

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

LEORA JOSEPH
Chief of Staff



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Consumer Credit Unit

Date: January 4, 2019

From: Administrator, Colorado Uniform Consumer Credit Code

To: Interested Parties

Re: DDLA rate cap and alternative charges for loans not exceeding one thousand dollars

NEW DDLA Interest Rate Cap

Proposition 111 was passed by Colorado voters on November 6, 2018.

The proposition amends Colorado's Deferred Deposit Loan Act (Section 5-3.1-101 et. Sec), to cap interest rates and fees on Deferred Deposit Loans to an annualized percentage rate of thirty-six percent.

The amended Deferred Deposit Loan Act goes into effect on February 1, 2019. All Deferred Deposit Loans originated for Colorado consumers on or after February 1, 2019, will be subject to the thirty-six percent cap.

For Deferred Deposit Loans originated prior to February 1, 2019, the current law applies.

Alternative Charge Loans—Advisory

Creditors currently offering Deferred Deposit Loans have expressed an interest in offering loans that could attract the alternative charges allowed by § 5-2-214, C.R.S.

Before offering such loans, creditors are advised to review the Colorado Uniform Consumer Credit Code and associated rules and consult with their own counsel. However, the Administrator of the Colorado Uniform Consumer Credit Code can offer the following introductory guidance to § 5-2-214, C.R.S.:

- The alternative charges allowed by § 5-2-214, C.R.S. may only be charged if:
 - The amount financed is one thousand dollars, or less.
 - The minimum term of the loan is at least ninety days and the maximum term is no more than twelve months.
 - Installment payments must be scheduled in substantially equal periodic intervals.

- Truth-In-Lending disclosures indicate that the loans are unsecured.
- Per the Administrator’s Opinion issued January 4, 2019, the creditor has not taken any collateral—including a post-dated check or certain ACH authorizations—as security for the loan.
- Any ACH agreement must be voluntary and may not be a requirement of the loan. If the consumer voluntarily consents to scheduled ACH installment payments, that agreement must be revocable by the consumer at any time. An ACH payment authorization that allows for the acceleration of any loan payments is impermissible collateral.
- The creditor has not refinanced such a loan more than three times in one year.
- Alternative charges allowed by § 5-2-214, C.R.S. are as follows:
 - For original loans—an acquisition charge not to exceed ten percent of the amount financed.
 - For refinanced loans—an acquisition charge not to exceed seven and one half percent of the amount financed.
 - Monthly installment charges not to exceed the following amounts:

Amount Financed	Per Month Charge
\$100.00 - \$300.00	\$12.50
\$300.01 - \$500.00	\$15.00
\$500.01 – \$750.00	\$17.50
\$750.01 - \$1,000.00	\$20.00

- Delinquency charges as provided by § 5-2-203, C.R.S. To be assessed, delinquency charges must be: disclosed (in compliance with Truth-In-Lending laws); contracted for; and written notice provided to the consumer.
- Dishonored check charges as provided by § 5-2-202(1)(e)(II), C.R.S.
- Creditors should also be aware that:
 - The underwriting safe harbor provided at § 5-3.1-122, C.R.S. only applies to Deferred Deposit Loans. It does not apply to loans made in connection with the alternative charges allowed by § 5-2-214, C.R.S. Creditors are encouraged to review § 5-6-112, C.R.S.
 - Rebates of pre-paid charges should be calculated per § 5-2-211, C.R.S.
 - Minimum charges described in § 5-2-201, C.R.S. are not allowed.

- Loans may be contracted with a single installment, or by bi-weekly, semi-weekly, or monthly installments. If more than one installment is contracted for, installments must be scheduled in substantially equal periodic intervals.
- Colorado Uniform Consumer Credit Code Rule 10 covers record keeping requirements.

If you have any additional questions, please contact us at uccc@coag.gov.