

CHAPTER 167

Original House Bill No. 426

UNIFORM CONSUMER CREDIT CODE

AN ACT to amend W.S. 40-2-104 by creating a new subsection (3), 40-2-301 by creating a new subsection (5), 40-2-310(1)(a), (2)(b) and (k), 40-3-104, 40-3-105, 40-3-202(1), 40-3-301 by creating a new subsection (4), 40-3-309(1)(a), (2)(b) and (k), 40-5-203 by creating a new subsection (4) and by amending and renumbering existing subsections (4), (5) and (6) as (5), (6) and (7), 40-5-204(1) and (2) and by creating a new subsection (6), and 40-6-201; and to repeal W.S. 40-6-203(4), (5) and (6) relating to certain required disclosures which must be amplified in, and added to, the Uniform Consumer Credit Code in order to bring Wyoming law into substantial conformity with federal law, thereby insuring that Wyoming will retain its exemption from federal administration and enforcement of the Truth in Lending Act; changing the definition of a loan primarily served by an interest in land; providing clarification in the matter of additional charges attendant to loans subject to the Uniform Consumer Credit Code; and relating to persons subject to notification and fees under the Wyoming Uniform Consumer Credit Code by exempting loans for agricultural purposes from the requirements of notification and fees; and providing an effective date.

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

Section 1. W.S. 40-2-104 by creating a new subsection (3), 40-2-301 by creating a new subsection (5), 40-2-310(1)(a), (2)(b) and (k), 40-3-104, 40-3-105, 40-3-202(1), 40-3-301 by creating a new subsection (4), 40-3-309(1)(a), (2)(b) and (k), 40-5-203 by creating a new subsection (4) and by amending and renumbering existing subsections (4), (5) and (6) as (5), (6) and (7), 40-5-204(1) and (2) and by creating a new subsection (6) and 40-6-201 are amended to read:

40-2-104. Definition: "consumer credit sale".

(3) A credit sale primarily for agricultural purposes, which is secured by an interest in land and in which the amount financed exceeds twenty-five thousand dollars (\$25,000.00), is not a consumer credit sale and is exempt from the provisions of W.S. 40-1-101 through 40-9-103.

40-2-301. Applicability; information required.

(5) The information required under this part shall include a full statement of closing costs to be incurred by the consumer which shall be presented, in accordance with regulations of the administrator prior to the time when any down payment is made, or, in the case of a consumer credit sale involving real property, at the time the creditor makes a commitment with respect to the transaction. The administrator may provide by regulation that any portion of the information required to be disclosed by this part may be given in the form of estimates where the provider of such information is not in a position to know exact information.

40-2-310. Revolving charge accounts.

STATE OF WYOMING GENERAL SESSION 1975

(1) Before making a consumer credit sale pursuant to a revolving charge account, the seller shall give to the buyer the following information:

(a) Conditions under which a credit service charge may be made, including the time period, if any, within which any credit extended may be repaid without incurring a credit service charge, except that the creditor may, at his election and without disclosure, impose no such credit service charge if payment is received after the termination of such time;

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

(b) Cash price and date of each sale during the billing cycle and a brief description or identification on or accompanying the statement of each extension of credit in a form prescribed by regulations of the administrator sufficient to enable the debtor to identify the transaction, or relate it to copies of sales vouchers or similar instruments previously furnished;

(k) Date by which or period within which payment must be made to avoid additional credit service charges, except that the creditor may, at his election and without disclosure, impose no such additional credit service charge if payment is received after such date or the termination of such period.

40-3-104. Definition: "Consumer loan".

(1) Except with respect to a loan primarily secured by an interest in land (section 40-3-105), "consumer loan" is a loan made by a person regularly engaged in the business of making loans in which:

(a) The debtor is a person other than an organization;

(b) The debt is incurred primarily for a personal, family, household or agricultural purpose;

(c) Whether the debt is payable in installments or a loan finance charge is made; and

(d) Either the principal does not exceed twenty-five thousand dollars (\$25,000.00) or the debt is secured by an interest in land.

(2) A loan made primarily for agricultural purposes, which is secured by an interest in land and in which the principal exceeds twenty-five thousand dollars (\$25,000.00), is not a consumer loan and is exempt from the provisions of W.S. 40-1-101 through 40-9-103.

40-3-105. Definition: "loan primarily secured by an interest in

land". Unless the loan is made subject to this act by agreement (W.S. 40-3-601), and except as provided with respect to disclosure (W.S. 40-3-301) and debtors' remedies (W.S. 40-5-201), "consumer loan" does not include a "loan primarily secured by an interest in land", if at the time the loan is made the value of this collateral is substantial in relation to the amount of the loan, and the loan finance charge does not exceed eighteen percent (18%) per year calculated according to the actuarial method on the unpaid balances of the principal on the assumption that the debt will be paid according to the agreed terms and will not be paid before the end of the agreed term.

40-3-202. Additional charges.

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

40-3-301. Applicability; information required.

(4) The information required under this part shall include a full statement of closing costs to be incurred by the consumer which shall be presented, in accordance with regulations of the administrator prior to the time when any down payment is made, or, in the case of a consumer loan involving real property, at the time the creditor makes a commitment with respect to the transaction. The administrator may provide by regulation that any portion of the information required to be disclosed by this part may be given in the form of estimates where the provider of such information is not in a position to know exact information.

40-3-309. Revolving loan accounts.

(1) Before making a consumer loan pursuant to a revolving loan account, the lender shall give to the debtor the following information:

(a) Conditions under which a loan finance charge may be made, including the time period, if any, within which any credit extended may be repaid without incurring a loan finance charge, except that the creditor may, at his election and without disclosure, impose no such finance charge if payment is received after the termination of such time;

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

(b) Amount and date of each extension of credit during the billing cycle and a brief description or identification on or accompanying the statement of each extension of credit in a form prescribed by regulations of the administrator sufficient to enable the debtor to identify the transaction, or relate it to copies of sales vouchers or similar instruments previously furnished;

(k) Date by which or period within which payment must be made to avoid additional loan finance charges, except that the creditor may, at his election and without disclosure, impose no such finance charge if payment is received after such date or the termination of such period.

40-5-203. Civil liability for violation of disclosure provisions.

(4) Any action, which may be brought under this section against the original creditor in any credit transaction which does not involve a security interest in land, may be maintained against any subsequent assignee of the original creditor where the violation from which the alleged liability arose is apparent on the face of the instrument assigned unless the assignment is involuntary.

(5) Any action which may be brought under this section against the original creditor in any credit transaction involving a security interest in land may be maintained against any subsequent assignee of the original creditor where the assignee, its subsidiaries, or affiliates were in a continuing business relationship with the original creditor either at the time the credit was extended or at the time of the assignment, unless the assignment was involuntary, or the assignee shows by a preponderance of evidence that it did not have reasonable grounds to believe that the original creditor was engaged in violations of W.S. 40-1-101 through 40-9-103 and that it maintained procedures reasonably adapted to apprise it of the existence of the violations.

(6) No action pursuant to this section may be brought more than one (1) year after the date of the occurrence of the violation.

(7) In this section, creditor includes a person who in the ordinary course of business regularly extends or arranges for the extension of credit or offers to arrange for the extension of credit.

40-5-204. Debtor's right to rescind certain transactions.

(1) Except as otherwise provided in this section, in the case of a consumer credit sale or consumer loan with respect to which a security interest, including any such interest arising by operation of law, is or will be retained or acquired in an interest in real property which is used or expected to be used as the residence of the person to whom credit is extended, the debtor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction or the delivery of the disclosures required under this section and all other material disclosures required by W.S. 40-1-101 through 40-9-103, whichever is later, by notifying the creditor, in accordance with rules of the administrator, of his intention to do so. The creditor shall clearly and conspicuously disclose, in accordance with rules of the administrator, to the debtor in a transaction subject to this section the rights of the debtor under this section. The creditor shall also provide, in accordance with rules of the administrator, an adequate opportunity to the obligor to exercise his right to rescind any transaction subject to this section.

(2) When a debtor exercises his right to rescind under subsection (1), he is not liable for any credit service charge, loan finance charge or other charge, and any security interest given by the debtor, including any such interest arising by operation of law, becomes void upon the rescission. Within ten (10) days after receipt of a notice of rescission, the creditor shall return to the debtor the money or property given as earnest money, down payment or otherwise, and shall take any action necessary or appropriate to reflect the termination of any security interest created under the transaction. If the creditor has delivered property to the debtor, the debtor may retain possession of it. Upon the performance of the creditor's obligations under this section, the debtor shall tender the property to the creditor, except that if return of the property in kind would be impractical or inequitable, the debtor shall tender its reasonable value. Tender shall be made at the location of the property or at the residence of the debtor, at the option of the debtor. If the creditor does not take possession of the property within ten (10) days after tender by the debtor, ownership of the property vests in the debtor without obligation on his part to pay for it.

(6) A debtor's right to rescission shall expire three (3) years after the date of consummation of the transaction or upon the sale of the property, whichever occurs earlier, notwithstanding the fact that the disclosures required under this section or any other material disclosures required under W.S. 40-1-101 through 40-9-103 have not been delivered to the debtor.

40-6-201. Applicability. This part applies to a person engaged in this state in making consumer credit sales, consumer leases or consumer loans and to a person having an office or place of business in this state who takes assignments of and undertakes direct collection of payments from or enforcement of rights against debtors arising from these sales, leases or loans. This part does not apply to loans for agricultural purposes.

Section 2. W.S. 40-6-203(4), (5) and (6) are repealed.

Section 3. This act is effective immediately upon passage.

Approved March 8, 1975.