

28 **70C-3-101. Prepayment of debt.**

29 (1) (a) Subject to the other provisions of this section, a debtor may prepay the unpaid
30 balance of a closed-end consumer credit debt at any time without penalty.

31 (b) Notwithstanding Subsection (1)(a), a debtor may be required to pay a prepayment
32 fee for prepaying a closed-end extension of credit secured by a subordinate lien on a dwelling
33 that is not subject to Section 32 of Regulation Z, 12 C.F.R. Sec. 226.32 if:

34 (i) the creditor offers the debtor the option of entering into either:

35 (A) a contract that does not contain a prepayment fee; or

36 (B) a contract containing:

37 (I) a prepayment fee; and

38 (II) a rate of finance charge or fee that is lower than the rate of finance charge or fee
39 under the contract described in Subsection (1)(b)(i)(A); and

40 (ii) the debtor enters into the contract described in Subsection (1)(b)(i)(B).

41 (2) For purposes of this section:

42 (a) The unpaid balance of a closed-end consumer credit debt at any point in time shall
43 consist only of:

44 (i) any unpaid earned finance charge[-];

45 (ii) the unpaid principal of the debt[-]; and

46 (iii) any delinquency or deferral and other allowable charges that may have been
47 assessed prior to prepayment.

48 (b) Except as provided in Subsection (2)(c), the earned finance charge and unpaid
49 principal shall be calculated only by the actuarial or United States Rule method from the date
50 the credit is first extended to the debtor, but the creditor may accrue finance charges during any
51 delay period pertaining to a right of rescission.

52 (c) (i) Any prepaid finance charge not exceeding 5% of the original principal amount of
53 the debt which the parties expressly agree is nonrefundable in the event of prepayment shall be
54 fully earned on the date the credit is extended.

55 (ii) Any [additional] prepaid finance charges in addition to the prepaid finance charges
56 described in Subsection (2)(c)(i) are [deemed] considered to be earned proportionally over the
57 entire term of the agreement, and in that event of prepayment, any unearned portion of such
58 charge, calculated on a pro rata basis according to the remaining term of the agreement, shall

59 be rebated.

60 (iii) Notwithstanding Subsections (2)(c)(i) and (ii), on a closed-end extension of credit
61 secured by a subordinate lien on a dwelling that is not subject to Section 32 of Regulation Z, 12
62 C.F.R. Sec. 226.32 any prepaid finance charge shall be fully earned on the date the credit is
63 extended.

64 (d) Any costs, charges, or fees paid to third parties in connection with setting up the
65 credit are not subject to rebate unless the creditor becomes entitled to a rebate of any part of the
66 cost, charge, or fee as a result of the prepayment.

67 (3) If the maturity of a closed-end consumer credit debt is accelerated for any reason
68 and judgment is obtained, the debtor is entitled to have the unpaid balance of the debt
69 calculated, less any legal offset, as if payment in full had been made on the date judgment was
70 entered. Interest on the judgment shall be the rate agreed on by the parties with respect to the
71 debt.

72 (4) The provisions of this section for calculating the unpaid balance of a debt apply to
73 all prepayments of closed-end consumer credit debts after September 1, 1985, unless a different
74 method for calculating the unpaid balance on prepayment is expressly provided for in a
75 consumer credit contract which was entered into prior to July 1, 1985, and was lawful when
76 made.

77 Section 2. Section **70C-3-103** is amended to read:

78 **70C-3-103. Delinquency charges -- Conversion of account.**

79 (1) With respect to a closed-end loan, ~~[no] a delinquency charge may not be [collected~~
80 ~~on an installment which is paid in full within ten days after its scheduled due date even though~~
81 ~~an earlier installment or a delinquency charge on an earlier installment has not been paid in~~
82 ~~full. For purposes of this subsection, payments shall be applied first to current payments due~~
83 ~~and then to delinquent installments and charges]~~ assessed on a payment that is a payment in
84 full for the scheduled installment period solely because of an unpaid delinquency charge
85 relating to an earlier installment.

86 (2) (a) With respect to a closed-end loan other than one in which the finance charge is
87 based on unpaid daily balances, if two payments or parts ~~[thereof]~~ of two payments are past due
88 for more than ten days, the lender may convert the loan to one in which the finance charge is
89 based on unpaid daily balances.

90 **(b)** In the event of conversion[;] under Subsection (2)(a):
 91 **(i)** the creditor shall calculate the unpaid balance of the debt in accordance with the
 92 provisions governing rebate on prepayment under Section 70C-3-101 as of the due date of the
 93 first delinquent installment[;]; and ~~[thereafter]~~
 94 **(ii)** after the conversion the creditor may collect a finance charge not exceeding the
 95 annual rate agreed upon by the parties.

96 Section 3. Section **70C-4-101** is amended to read:

97 **70C-4-101. Minimum billing cycle charge.**

98 If there is an unpaid balance in an open-end account on the date the finance charge is
 99 applied ~~[and that charge does not exceed \$1 for billing cycles which are monthly or longer]~~, the
 100 creditor may assess a minimum charge ~~[of not more than \$1 for those periods]~~.

101 Section 4. **Effective date.**

102 If approved by two-thirds of all the members elected to each house, this bill takes effect
 103 upon approval by the governor, or the day following the constitutional time limit of Utah
 104 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
 105 the date of veto override.

Legislative Review Note
as of 1-27-05 12:24 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0157

Utah Consumer Credit Code Amendments

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State Impact

No fiscal impact.

Individual and Business Impact

The amount of savings or costs would depend on the number of individuals who elect to take a closed-end, second mortgage loan with a prepayment clause and if market rates go up or down.

Office of the Legislative Fiscal Analyst