

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 01-0484.01 Thomas Morris

HOUSE BILL 01-1122

HOUSE SPONSORSHIP

Coleman, and Groff

SENATE SPONSORSHIP

Tate,

House Committees

Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING INCREASED CONSUMER PROTECTIONS REGARDING LOANS**

102 **SECURED BY RESIDENTIAL REAL ESTATE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Amends the Uniform Consumer Credit Code (UCCC) by requiring creditors to disclose to consumers to whom credit is extended with respect to home mortgages the following amounts a consumer will have to pay per month:

- The amount of mortgage insurance;
- The amount of real estate taxes;
- The amount of hazard insurance; and
- The total amount of principal, interest, mortgage insurance,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

real estate taxes, and hazard insurance.

Adds a new part to the UCCC creating consumer protections regarding home loans and high-cost home loans, including, as to home loans:

- Limits on prepayment penalties;
- Prohibitions on: Encouraging nonpayment on an existing loan; charging a fee for a product or service when the product or service is not actually provided; false, deceptive, or misleading statements or representations; unduly influencing the independent judgment of an appraiser with respect to the value of real estate subject to a home loan; the advance collection of certain premiums and fees; enforcing home loan documents in which blanks are left to be filled in after the contract is signed by the borrower; and
- A requirement that when loan discussions are conducted in a language other than English, lenders provide to the borrower all information required to be disclosed to the borrower under the federal "Truth in Lending Act", translated into the language in which the loan discussions were conducted.

Defines "high-cost home loan". Creates additional protections regarding high-cost home loans, including:

- Prohibitions on certain balloon payments, advance payments, refinancing of high-cost points or fees, acceleration of indebtedness, modification or deferral fees, negative amortization, and increased interest rates after default;
- Requirements of a refinancing net benefit and assurances of repayment ability; and
- A limit on financing of fees and restrictions on payments pursuant to home-improvement contracts.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 5-3-101 (2), Colorado Revised Statutes, is amended
3 to read:

4 **5-3-101. Applicability - information required.** (2) (a) The
5 creditor shall disclose to the consumer to whom credit is extended with
6 respect to a consumer credit transaction the information, disclosures, and
7 notices required by the federal "Truth in Lending Act", the federal

1 "Consumer Leasing Act", and any regulation thereunder.

2 (b) WITH RESPECT TO A CONSUMER LOAN AS TO WHICH THE DEBT
3 IS SECURED BY AN INTEREST IN LAND, THE CREDITOR SHALL DISCLOSE TO
4 THE CONSUMER TO WHOM CREDIT IS EXTENDED THE FOLLOWING
5 INFORMATION, IF APPLICABLE:

6 (I) THE AMOUNT OF MORTGAGE INSURANCE THE CONSUMER WILL
7 HAVE TO PAY PER MONTH;

8 (II) THE AMOUNT OF ANNUAL REAL ESTATE TAXES THE CONSUMER
9 WILL HAVE TO PAY, PRO RATED MONTHLY;

10 (III) THE AMOUNT OF HAZARD INSURANCE THE CONSUMER WILL
11 HAVE TO PAY PER MONTH; AND

12 (IV) THE TOTAL AMOUNT OF PRINCIPAL, INTEREST, MORTGAGE
13 INSURANCE, REAL ESTATE TAXES, AND HAZARD INSURANCE THE CONSUMER
14 WILL HAVE TO PAY PER MONTH.

15 **SECTION 2.** Article 3 of title 5, Colorado Revised Statutes, is
16 amended BY THE ADDITION OF A NEW PART to read:

17 **PART 6**

18 **LIMITATIONS ON HOME LOAN LENDERS**

19 **5-3-601. Short title.** THIS PART 6 SHALL BE KNOWN AND MAY BE
20 CITED AS THE "HOME LOAN LIMITATION ACT".

21 **5-3-602. Definitions.** AS USED IN THIS PART 6, UNLESS THE
22 CONTEXT OTHERWISE REQUIRES:

23 (1) "AFFILIATE" MEANS ANY COMPANY THAT CONTROLS, IS
24 CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER
25 COMPANY, AS SET FORTH IN THE FEDERAL "BANK HOLDING COMPANY ACT
26 OF 1956", 12 U.S.C. SEC. 1841 ET SEQ., AS AMENDED.

27 (2) "ANNUAL PERCENTAGE RATE" MEANS THE ANNUAL PERCENTAGE

1 RATE FOR THE LOAN CALCULATED ACCORDING TO THE PROVISIONS OF THE
2 FEDERAL "TRUTH IN LENDING ACT", 15 U.S.C. SEC. 1601 ET SEQ., AND THE
3 REGULATIONS PROMULGATED THEREUNDER BY THE FEDERAL RESERVE
4 BOARD, AS SAID ACT AND REGULATIONS ARE AMENDED.

5 (3) "HIGH-COST HOME LOAN" MEANS A HOME LOAN IN WHICH THE
6 TERMS OF THE LOAN MEET ONE OR MORE OF THE FOLLOWING THRESHOLDS:

7 (a) THE TOTAL POINTS AND FEES ON THE LOAN EXCEED FOUR
8 PERCENT OF THE TOTAL LOAN AMOUNT; OR

9 (b) (I) THE ANNUAL PERCENTAGE RATE OF THE HOME LOAN AT
10 CONSUMMATION EXCEEDS BY SIX AND ONE-HALF OR MORE PERCENTAGE
11 POINTS THE WEEKLY AVERAGE YIELD ON UNITED STATES TREASURY
12 SECURITIES ADJUSTED TO A CONSTANT MATURITY OF FIVE YEARS, AS MADE
13 AVAILABLE BY THE FEDERAL RESERVE BOARD, AS OF THE WEEK
14 IMMEDIATELY PRECEDING THE WEEK IN WHICH THE INTEREST RATE FOR THE
15 LOAN IS ESTABLISHED.

16 (II) THE ANNUAL PERCENTAGE RATE OF INTEREST THAT SHALL BE
17 TAKEN INTO ACCOUNT FOR PURPOSES OF SUBPARAGRAPH (I) OF THIS
18 PARAGRAPH (b) SHALL BE THE RATE DESCRIBED IN SUB-SUBPARAGRAPH (A)
19 OR (B) OF THIS SUBPARAGRAPH (II) RATHER THAN ANY RATE IN EFFECT
20 DURING THE INITIAL OR INTRODUCTORY PERIOD, IF THE TERMS OF ANY
21 HOME LOAN OFFER, FOR ANY INITIAL OR INTRODUCTORY PERIOD, AN
22 ANNUAL PERCENTAGE RATE OF INTEREST THAT:

23 (A) IS LESS THAN THE ANNUAL PERCENTAGE RATE OF INTEREST
24 THAT WILL APPLY AFTER THE END OF SUCH INITIAL OR INTRODUCTORY
25 PERIOD; OR

26 (B) IN THE CASE OF AN ANNUAL PERCENTAGE RATE THAT VARIES IN
27 ACCORDANCE WITH AN INDEX, IS LESS THAN THE CURRENT ANNUAL

1 PERCENTAGE RATE UNDER THE INDEX THAT WILL APPLY AFTER THE END OF
2 SUCH PERIOD.

3 (4) "HOME LOAN" MEANS A LOAN OTHER THAN A REVERSE
4 MORTGAGE TRANSACTION IN WHICH:

5 (a) THE PRINCIPAL AMOUNT OF THE LOAN DOES NOT EXCEED THE
6 CONFORMING LOAN SIZE LIMIT FOR A SINGLE-FAMILY DWELLING AS
7 ESTABLISHED FROM TIME TO TIME BY THE FEDERAL NATIONAL MORTGAGE
8 ASSOCIATION;

9 (b) THE OBLIGOR IS A NATURAL PERSON;

10 (c) THE DEBT IS INCURRED BY THE OBLIGOR PRIMARILY FOR
11 PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES; AND

12 (d) THE LOAN IS SECURED BY A MORTGAGE OR DEED OF TRUST ON
13 REAL ESTATE UPON WHICH THERE IS LOCATED OR THERE IS TO BE LOCATED
14 A STRUCTURE OR STRUCTURES DESIGNED PRINCIPALLY FOR OCCUPANCY OF
15 FROM ONE TO FOUR FAMILIES THAT IS OR WILL BE OCCUPIED BY THE
16 OBLIGOR AS THE OBLIGOR'S PRINCIPAL DWELLING.

17 (5) "LENDER" MEANS ANY ENTITY THAT ORIGINATED MORE THAN
18 FIVE HOME LOANS WITHIN THE PAST TWELVE-MONTH PERIOD OR ACTED AS
19 AN INTERMEDIARY BETWEEN ORIGINATORS AND OBLIGORS ON MORE THAN
20 FIVE HOME LOANS WITHIN THE PAST TWELVE-MONTH PERIOD.

21 (6) "OBLIGOR" MEANS EACH BORROWER, CO-BORROWER,
22 COSIGNER, OR GUARANTOR OBLIGATED TO REPAY A LOAN.

23 (7) (a) "POINTS AND FEES" MEANS:

24 (I) ALL ITEMS REQUIRED TO BE DISCLOSED UNDER SECTIONS 226.4
25 (a) AND 226.4 (b) OF TITLE 12 OF THE CODE OF FEDERAL REGULATIONS, AS
26 AMENDED, EXCEPT INTEREST OR THE TIME-PRICE DIFFERENTIAL;

27 (II) ALL CHARGES FOR ITEMS LISTED UNDER SECTION 226.4 (c) (7)

1 OF TITLE 12 OF THE CODE OF FEDERAL REGULATIONS, AS AMENDED, BUT
2 ONLY IF THE LENDER RECEIVES DIRECT OR INDIRECT COMPENSATION IN
3 CONNECTION WITH THE CHARGE OR THE CHARGE IS PAID TO AN AFFILIATE
4 OF THE LENDER; AND

5 (III) ALL COMPENSATION PAID DIRECTLY OR INDIRECTLY TO A
6 MORTGAGE BROKER, INCLUDING A BROKER THAT ORIGINATES A LOAN IN ITS
7 OWN NAME IN A TABLE-FUNDED TRANSACTION.

8 (b) "POINTS AND FEES" SHALL NOT INCLUDE:

9 (I) TAXES, FILING FEES, RECORDING CHARGES, AND OTHER
10 CHARGES AND FEES PAID OR TO BE PAID TO PUBLIC OFFICIALS FOR
11 DETERMINING THE EXISTENCE OF OR FOR PERFECTING, RELEASING, OR
12 SATISFYING A SECURITY INTEREST; AND

13 (II) FEES PAID TO A PERSON OTHER THAN THE LENDER OR AN
14 AFFILIATE OF THE LENDER OR TO THE MORTGAGE BROKER OR AN AFFILIATE
15 OF THE MORTGAGE BROKER FOR THE FOLLOWING: FLOOD CERTIFICATION;
16 PEST INFESTATION AND FLOOD DETERMINATIONS; APPRAISAL; INSPECTIONS
17 PERFORMED PRIOR TO CLOSING; CREDIT REPORTS; SURVEYS; ATTORNEY
18 FEES IF THE OBLIGOR HAS THE RIGHT TO SELECT THE ATTORNEY FROM AN
19 APPROVED LIST OR OTHERWISE; NOTARY FEES; ESCROW CHARGES, SO LONG
20 AS NOT OTHERWISE INCLUDED UNDER SUBPARAGRAPH (I) OF PARAGRAPH
21 (a) OF THIS SUBSECTION (7); TITLE INSURANCE PREMIUMS; AND FIRE
22 INSURANCE AND FLOOD INSURANCE PREMIUMS, IF THE CONDITIONS IN
23 SECTION 226.4 (d) (2) OF TITLE 12 OF THE CODE OF FEDERAL REGULATIONS
24 ARE MET.

25 (8) "TOTAL LOAN AMOUNT" HAS THE SAME MEANING AS SET FORTH
26 IN SECTION 226.32 OF TITLE 12 OF THE CODE OF FEDERAL REGULATIONS,
27 AND THE SAME SHALL BE CALCULATED IN ACCORDANCE WITH THE FEDERAL

1 RESERVE BOARD'S OFFICIAL STAFF COMMENTARY THERETO.

2 **5-3-603. Prohibited acts and practices regarding home loans -**
3 **lender requirements.** (1) EXCEPT AS ALLOWED BY THE FEDERAL
4 "ALTERNATIVE MORTGAGE TRANSACTIONS PARITY ACT OF 1982", 12
5 U.S.C. SEC. 3801 ET SEQ., NO HOME LOAN THAT IS NOT A CONSUMER LOAN
6 MAY CONTAIN A PREPAYMENT PENALTY:

7 (a) OF MORE THAN THREE PERCENTAGE POINTS IN THE FIRST YEAR,
8 TWO PERCENTAGE POINTS IN THE SECOND YEAR, ONE PERCENTAGE POINT
9 IN THE THIRD YEAR, OR ANY PREPAYMENT PENALTY BEYOND THE THIRD
10 YEAR;

11 (b) THAT EXTENDS FOR A LONGER PERIOD THAN ANY INITIAL OR
12 INTRODUCTORY INTEREST RATE OF THE LOAN; OR

13 (c) THAT APPLIES UPON REFINANCING OF THE HOME LOAN WHEN
14 THE LENDER ON THE REFINANCING IS THE SAME AS, OR AN AFFILIATE OF,
15 THE LENDER ON THE LOAN BEING REFINANCED.

16 (2) NO LENDER MAY RECOMMEND OR ENCOURAGE NONPAYMENT
17 ON AN EXISTING LOAN OR OTHER DEBT PRIOR TO AND IN CONNECTION WITH
18 THE CLOSING OR PLANNED CLOSING OF A HOME LOAN THAT REFINANCES
19 ALL OR ANY PORTION OF SUCH EXISTING LOAN OR DEBT.

20 (3) NO LENDER MAY CHARGE A FEE IN CONNECTION WITH A HOME
21 LOAN FOR A PRODUCT OR SERVICE WHEN THE PRODUCT OR SERVICE IS NOT
22 ACTUALLY PROVIDED, OR MISREPRESENT THE AMOUNT CHARGED BY OR
23 PAID TO A THIRD PARTY FOR A PRODUCT OR SERVICE.

24 (4) NO LENDER, APPRAISER, OR REAL ESTATE AGENT MAY MAKE OR
25 CAUSE TO BE MADE, DIRECTLY OR INDIRECTLY, ANY FALSE, DECEPTIVE, OR
26 MISLEADING STATEMENT OR REPRESENTATION IN CONNECTION WITH A
27 HOME LOAN INCLUDING, WITHOUT LIMITATION, A FALSE, DECEPTIVE, OR

1 MISLEADING STATEMENT OR REPRESENTATION REGARDING THE OBLIGOR'S
2 ABILITY TO QUALIFY FOR ANY MORTGAGE PRODUCT OR REGARDING THE
3 VALUE OF THE DWELLING. A STATEMENT OR REPRESENTATION IS
4 DECEPTIVE OR MISLEADING IF IT HAS THE CAPACITY OR TENDENCY TO
5 DECEIVE OR MISLEAD AN OBLIGOR OR POTENTIAL OBLIGOR. THE STATE
6 BANK COMMISSIONER AND STATE COMMISSIONER OF FINANCIAL SERVICES
7 SHALL CONSIDER THE FOLLOWING FACTORS IN DECIDING WHETHER A
8 STATEMENT OR REPRESENTATION IS DECEPTIVE OR MISLEADING:

9 (a) THE OVERALL IMPRESSION THAT THE STATEMENT OR
10 REPRESENTATION REASONABLY CREATES;

11 (b) THE PARTICULAR TYPE OF AUDIENCE TO WHICH THE STATEMENT
12 OR REPRESENTATION IS DIRECTED; AND

13 (c) WHETHER THE STATEMENT OR REPRESENTATION MAY BE
14 REASONABLY COMPREHENDED BY THE SEGMENT OF THE PUBLIC TO WHICH
15 THE STATEMENT OR REPRESENTATION IS DIRECTED.

16 (5) NO LENDER MAY COERCE, INTIMIDATE, OR DIRECTLY OR
17 INDIRECTLY COMPENSATE AN APPRAISER FOR THE PURPOSE OF
18 INFLUENCING THE INDEPENDENT JUDGMENT OF THE APPRAISER WITH
19 RESPECT TO THE VALUE OF REAL ESTATE THAT IS TO BE COVERED BY A
20 HOME LOAN OR IS BEING OFFERED AS SECURITY ACCORDING TO AN
21 APPLICATION FOR A HOME LOAN.

22 (6) IN CONNECTION WITH ANY HOME LOAN, NO LENDER MAY
23 REQUIRE OR ALLOW, WHETHER PAID DIRECTLY BY THE CONSUMER OR
24 FINANCED BY THE CONSUMER THROUGH SUCH LOAN, THE ADVANCE
25 COLLECTION OF THE FOLLOWING:

26 (a) A PREMIUM, ON A SINGLE PREMIUM BASIS, FOR ANY CREDIT LIFE,
27 CREDIT DISABILITY, CREDIT UNEMPLOYMENT, OR CREDIT PROPERTY

1 INSURANCE, OR ANY ANALOGOUS PRODUCT; OR

2 (b) A FEE FOR ANY DEBT CANCELLATION OR SUSPENSION
3 AGREEMENT OR CONTRACT.

4 (7) NO HOME LOAN DOCUMENTS IN WHICH BLANKS ARE LEFT TO BE
5 FILLED IN AFTER THE CONTRACT IS SIGNED BY THE OBLIGOR SHALL BE
6 ENFORCEABLE UNDER THE LAW.

7 (8) IF THE DISCUSSIONS BETWEEN THE LENDER AND THE OBLIGOR
8 ON A HOME LOAN ARE CONDUCTED PRIMARILY IN A LANGUAGE OTHER THAN
9 ENGLISH, THE LENDER SHALL, BEFORE CLOSING, PROVIDE AN ADDITIONAL
10 COPY OF ALL INFORMATION REQUIRED TO BE DISCLOSED TO THE OBLIGOR
11 UNDER THE FEDERAL "TRUTH IN LENDING ACT", 15 U.S.C. SEC. 1601 ET
12 SEQ., TRANSLATED INTO THE LANGUAGE IN WHICH THE DISCUSSIONS WERE
13 CONDUCTED, AND THE OBLIGOR SHALL ACKNOWLEDGE RECEIPT OF THE
14 TRANSLATED DISCLOSURE .

15 **5-3-604. Limitations and prohibited acts and practices**
16 **regarding high-cost home loans. (1) Prepayment.** NO PREPAYMENT
17 FEES OR PENALTIES SHALL BE CONTRACTED BY THE OBLIGOR AND LENDER
18 WITH RESPECT TO ANY HIGH-COST HOME LOAN THAT IS NOT A CONSUMER
19 LOAN EXCEPT AS ALLOWED BY THE FEDERAL "ALTERNATIVE MORTGAGE
20 TRANSACTIONS PARITY ACT OF 1982", 12 U.S.C. SEC. 3801 ET SEQ.

21 (2) **No balloon payment.** NO HIGH-COST HOME LOAN MAY
22 CONTAIN A SCHEDULED PAYMENT THAT IS MORE THAN TWICE AS LARGE AS
23 THE AVERAGE OF EARLIER SCHEDULED PAYMENTS. THIS PROVISION DOES
24 NOT APPLY WHEN THE PAYMENT SCHEDULE IS ADJUSTED TO THE SEASONAL
25 OR IRREGULAR INCOME OF THE OBLIGOR.

26 (3) **No advance payments.** NO HIGH-COST HOME LOAN MAY
27 INCLUDE TERMS UNDER WHICH MORE THAN TWO PERIODIC PAYMENTS

1 REQUIRED UNDER THE LOAN ARE CONSOLIDATED AND PAID IN ADVANCE
2 FROM THE LOAN PROCEEDS PROVIDED TO THE OBLIGOR.

3 (4) **No refinancing high-cost points or fees.** NO LENDER MAY, IN
4 CONNECTION WITH THE FORMATION OR CONSUMMATION OF A HIGH-COST
5 HOME LOAN, FINANCE, DIRECTLY OR INDIRECTLY, ANY POINTS, FEES, OR
6 OTHER CHARGES REQUIRED TO BE PAID BY THE OBLIGOR IN CONNECTION
7 WITH SUCH LOAN IF:

8 (a) THE HIGH-COST HOME LOAN IS BEING ENTERED INTO IN ORDER
9 TO REFINANCE AN EXISTING HIGH-COST HOME LOAN; AND

10 (b) THE LENDER, WITH RESPECT TO SUCH NEW LOAN, OR ANY
11 AFFILIATE OF THE LENDER, IS THE LENDER WITH RESPECT TO THE EXISTING
12 HIGH-COST HOME LOAN THAT IS BEING REFINANCED.

13 (5) **Refinancing net benefit.** NO LENDER MAY KNOWINGLY
14 REFINANCE AN EXISTING HOME LOAN WITH A HIGH-COST HOME LOAN WHEN
15 THE NEW LOAN DOES NOT HAVE A REASONABLE, TANGIBLE NET BENEFIT TO
16 THE OBLIGOR, CONSIDERING ALL CIRCUMSTANCES, INCLUDING THE TERMS
17 OF BOTH THE NEW AND REFINANCED LOANS, THE COST OF THE NEW LOAN,
18 AND THE OBLIGOR'S CIRCUMSTANCES.

19 (6) **Repayment ability.** NO LENDER MAY MAKE A HIGH-COST
20 HOME LOAN UNLESS THE LENDER REASONABLY BELIEVES AT THE TIME THE
21 LOAN IS CONSUMMATED THAT ONE OR MORE OF THE OBLIGORS, WHEN
22 CONSIDERED INDIVIDUALLY OR COLLECTIVELY, WILL BE ABLE TO MAKE THE
23 SCHEDULED PAYMENTS TO REPAY THE OBLIGATION BASED UPON A
24 CONSIDERATION OF THEIR CURRENT AND EXPECTED INCOME, CURRENT
25 OBLIGATIONS, EMPLOYMENT STATUS, AND OTHER FINANCIAL RESOURCES
26 OTHER THAN THE OBLIGOR'S EQUITY IN THE DWELLING THAT SECURES
27 REPAYMENT OF THE LOAN. AN OBLIGOR SHALL BE PRESUMED TO BE ABLE

1 TO MAKE THE SCHEDULED PAYMENTS TO REPAY THE OBLIGATION IF, AT THE
2 TIME THE LOAN IS CONSUMMATED, THE OBLIGOR'S TOTAL MONTHLY DEBTS,
3 INCLUDING AMOUNTS OWED UNDER THE LOAN, DO NOT EXCEED FIFTY
4 PERCENT OF THE OBLIGOR'S MONTHLY GROSS INCOME AS VERIFIED BY THE
5 CREDIT APPLICATION, THE OBLIGOR'S FINANCIAL STATEMENT, A CREDIT
6 REPORT, FINANCIAL INFORMATION PROVIDED TO THE LENDER BY OR ON
7 BEHALF OF THE OBLIGOR, OR ANY OTHER REASONABLE MEANS; EXCEPT
8 THAT NO PRESUMPTION OF INABILITY TO MAKE THE SCHEDULED PAYMENTS
9 TO REPAY THE OBLIGATION SHALL ARISE SOLELY FROM THE FACT THAT, AT
10 THE TIME THE LOAN IS CONSUMMATED, THE OBLIGOR'S TOTAL MONTHLY
11 DEBTS, INCLUDING AMOUNTS OWED UNDER THE LOAN, EXCEED FIFTY
12 PERCENT OF THE OBLIGOR'S MONTHLY GROSS INCOME.

13 (7) **Limit on financing of fees.** NO LENDER MAY, IN CONNECTION
14 WITH A HIGH-COST HOME LOAN, FINANCE POINTS AND FEES EQUIVALENT TO
15 MORE THAN THREE PERCENTAGE POINTS OF THE LOAN AMOUNT OR SIX
16 HUNDRED DOLLARS, WHICHEVER IS LESS.

17 (8) **No acceleration provision.** NO HIGH-COST HOME LOAN MAY
18 CONTAIN A PROVISION THAT PERMITS THE LENDER, IN ITS SOLE DISCRETION,
19 TO ACCELERATE THE INDEBTEDNESS. THIS PROVISION DOES NOT APPLY
20 WHEN REPAYMENT OF THE LOAN HAS BEEN ACCELERATED BY DEFAULT,
21 PURSUANT TO A DUE-ON-SALE PROVISION, OR PURSUANT TO SOME OTHER
22 PROVISION OF THE LOAN DOCUMENTS UNRELATED TO THE PAYMENT
23 SCHEDULE.

24 (9) **No modification or deferral fees.** A LENDER MAY NOT
25 CHARGE AN OBLIGOR ANY FEES TO MODIFY, RENEW, EXTEND, OR AMEND A
26 HIGH-COST HOME LOAN OR TO DEFER ANY PAYMENT DUE UNDER THE TERMS
27 OF A HIGH-COST HOME LOAN.

1 (10) **Restrictions on home improvement contracts.** A LENDER
2 MAY NOT PAY A CONTRACTOR UNDER A HOME IMPROVEMENT CONTRACT
3 FROM THE PROCEEDS OF A HIGH-COST HOME LOAN OTHER THAN:

4 (a) BY AN INSTRUMENT PAYABLE TO THE OBLIGOR OR JOINTLY TO
5 THE OBLIGOR AND THE CONTRACTOR; OR

6 (b) AT THE ELECTION OF THE OBLIGOR, THROUGH A THIRD-PARTY
7 ESCROW AGENT IN ACCORDANCE WITH TERMS ESTABLISHED IN A WRITTEN
8 AGREEMENT SIGNED BY THE OBLIGOR, THE LENDER, AND THE CONTRACTOR
9 PRIOR TO THE DISBURSEMENT.

10 (11) **No negative amortization.** NO HIGH-COST HOME LOAN MAY
11 CONTAIN A PAYMENT SCHEDULE WITH REGULAR PERIODIC PAYMENTS THAT
12 RESULT IN AN INCREASE IN THE PRINCIPAL BALANCE.

13 (12) **No increased interest rate.** EXCEPT AS ALLOWED BY THE
14 FEDERAL "ALTERNATIVE MORTGAGE TRANSACTIONS PARITY ACT OF
15 1982", 12 U.S.C. SEC. 3801 ET SEQ., NO HIGH-COST HOME LOAN MAY
16 CONTAIN A PROVISION THAT INCREASES THE INTEREST RATE AFTER
17 DEFAULT. THIS SUBSECTION (12) DOES NOT APPLY TO INTEREST RATE
18 CHANGES IN A VARIABLE RATE LOAN OTHERWISE CONSISTENT WITH THE
19 PROVISIONS OF THE LOAN DOCUMENTS, IF THE CHANGE IN THE INTEREST
20 RATE IS NOT TRIGGERED BY THE EVENT OF DEFAULT OR THE ACCELERATION
21 OF THE INDEBTEDNESS.

22 **5-3-605. Disclosure requirements.** (1) NO LENDER MAY PROVIDE
23 A HIGH-COST HOME LOAN WITHOUT PROVIDING THE OBLIGOR, AT LEAST
24 THREE DAYS BEFORE CLOSING, WITH CLEAR WRITTEN AND ORAL
25 DISCLOSURE OF THE FOLLOWING INFORMATION, WITH THE WRITTEN
26 INFORMATION IN AT LEAST FOURTEEN-POINT TYPE:

27 (a) WHETHER THE LOAN CONTAINS A PREPAYMENT PENALTY AND,

1 IF SO, THE AMOUNT AND LENGTH OF EXTENSION OF THE PREPAYMENT
2 PENALTY, INCLUDING CLEAR NOTIFICATION THAT SUCH A PREPAYMENT
3 PENALTY MUST BE PAID IF AN OBLIGOR REFINANCES WITH ANOTHER
4 LENDER;

5 (b) THE AMOUNT OF THE OBLIGOR'S MONTHLY PAYMENTS;

6 (c) WHETHER THE LOAN HAS A VARIABLE RATE FEATURE AND, IF SO,
7 HOW THE VARIABLE RATE MIGHT AFFECT FUTURE MONTHLY PAYMENTS,
8 INCLUDING SPECIFIC NOTIFICATION OF WHAT THE FULLY INDEXED INTEREST
9 RATE OF THE LOAN WOULD BE AT THE PRESENT RATE OF THE INDEX;

10 (d) THE AMOUNT OF ANY LOAN FEES BEING PAID BY THE OBLIGOR;
11 AND

12 (e) INFORMATION REGARDING ANY PAYMENTS BEING MADE TO
13 THIRD-PARTY CREDITORS FROM THE LOAN PROCEEDS.

14 (2) NO LENDER MAY PROVIDE A HIGH-COST HOME LOAN WITHOUT
15 PROVIDING THE OBLIGOR, AT LEAST THREE DAYS BEFORE CLOSING, WITH
16 CLEAR WRITTEN AND ORAL DISCLOSURE REGARDING THE VALUE OF
17 RECEIVING HOUSING COUNSELING BEFORE TAKING OUT A HOME LOAN AND
18 A LIST OF THE NEAREST AVAILABLE HOUSING COUNSELING AGENCIES
19 APPROVED BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN
20 DEVELOPMENT.

21 (3) NO LENDER MAY SELL OR OTHERWISE ASSIGN A HOME LOAN
22 WITHOUT FURNISHING THE FOLLOWING STATEMENT TO THE PURCHASER OR
23 ASSIGNEE: "NOTICE: THIS IS A HOME LOAN SUBJECT TO SPECIAL RULES
24 UNDER THE "HOME LOAN LIMITATION ACT". PURCHASERS OR ASSIGNEES
25 OF THIS LOAN COULD BE LIABLE FOR ALL CLAIMS AND DEFENSES WITH
26 RESPECT TO THE MORTGAGE THAT THE BORROWER COULD ASSERT AGAINST
27 THE CREDITOR."

1 **5-3-606. Attempted evasion of coverage and unintentional**

2 **violations.** (1) SECTION 5-3-604 SHALL APPLY TO ANY PERSON WHO IN
3 BAD FAITH ATTEMPTS TO AVOID THE APPLICATION OF SUCH SUBSECTION BY:

4 (a) DIVIDING ANY LOAN TRANSACTION INTO SEPARATE PARTS FOR
5 THE PURPOSE OR WITH THE INTENT OF EVADING THE PROVISIONS OF THIS
6 PART 6; OR

7 (b) ANY OTHER SUCH SUBTERFUGE.

8 (2) A LENDER IN A HIGH-COST HOME LOAN ACTING IN GOOD FAITH
9 WHO FAILS TO COMPLY WITH SECTION 5-3-604 SHALL NOT BE DEEMED TO
10 HAVE VIOLATED THIS SECTION IF THE LENDER ESTABLISHES THAT EITHER:

11 (a) WITHIN THIRTY DAYS AFTER THE LOAN CLOSING AND PRIOR TO
12 THE INSTITUTION OF ANY ACTION UNDER THIS SECTION, THE OBLIGOR IS
13 NOTIFIED OF THE COMPLIANCE FAILURE, APPROPRIATE RESTITUTION IS
14 MADE, AND WHATEVER NECESSARY ADJUSTMENTS ARE MADE TO THE LOAN
15 TO EITHER, AT THE CHOICE OF THE OBLIGOR:

16 (I) MAKE THE HIGH-COST HOME LOAN SATISFY THE REQUIREMENTS
17 OF SECTION 5-3-604; OR

18 (II) CHANGE THE TERMS OF THE LOAN IN A MANNER BENEFICIAL TO
19 THE OBLIGOR SO THAT THE LOAN WILL NO LONGER BE CONSIDERED A
20 HIGH-COST HOME LOAN SUBJECT TO THE PROVISIONS OF THIS SECTION; OR

21 (b) (I) THE COMPLIANCE FAILURE WAS NOT INTENTIONAL AND
22 RESULTED FROM A BONA FIDE ERROR NOTWITHSTANDING THE
23 MAINTENANCE OF REASONABLE PROCEDURES TO AVOID SUCH ERRORS, AND
24 WITHIN SIXTY DAYS AFTER THE DISCOVERY OF THE COMPLIANCE FAILURE
25 AND PRIOR TO THE INSTITUTION OF ANY ACTION UNDER THIS SECTION OR
26 THE RECEIPT OF WRITTEN NOTICE OF THE COMPLIANCE FAILURE, THE
27 OBLIGOR IS NOTIFIED OF THE COMPLIANCE FAILURE, APPROPRIATE

1 RESTITUTION IS MADE, AND WHATEVER NECESSARY ADJUSTMENTS ARE
2 MADE TO THE LOAN TO EITHER, AT THE CHOICE OF THE OBLIGOR:

3 (A) MAKE THE HIGH-COST HOME LOAN SATISFY THE REQUIREMENTS
4 OF SECTION 5-3-604; OR

5 (B) CHANGE THE TERMS OF THE LOAN IN A MANNER BENEFICIAL TO
6 THE OBLIGOR SO THAT THE LOAN WILL NO LONGER BE CONSIDERED A
7 HIGH-COST HOME LOAN SUBJECT TO THE PROVISIONS OF SECTION 5-3-604.

8 (II) EXAMPLES OF A BONA FIDE ERROR INCLUDE CLERICAL,
9 CALCULATION, COMPUTER MALFUNCTION AND PROGRAMMING, AND
10 PRINTING ERRORS. AN ERROR OF LEGAL JUDGMENT WITH RESPECT TO A
11 PERSON'S OBLIGATIONS UNDER THIS PART 6 IS NOT A BONA FIDE ERROR.

12 **5-3-607. Penalties.** (1) THE PROVISIONS OF THIS PART 6 MAY BE
13 ENFORCED BY A PRIVATE CAUSE OF ACTION. THE PRIVATE CAUSE OF ACTION
14 MAY SEEK ANY REMEDIES AVAILABLE UNDER LAW.

15 (2) THIS SECTION DOES NOT LIMIT ANY OTHER REMEDIES
16 AVAILABLE TO A BORROWER OR OTHER OBLIGOR.

17 **5-3-608. Reporting requirements for lenders that do not report**
18 **information under the federal "Home Mortgage Disclosure Act".**

19 (1) LENDERS EXEMPTED FROM THE REPORTING REQUIREMENTS OF 12
20 U.S.C. SEC. 2803 BECAUSE THE DOLLAR VALUE OF THE HOME LOANS
21 ORIGINATED BY THE LENDER IN THE PRECEDING CALENDAR YEAR TOTALED
22 LESS THAN TEN PERCENT OF ITS TOTAL LOAN ORIGATION VOLUME, AS
23 DETERMINED BY PARAGRAPH I.D. OF APPENDIX A TO 12 C.F.R. PART 203,
24 SHALL BE REQUIRED TO REPORT TO THE STATE BANK COMMISSIONER OR THE
25 STATE COMMISSIONER OF FINANCIAL SERVICES, AS APPROPRIATE, THE SAME
26 INFORMATION THAT NON-EXEMPTED LENDERS ARE REQUIRED TO REPORT
27 UNDER 12 U.S.C. SEC. 2803 (b).

1 (2) LENDERS SHALL SUBMIT THE INFORMATION REQUIRED UNDER
2 SUBSECTION (1) OF THIS SECTION IN THE FORMAT ESTABLISHED BY THE
3 UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
4 PURSUANT TO 12 U.S.C. SEC. 2803 (h) (5).

5 **5-3-609. Reporting of annual percentage rates.** (1) LENDERS
6 SHALL REPORT TO THE STATE BANK COMMISSIONER OR THE STATE
7 COMMISSIONER OF FINANCIAL SERVICES, AS APPROPRIATE, THE AVERAGE
8 AND MEDIAN ANNUAL PERCENTAGE RATES OF HOME LOANS THAT THEY
9 ORIGINATE GROUPED ACCORDING TO THE FOLLOWING CATEGORIES
10 ESTABLISHED UNDER 12 U.S.C. SEC. 2803 (b) (4): CENSUS TRACT, INCOME
11 LEVEL, RACIAL CHARACTERISTICS, AND GENDER.

12 (2) IN CALCULATING THE ANNUAL PERCENTAGE RATE FOR
13 VARIABLE-RATE LOANS TO FULFILL THE REQUIREMENTS OF SUBSECTION (1)
14 OF THIS SECTION, LENDERS SHALL USE THE AVERAGE ANNUAL PERCENTAGE
15 RATE ON THE VARIABLE-RATE LOAN FOR THE TWELVE MONTHS OF THE
16 REPORTING PERIOD ESTABLISHED UNDER 12 U.S.C. SEC. 2803 (d), WHICH
17 IS THE CALENDAR YEAR.

18 (3) LENDERS SHALL SUBMIT THE INFORMATION REQUIRED UNDER
19 SUBSECTION (1) OF THIS SECTION IN A FORMAT SIMILAR TO THAT
20 ESTABLISHED BY THE UNITED STATES DEPARTMENT OF HOUSING AND
21 URBAN DEVELOPMENT PURSUANT TO 12 U.S.C. SEC. 2803 (h) (5).

22 **5-3-610. Severability.** THE PROVISIONS OF THIS PART 6 SHALL BE
23 SEVERABLE, AND IF ANY PHRASE, CLAUSE, SENTENCE, OR PROVISION IS
24 DECLARED TO BE INVALID OR IS PREEMPTED BY FEDERAL LAW OR
25 REGULATION, THE VALIDITY OF THE REMAINDER OF THIS PART 6 SHALL NOT
26 BE AFFECTED BY SUCH INVALIDATION OR PREEMPTION. IF ANY PROVISION
27 OF THIS PART 6 IS DECLARED TO BE INAPPLICABLE TO ANY SPECIFIC

1 CATEGORY, TYPE, OR KIND OF POINTS AND FEES, THE PROVISIONS OF THIS
2 PART 6 SHALL CONTINUE TO APPLY WITH RESPECT TO ALL OTHER POINTS
3 AND FEES.

4 **5-3-611. Exception for national banks.** THE REQUIREMENTS OF
5 SECTION 5-3-604 (1), (9), AND (12) SHALL NOT APPLY TO A NATIONAL BANK
6 NOT HEADQUARTERED IN COLORADO TO THE EXTENT REQUIRED BY THE
7 FEDERAL "ALTERNATIVE MORTGAGE TRANSACTIONS PARITY ACT OF
8 1982", 12 U.S.C. SEC. 3801 ET SEQ.

9 **SECTION 3.** 5-2-202 (3) (b), Colorado Revised Statutes, is
10 amended to read:

11 **5-2-202. Additional charges.** (3) An additional charge may be
12 made for insurance written in connection with the transaction, other than
13 insurance protecting the creditor against the consumer's default or other
14 credit loss, if:

15 (b) With respect to consumer credit insurance providing life,
16 accident, or health coverage, the insurance coverage is not a factor in the
17 approval by the creditor of the extension of credit and this fact is clearly
18 disclosed in writing to the consumer and if, in order to obtain the
19 insurance in connection with the extension of credit, the consumer gives
20 specific affirmative written indication of the consumer's desire to do so
21 after written disclosure to the consumer of the cost thereof AND IF THE
22 CONSUMER CREDIT TRANSACTION IS NOT A HOME LOAN AS DEFINED IN
23 SECTION 5-3-602 (4).

24 **SECTION 4.** 5-3-208, Colorado Revised Statutes, is amended to
25 read:

26 **5-3-208. Balloon payments.** With respect to a consumer credit
27 transaction other than A HIGH-COST HOME LOAN AS DEFINED IN SECTION

1 5-3-602 (3) OR one pursuant to a revolving credit account, if any
2 scheduled payment is more than twice as large as the average of all other
3 regularly scheduled payments, the consumer has the right to refinance the
4 amount of that payment at the time it is due at the creditor's prevailing
5 rates for such type of transaction if the consumer meets the creditor's
6 normal credit standards and if the creditor is, at that time, in the business
7 of making such transactions. The creditor shall disclose this right in
8 writing to the consumer at the time the transaction is entered into. These
9 provisions do not apply to the extent that the payment schedule is adjusted
10 to the seasonal or irregular income of the consumer. This section shall not
11 apply to a transaction of a class defined by rule of the administrator
12 promulgated in accordance with article 4 of title 24, C.R.S., as not
13 requiring for the protection of the consumer his or her right to refinance
14 as provided in this section.

15 **SECTION 5. Effective date - applicability.** (1) This act shall
16 take effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly that is
18 allowed for submitting a referendum petition pursuant to article V, section
19 1 (3) of the state constitution; except that, if a referendum petition is filed
20 against this act or an item, section, or part of this act within such period,
21 then the act, item, section, or part, if approved by the people, shall take
22 effect on the date of the official declaration of the vote thereon by
23 proclamation of the governor.

24 (2) This act shall apply to acts occurring or committed on or after
25 the applicable effective date of this act.