

70C-4-102 Change of terms of open-end consumer credit contracts.

- (1) For purposes of this section, "change" includes to add, delete, or otherwise change a term of an open-end consumer credit contract.
- (2)
 - (a) Notwithstanding Section 25-5-4, a creditor may change any written term of an open-end consumer credit contract at any time while the open-end consumer credit contract is in effect and apply the new term to the unpaid balance in the account if:
 - (i) the creditor mails or delivers written notice of the change:
 - (A) to all other parties to the open-end consumer credit contract that may be affected by the change; and
 - (B) in a manner consistent with the provisions in effect on the day on which the notice is given of the Truth in Lending Act, 15 U.S.C. Section 1601 et seq., and its implementing Regulation Z; and
 - (ii) the open-end consumer credit contract expressly provides that the creditor may change terms of the open-end consumer credit contract from time to time.
 - (b) A creditor may change an open-end consumer credit contract in accordance with this section to include arbitration or other alternative dispute resolution mechanism.
- (3) If the creditor has taken a security interest in any real property of the debtor to secure payment of the debt, and if the term to be changed affects the method for calculating minimum payments, or is part of the finance charge, the creditor may apply the new term to an account balance relating to a credit transaction that occurred prior to the effective date of the change only if:
 - (a) the debtor expressly so agrees after notice of the change has been given by the creditor; or
 - (b)
 - (i) the creditor notifies the debtor that:
 - (A) further extensions of credit will not be permitted unless the debtor agrees that the new term may be applied to an existing account balance; and
 - (B) any future charges to the account will constitute agreement; and
 - (ii) the debtor makes a charge to the account after receiving notice described in Subsection (3)(b)(i).
- (4) Notice under this section is not required when:
 - (a) the change involves:
 - (i) late payment charges;
 - (ii) charges for documentary evidence;
 - (iii) over-the-limit charges;
 - (iv) a reduction of any component of a finance or other charge;
 - (v) suspension of future credit privileges; or
 - (vi) termination of an account or plan; or
 - (b) other than an increase in the periodic rate or other finance charge, the change results from:
 - (i) an agreement involving:
 - (A) a court proceeding;
 - (B) an arbitration proceeding; or
 - (C) another alternative dispute resolution proceeding; or
 - (ii) the consumer's default or delinquency.
- (5)
 - (a) The actual unpaid balance of the account at any point in time is not a term of the open-end consumer credit contract for purposes of this section.

- (b) With regard to a variable or adjustable interest rate, a periodic change in the applicable rate is not a change subject to this section if no term of the open-end consumer credit contract pertaining to calculation of the applicable rate is changed.
- (6)
 - (a) A creditor may include a notice required by this section of a change to an open-end consumer credit contract on or in the same envelope as a periodic statement or other material sent to the borrower by the creditor.
 - (b) Notwithstanding Subsection (6)(a), a creditor is not required to include a notice required by this section with any other material sent to the borrower.

Amended by Chapter 161, 2006 General Session

Amended by Chapter 172, 2006 General Session