-
rate charge can be made.

A debtor who pays a separate charge for
casualty insurance is permitted to assume
he has insurance even if the creditor is
the only named insured.

Liability insurance can be charged only if
the insurance is on property related to
the credit transaction

If a creditor wishes to cancel casualty
insurance, he may do so only after the
debtor is in default and upon adequate
notice to the debtor.

TEXT

EXPLANATION

1 ARTICLE 5
2 REMEDIES AND PENALTIES
3 (LIMITATIONS ON CREDITORS' REMEDIES)
4 73-5-101. Short title. This article shall be known and
5 may be cited as "Uniform Consumer Credit Code - Remedies and
6 Penalties".
7 73-5-102. Scope. Sections 73-5-101 to 73-5-108 apply to
8 actions or other proceedings to enforce rights arising from
9 consumer credit sales, consumer leases, and consumer loans; and,
10 in addition, to extortionate extensions of credit (section
11 73-5-107).
12 73-5-103. Restrictions on deficiency judgments in consumer
13 credit sales. (1) This section applies to a consumer credit
14 sale of goods or services.
15 (2) If the seller repossesses (with or without the aid of
16 judicial process) or voluntarily accepts surrender of goods
17 which were the subject of the sale and in which he has a
18 security interest and the cash price of the goods repossessed or
19 surrendered was five hundred dollars or less, the parties
20 obligated are not personally liable to the seller for the unpaid
21 balance of the debt arising from the sale of the goods, and the
22 seller is not obligated to resell the collateral.
23 (3) If the seller repossesses (with or without the aid of
24 judicial process) or voluntarily accepts surrender of goods
25 which were not the subject of the sale but in which he has a
26 security interest to secure a debt arising from a sale of goods
27 or services or a combined sale of goods and services and the
28 cash price of the sale was five hundred dollars or less, the
29 parties obligated are not personally liable to the seller for
30 the unpaid balance of the debt arising from the sale.
31 (4) For the purpose of determining the unpaid balance of
32 consolidated debts or debts pursuant to revolving charge
33 accounts, the allocation of payments to a debt shall be
34 determined in the same manner as provided for determining the
35 amount of debt secured by various security interests (sections
36 73-2-408 and 73-2-409).
37 (5) The buyer may be liable in damages to the seller if
38 the buyer has wrongfully damaged the collateral or if, after
39 default and demand in writing, the buyer has wrongfully failed

Self-explanatory.

Self-explanatory.

A creditor who repossesses goods which had a cash price of \$500.00 or less is not entitled to a deficiency judgment. He may, however, sue on the debt and obtain a personal judgment, in which event he can levy upon any non-exempt property of the debtor except the goods which secured the debt. Section also requires a buyer to be liable if he wrongfully damages or withholds collateral.

The committee considered the question of deficiency judgments at some length. While the Code draft contains a \$1,000.00 limit on deficiency judgments, fears were expressed that some items, such as used cars worth less than \$1,000.00, would simply not be available in Colorado if deficiency judgments could not be obtained. Thus the committee decided to keep this provision but with a cutoff point of \$500.00.

TEXT

EXPLANATION

1 to make the collateral available to the seller. Nothing in this
2 section shall limit or restrict the remedies of the holders of a
3 security interest for damage to the collateral because of
4 conversion, destruction, or other wrongful acts.

5 (6) If the seller elects to bring an action against the
6 buyer for a debt arising from a consumer credit sale of goods or
7 services, when under this section he would not be entitled to a
8 deficiency judgment if he repossessed the collateral, and
9 obtains judgment:

10 (a) He may not repossess the collateral, and

11 (b) The collateral is not subject to levy or sale on
12 execution or similar proceedings pursuant to the judgment.

13 73-5-104. No garnishment before judgment. Prior to entry
14 of judgment in an action against the debtor for debt arising
15 from a consumer credit sale, a consumer lease, or a consumer
16 loan, the creditor may not attach unpaid earnings of the debtor
17 by garnishment or like proceedings.

18 73-5-105. Limitation on garnishment. (1) For the
19 purposes of sections 73-5-101 to 73-5-108:

20 (a) "Disposable earnings" means that part of the earnings
21 of an individual remaining after the deduction from those
22 earnings of amounts required by law to be withheld; and

23 (b) "Garnishment" means any legal or equitable procedure
24 through which the earnings of an individual are required to be
25 withheld for payment of a debt.

26 (2) The maximum part of the aggregate disposable earnings
27 of an individual for any work week which is subjected to
28 garnishment to enforce payment of a judgment arising from a
29 consumer credit sale, consumer lease, or consumer loan may not
30 exceed the lesser of:

31 (a) Twenty-five percent of his disposable earnings for
32 that week, or

33 (b) The amount by which his disposable earnings for that
34 week exceed forty times the federal minimum hourly wage
35 prescribed by section 6 (a) (1) of the "Fair Labor Standards Act
36 of 1938", Title 29, U.S.C. section 206 (a) (1), in effect at the
37 time the earnings are payable.

38 (c) In the case of earnings for a pay period other than a
39 week, the administrator shall prescribe by rule a multiple of

Wage garnishments prior to judgment are abolished. This would not change Colorado law, since the U.S. Supreme Court has indicated such garnishments are unconstitutional.

Wage garnishments are limited to 25% of the wage earner's take-home pay or the amount by which his take-home pay exceeds 40 times the minimum hourly wage.

TEXT

EXPLANATION

1 the federal minimum hourly wage equivalent in effect to that set
2 forth in paragraph (b) of this subsection.

3 (3) No court may make, execute, or enforce an order or
4 process in violation of this section.

5 73-5-106. No discharge from employment for garnishment.

6 No employer shall discharge an employee for the reason that a
7 creditor of the employee has subjected or attempted to subject
8 unpaid earnings of the employee to garnishment or like
9 proceedings directed to the employer for the purpose of paying a
10 judgment arising from a consumer credit sale, consumer lease, or
11 consumer loan.

12 73-5-107. Extortionate extensions of credit. (1) If it
13 is the understanding of the creditor and the debtor at the time
14 an extension of credit is made that delay in making repayment or
15 failure to make repayment could result in the use of violence or
16 other criminal means to cause harm to the person, reputation, or
17 property of any person, the repayment of the extension of credit
18 is unenforceable through civil judicial processes against the
19 debtor.

20 (2) If it is shown that an extension of credit was made at
21 an annual percentage rate exceeding forty-five percent
22 calculated according to the actuarial method and that the
23 creditor then had a reputation for the use or threat of use of
24 violence or other criminal means to cause harm to the person,
25 reputation, or property of any person to collect extensions of
26 credit or to punish the nonrepayment thereof, there is prima
27 facie evidence that the extension of credit was unenforceable
28 under subsection (1) of this section.

29 73-5-108. Unconscionability. (1) With respect to a
30 consumer credit sale, consumer lease, or consumer loan, if the
31 court as a matter of law finds the agreement or any clause of
32 the agreement to have been unconscionable at the time it was
33 made the court may refuse to enforce the agreement, or it may
34 enforce the remainder of the agreement without the
35 unconscionable clause, or it may so limit the application of any
36 unconscionable clause as to avoid any unconscionable result.

37 (2) If it is claimed or appears to the court that the
38 agreement or any clause thereof may be unconscionable the
39 parties shall be afforded a reasonable opportunity to present

An employee cannot be discharged solely because his wages have been subjected to garnishment.

Section designed to inhibit the activities of loan sharks.

See previous comments regarding unconscionability. (See 73-1-107, 73-4-106, and 73-6-111. Pages 3, 87, and 109.)

TEXT

EXPLANATION

1 evidence as to its setting, purpose, and effect to aid the court
2 in making the determination.

3 (3) For the purpose of this section, a charge or practice
4 expressly permitted by this code is not in itself
5 unconscionable.

6 (Omitted section numbers reserved for expansion)

7 (DEBTORS' REMEDIES)

8 73-5-201. Interests in land. For purposes of the
9 provisions on civil liability for violation of disclosure
10 provisions (section 73-5-203) and on debtor's right to rescind
11 certain transactions (section 73-5-204):

12 (1) Consumer credit sale includes a sale of an interest in
13 land without regard to the rate of the credit service charge if
14 the sale is otherwise a consumer credit sale (section 73-2-104);
15 and

16 (2) Consumer loan includes a loan primarily secured by an
17 interest in land without regard to the rate of the loan finance
18 charge if the loan is otherwise a consumer loan (section
19 73-3-104).

20 73-5-202. Effect of violations on rights of parties. (1)
21 If a creditor has violated the provisions of this code applying
22 to negotiable instruments (section 73-2-403), or limitations on
23 the schedule of payments or loan term for supervised loans
24 (section 73-3-511), the debtor is not obligated to pay the
25 credit service charge or loan finance charge, and has a right to
26 recover from the person violating this code or from an assignee
27 of that person's rights who undertakes direct collection or
28 payments or enforcement of rights arising from the debt a
29 penalty in an amount determined by the court not in excess of
30 three times the amount of the credit service charge or loan
31 finance charge. No action pursuant to this subsection may be
32 brought more than one year after the due date of the last
33 scheduled payment of the agreement with respect to which the
34 violation occurred.

35 (2) If a creditor has violated the provisions of this code
36 applying to authority to make supervised loans (section
37 73-3-502), the loan is void and the debtor is not obligated to
38 pay either the principal or loan finance charge. If he has paid
39 any part of the principal or of the loan finance charge, he has

Self-explanatory, except to point out that
this language is broad enough to include
the residential first mortgage.

Section details the rights of the creditor
and debtor where the creditor has violated
the terms of the Code.

TEXT

EXPLANATION

1 a right to recover the payment from the person violating this
2 code or from an assignee of that person's rights who undertakes
3 direct collection of payments or enforcement of rights arising
4 from the debt. With respect to violations arising from loans
5 made pursuant to revolving loan accounts, no action pursuant to
6 this subsection may be brought more than two years after the
7 violation occurred. With respect to violations arising from
8 other loans, no action pursuant to this subsection may be
9 brought more than one year after the due date of the last
10 scheduled payment of the agreement pursuant to which the charge
11 was paid.

12 (3) A debtor is not obligated to pay a charge in excess of
13 that allowed by this code, and if he has paid an excess charge
14 he has a right to a refund. A refund may be made by reducing
15 the debtor's obligation by the amount of the excess charge. If
16 the debtor has paid an amount in excess of the lawful obligation
17 under the agreement, the debtor may recover the excess amount
18 from the person who made the excess charge or from an assignee
19 of that person's rights who undertakes direct collection of
20 payments from or enforcement of rights against debtors arising
21 from the debt.

22 (4) If a debtor is entitled to a refund and a person
23 liable to the debtor refuses to make a refund within a
24 reasonable time after demand, the debtor may recover from that
25 person a penalty in an amount determined by a court not
26 exceeding the greater of either the amount of the credit service
27 or loan finance charge or ten times the amount of the excess
28 charge. If the creditor has made an excess charge in deliberate
29 violation of or in reckless disregard for this code, the penalty
30 may be recovered even though the creditor has refunded the
31 excess charge. No penalty pursuant to this subsection may be
32 recovered if a court has ordered a similar penalty assessed
33 against the same person in a civil action by the administrator
34 (section 73-6-113). With respect to excess charges arising from
35 sales made pursuant to revolving charge accounts or from loans
36 made pursuant to revolving loan accounts, no action pursuant to
37 this subsection may be brought more than two years after the
38 time the excess charge was made. With respect to excess charges
39 arising from other consumer credit sales or consumer loans, no

TEXT

EXPLANATION

1 action pursuant to this subsection may be brought more than one
2 year after the due date of the last scheduled payment of the
3 agreement pursuant to which the charge was made.

4 (5) Except as otherwise provided, no violation of this
5 code impairs rights on a debt.

6 (6) If an employer discharges an employee in violation of
7 the provisions prohibiting discharge (section 73-5-106), the
8 employee may within ninety days bring a civil action for
9 recovery of wages lost as a result of the violation and for an
10 order requiring the reinstatement of the employee. Damages
11 recoverable shall not exceed lost wages for six weeks.

12 (7) If the creditor establishes by a preponderance of
13 evidence that a violation is unintentional or the result of a
14 bona fide error, no liability is imposed under subsections (1),
15 (2), and (4) of this section, and the validity of the
16 transaction is not affected.

17 (8) In any case in which it is found that a creditor has
18 violated this code, the court may award reasonable attorney's
19 fees incurred by the debtor.

20 73-5-203. Civil liability for violation of disclosure
21 provisions. (1) Except as otherwise provided in this section,
22 a creditor who, in violation of the provisions on disclosure
23 (sections 73-2-301 to 73-2-312 and 73-3-301 to 73-3-311), other
24 than the provisions on advertising (sections 73-2-313 and
25 73-3-312), of the article on credit sales (article 2) and the
26 article on loans (article 3), fails to disclose information to a
27 person entitled to the information under this code is liable to
28 that person in an amount equal to the sum of:

29 (a) Twice the amount of the credit service or loan finance
30 charge in connection with the transaction, but the liability
31 pursuant to this paragraph shall be not less than one hundred
32 dollars nor more than one thousand dollars; and

33 (b) In the case of a successful action to enforce the
34 liability under paragraph (a) of this subsection, the costs of
35 the action together with reasonable attorney's fees as
36 determined by the court.

37 (2) A creditor has no liability under this section if
38 within fifteen days after discovering an error, and prior to the
39 institution of an action under this section or the receipt of

Corresponds with the federal truth in lending act as it places the Code in compliance with that act. Creditor's liability to a debtor for violation of disclosure requirements is defined.

TEXT

EXPLANATION

1 written notice of the error, the creditor notifies the person
2 concerned of the error and makes whatever adjustments in the
3 appropriate account are necessary to assure that the person will
4 not be required to pay a credit service charge or loan finance
5 charge in excess of the amount or percentage rate actually
6 disclosed.

7 (3) A creditor may not be held liable in any action
8 brought under this section for a violation of this code if the
9 creditor shows by a preponderance of evidence that the violation
10 was not intentional and resulted from a bona fide error
11 notwithstanding the maintenance of procedures reasonably adapted
12 to avoid the error.

13 (4) Any action which may be brought under this section
14 against the original creditor in any credit transaction
15 involving a security interest in land may be maintained against
16 any subsequent assignee of the original creditor where the
17 assignee, its subsidiaries, or affiliates were in a continuing
18 business relationship with the original creditor either at the
19 time the credit was extended or at the time of the assignment,
20 unless the assignment was involuntary, or the assignee shows by
21 a preponderance of evidence that it did not have reasonable
22 grounds to believe that the original creditor was engaged in
23 violations of this code and that it maintained procedures
24 reasonably adapted to apprise it of the existence of the
25 violations.

26 (5) No action pursuant to this section may be brought more
27 than one year after the date of the occurrence of the violation.

28 (6) In this section, creditor includes a person who in the
29 ordinary course of business regularly extends or arranges for
30 the extension of credit, or offers to arrange for the extension
31 of credit.

32 73-5-204. Debtor's right to rescind certain transactions.

33 (1) Except as otherwise provided in this section, in the case
34 of a consumer credit sale or consumer loan with respect to which
35 a security interest is retained or acquired in an interest in
36 land which is used or expected to be used as the residence of
37 the person to whom credit is extended, the debtor shall have the
38 right to rescind the transaction until midnight of the third
39 business day following the consummation of the transaction or

Code drafters felt that placing a mortgage on the family home was a particularly serious transaction. Thus the Code gives the debtor the right to rescind a mortgage covering his home, provided he does so within three days, and provided the loan is not a first lien given to finance acquisition of the home. Certain emergency sit-

TEXT

EXPLANATION

1 the delivery of the disclosures required under this section
2 and all other material disclosures required by this code,
3 whichever is later, by notifying the creditor, in accordance
4 with rules of the administrator, of his intention to do so. The
5 creditor shall clearly and conspicuously disclose, in accordance
6 with rules of the administrator, to the debtor in a transaction
7 subject to this section the rights of the debtor under this
8 section. The creditor shall also provide, in accordance with
9 rules of the administrator, an adequate opportunity to the
10 obligor to exercise his right to rescind any transaction subject
11 to this section.

12 (2) When a debtor exercises his right to rescind under
13 subsection (1) of this section, he is not liable for any credit
14 service charge, loan finance charge, or other charge, and any
15 security interest given by the debtor becomes void upon the
16 rescission. Within ten days after receipt of a notice of
17 rescission, the creditor shall return to the debtor the money or
18 property given as earnest money, down payment, or otherwise, and
19 shall take any action necessary or appropriate to reflect the
20 termination of any security interest created under the
21 transaction. If the creditor has delivered property to the
22 debtor, the debtor may retain possession of it. Upon the
23 performance of the creditor's obligations under this section,
24 the debtor shall tender the property to the creditor, except
25 that if return of the property in kind would be impracticable or
26 inequitable, the debtor shall tender its reasonable value.
27 Tender shall be made at the location of the property or at the
28 residence of the debtor, at the option of the debtor. If the
29 creditor does not take possession of the property within ten
30 days after tender by the debtor, ownership of the property vests
31 in the debtor without obligation on his part to pay for it.

32 (3) Notwithstanding any rule of evidence, written
33 acknowledgment of receipt of any disclosure required under this
34 code by a person to whom a statement is required to be given
35 pursuant to this section does no more than create a rebuttable
36 presumption of delivery thereof.

37 (4) The administrator, if he finds that the action is
38 necessary in order to permit homeowners to meet bona fide
39 personal financial emergencies, may prescribe rules authorizing

uations are also exempted.

TEXT

EXPLANATION

1 the modification or waiver of any rights created under this
2 section to the extent and under the circumstances set forth in
3 those rules.

4 (5) This section does not apply to the creation or
5 retention of a first lien against a dwelling to finance the
6 acquisition of that dwelling.

7 73-5-205. Refunds and penalties as set-off to obligation.
8 Refunds or penalties to which the debtor is entitled pursuant to
9 sections 73-5-201 to 73-5-205 may be set off against the
10 debtor's obligation, and may be raised as a defense to a suit on
11 the obligation without regard to the time limitations prescribed
12 by said sections.

13 (Omitted section numbers reserved for expansion)

14 (CRIMINAL PENALTIES)

15 73-5-301. Willful violations. (1) A supervised lender
16 who willfully makes charges in excess of those permitted by the
17 provisions of the article on loans (article 3) applying to
18 supervised loans (sections 73-3-501 to 73-3-514) is guilty of a
19 misdemeanor and upon conviction shall be punished by a fine not
20 to exceed five thousand dollars or by imprisonment in the county
21 jail not to exceed one year, or by both such fine and
22 imprisonment.

23 (2) A person, other than a supervised financial
24 organization, who willfully engages in the business of making
25 supervised loans without a license in violation of the
26 provisions of this code applying to authority to make supervised
27 loans (section 73-3-502) is guilty of a misdemeanor and upon
28 conviction shall be punished by a fine not to exceed five
29 thousand dollars or by imprisonment in the county jail not to
30 exceed one year, or by both such fine and imprisonment.

31 (3) A person who willfully engages in the business of
32 making consumer credit sales, consumer leases, or consumer
33 loans, or of taking assignments of rights against debtors
34 arising therefrom and undertakes direct collection of payments
35 or enforcement of these rights, without complying with the
36 provisions of this code concerning notification (section
37 73-6-202) or payment of fees (section 73-6-203), is guilty of a
38 misdemeanor and upon conviction shall be punished by a fine not
39 to exceed one thousand dollars.

If a debtor is entitled to any refund or penalty under this article, it may be applied against amounts owed to the creditor.

Such refunds or penalties may also be raised as a defense to a suit brought by the creditor against the debtor.

Willful violations of the Code are criminal in nature.

TEXT

EXPLANATION

1 73-5-302. Disclosure violations. A person is guilty of a
2 misdemeanor and upon conviction shall be punished by a fine not
3 to exceed five thousand dollars, or by imprisonment in the
4 county jail not to exceed one year, or by both such fine and
5 imprisonment, if he willfully and knowingly:

6 (1) Gives false or inaccurate information or fails to
7 provide information which he is required to disclose under the
8 provisions of this code on disclosure and advertising (sections
9 73-2-301 to 73-2-313 or 73-3-301 to 73-3-312) of the article on
10 credit sales (article 2) or of the article on loans (article 3),
11 or of any related rule of the administrator adopted pursuant to
12 this code; or

13 (2) Uses any rate table or chart, the use of which is
14 authorized by rule of the administrator adopted pursuant to the
15 provisions on calculation of rate to be disclosed (section
16 73-2-304 or section 73-3-304), in a manner which consistently
17 understates the annual percentage rate determined according to
18 those provisions; or

19 (3) Otherwise fails to comply with any requirement of the
20 provisions of this code on disclosure and advertising (sections
21 73-2-301 to 73-2-313 or 73-3-301 to 73-3-312) of the article on
22 credit sales (article 2) or of the article on loans (article 3),
23 or of any related rule of the administrator adopted pursuant to
24 this code.

25 ARTICLE 6
26 ADMINISTRATION

27 (POWERS AND FUNCTIONS OF ADMINISTRATOR)

28 73-6-101. Short title. This article shall be known and
29 may be cited as "Uniform Consumer Credit Code - Administration".

30 73-6-102. Applicability. Sections 73-6-101 to 73-6-116
31 apply to persons who in this state:

32 (1) Make or solicit consumer credit sales, consumer
33 leases, consumer loans, consumer related sales (section
34 73-2-602) and consumer related loans (section 73-3-602); or

35 (2) Directly collect payments from or enforce rights
36 against debtors arising from sales, leases, or loans specified
37 in subsection (1) of this section, wherever they are made.
38
39

Criminal penalties are also provided for willful violations of disclosure provisions. This section is a substantial rewrite of a parallel section in the federal truth in lending act.

Self-explanatory.

All persons who make or solicit consumer credit sales, leases, or loans, or consumer related sales or loans, or are assignees of paper resulting from such loans, are subject to the powers of the administrator as set forth in this article.

TEXT

EXPLANATION

1 73-6-103. Administrator. "Administrator" means the
2 attorney general.
3
4
5

This section provides for the appointment of the administrator. The committee recommends the Attorney General for reasons discussed previously in this report.

6 73-6-104. Powers of administrator; harmony with federal
7 regulations; reliance on rules; duty to report. (1) In
8 addition to other powers granted by this code, the
9 administrator, within the limitations provided by law, may:

Comprehensive listing of the powers of the administrator.

10 (a) Receive and act on complaints; counsel persons on
11 their rights and duties under this code, take action designed to
12 obtain voluntary compliance with this code, or commence
13 proceedings on his own initiative;

14 (b) Make studies appropriate to effectuate the purposes
15 and policies of this code and make the results available to the
16 public;

17 (c) Adopt, amend, and repeal substantive rules and
18 regulations when specifically authorized by this code, and
19 adopt, amend, and repeal procedural rules to carry out the
20 provisions of this code;

21 (d) Maintain offices within this state; and

22 (2) The administrator shall adopt rules not inconsistent
23 with the "Federal Consumer Credit Protection Act" to assure a
24 meaningful disclosure of credit terms so that a prospective
25 debtor will be able to compare more readily the various credit
26 terms available to him and to avoid the uninformed use of
27 credit. These rules supersede any provisions of this act which
28 are inconsistent with the "Federal Consumer Credit Protection
29 Act", may contain classifications, differentiations or other
30 provisions, and may provide for adjustments and exceptions for
31 any class of transactions subject to this act which in the
32 judgment of the administrator are necessary or proper to
33 effectuate the purposes or to prevent circumvention or evasion
34 of, or to facilitate compliance with, the provisions of this act
35 relating to disclosure of credit terms.

36 (3) To keep the administrator's rules in harmony with the
37 "Federal Consumer Credit Protection Act" and the regulations
38 prescribed from time to time pursuant to that act by the board
39 of governors of the federal reserve system and with the rules of

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EXPLANATION

1 administrators in other jurisdictions which enact the "Uniform
2 Consumer Credit Code", the administrator, so far as is
3 consistent with the purposes, policies, and provisions of this
4 code, shall:

5 (a) Before adopting, amending, and repealing rules and
6 regulations, advise and consult with administrators in other
7 jurisdictions which enact the "Uniform Consumer Credit Code";
8 and

9 (b) In adopting, amending, and repealing rules and
10 regulations, take into consideration:

11 (i) The regulations so prescribed by the board of
12 governors of the federal reserve system; and

13 (ii) The rules of administrators in other jurisdictions
14 which enact the "Uniform Consumer Credit Code".

15 (4) Except for refund of an excess charge, no liability is
16 imposed under this code for an act done or omitted in conformity
17 with a rule or regulation of the administrator notwithstanding
18 that after the act or omission the rule or regulation may be
19 amended or repealed or be determined by judicial or other
20 authority to be invalid for any reason.

21 (5) The administrator shall report annually on or before
22 January 1 to the governor and the general assembly on the
23 operation of his office, on his recommendations on adjustment of
24 dollar amounts (section 73-1-106), on the use of consumer credit
25 in the state, and on the problems of persons of small means
26 obtaining credit from persons regularly engaged in extending
27 sales or loan credit. For the purpose of making the report, the
28 administrator is authorized to conduct research and make
29 appropriate studies. The report shall include a description of
30 the examination and investigation procedures and policies of his
31 office, a statement of policies followed in deciding whether to
32 investigate or examine the offices of credit suppliers subject
33 to this code, a statement of the number and percentages of
34 offices which are periodically investigated or examined, a
35 statement of the types of consumer credit problems of both
36 creditors and debtors which have come to his attention through
37 his examinations and investigations and the disposition of them
38 under existing law, a statement of the extent to which the rules
39 of the administrator pursuant to this code are not in harmony

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1 with the regulations prescribed by the board of governors of the
2 federal reserve system pursuant to the "Federal Consumer Credit
3 Protection Act" or the rules of administrators in other
4 jurisdictions which enact the "Uniform Consumer Credit Code"
5 (including any adjustment of dollar amounts) and the reasons for
6 such variations, and a general statement of the activities of
7 his office and of others to promote the purposes of this code.
8 The report shall not identify the creditors against whom action
9 is taken by the administrator.

10 73-6-105. Administrative powers with respect to supervised
11 financial organizations. (1) With respect to supervised
12 financial organizations, the powers of examination and
13 investigation (sections 73-3-506 and 73-6-106) and
14 administrative enforcement (section 73-6-108) shall be exercised
15 by the official or agency to whose supervision the organization
16 is subject. All other powers of the administrator under this
17 code may be exercised by him with respect to a supervised
18 financial organization.

19 (2) If the administrator receives a complaint or other
20 information concerning noncompliance with this code by a
21 supervised financial organization, he shall inform the official
22 or agency having supervisory authority over the organization
23 concerned. The administrator may request information about
24 supervised financial organizations from the officials or
25 agencies supervising them.

26 (3) The administrator and any official or agency of this
27 state having supervisory authority over a supervised financial
28 organization are authorized and directed to consult and assist
29 one another in maintaining compliance with this code. They may
30 jointly pursue investigations, prosecute suits, and take other
31 official action, as they deem appropriate, if either of them
32 otherwise is empowered to take the action.

33 73-6-106. Investigatory powers. (1) If the administrator
34 has probable cause to believe that a person has engaged in an
35 act which is subject to action by the administrator, he may make
36 an investigation to determine if the act has been committed,
37 and, to the extent necessary for this purpose, may administer
38 oaths or affirmations, and, upon his own motion or upon request
39 of any party, may subpoena witnesses, compel their attendance,

Section designed to prevent overlapping
and unnecessary examinations of banks which
are already subject to examination and control
by the state banking department or
federal authorities.

Administrative investigatory powers are
conferred in this section.

TEXT

EXPLANATION

1 adduce evidence, and require the production of any matter which
2 is relevant to the investigation, including the existence,
3 description, nature, custody, condition, and location of any
4 books, documents, or other tangible things and the identity and
5 location of persons having knowledge of relevant facts, or any
6 other matter reasonably calculated to lead to the discovery of
7 admissible evidence.

8 (2) If the person's records are located outside this
9 state, the person at his option shall either make them available
10 to the administrator at a convenient location within this state,
11 or pay the reasonable and necessary expenses for the
12 administrator or his representative to examine them at the place
13 where they are maintained. The administrator may designate
14 representatives, including comparable officials of the state in
15 which the records are located, to inspect them on his behalf.

16 (3) Upon failure without lawful excuse to obey a subpoena
17 or to give testimony and upon reasonable notice to all persons
18 affected thereby, the administrator may apply to the district
19 court in the city and county of Denver for an order compelling
20 compliance.

21 (4) The administrator shall not make public the name or
22 identity of a person whose acts or conduct he investigates
23 pursuant to this section or the facts disclosed in the
24 investigation, but this subsection does not apply to disclosures
25 in actions or enforcement proceedings pursuant to this code.

26 73-6-107. Application of administrative procedures
27 provisions. Except as otherwise provided, the provisions of
28 sections 3-16-1 to 3-16-5, C.R.S. 1963, as amended, apply to and
29 govern all administrative action taken by the administrator
30 pursuant to this article or the provisions on supervised loans
31 (sections 73-3-501 to 73-3-514) of the article on loans (article
32 3).

33 73-6-108. Administrative enforcement orders. (1) After
34 notice and hearing the administrator may order a creditor or a
35 person acting in his behalf to cease and desist from engaging in
36 violations of this code. A respondent aggrieved by an order of
37 the administrator may obtain judicial review of the order and
38 the administrator may obtain an order of the court for
39 enforcement of its order in the district court under section

Reference is to the Administrative
Procedures Act.

Administrator is empowered to issue seize
and desist acts and, where appropriate, to
appeal to the courts.

TEXT

EXPLANATION

1 3-16-5, C.R.S. 1963, as amended. The proceeding for review or
2 enforcement is initiated by filing a petition in the court.
3 Copies of the petition shall be served upon all parties of
4 record.

5 (2) Within thirty days after service of the petition for
6 review upon the administrator, or within any further time the
7 court may allow, the administrator shall transmit to the court
8 the original or a certified copy of the entire record upon which
9 the order is based, including any transcript of testimony, which
10 need not be printed. By stipulation of all parties to the
11 review proceeding, the record may be shortened. After hearing,
12 the court may (a) reverse or modify the order if the findings of
13 fact of the administrator are clearly erroneous in view of the
14 reliable, probative, and substantial evidence on the whole
15 record, (b) grant any temporary relief or restraining order it
16 deems just, and (c) enter an order enforcing, modifying, and
17 enforcing as modified, or setting aside in whole or in part the
18 order of the administrator, or remanding the case to the
19 administrator for further proceedings.

20 (3) An objection not urged at the hearing shall not be
21 considered by the court unless the failure to urge the objection
22 is excused for good cause shown. A party may move the court to
23 remand the case to the administrator in the interest of justice
24 for the purpose of adducing additional specified and material
25 evidence and seeking findings thereon upon good cause shown for
26 the failure to adduce this evidence before the administrator.

27 (4) The jurisdiction of the court shall be exclusive and
28 its final judgment or decree shall be subject to review by the
29 supreme court in the same manner and form and with the same
30 effect as in appeals from a final judgment or decree in any
31 other civil action. The administrator's copy of the testimony
32 shall be available at reasonable times to all parties for
33 examination without cost.

34 (5) A proceeding for review under this section must be
35 initiated within thirty days after a copy of the order of the
36 administrator is received. If no proceeding is so initiated,
37 the administrator may obtain a decree of the district court for
38 enforcement of its order upon a showing that the order was
39 issued in compliance with this section, that no proceeding for

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EXPLANATION

1 review was initiated within thirty days after copy of the order
2 was received, and that the respondent is subject to the
3 jurisdiction of the court.

4 (6) With respect to unconscionable agreements or
5 fraudulent or unconscionable conduct by the respondent, the
6 administrator may not issue an order pursuant to this section
7 but may bring a civil action for an injunction (section
8 73-6-111).

9 73-6-109. Assurance of discontinuance. If it is claimed
10 that a person has engaged in conduct subject to an order by the
11 administrator (section 73-6-108) or by a court (sections
12 73-6-110 through 73-6-112), the administrator may accept an
13 assurance in writing that the person will not engage in the
14 conduct in the future. If a person giving an assurance of
15 discontinuance fails to comply with its terms, the assurance is
16 evidence that prior to the assurance he engaged in the conduct
17 described in the assurance.

18 73-6-110. Injunctions against violations of code. The
19 administrator may bring a civil action to restrain a person from
20 violating this code and for other appropriate relief.

21 73-6-111. Injunctions against unconscionable agreements
22 and fraudulent or unconscionable conduct. (1) The
23 administrator may bring a civil action to restrain a creditor or
24 a person acting in his behalf from engaging in a course of:

25 (a) Making or enforcing unconscionable terms or provisions
26 of consumer credit sales, consumer leases, or consumer loans;

27 (b) Fraudulent or unconscionable conduct in inducing
28 debtors to enter into consumer credit sales, consumer leases, or
29 consumer loans; or

30 (c) Fraudulent or unconscionable conduct in the collection
31 of debts arising from consumer credit sales, consumer leases, or
32 consumer loans.

33 (2) In an action brought pursuant to this section, the
34 court may grant relief only if it finds:

35 (a) That the respondent has made unconscionable agreements
36 or has engaged or is likely to engage in a course of fraudulent
37 or unconscionable conduct;

38 (b) That the agreements or conduct of the respondent has
39 caused or is likely to cause injury to consumers; and

This section is designed to provide a speedy and inexpensive means of stopping violations by agreement between the administrator and a creditor who is suspected of being in violation of the Code.

Self-explanatory.

See previous comments on unconscionability sections. (73-1-107, 73-4-106, and 73-5-108. Pages 3, 87, and 96.)

TEXT

EXPLANATION

1 (c) That the respondent has been able to cause or will be
2 able to cause the injury primarily because the transactions
3 involved are credit transactions.

4 (3) In applying this section, consideration shall be given
5 to each of the following factors, among others:

6 (a) Belief by the creditor at the time consumer credit
7 sales, consumer leases, or consumer loans are made that there
8 was no reasonable probability of payment in full of the
9 obligation by the debtor;

10 (b) In the case of consumer credit sales or consumer
11 leases, knowledge by the seller or lessor at the time of the
12 sale or lease of the inability of the buyer or lessee to receive
13 substantial benefits from the property or services sold or
14 leased;

15 (c) In the case of consumer credit sales or consumer
16 leases, gross disparity between the price of the property or
17 services sold or leased and the value of the property or
18 services measured by the price at which similar property or
19 services are readily obtainable in credit transactions by like
20 buyers or lessees;

21 (d) The fact that the creditor contracted for or received
22 separate charges for insurance with respect to consumer credit
23 sales or consumer loans with the effect of making the sales or
24 loans, considered as a whole, unconscionable; and

25 (e) The fact that the respondent has knowingly taken
26 advantage of the inability of the debtor reasonably to protect
27 his interests by reason of physical or mental infirmities,
28 ignorance, illiteracy, or inability to understand the language
29 of the agreement, or similar factors.

30 (4) In an action brought pursuant to this section, a
31 charge or practice expressly permitted by this code is not in
32 itself unconscionable.

33 73-6-112. Temporary relief. With respect to an action
34 brought to enjoin violations of this code (section 73-6-110) or
35 unconscionable agreements or fraudulent or unconscionable
36 conduct (section 73-6-111), the administrator may apply to the
37 court for a temporary restraining order or, upon notice, a
38 preliminary injunction against a respondent, pending final
39 determination of proceedings. If the court finds after a

In situations involving an emergency or where disproportionate injury could be caused by delay, this section provides for an immediate temporary injunction.

TEXT

EXPLANATION

1 hearing held upon notice to the respondent that there is
2 reasonable cause to believe that the respondent is engaging in
3 or is likely to engage in conduct sought to be restrained, it
4 may grant any such temporary restraining order or preliminary
5 injunction it deems appropriate.
6 73-6-113. Civil actions by administrator. (1) After
7 demand, the administrator may bring a civil action against a
8 creditor for making or collecting charges in excess of those
9 permitted by this code. An action may relate to transactions
10 with more than one debtor. If it is found that an excess charge
11 has been made, the court shall order the respondent to refund to
12 the debtor or debtors the amount of the excess charge. If a
13 creditor has made an excess charge in deliberate violation of or
14 in reckless disregard for this code, or if a creditor has
15 refused to refund an excess charge within a reasonable time
16 after demand by the debtor or the administrator, the court may
17 also order the respondent to pay to the debtor or debtors a
18 civil penalty in an amount determined by the court not in excess
19 of the greater of either the amount of the credit service or
20 loan finance charge or ten times the amount of the excess
21 charge. Refunds and penalties to which the debtor is entitled
22 pursuant to this subsection may be set off against the debtor's
23 obligation. If a debtor brings an action against a creditor to
24 recover an excess charge or civil penalty, an action by the
25 administrator to recover for the same excess charge or civil
26 penalty shall be stayed while the debtor's action is pending and
27 shall be dismissed if the debtor's action is dismissed with
28 prejudice or results in a final judgment granting or denying the
29 debtor's claim. With respect to excess charges arising from
30 sales made pursuant to revolving charge accounts or from loans
31 made pursuant to revolving loan accounts, no action pursuant to
32 this subsection may be brought more than two years after the
33 time the excess charge was made. With respect to excess charges
34 arising from other consumer credit sales or consumer loans, no
35 action pursuant to this subsection may be brought more than one
36 year after the due date of the last scheduled payment of the
37 agreement pursuant to which the charge was made. If the
38 creditor establishes by a preponderance of evidence that a
39 violation is unintentional or the result of a bona fide error,

Many times fraudulent practices involve a great deal of money in the aggregate, but the amount by which each individual involved was defrauded is small. One of the remedies permitted by this section is a suit in which the administrator would be permitted to bring a class action in behalf of all persons defrauded.

TEXT

EXPLANATION

1 no liability to pay a penalty shall be imposed under this
2 subsection.

3 (2) The administrator may bring a civil action against a
4 creditor or a person acting in his behalf to recover a civil
5 penalty for willfully violating this code, and if the court
6 finds that the defendant has engaged in a course of repeated and
7 willful violations of this code, it may assess a civil penalty
8 of no more than five thousand dollars. No civil penalty
9 pursuant to this subsection may be imposed for violations of
10 this code occurring more than two years before the action is
11 brought or for making unconscionable agreements or engaging in a
12 course of fraudulent or unconscionable conduct.

13 73-6-114. Jury trial. In an action brought by the
14 administrator under this code, he has no right to trial by jury,
15 but this will not prevent a defendant from requesting a jury
16 trial under the Colorado rules of civil procedure.

17 73-6-115. Debtors' remedies not affected. The grant of
18 powers to the administrator in this article does not affect
19 remedies available to debtors under this code or under other
20 principles of law or equity.

21 (Omitted section numbers reserved for expansion)

22 (NOTIFICATION AND FEES)

23 73-6-201. Applicability. Sections 73-6-201 to 73-6-203
24 apply to a person engaged in this state in making consumer
25 credit sales, consumer leases, or consumer loans and to a person
26 having an office or place of business in this state who takes
27 assignments of and undertakes direct collection of payments from
28 or enforcement of rights against debtors arising from these
29 sales, leases, or loans.

30 73-6-202. Notification. (1) Persons subject to sections
31 73-6-201 to 73-6-203 shall file notification with the
32 administrator within thirty days after commencing business in
33 this state, and, thereafter, on or before January 31 of each
34 year. Persons subject to sections 73-6-201 to 73-6-203 on the
35 effective date of this code, shall file notification with the
36 administrator on or before January 31 following the effective
37 date of this code and, thereafter, on or before January 31 of
38 each year. The notification shall state:

39 (a) Name of the person;

Self-explanatory.

Self-explanatory.

Self-explanatory. Note that the categories of lenders who have to pay fees under the Code is considerably broader than at present.

Self-explanatory. Also see previous section.

TEXT

EXPLANATION

1 (b) Name in which business is transacted if different from
2 paragraph (a) of this subsection;

3 (c) Address of principal office, which may be outside this
4 state;

5 (d) Address of all offices or retail stores, if any, in
6 this state at which consumer credit sales, consumer leases, or
7 consumer loans are made, or in the case of a person taking
8 assignments of obligations, the offices or places of business
9 within this state at which business is transacted;

10 (e) If consumer credit sales, consumer leases, or consumer
11 loans are made otherwise than at an office or retail store in
12 this state, a brief description of the manner in which they are
13 made;

14 (f) Address of designated agent upon whom service of
15 process may be made in this state (section 73-1-203); and

16 (g) Whether supervised loans are made.

17 (2) If information in a notification becomes inaccurate
18 after filing, no further notification is required until the
19 following January 31.

20 73-6-203. Fees. (1) A person required to file
21 notification shall on or before January 31 of each year pay to
22 the administrator an annual fee of ten dollars for that year.

23 (2) Persons required to file notification who are sellers,
24 lessors, or lenders shall pay an additional fee at the time and
25 in the manner stated in subsection (1) of this section in the
26 amount of ten dollars for each one hundred thousand dollars, or
27 part thereof, in excess of one hundred thousand dollars, of the
28 original unpaid balances arising from consumer credit sales,
29 consumer leases, and consumer loans made in this state within
30 the preceding calendar year and held either by the seller,
31 lessor, or lender for more than thirty days after the inception
32 of the sale, lease, or loan giving rise to the obligations, or
33 by an assignee who has not filed notification. A refinancing of
34 a sale, lease, or loan resulting in an increase in the amount of
35 an obligation is considered a new sale, lease, or loan to the
36 extent of the amount of the increase.

37 (3) Persons required to file notification who are
38 assignees shall pay an additional fee at the time and in the
39 manner stated in subsection (1) of this section in the amount of

Fees specified are designed to make the administrator's office self-supporting and to spread the cost of enforcing the Code among all creditors.

TEXT

EXPLANATION

1 ten dollars for each one hundred thousand dollars, or part
2 thereof, of the unpaid balances at the time of the assignment of
3 obligations arising from consumer credit sales, consumer leases,
4 and consumer loans made in this state taken by assignment during
5 the preceding calendar year, but an assignee need not pay a fee
6 with respect to an obligation on which the assignor or other
7 person has already paid a fee.

8 (Omitted section numbers reserved for expansion)

9 (COUNCIL OF ADVISORS ON CONSUMER CREDIT)

10 73-6-301. Council of advisors on consumer credit. (1)

11 There is hereby created the council of advisors on consumer
12 credit consisting of nine members, who shall be appointed by the
13 governor. One of the advisors shall be designated by the
14 governor as chairman. In appointing members of the council, the
15 governor shall seek to achieve a fair representation from the
16 various segments of the consumer credit industry and the public.

17 (2) The term of office of each member of the council is
18 three years. Of those members first appointed, three shall be
19 appointed for a term of one year, three for a term of two years,
20 and three for a term of three years. A member chosen to fill a
21 vacancy arising otherwise than by expiration of term shall be
22 appointed for the unexpired term of the member whom he is to
23 succeed. A member of the council is eligible for reappointment.

24 (3) Members of the council shall serve without
25 compensation but are entitled to reimbursement of actual and
26 necessary expenses incurred in the performance of their duties.

27 73-6-302. Function of council; conflict of interest. The
28 council shall advise and consult with the administrator
29 concerning the exercise of his powers under this code and may
30 make recommendations to him. Members of the council may assist
31 the administrator in obtaining compliance with this code. Since
32 it is an objective of sections 73-6-301 to 73-6-303 to obtain
33 competent representatives of creditors and the public to serve
34 on the council and to assist and cooperate with the
35 administrator in achieving the objectives of this code, service
36 on the council shall not in itself constitute a conflict of
37 interest regardless of the occupations or associations of the
38 members.

Self-explanatory.

Self-explanatory.

TEXT

EXPLANATION

1 73-6-303. Meetings. The council and the administrator
2 shall meet together at a time and place designated by the
3 chairman at least twice each year. The council may hold
4 additional meetings when called by the chairman, or
5 administrator, or a quorum of the council.

Self-explanatory.

6 (Omitted article numbers reserved for expansion)

7 ARTICLE 9

8 EFFECTIVE DATE AND REPEALER

Self-explanatory.

9 73-9-101. Time of taking effect; provisions for
10 transition. (1) Except as otherwise provided in this section,
11 this code takes effect at 12:01 a.m. on July 1, 1971.

12 (2) To the extent appropriate to permit the administrator
13 to prepare for operation of this code when it takes effect and
14 to act on applications for licenses to make supervised loans
15 under this code (subsection (1) of section 73-3-503), the
16 provisions on supervised loans (sections 73-3-501 to 73-3-514)
17 of the article on loans (article 3) and of the article on
18 administration (article 6) take effect on the passage of this
19 code.

20 (3) Transactions entered into before this code takes
21 effect and the rights, duties, and interests flowing from them
22 thereafter may be terminated, completed, consummated, or
23 enforced as required or permitted by any statute, rule of law,
24 or other law amended, repealed, or modified by this code as
25 though the repeal, amendment, or modification had not occurred,
26 but this code applies to:

27 (a) Refinancings, consolidations, and deferrals made after
28 this code takes effect concerning sales, leases, and loans
29 whenever made;

30 (b) Sales or loans made after this code takes effect
31 pursuant to revolving charge accounts (section 73-2-108) and
32 revolving loan accounts (section 73-3-108) entered into,
33 arranged, or contracted for before this code takes effect; and

34 (c) All credit transactions made before this code takes
35 effect insofar as the article on remedies and penalties (article
36 5) limits the remedies of creditors.

37 (4) With respect to revolving charge accounts (section
38 73-2-108) and revolving loan accounts (section 73-3-108) entered
39 into, arranged, or contracted for before this code takes effect,

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EXPLANATION

1 disclosure pursuant to the provisions on disclosure (section
2 73-2-310 and section 73-3-309), shall be made not later than
3 thirty days after this code takes effect.

4 73-9-102. Continuation of licensing. Notwithstanding the
5 repeal and reenactment of articles 2 and 3 of chapter 73, C.R.S.
6 1963, by this code, all persons licensed or otherwise authorized
7 under the provisions of articles 2 or 3 of this chapter 73
8 immediately prior to the effective date of this code are
9 licensed to make supervised loans under this code pursuant to
10 the provisions on supervised loans (sections 73-3-501 to
11 73-3-514) of the article on loans (article 3), and all
12 provisions of said sections apply to the persons so previously
13 licensed or authorized. The administrator may, but is not
14 required to, deliver evidence of licensing to the persons so
15 previously licensed or authorized.

16 73-9-103. Repeals. The following articles and sections
17 are repealed as of the effective date of this code:

18 (1) Article 16 of chapter 13, Colorado Revised Statutes
19 1963, as amended.

20 (2) Article 2 of chapter 121, Colorado Revised Statutes
21 1963.

22 (3) 14-17-7 (2) to (7), Colorado Revised Statutes 1963.

23 (Omitted article numbers reserved for expansion)
24
25
26
27
28

29 ARTICLE 12

30 INTEREST - GENERAL PROVISIONS

31 73-12-1. Legal rate of interest. The legal rate of
32 interest on the forbearance or loan of any money when there is
33 no agreement between the parties, as specified in section
34 73-12-3, shall be at the rate of six percent per annum.

35 73-12-2. Creditors allowed six percent. Creditors shall
36 be allowed to receive interest, when there is no agreement as to
37 the rate thereof, at the rate of six percent per annum, for all
38 moneys after they become due, on any bill, bond, promissory note
39 or other instrument of writing, or on any judgment recovered

Self-explanatory.

This section provides for the repeal of the personal property installment sales act (C.R.S. Ch. 121, Art. 2); the motor vehicle installment sales act (C.R.S. Ch. 13, Art. 16); and interest provisions in the industrial bank act (Section 14-17-7 (2) to (7), C.R.S. 1963, as amended). In addition the act would repeal and reenact all of C.R.S. Chapter 73 which contains the following articles: Art. 1 -- interest; Art. 2 -- loans over \$1,500; Art. 3 -- loans \$1,500 or less; and Art. 4 -- insurance as security for loans.

Article 12 is verbatim of present Article 1 of Chapter 73 concerning interest. Article 1 is simply renumbered as Article 12 of Chapter 73 so the Colorado numbering system of the UCCC will be consistent with the UCCC in other states.

TEXT

EXPLANATION

1 before any court or magistrate authorized to enter the same
2 within this state, from the day of entering said judgment until
3 satisfaction thereof be made; also on money due on mutual
4 settlement of accounts from the date of such settlement, on
5 money due on account from the date when the same became due, and
6 on money received to the use of another and retained without the
7 owners' consent, expressed or implied, from the receipt thereof;
8 and on money taken or retained and fraudulently converted to the
9 taker's use from the time of taking.

10 73-12-3. Greater rate may be stipulated. The parties to
11 any bond, bill, promissory note, or other instrument of writing,
12 may stipulate therein for the payment of a greater or higher
13 rate of interest than six percent per annum, and any such
14 stipulation may be enforced in any court of competent
15 jurisdiction in the state, except as otherwise provided in
16 articles 1 through 6 of this chapter.

17 73-12-4. Warrants to bear six percent. County orders and
18 warrants, town and city and school orders and warrants, and
19 other like evidences or certificates of municipal indebtedness,
20 shall bear interest at the rate of six percent per annum from
21 the date of the presentation thereof for payment at the treasury
22 where the same may be payable, until there is money in the
23 treasury for the payment thereof, except when otherwise
24 specially provided by law. Every county treasurer, town
25 treasurer and city treasurer to whom any such county, town,
26 city, or school order or warrant is presented for payment, and
27 who shall not have on hand the funds to pay the same, shall
28 endorse thereon the rate of interest said order or warrant will
29 draw, and the date of such presentation, and subscribe such
30 endorsement with his official signature; however, all such
31 orders and warrants may be made to bear a lower rate of interest
32 than above specified, by special agreement between such
33 counties, towns, and cities issuing the same, and the person to
34 whom such orders or warrants are issued.

35 73-12-5. Interest upon foreclosure. In all cases where
36 real estate shall hereafter be sold under execution or by virtue
37 of the foreclosure of any mortgage, deed of trust or other lien,
38 the indebtedness and costs for which any certificate of purchase
39 may issue, shall bear interest only at the rate of six percent

TEXT

EXPLANATION

1 per annum.
2 SECTION 2. 77-1-9 and 77-2-4, Colorado Revised Statutes
3 1963, as amended, are amended to read:
4 77-1-9. Concerning garnishment and attachment prior to
5 judgment. (1) No order of attachment prior to judgment on any
6 garnishee shall be made out or issued in any court of record in
7 this state for any sum less than twenty dollars.
8 (2) Wages, fees, or commissions shall not be subject to a
9 writ of garnishment made out or issued in any court of record in
10 this state until a complaint has been filed. After a defendant
11 in any case has been subject to the jurisdiction of a court of
12 record in this state, no wages, fees, or commissions shall be
13 subject to any writ of garnishment theretofore or thereafter
14 made out or issued in such case except in aid of execution of
15 judgment.
16 (3) The provisions of this section shall not apply to
17 methods of enforcing collections provided in ~~section 138-1-93;~~
18 ~~as enacted by chapter 95 session laws of Colorado 1964; or to~~
19 article 9 of chapter 82, Colorado Revised Statutes 1963.
20 (4) THE PROVISIONS OF THIS SECTION 77-1-9 SHALL BE SUBJECT
21 TO ARTICLE 5 OF THE "UNIFORM CONSUMER CREDIT CODE".
22 77-2-4. Exemptions for earnings, insurance, and pensions.
23 There shall be exempt from levy under execution or attachment or
24 garnishment seventy percent of the earnings, avails of health,
25 accident or disability insurance, and the avails of any pension
26 or retirement benefits excepting as is otherwise provided in
27 section 77-2-2 (1) (i), due the head of the family at the time
28 of service of garnishee summons on the garnishee; and, in the
29 case of a single person, thirty-five percent of said earnings
30 and avails so due; and the exemptions established by this
31 section shall be set off and allowed whether or not the employer
32 of the debtor is subject to garnishee process. THIS SECTION
33 77-2-4 SHALL BE SUBJECT TO ARTICLE 5 OF THE "UNIFORM CONSUMER
34 CREDIT CODE".
35 SECTION 3. 80-15-1 and 80-15-7, Colorado Revised Statutes
36 1963, are amended to read:
37 80-15-1. Assignment of wages - requirements. THIS ARTICLE
38 IS SUBJECT TO THE PROVISIONS OF ARTICLES 2 AND 3 OF THE
39 "UNIFORM CONSUMER CREDIT CODE". No assignment of wages by any

The amendments which follow clarify that the UCCC provisions apply to existing Colorado limitations on:

- (1) garnishment and attachment prior to judgment (77-1-9)
- (2) the exemptions provided for earnings insurance, and pensions from garnishment under 77-2-4;
- (3) the assignment of wages under 80-15-1; and
- (4) the assignment of wages to a credit union (80-15-7).

TEXT

EXPLANATION

1 employee to any person for the benefit of such employee shall be
2 valid or enforceable. No employer or debtor shall recognize or
3 honor any assignment of wages for any purpose whatsoever, unless
4 it be in writing and for a fixed and definite part of the wages,
5 earned or to be earned within thirty days from the date of such
6 assignment. Any assignment which shall be postdated or dated on
7 any other date than that of its actual execution, shall be void
8 and of no effect for any purpose whatsoever.

9 80-15-7. Assignments to credit union - other authorized
10 deductions. Nothing contained in this article shall be
11 construed to affect assignments of wages to a credit union duly
12 organized under the laws of the state of Colorado or of the
13 United States of America, ~~or to a licensee as defined in section~~
14 ~~73-2-1~~; nor to deductions authorized by an employee to be made
15 by an employer for hospital, medical, stock purchases, savings,
16 insurance, or other similar purposes.

17 SECTION 4. 155-9-203 (2), Colorado Revised Statutes 1963,
18 is amended to read:

19 155-9-203. Enforceability of secured interest - proceeds -
20 formal requisites. (2) A transaction, although subject to this
21 article, is also subject to other statutes regulating loans and
22 retail instalment sales, such as ~~article--16--of--chapter--13;~~
23 ~~articles-2,-3,-and-4-of-chapter-73;~~ THE "UNIFORM CONSUMER CREDIT
24 CODE", AND article 15 of chapter 80, ~~and-article-2-of-chapter~~
25 ~~121;~~ C.R.S. 1963, AS AMENDED; and in the case of conflict
26 between the provisions of this article and any such statute, the
27 provisions of such statute control. Failure to comply with any
28 applicable statute has only the effect which is specified
29 therein.

30 SECTION 5. Effective date. This act shall take effect
31 July 1, 1971.

32 SECTION 6. Safety clause. The general assembly hereby
33 finds, determines, and declares that this act is necessary for
34 the immediate preservation of the public peace, health, and
35 safety.

Amendment corresponds with the repealer
section to provide proper reference in
this section.

Self-explanatory.

Self-explanatory.

APPENDIX

The information presented below, prepared by the State Banking Division, indicates the interest rates and other charges permissible under the Uniform Consumer Credit Code and under the following state laws in Colorado:

Colorado Industrial Bank Act (Ch. 14, Art. 17)*
Colorado Consumer Finance Act (Loans \$1,500 or less)
(Ch. 73, Art. 3)
1913 Money Lenders Act (Loans over \$1,500)(Ch. 73, Art. 2)
Personal Property Installment Sales Act (Ch. 121, Art. 2)
Retail Motor Vehicle Installment Sales Act (Ch. 13, Art.
16)

Uniform Consumer Credit Code

Ceiling: \$25,000.00 or less, except loans secured by an interest in real estate.

Maximum Term: None on loans made pursuant to a revolving loan account.
25 months on loans of \$200.00 or less.
37 months on loans of \$300.00 to \$1,000.00.
No limit on loans in excess of \$1,000.00.

Rates: 36% per year on unpaid balances of \$300.00 or less.
21% per year on unpaid balances of more than \$300.00 but not exceeding \$1,000.00.
15% per year on unpaid balances of more than \$1,000.00, OR
18% per year on unpaid balances of the principal.

Revolving Charge Accounts:

2% per month on amount due which is \$500.00 or less.
1½% per month on amount due over \$500.00.

Lender may collect a minimum charge of \$5.00 in a transaction which has a principal of \$75.00 or less, or \$7.50 in a transaction of \$75.00 or more, if the amount of earned charges as computed are less than these amounts. No rebate need be made of amounts under \$1.00.

* References are to Colorado Revised Statutes, 1963, as amended.

Default Charges: 5% of unpaid amount of installment, or \$5.00, whichever is greater, if payment is not made within ten days after its scheduled due date.

Other Fees: Official fees, taxes, insurance, and other charges authorized by the administrator.

Colorado Industrial Bank Act

Ceiling: 10% of capital and surplus.

Maximum Term: None.

Rates: 10% per year discount or add-on on loans having a maturity not exceeding 31 months.
On loans exceeding 31 months, add-on rate must be used for the period exceeding 31 months.
Rate may be established on a percent-per-month basis, computed on principal balances actually outstanding.

Default Charges: 1½% per month on amount of payment in arrears.
Minimum charge of \$1.00 may be collected for any default.
No rebate need be made of an amount under \$1.00.

Other Fees: Fees of \$1.00 for each \$25.00, or fraction thereof, of the amount of the loan, not to exceed \$10.00, for expenses of making the loan.
Insurance - property, life, and disability. Commissions not deemed additional interest.
Attorneys fees, actual fee paid to public officials, abstract costs, mortgage title insurance policies, taxes, insurance premiums actually paid.

Colorado Consumer Finance Act

Ceiling: \$1,500.00.

Maximum Term: None.

Rates: 3% per month on that part not exceeding \$300.00;
1½% per month on that part in excess of \$300.00 and not exceeding \$500.00; and
1% per month on that part in excess of \$500.00 up to and including \$1,500.00.

Precomputation is permitted, or loans may be made on a percent-per-month basis.

Default Charges: 2% per month, computed on a daily basis, of the amount in arrears.

Other Fees: Lawful fees actually paid out by licensee for abstracts, filing fees, releasing or recording liens. Reasonable attorney fees in event of suit, and costs of foreclosures.

Insurance may be written, and licensee may receive commission on premiums paid.

1913 Money Lenders Act
(Loans in Excess of \$1,500.00)

Ceiling: None.

Maximum Term: None.

Rate: 2% per month on actual amount of loan. This charge shall cover all expenses except upon foreclosure on the security.

Default Charges: None.

Act is silent on sale of insurance.

Personal Property Installment Sales Act

Ceiling: None.

Maximum Term: None.

Rates: \$15.00 per hundred per year on that part of the balance not exceeding \$300.00;
\$12.00 per hundred per year on that part of the balance in excess of \$300.00 but not exceeding \$1,000.00;
\$10.00 per hundred per year on that part of the balance in excess of \$1,000.00.
Minimum charge of \$10.00 for each transaction.

Default Charges: 5% of each installment in default for a period of not less than 10 days, or \$5.00, whichever is less.
Minimum delinquency charge of 25¢.
No rebate need be made of an amount under \$1.00.

Acquisition Fee: \$5.00 per \$100.00, or fraction thereof, of the amount of the base time-price, not to exceed \$15.00.

Other Fees: Official fees not exceeding the actual amount expended by the seller.
Attorney fees not exceeding 15% of the amount due and payable when a contract is referred to an attorney for collection; court costs and actual and reasonable out-of-pocket collection expenses incurred in connection with delinquency, repossession, or foreclosure. Insurance may be included in contracts.

Retail Motor Vehicle Installment Sales Act

Ceiling: None.

Maximum Term: None.

Rates: Vehicles are divided into four classes according to the age of the vehicle. Maximum rates are established for each of the four classes, as follows:

Class 1 - \$ 8.00 per \$100.00 per year
Class 2 - \$12.00 per \$100.00 per year
Class 3 - \$15.00 per \$100.00 per year
Class 4 - \$17.00 per \$100.00 per year

Minimum charge of \$25.00 per transaction.

Default Charge: 5% of amount of installment in default after 10 days.
No refunds under \$1.00.

Acquisition Fee: \$15.00 deducted prior to computing rebate.

Other Fees: Lawful fees paid to a public official for releasing, filing, noting security interests on Certificate of Title, obtaining a new title, cost of any insurance.