

Chapter 1
General Provisions and Definitions

Part 1
Short Title, Construction, General Provisions

70C-1-101 Short title.

This title is known as the "Utah Consumer Credit Code."

Enacted by Chapter 159, 1985 General Session

70C-1-102 Purposes -- Rules of construction.

- (1) This title shall be liberally construed and applied to promote its underlying purposes and policies.
- (2) The underlying purposes and policies of this title are:
 - (a) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;
 - (b) to prohibit certain unfair practices; and
 - (c) to avoid the duplication of laws and regulations pertaining to consumer credit between state and federal authorities and to supplement applicable federal laws and regulations.

Enacted by Chapter 159, 1985 General Session

70C-1-103 General principles of law apply -- Treatment of charge or fee.

- (1) Unless displaced by the particular provisions of this title, the Uniform Commercial Code and the principles of law and equity, including without limitation the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, and bankruptcy shall supplement its provisions.
- (2) A charge or fee described in Section 70C-1-106 assessed by a depository institution as defined by Section 7-1-103 in accordance with this title may not be considered void as a penalty or otherwise unenforceable under statute or common law.

Amended by Chapter 180, 1999 General Session

70C-1-104 Construction against implied repeal.

No part of this title may be deemed to be impliedly repealed by subsequent legislation if the construction can reasonably be avoided.

Enacted by Chapter 159, 1985 General Session

70C-1-105 Limitations by other laws not displaced.

This title does not displace limitations on powers an organization is authorized to exercise under the laws of this state or the United States.

Enacted by Chapter 159, 1985 General Session

70C-1-106 Determination of interest rate.

For purposes of determining the interest rate allowed by the laws of this state under Section 85 of the National Bank Act and Sections 521 and 522 of the Depository Institutions Deregulation and Monetary Control Act of 1980, all finance charges, all fees charged for participation in a credit plan, whether assessed on an annual or other periodic basis, all transaction fees, all delinquency and deferral fees, all fees charged for exceeding a designated credit limit, all fees charged for each return of a dishonored check or negotiable order of withdrawal or draft, all fees charged for stopping payment, and all other charges permitted under Section 70C-2-101 are considered to be interest under the laws of the state of Utah. Notwithstanding the foregoing, a credit plan agreement that provides for any such fees shall disclose them separately from the interest rate in a manner consistent with Regulation Z of the Board of Governors of the Federal Reserve System.

Amended by Chapter 177, 1990 General Session

**Part 2
Scope and Jurisdiction**

70C-1-201 Covered transactions.

Except as provided in Section 70C-1-202, the provisions of this title apply to all credit offered or extended by a creditor to an individual person primarily for personal, family, or household purposes.

Enacted by Chapter 159, 1985 General Session

70C-1-202 Exempted transactions.

- (1) Notwithstanding the exceptions in Subsection (2), parties to a credit transaction that is otherwise exempt from this title may explicitly agree in writing that the transaction is subject to this title. The agreement shall specifically reference Title 70C, Utah Consumer Credit Code.
- (2) This title does not apply to any of the following:
 - (a) an extension of credit:
 - (i) primarily for business, commercial, or agricultural purposes; or
 - (ii) to other than a natural person including government agencies or instrumentalities;
 - (b) a closed-end extension of credit secured by a first lien or equivalent security interest on a dwelling or building lot;
 - (c) a transaction in securities or commodities accounts in which credit is extended by a broker-dealer registered with the:
 - (i) Securities and Exchange Commission; or
 - (ii) Commodity Futures Trading Commission;
 - (d) an extension of credit:
 - (i) not secured by:
 - (A) real property; or
 - (B) personal property used or expected to be used as the principal dwelling of the consumer;and
 - (ii)

- (A) in which the amount financed exceeds \$50,000 adjusted annually for inflation by the commissioner by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers; or
- (B) in which there is an express written commitment to extend credit in excess of the amount determined under Subsection (2)(d)(ii)(A);
- (e) a transaction under public utility or common carrier tariffs if a subdivision of this state or the United States regulates:
 - (i) the charges for the services involved;
 - (ii) the charges for delayed payment; and
 - (iii) a discount allowed for early payment;
- (f) the sale of insurance by an insurer except as otherwise provided in Chapter 6, Insurance;
- (g) a transaction with a party acting as a pawnbroker and licensed by any governmental authority in this state;
- (h)
 - (i) a loan made, insured, or guaranteed pursuant to a program authorized by Title IV of the Higher Education Act of 1965, 20 U.S.C. Sec. 1070, et seq.; or
 - (ii) a loan:
 - (A) that finances tuition and other expenses:
 - (I) charged in connection with enrollment:
 - (Aa) at a public or proprietary preprimary, secondary, vocational, or postsecondary school; or
 - (Bb) in any tutorial, continuing education, test preparation, distance-learning, or similar program; and
 - (II) including:
 - (Aa) tuition;
 - (Bb) fees;
 - (Cc) books;
 - (Dd) housing; and
 - (Ee) other expenses;
 - (B) that is:
 - (I) made, insured, or guaranteed under a state program; or
 - (II) made by a federally insured depository institution; and
 - (C) including a loan that consolidates or refinances a loan described in this Subsection (2)(h)(ii); and
- (i) a rental purchase agreement as defined in Section 15-8-3.

Amended by Chapter 97, 2014 General Session

70C-1-203 Limitation on creditor's remedies in out-of-state transactions.

The part on limitations on creditors' remedies, Sections 70C-7-101 through 70C-7-107, applies to any actions or other proceedings brought in this state to enforce rights arising from a consumer credit contract or consumer credit transaction of any kind, wherever made.

Amended by Chapter 93, 1990 General Session

Part 3

Definitions

70C-1-301 Interpretation consistent with federal law.

Except as otherwise defined, all definitions or terms used in this title have the same meaning as when used in the federal Consumer Credit Protection Act, 15 U.S.C. Sections 1601 through 1677, as amended, and its implementing Regulation Z.

Enacted by Chapter 159, 1985 General Session

70C-1-302 Definitions.

As used in this title:

- (1) "Agreement" means the bargain of the parties in fact as stated in a written contract or otherwise as found in the parties' language or by implication from other circumstances, including:
 - (a) course of dealing;
 - (b) usage of trade; or
 - (c) course of performance.
- (2) "Contract" means a document containing written terms and conditions of a credit agreement.
- (3)
 - (a) "Creditor" means:
 - (i) a party:
 - (A) who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, not including a down payment; and
 - (B) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract;
 - (ii) an issuer of a credit card that extends either open-end credit or credit that:
 - (A) is not subject to a finance charge; and
 - (B) is not payable by written agreement in more than four installments; and
 - (iii) an issuer of a credit card that extends closed-end credit that:
 - (A) is subject to a finance charge; or
 - (B) is payable by written agreement in more than four installments.
 - (b)
 - (i) For purposes of this Subsection (3), a party is considered to extend consumer credit regularly only if the party extends credit in the preceding calendar year:
 - (A) more than 25 times; or
 - (B) more than five times for a transaction secured by a dwelling.
 - (ii) If a person does not meet the numerical standards described in Subsection (3)(b)(i) in the preceding calendar year, the numerical standards shall be applied to the current calendar year.
- (4) "Dwelling" means a residential structure attached to real property that contains one to four units including any of the following if used as a residence:
 - (a) a condominium unit;
 - (b) a cooperative unit;
 - (c) a manufactured home; or
 - (d) a house.
- (5) "Earnings" means compensation paid or payable to an individual or for the individual's account for personal services rendered or to be rendered by the individual whether denominated as

wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension, retirement, or disability program.

- (6) "Installment" means a payment upon a debt that is part of a series of payments, each of which is less than the original amount of the debt and scheduled as to a specific amount and due date by agreement of the parties for the purpose of repaying the debt.
- (7) "Party" means an individual and any other entity legally capable of entering into a binding contract.

Amended by Chapter 72, 2009 General Session