

## Chapter 3

### Closed-End Consumer Credit Debt

#### 70C-3-101 Prepayment of debt.

- (1)
- (a) Subject to the other provisions of this section, a debtor may prepay the unpaid balance of a closed-end consumer credit debt at any time without penalty.
  - (b) Notwithstanding Subsection (1)(a), a debtor may be required to pay a prepayment fee for prepaying a closed-end extension of credit secured by a subordinate lien on a dwelling that is not subject to Section 32 of Regulation Z, 12 C.F.R., Sec. 226.32 if:
    - (i) the creditor offers the debtor the option of entering into either:
      - (A) a contract that does not contain a prepayment fee; or
      - (B) a contract containing:
        - (I) a prepayment fee; and
        - (II) a rate of finance charge or fee that is lower than the rate of finance charge or fee under the contract described in Subsection (1)(b)(i)(A); and
    - (ii) the debtor enters into the contract described in Subsection (1)(b)(i)(B).
- (2) For purposes of this section:
- (a) The unpaid balance of a closed-end consumer credit debt at any point in time shall consist only of:
    - (i) any unpaid earned finance charge;
    - (ii) the unpaid principal of the debt; and
    - (iii) any delinquency or deferral and other allowable charges that may have been assessed prior to prepayment.
  - (b) Except as provided in Subsection (2)(c), the earned finance charge and unpaid principal shall be calculated only by the actuarial or United States Rule method from the date the credit is first extended to the debtor, but the creditor may accrue finance charges during any delay period pertaining to a right of rescission.
  - (c)
    - (i) Any prepaid finance charge not exceeding 5% of the original principal amount of the debt which the parties expressly agree is nonrefundable in the event of prepayment shall be fully earned on the date the credit is extended.
    - (ii) Any prepaid finance charges in addition to the prepaid finance charges described in Subsection (2)(c)(i) are considered to be earned proportionally over the entire term of the agreement, and in that event of prepayment, any unearned portion of such charge, calculated on a pro rata basis according to the remaining term of the agreement, shall be rebated.
    - (iii) Notwithstanding Subsections (2)(c)(i) and (ii), on a closed-end extension of credit secured by a subordinate lien on a dwelling that is not subject to Section 32 of Regulation Z, 12 C.F.R., Sec. 226.32 any prepaid finance charge shall be fully earned on the date the credit is extended.
  - (d) Any costs, charges, or fees paid to third parties in connection with setting up the credit are not subject to rebate unless the creditor becomes entitled to a rebate of any part of the cost, charge, or fee as a result of the prepayment.
- (3) If the maturity of a closed-end consumer credit debt is accelerated for any reason and judgment is obtained, the debtor is entitled to have the unpaid balance of the debt calculated, less any

legal offset, as if payment in full had been made on the date judgment was entered. Interest on the judgment shall be the rate agreed on by the parties with respect to the debt.

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

Amended by Chapter 162, 2005 General Session

**70C-3-102 Balloon payment.**

If any scheduled payment of a closed-end consumer credit debt is more than twice as large as the average of all earlier scheduled payments, the debtor has the right to refinance the amount of that payment at the time it is due if the creditor is still offering that type of credit and the debtor is credit worthy. Credit terms may be no less favorable than those offered to the general public by the creditor for the same type of credit at the time a request for refinancing is accepted.

Enacted by Chapter 159, 1985 General Session

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

(1) With respect to a closed-end loan, a delinquency charge may not be assessed on a payment that is a payment in full for the scheduled installment period solely because of an unpaid delinquency charge relating to an earlier installment.

- (2)
- (a) With respect to a closed-end loan other than one in which the finance charge is based on unpaid daily balances, if two payments or parts of two payments are past due for more than 10 days, the lender may convert the loan to one in which the finance charge is based on unpaid daily balances.
  - (b) In the event of conversion under Subsection (2)(a):
    - (i) the creditor shall calculate the unpaid balance of the debt in accordance with the provisions governing rebate on prepayment under Section 70C-3-101 as of the due date of the first delinquent installment; and
    - (ii) after the conversion the creditor may collect a finance charge not exceeding the annual rate agreed upon by the parties.

Amended by Chapter 162, 2005 General Session

**70C-3-104 Class actions.**

- (1) In accordance with this section, a creditor may contract with the debtor of a closed-end consumer contract for a waiver by the debtor of the right to initiate or participate in a class action related to the closed-end consumer contract.
- (2) To contract for the waiver described in Subsection (1), the creditor shall disclose the waiver:
- (a) to the debtor;
  - (b) in the closed-end consumer contract; and
  - (c) for a closed-end consumer contract entered into on or after August 1, 2006, in:
    - (i) bold type; or
    - (ii) all capital letters.

Enacted by Chapter 172, 2006 General Session