

STATE OF WYOMING GENERAL SESSION 2013

Chapter 124

UNIFORM CONSUMER CREDIT CODE AMENDMENTS

Original Senate File No. 22

AN ACT relating to trade and commerce; amending provisions of the Wyoming Uniform Consumer Credit Code as specified; creating definitions; amending definitions; increasing the jurisdictional amount of a transaction under the Uniform Consumer Credit Code as specified; providing authority to the banking commissioner to enforce violations of United States department of defense regulations pertaining to consumer loans to military personnel as specified; repealing provisions relating to regulations adopted by the board of governors of the federal reserve system; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 40-14-365 is created to read:

Part 9. Violations

40-14-365. Violations.

The administrator is authorized to enforce an appropriate remedy, penalty, action or license revocation or suspension, as provided in articles 5 and 6 of this chapter, against a person licensed under the act for a violation of any portion of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-634, H.R. 5122), or any regulation promulgated thereunder.

Section 2. W.S. 40-14-120(a)(i), (iii) and by creating a new paragraph (iv), 40-14-140(a) by creating new paragraphs (xxi) and (xxii) and by renumbering (xxi) as (xxiii), 40-14-142(a) by creating new paragraphs (lxxvii) and (lxxviii) and by amending and renumbering (lxxvii) as (lxxix), 40-14-204(a)(v), 40-14-206(a)(ii), 40-14-209(a)(i) and (b)(v), 40-14-212(b)(i)(intro) and (ii), 40-14-213(a)(iii), 40-14-222(f), 40-14-257(a)(intro), 40-14-304(a)(iv), 40-14-309(a)(i), 40-14-311(a)(iv) and (b)(ii), 40-14-320(e), 40-14-348(b)(i)(intro) and (ii), 40-14-355(a)(intro) and 40-14-604(b), (c)(intro), (ii)(A) and (e) are amended to read.

40-14-120. Territorial application.

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(a) Except as otherwise provided in this section, this act applies to consumer credit transactions made in this state. For purposes of this act, a consumer credit transaction is made in this state if:

(i) A signed writing evidencing the obligation or offer of the consumer is received by the creditor or person acting on behalf of the creditor in this state;

(iii) The credit transaction is secured by a dwelling, as defined in W.S. 40-14-640(a), located in Wyoming; or

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

40-14-140. General definitions.

(a) In addition to definitions appearing in subsequent articles, in this act:

(xxi) "Incident to the extension of credit" means a charge assessed at any time during the duration of a credit transaction that is not assessed to a consumer in a comparable cash transaction whether imposed by the original creditor or an assignee or servicer of the credit transaction;

(xxii) "Regulation Z" means regulation Z as promulgated by the board of governors of the federal reserve system and codified in 12 C.F.R. part 1026 et seq., as amended;

~~(xxi)~~(xxiii) "This act" means W.S. 40-14-101 through 40-14-702.

40-14-142. Index of definitions.

(a) Definitions in this act and the sections in which they appear are:

(lxxvii) "Incident to the extension of credit" – W.S. 40-14-140(a)(xxi);

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(lxxviii) “Regulation Z” – W.S. 40-14-140(a)(xxii);

(lxxvii)(lxxix) “This act” - means W.S. 40-14-101 through 40-14-702 40-14-140(a)(xxiii).

40-14-204. Definition of “consumer credit sale”.

(a) Except as provided in subsection (b) of this section, “consumer credit sale” is a sale of goods, services or an interest in land in which:

(v) With respect to a sale of goods or services, the amount financed does not exceed fifty thousand dollars (\$50,000.00) seventy-five thousand dollars (\$75,000.00) or the debt is secured by a dwelling, as defined in W.S. 40-14-640(a)(iv), located in Wyoming.

40-14-206. Definition of “consumer lease”.

(a) “Consumer lease” means a lease of goods:

(ii) In which the amount payable under the lease does not exceed twenty-five thousand dollars (\$25,000.00) seventy-five thousand dollars (\$75,000.00); and

40-14-209. Definition of “credit service charge”.

(a) “Credit service charge” means the sum of:

(i) All charges payable directly or indirectly by the buyer and imposed directly or indirectly by the seller as a condition of or an incident to the extension of credit, including any of the following types of charges which are applicable: time price differential, service, carrying or other charge however denominated, premium or other charge for any guarantee or insurance protecting the seller against the buyer’s default or other credit loss; and

(b) Credit service charge does not include:

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(v) A discount not in excess of five percent (5%) offered by a seller for purposes of inducing payment by cash, check or other means not involving the use of a seller or lender credit card, if the discount is offered to all prospective buyers and its availability is disclosed clearly and conspicuously in accordance with ~~regulations of the administrator~~ the federal Consumer Credit Protection Act, P.L. 90-321, 82 Stat. 146, 15 U.S.C. § 470 et seq.; or

40-14-212. Credit service charge for consumer credit sales other than revolving charge accounts.

(b) The credit service charge, calculated according to the actuarial method, may not exceed:

(i) Where the amount financed does not exceed ~~fifty thousand dollars (\$50,000.00)~~ seventy-five thousand dollars (\$75,000.00), the equivalent of the greater of either of the following:

(ii) Where the amount financed exceeds ~~fifty thousand dollars (\$50,000.00)~~ seventy-five thousand dollars (\$75,000.00), any credit service charge specified in the buyer's sale agreement.

40-14-213. Additional charges.

(a) In addition to the credit service charge permitted by this part, a seller may contract for and receive the following additional charges in connection with a consumer credit sale:

(iii) ~~Charges for other benefits, including insurance, conferred on the buyer, if the benefits are of value to him and if the charges are reasonable in relation to the benefits, are of a type which is not for credit, and are excluded as permissible additional charges from the credit service charge by~~ the federal Consumer Protection Act or by rule adopted by the administrator.

40-14-222. Applicability; information required.

(f) Disclosure and advertising of consumer credit shall be made pursuant to ~~rules and regulations of the administrator not inconsistent with the~~ federal

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~~Consumer Credit Protection Act., 15 U.S.C. § 1601 et seq. and amendments thereto and the regulations promulgated by the board of governors of the federal reserve board pursuant to the act.~~

40-14-257. Definition.

(a) A “consumer related sale” is a sale of goods, services, or an interest in land which is not subject to the provisions of this act applying to consumer credit sales and in which the amount financed does not exceed ~~fifty thousand dollars (\$50,000.00)~~ seventy-five thousand dollars (\$75,000.00) if:

40-14-304. Definition of “consumer loan”.

(a) Except with respect to a loan primarily secured by an interest in land, “consumer loan” is a loan made by a person regularly engaged in the business of making loans in which:

(iv) Either the principal does not exceed ~~fifty thousand dollars (\$50,000.00)~~ seventy-five thousand dollars (\$75,000.00) or the debt is secured by an interest in land or a dwelling, as defined in W.S. 40-14-640(a)(iv), located in Wyoming.

40-14-309. Definition of “loan finance charge”.

(a) “Loan finance charge” means the sum of:

(i) All charges payable directly or indirectly by the debtor and imposed directly or indirectly by the lender as a condition of or an incident to the extension of credit, including any of the following types of charges which are applicable: interest or any amount payable under a point, discount, or other system of charges, however denominated, premium or other charge for any guarantee or insurance protecting the lender against the debtor’s default or other credit loss; and

40-14-311. Additional charges.

(a) In addition to the loan finance charge permitted by this article, a lender may contract for and receive the following additional charges in connection

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with a consumer loan:

(iv) ~~Charges for other benefits, including insurance, conferred on the debtor, if the benefits are of value to him and if the charges are reasonable in relation to the benefits, are of a type which is not for credit, and are excluded as permissible additional charges from the loan finance charge by the federal Consumer Credit Act or by rule adopted by the administrator.~~

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

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

40-14-320. Applicability; information required.

(e) Disclosure and advertising of consumer credit shall be made pursuant to ~~rules and regulations of the administrator not inconsistent with the federal Consumer Credit Protection Act, 15 U.S.C. § 1601 et seq. and amendments thereto, and the regulations promulgated by the board of governors of the federal reserve board pursuant to the act.~~

40-14-348. Loan finance charge.

(b) The loan finance charge, calculated according to the actuarial method, may not exceed:

(i) Where the initial principal does not exceed ~~fifty thousand dollars (\$50,000.00)~~ seventy-five thousand dollars (\$75,000.00), the equivalent of the greater of either of the following:

(ii) Where the initial principal exceeds ~~fifty thousand dollars (\$50,000.00)~~

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seventy-five thousand dollars (\$75,000.00), any loan finance charge specified in the debtor's loan agreement.

40-14-355. Definition of “consumer related loan”; finance charge.

(a) A “consumer related loan” is a loan which is not subject to the provisions of this act applying to consumer loans and in which the principal does not exceed ~~fifty thousand dollars (\$50,000.00)~~ seventy-five thousand dollars (\$75,000.00) if:

40-14-604. Powers of administrator; harmony with federal regulations; reliance on rules; duty to report and cooperate.

(b) The administrator ~~shall~~ may adopt rules not inconsistent with the federal Consumer Credit Protection Act ~~and rules and regulations of the federal reserve board adopted under it~~ to assure a meaningful disclosure of credit terms so that a prospective debtor will be able to compare more readily the various credit terms available to him and to avoid the uninformed use of credit. These rules may ~~supersede only those provisions of this act which are inconsistent with the federal Consumer Credit Protection Act and rules and regulations of the federal reserve board adopted under it~~, may contain classifications, differentiations or other provisions, and may provide for adjustments and exceptions for any class of transactions subject to this act which in the judgment of the administrator are necessary or proper to effectuate the purposes or to prevent circumvention or evasion of, or to facilitate compliance with, the provisions of this act relating to disclosure of credit terms.

(c) To keep the administrator's rules in harmony with the federal Consumer Credit Protection Act ~~and the regulations prescribed from time to time pursuant to that act by the board of governors of the federal reserve system~~ and with the rules of administrators in other jurisdictions which enact the Uniform Consumer Credit Code, the administrator, so far as is consistent with the purposes, policies and provisions of this act, ~~shall~~ may:

(ii) In adopting, amending, and repealing rules, take into consideration:

(A) The regulations so prescribed by the ~~board of governors of the federal reserve system~~ consumer financial protection bureau; and

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(e) The administrator shall, as required by W.S. 9-2-1014, report to the governor on the operation of his office, on the use of consumer credit in the state, and on the problems of persons of small means obtaining credit from persons regularly engaged in extending sales or loan credit. For the purpose of making the report, the administrator is authorized to conduct research and make appropriate studies. The report shall include a description of the examination and investigation procedures and policies of his office, a statement of policies followed in deciding whether to investigate or examine the offices of credit suppliers subject to this act, a statement of the number and percentages of offices which are periodically investigated or examined, a statement of the types of consumer credit problems of both creditors and debtors which have come to his attention through his examinations and investigations and the disposition of them under existing law, ~~a statement of the extent to which the rules of the administrator pursuant to this act are not in harmony with the regulations prescribed by the board of governors of the federal reserve system pursuant to the federal Consumer Credit Protection Act or the rules of administrators in other jurisdictions which enact the Uniform Consumer Credit Code and the reasons for such variations,~~ and a general statement of the activities of his office and of others to promote the purposes of this act. The report shall not identify the creditors against whom action is taken by the administrator.

Section 3. W.S. 40-14-120(a)(ii), 40-14-140(a)(x), 40-14-142(a)(xxxii), 40-14-213(b)(iii), 40-14-222(e), 40-14-311(b)(iii), 40-14-320(d) and 40-14-523 are repealed.

Section 4. This act is effective July 1, 2013.

Approved March 13, 2013.