

UTAH CONSUMER CREDIT CODE

AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: Ben C. Ferry

LONG TITLE

General Description:

This bill modifies the Utah Consumer Credit Code.

Highlighted Provisions:

This bill:

- ▶ addresses prepayment fee and rebate of prepaid finance charges;
- ▶ addresses delinquency charges;
- ▶ deletes language related to minimum charges; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

70C-3-101, as last amended by Chapter 20, Laws of Utah 1995

70C-3-103, as enacted by Chapter 133, Laws of Utah 1991

70C-4-101, as enacted by Chapter 159, Laws of Utah 1985

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **70C-3-101** is amended to read:

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 repaying 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 ~~additional~~ prepaid finance charges in addition to the prepaid finance charges described in Subsection (2)(c)(i) are ~~deemed~~ 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.

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

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

(1) With respect to a closed-end loan, ~~[no] a delinquency charge may not be [collected on an installment which is paid in full within ten days after its scheduled due date even though an earlier installment or a delinquency charge on an earlier installment has not been paid in full. For purposes of this subsection, payments shall be applied first to current payments due and then to delinquent installments and charges]~~ 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 [~~thereof~~] of two payments are past due for more than ten 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 [thereafter]

(ii) after the conversion the creditor may collect a finance charge not exceeding the annual rate agreed upon by the parties.

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

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

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

Section 4. **Effective date.**

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