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CHAPTER 3
LOANS

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ARTICLE 1
GENERAL PROVISIONS

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§ 3101. Short Title.

This Chapter shall be known and may be cited as *Uniform Consumer Credit Code-Loans*.

§ 3102. Scope.

This Chapter applies to consumer loans, including regulated loans; in addition Article 6 applies to loans other than consumer loans.

§ 3103. Index of Definitions.

The following definitions apply to this Act and appear in this Chapter as follows:

<i>Business collateral</i>	§ 3105
<i>Consumer loan</i>	§ 3104
<i>Lender</i>	§ 3107(1)

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<i>Loan</i>	§ 3106
<i>Loan finance charge</i>	§ 3110
<i>Precomputed loan</i>	§ 3107(2)
<i>Premium finance loan</i>	§ 3107(3)
<i>Principal</i>	§ 3107(4)
<i>Regulated loan</i>	§ 3501
<i>Revolving loan account</i>	§ 3108

§ 3104. Definition: Consumer Loan.

(1) Except as provided in Subsection (2), *consumer loan* is a loan:

- (a) made by a person engaged in the business of making loans;
 - (b) in which the debtor is a person other than an organization;
- and
- (c) in which the debt is incurred primarily for a personal, family, household or agricultural purpose.

(2) *Consumer loan* does not include a loan which is secured primarily by:

(a) a business collateral, if at the time the loan is made the value of this collateral is substantial in relation to the amount of the loan; or

(b) an interest in land, if at the time the loan is made the value of this collateral is substantial in relation to the amount of the loan, and the loan finance charge, however calculated, does not exceed ten percent (10%) per year calculated on the unpaid balances of the principal according to the United States rules. For the purpose of calculating the rate of the loan finance charge, (i) non-periodic charges made at the inception of the loan which are included in the loan finance charge shall be amortized over the agreed term of the loan, notwithstanding that the loan is paid prior to the agreed maturity, and (ii) charges for the privilege of prepaying the loan shall not be included in the loan finance charge.

§ 3105. Business Collateral Defined.

Business Collateral means real property used primarily for other than a personal, family, household or agricultural purpose, or accounts or

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contract rights other than earnings, business equipment, chattel paper, documents of title, instruments, inventory, business general intangibles or investment securities, other than investment certificates issued by the creditor. Business equipment does not include farm equipment.

§ 3106. Loan Defined.

Loan includes:

- (a) The creation of debt by the lender's payment of or agreement to pay money to the debtor or to a third party for the account of the debtor;
- (b) The creation of debt by the opening of an account with the lender entitling the debtor to draw immediately on the lender;
- (c) The creation of a debt pursuant to a preexisting credit card or similar arrangement; and
- (d) The forbearance of a debt arising from a loan.

§ 3107. Lender; Precomputed; Premium Finance Loan; Principal; All Defined.

(1) *Lender* means a person who makes a loan and any transferee of a lender's right to payment.

(2) A loan, refinancing or consolidation is *precomputed* if the debt is expressed as a sum comprising the principal and the amount of the loan finance charge computed in advance.

(3) *Premium Finance Loan* is a consumer loan made primarily for the purpose of paying an insurer, or other person on behalf of the insurer, the amount of premiums on insurance issued for the benefit of the debtor.

(4) *Principal* of a loan means the total of (a) the net amount paid to, receivable by or paid or payable for the account of the debtor, (b) the amount of any discount described in § 3110(2) (loan finance charge), (c) amounts actually paid or to be paid by the lender for registration, certificate of title or license fees if not included in (a), and (d) additional charges permitted by this Chapter (§ 3202).

§ 3108. Revolving Loan Account Defined.

Revolving Loan Account means an arrangement between a lender and a debtor pursuant to which (1) it is contemplated by the parties that the lender may make loans to the debtor from time to time, (2) the debts

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arising from loans, loan finance charges and other charges will be debited to an account, (3) a loan finance charge will not be precomputed but may be computed from time to time on the basis of the debtor's unpaid balances, and (4) debtor will have the privilege of paying the balances in installments.

§ 3109. Sale of Unpaid Earnings.

If a sale of unpaid earnings is made in consideration of the payment of money to or for the account of the seller, the transaction is deemed to be a loan to the seller secured by an assignment of earnings. The principal of the loan is equal to the money paid to or for the account of the seller, and the difference between this amount and the amount of the unpaid earnings sold is the loan finance charge.

§ 3110. Loan Finance Charge Defined.

(1) *Loan Finance Charge* means the total of (a) all charges however denominated, incurred for the privilege of obtaining the loan and paid or payable, directly or indirectly, by the debtor to or for the account of the lender or a person related to or designated by the lender, and (b) charges incurred for investigating the collateral or credit-worthiness of the debtor or for commissions or brokerage for obtaining the credit, irrespective of the person to whom it is paid or payable, unless the lender had no notice of the charges. It does not include charges as a result of a default, additional charges (§ 3202), delinquency charges (§ 3203) and deferral charges (§ 3204).

(2) If a lender makes a loan to a debtor by purchasing or satisfying obligations of the debtor pursuant to a credit card or similar arrangement, and the purchase or satisfaction is made at less than the face amount of the obligation, the discount is not part of the loan finance charge.

**ARTICLE 2
MAXIMUM CHARGES**

- § 3201. Loan Finance Charge for Consumer Loans Other Than Regulated Loans and Revolving Loan Accounts.
- § 3202. Additional Charges.
- § 3203. Delinquency Charges.

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- § 3204. Deferral Charges.
- § 3205. Loan Finance Charge: Refinancing.
- § 3206. Same: Consolidation.
- § 3207. Filed Rates Excluded.
- § 3208. Advances to Perform Covenants of Debtor.
- § 3209. Right to Prepay.
- § 3210. Rebate Upon Prepayment.

§ 3201. Loan Finance Charges for Consumer Loans Other Than Regulated Loans and Revolving Loan Accounts.

(1) With respect to a consumer loan other than a regulated loan or a loan pursuant to a revolving loan account, a lender may contract for and receive a loan finance charge, however calculated, not in excess of ten percent (10%) per year calculated on the unpaid balances of the principal according to the United States rule.

(2) For the purposes of this section, the term of a loan shall be calculated in terms of calendar months beginning with the date the loan is made. Differences in the lengths of months are disregarded. Fractions of a month are treated as a full month if more than 15 days, and if 15 days or less, are disregarded.

§ 3202. Additional Charges.

(1) In addition to the loan finance charge permitted by this Article, the lender may contract for and receive the following additional charges in connection with a consumer loan:

- (a) official fees;
- (b) charges for insurance;
- (c) annual charges, payable in advance, for the privilege of using a credit card or similar arrangement which entitles the user to purchase goods or services from at least 100 persons not related to the issuer of the credit card or similar arrangement, under an arrangement pursuant to which the debts resulting from the purchases are payable to the issuer; and
- (d) charges for other benefits conferred on the debtor, if the benefits are of value to him apart from the granting of the credit and the charges are reasonable in relation to the benefits.

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(2) The Administrator may adopt rules determining whether charges are additional charges pursuant to paragraph (d) of subsection (1).

§ 3203. Delinquency Charges.

(1) With respect to a precomputed consumer loan, the parties to a loan may contract for a delinquency charge on any instalment not paid in full within 10 days after its scheduled due date in an amount not to exceed the greater of:

(a) Two Dollars (\$2.00) or an amount, not exceeding Five Dollars (\$5.00), which is 5% of the unpaid amount of the installment; or

(b) the deferral charge that would be permitted under § 3204(1) to defer the unpaid amount of the instalment for the period that it is delinquent.

(2) A delinquency charge under subsection (a)(1) may be collected only once on an installment however long it remains in default. No delinquency charge may be collected if the installment has been deferred and a deferral charge has been paid in accordance with § 3204. A delinquency charge may be collected at the time it is assessed or at any time thereafter.

(3) No delinquency charge may be collected on an installment which is paid in full within 10 days after a scheduled installment due date even though an earlier maturing installment or a delinquency charge on it may not have been paid in full.

(4) If two installments or parts thereof of a precomputed loan are in default for 10 days, or more, the lender may elect to convert the loan from a precomputed loan to one in which the loan finance charge is based on unpaid balances. In this event he shall make a rebate pursuant to the provisions on rebate upon prepayment (§ 3210) as of the maturity date of the first delinquent installment, and thereafter may make a loan finance charge as authorized by the provisions on loan finance charge for consumer loans (§ 3201) or the provisions on loan finance charge for regulated loans governing non-precomputed loans (§ 3508(3)), whichever is appropriate. The amount of the rebate shall not be reduced by the amount of the minimum retained charge pursuant to § 3210(1). If the lender proceeds under this subsection, any delinquency or deferral charges made with respect to installments due at or after the maturity

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date of the first delinquent installment shall be rebated, and no further delinquency or deferral charges shall be made. The amounts of \$2.00 and \$5.00 in subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (§ 1106).

§ 3204. Deferral Charges.

(1) With respect to a precomputed consumer loan, the parties may before or after default agree in writing to a deferment of all or part of one or more unpaid installments, and the lender may make a charge not in excess of 18% per year of the amount deferred for the period of deferment (and proportionally for parts of a month, counting each day as one-thirtieth (1/30) of a month). A deferral charge may be collected at the time it is assessed or at any time thereafter. If the deferral charge calculated pursuant to this subsection is less than \$2.00, a deferral charge of \$2.00 may nevertheless be made.

(2) The lender may, in addition to the deferral charge, make appropriate additional charges listed in § 3202, and the amount of these charges, which is not paid in cash, may be added to the amount deferred for the purpose of calculating the deferral charge.

(3) The parties may agree in writing at the time the loan is made that if an installment is not paid within 10 days after its due date, the lender may unilaterally grant a deferment and make charges as provided in this section. No deferral charge may be made for a period after the date that the lender elects to accelerate the maturity of the agreement.

(4) No delinquency charge may be made or retained by the lender for the period of deferral of any installment which has been deferred pursuant to this section.

(5) The amounts of \$2.00 in subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (§ 1106).

§ 3205. Loan Finance Charge - Refinancing.

With respect to a precomputed consumer loan, the lender may by agreement with the debtor refinance the unpaid balance and may contract for and receive a loan finance charge based on the principal resulting from the refinancing at a rate not in excess of that permitted by the provisions on loan finance charge for consumer loans (§ 3201) or the provisions on loan finance charge for regulated loans (§ 3508), whichever is appropriate. For the purpose of determining the loan

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finance charge permitted, the principal resulting from the refinancing comprises the following:

(1) The amount which the debtor would have been required to repay upon a prepayment pursuant to the provisions on rebate upon prepayment (§ 3210) on the date of refinancing, except that for the purpose of computing this amount the minimum retained loan finance charge pursuant to § 3210(1) shall not be included; [and]

(2) The appropriate additional charges made pursuant to § 3202 but not paid in cash by the debtor.

§ 3206. Loan Finance Charge - Consolidation.

(1) If a lender makes a consumer loan, other than one pursuant to a revolving loan account, to a debtor who has an unpaid balance owing to the lender with respect to a previous consumer loan, the parties may agree to a consolidation resulting in a single schedule of payments. If the previous consumer loan is not a precomputed loan, the parties may agree to add the unpaid amount of principal at the date of consolidation to the principal with respect to the subsequent loan. If the previous consumer loan is a precomputed loan, the parties may agree to refinance the unpaid balance pursuant to the provisions on refinancing (§ 3205) and to consolidate the principal resulting from the refinancing by adding it to the principal with respect to the subsequent loan. In either case the lender may contract for and receive a loan finance charge based on the aggregate principal resulting from the consolidation at a rate not in excess of that permitted by the provisions on loan finance charge for consumer loans (§ 3201) or the provisions on loan finance charge for regulated loans (§ 3508), whichever is appropriate.

(2) The parties may agree to consolidate the unpaid balance of a consumer loan, other than one pursuant to a revolving loan account, with the unpaid balance of a consumer credit sale, other than one pursuant to a revolving charge account. The parties may agree to refinance the previous unpaid balance pursuant to the provisions on refinancing sales (§ 2205) or the provisions on refinancing loans (§ 2305), whichever is appropriate, and to consolidate the amount financed resulting from the refinancing or the principal resulting from the refinancing by adding it to the amount financed or principal with respect to the subsequent sale or loan. The aggregate amount resulting from the consolidation shall be deemed principal, and the creditor may contract for and receive a loan

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finance charge based on the principal at a rate not in excess of that permitted by the provisions on loan finance charge for consumer loans (§ 3201) or the provisions on loan finance charge for regulated loans (§ 3508), whichever is appropriate.

§ 3207. Filed Rates Excluded.

This Article does not apply to loans with respect to which rates of loan finance charts, however denominated, are filed with and subject to approval or disapproval by a subdivision or agency of this Territory or of the United States.

§ 3208. Advances to Perform Covenants of Debtor.

(1) If the agreement with respect to a consumer loan contains covenants by the debtor to perform certain duties pertaining to insuring or preserving collateral and if the lender pursuant to the agreement pays for performance of the duties on behalf of the debtor he may add the amounts paid to the debt. Within a reasonable time after advancing any sums, he shall state to the debtor the amount of the sums advanced, any charges with respect to this amount, and the revised payment schedule. No further information need be given.

(2) A loan finance charge may be made for sums advanced pursuant to subsection (1) at a rate not in excess of the rate of return yielded by the loan finance charge under the loan, except that in a revolving loan account the amount of the advance may be added to the unpaid balance of the debt and an authorized lender may make a loan finance charge not in excess of that permitted by the provisions on loan finance charge for revolving loan accounts (§ 3201).

§ 3209. Right to Prepay.

The debtor may prepay in full the unpaid balance of a consumer loan, other than a consumer loan secured primarily by real property, at any time without penalty.

§ 3210. Rebate Upon Prepayment.

(1) Upon prepayment in full of a precomputed consumer loan, the unearned portion of the loan finance charge shall be rebated to the debtor. If the obligation of the debtor pursuant to a consumer loan contains a portion of the loan finance charge by reason of discount or otherwise, the unearned portion of the loan finance charge shall be rebated to the debtor upon prepayment. If the earned portion of the loan

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finance charge is an amount less than the amount of the minimum retained charge, the lender may retain the amount of the minimum charge. The minimum retained charge is an amount which is the greater of either \$10.00 or an amount, not exceeding Twenty-Five Dollars (\$25.00), which is 5% of the principal. If the required rebate is less than One Dollar (\$1.00), no rebate need be made.

(2) Upon prepayment in full of a consumer loan other than a precomputed loan or one pursuant to a revolving loan account, the lender may collect from the debtor a charge equal to the amount of the minimum retained charge.

(3) The unearned loan finance charge is a fraction of the loan finance charge of which the numerator is the sum of the periodic balances scheduled to follow the computational period in which prepayment occurs, and the denominator is the sum of all periodic balances under either the loan agreement or, if the balance owing resulted from a refinancing agreement (§ 3205) or a consolidation agreement (§ 3206) under the refinancing agreement or consolidation agreement.

(4) In this section:

(a) *periodic balance* means the amount scheduled to be outstanding on the last day of a computational period before deducting the payment, if any, scheduled to be made on that day;

(b) *computational period* means one (1) month if one-half (1/2) or more of the intervals between scheduled payments under the agreement is one month, or more, shall otherwise mean one week, except that the total interval prior to the due date of the first scheduled instalment shall always be considered one computational period.

(5) (a) If the *computational period* is one (1) month: (i) and the number of days between the date of a loan, refinancing or consolidation and the due date of the first scheduled installment is less than twenty-five (25) days or more than thirty-five (35) days but not more than forty-five (45) days, the unearned loan finance charge shall be increased by an adjustment for each day by which the interval is less than thirty (30) days and, at the option of the lender, may be reduced by an adjustment for each day by which the interval is more than thirty (30) days; the adjustment for each day

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shall be one-thirtieth (1/30th) of that part of the loan finance charge earned in the computational period prior to the due date of the first scheduled instalment assuming that period to be one (1) month; (ii) and the interval between the date of the loan, refinancing or consolidation and the final scheduled payment date is a number of full months plus an additional number of days less than a full month, the additional number of days shall be considered a computational period only if sixteen (16) days, or more;

(b) If the *computational period* is one (1) week: (i) and the number of days between the date of the loan, refinancing or consolidation and the due date of the first scheduled instalment is less than five (5) days or more than nine (9) days but not more than eleven (11) days, the unearned loan finance charge shall be increased by an adjustment for each day by which the interval is less than seven (7) days and, at the option of the lender, may be reduced by an adjustment for each day by which the interval is more than seven (7) days; the adjustment for each day shall be one-seventh (1/7th) of that part of the loan finance charge earned in the computational period prior to the due date of the first scheduled instalment assuming that period to be one (1) month; (ii) and the interval between the date of the loan, refinancing or consolidation and the final scheduled payment date is a number of full weeks plus an additional number of days less than a full week, the additional number of days shall be considered a computational period only if four (4) days, or more.

(6) If a deferral has been agreed to pursuant to § 3204, the unearned loan finance charge shall be computed without regard to the deferment. The amount of deferment charge earned at the date of prepayment shall be calculated. If the deferment charge earned is less than the deferment charge paid, the difference shall be added to the amount of the unearned loan finance charge. Any part of a deferment charge which has been earned but not paid, shall be subtracted from any rebate of loan finance charge otherwise due, or shall be added to the unpaid balance.

(7) This Section does not preclude the collection or retention by the lender of delinquency charges made pursuant to § 3203.

(8) If the maturity is accelerated for any reason and judgment is obtained, the debtor is entitled to the same rebate as though the agreement had been prepaid at the date judgment is entered.

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(9) If the debtor dies prior to the maturity of the agreement and the unpaid balance is paid by the proceeds of credit insurance on the life of the debtor, the estate of the debtor is entitled to the same rebate as though the debtor had prepaid the agreement on the date the proceeds of the credit insurance are paid to the lender, but no later than ten (10) days after proof of death is furnished.

**ARTICLE 3
DISCLOSURE**

[Repealed by P.L. 16-73.]

**ARTICLE 4
LIMITATIONS ON AGREEMENTS AND PRACTICES**

- § 3401. Exclusions.
- § 3402. Restrictions on Balloon Payments.
- § 3403. No Assignment of Earnings.
- § 3404. Attorneys' Fees.
- § 3405. Limitation on Default Charges.
- § 3406. Notice of Transfer.
- § 3407. Confession of Judgment.

§ 3401. Exclusions.

(1) This Article does not apply to loans in which the principal is Twenty-Five Thousand Dollars (\$25,000.00), or more.

(2) The amount of Twenty-Five Thousand Dollars (\$25,000.00) in Subsection (1) is subject to change pursuant to the provisions on adjustment of dollar amounts (§ 1106).

§ 3402. Restrictions on Balloon Payments.

With respect to a consumer loan, other than one primarily for an agricultural purpose or pursuant to a revolving loan account, if any payment is more than twice as large as the average of the other payments, the debtor has the right to refinance the amount of that payment at the time it is due without penalty or other charge. The terms

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of the refinancing shall be no less favorable to the buyer than the terms of the original loan. This limitation does not apply to the extent that the payment schedule is adjusted to the seasonal or irregular income of the debtor.

§ 3403. No Assignment of Earnings.

A lender may not take an assignment of earnings of the debtor as security for payment of a consumer loan. An assignment of earnings in violation of this Section is void.

§ 3404. Attorneys' Fees.

Except as provided by the limitations on attorneys' fees in certain regulated loans (§ 3512), with respect to a consumer loan the agreement may provide for the recovery from the debtor of reasonable attorneys' fees not excess of fifteen percent (15%) of the unpaid debt at the time suit is brought, if paid or payable to an attorney not a salaried employee of the lender. An agreement in violation of this Section is void.

§ 3405. Limitation on Default Charges.

Except for reasonable expenses incurred in realizing on a security interest, the agreement with respect to a consumer loan may not provide for charges as a result of default by the debtor other than those authorized by this Act. An agreement in violation of this Section is void.

§ 3406. Notice of Transfer.

The debtor is authorized to pay the original lender until he receives notification of transfer of rights to payment pursuant to a consumer loan and that payment is to be made to the transferee of the rights. A notification which does not reasonably identify the rights transferred is ineffective. If requested by the debtor, the transferee must seasonably furnish reasonable proof that the transfer has been made and unless he does so the debtor may pay the original lender.

§ 3407. Confession of Judgment.

A debtor may not give a power of attorney to any person to confess judgment on a claim arising out of a consumer loan. A power of attorney given in violation of this Section is void.

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ARTICLE 5
REGULATED LOANS

- § 3501. Definition: *Regulated Loan*.
- § 3502. Authority to Make Regulated Loans.
- § 3503. License to Make Regulated Loans.
- § 3504. Revocation or Suspension of License.
- § 3505. Books and Records.
- § 3506. Investigations.
- § 3507. Application of Administrative Adjudication Act.
- § 3508. Loan Finance Charge: Regulated Loans Other Than Revolving Loan Accounts.
- § 3509. Same: Revolving Loan Accounts.
- § 3510. Use of Multiple Agreements to Obtain Higher Rate.
- § 3511. Restrictions on Real Property Security.
- § 3512. Limitation on Attorneys' Fees.
- § 3513. Regular Schedule of Payments; Maximum Loan Term.
- § 3514. Conduct of Business Other Than Making Loans.
- § 3515. Application of Other Provisions.

§ 3501. Definition: Regulated Loan.

(1) *Regulated loan* means a consumer loan made pursuant to a revolving loan account; or

(2) Any other consumer loan in which the rate of the loan finance charge is in excess of that provided by the provisions on loan finance charge for consumer loans (§ 3201).

§ 3502. Authority to Make Regulated Loans.

No person shall engage in the business of making regulated loans or taking assignments of rights to payment arising out of regulated loans unless the person is a supervised financial organization or has first obtained a license from the Administrator authorizing him to make regulated loans. A person authorized to make or take assignments of regulated loans shall be known as an *authorized lender*.

§ 3503. License to Make Regulated Loans.

(1) The Administrator shall receive and act on all applications for licenses to make regulated loans under this Act. Applications shall be filed in the manner prescribed by the Administrator and shall contain

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such information as the Administrator may require to make an evaluation of the financial responsibility, character and fitness of the applicant.

(2) No license shall be issued unless the Administrator, upon investigation, finds that the financial responsibility, character and fitness of the applicant, and of the members thereof (if the applicant is a co-partnership or association) and of the officers and directors thereof (if the applicant is a corporation) are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this Act.

(3) Upon written request, the applicant is entitled to a hearing on the question of his qualifications for a license if (a) the Administrator has notified the applicant in writing that his application has been denied, or (b) the Administrator has not issued a license within sixty (60) days after the application for the license was filed. A request for a hearing may not be made more than fifteen (15) days after the Administrator has mailed a writing to the applicant notifying him that the application has been denied and stating in substance the Administrator's findings supporting denial of the application.

§ 3504. Revocation or Suspension of License.

(1) The Administrator may issue to a person licensed to make regulated loans an order to show cause why his license should not be revoked or suspended for a period not in excess of six (6) months. The order shall state the place for a hearing and set a time for the hearing that is no less than ten (10) days from the date of the order. After the hearing the Administrator shall revoke or suspend the license if he finds that:

(a) the licensee has repeatedly and willfully violated this Act or any regulation or order lawfully made pursuant to this Act; or

(b) facts or conditions exist which would clearly have justified the Administrator in refusing to grant a license had these facts or conditions been known to exist at the time the application for the license was made.

(2) No revocation or suspension of a license is lawful unless prior to institution of proceedings by the Administrator notice is given to the licensee of the facts or conduct which warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for retention of the license.

(3) If the Administrator finds that probable cause for revocation of a

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license exists and that enforcement of this Act requires immediate suspension of the license pending investigation, he may, after a hearing upon five (5) days' written notice, enter an order suspending the license for not more than thirty (30) days.

(4) Whenever the Administrator revokes or suspends a license, he shall enter an order to that effect and forthwith notify the licensee of the revocation or suspension. Within five (5) days after the entry of the order he shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license to make regulated loans may relinquish the license by notifying the Administrator in writing of its relinquishment, but this relinquishment shall not affect his liability for acts previously committed.

(6) No revocation, suspension or relinquishment of a license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any debtor.

(7) The Administrator may reinstate a license, terminate a suspension or grant a new license to a person whose license has been revoked or suspended if no fact or condition then exists which clearly would have justified the Administrator in refusing to grant a license.

§ 3505. Books and Records.

Every licensee shall maintain such books and records in accordance with sound and accepted accounting principles and practices as will enable the Administrator to determine whether the licensee is complying with the provisions of this Act. The record keeping system of a licensee shall be sufficient if it reasonably discloses the information required. The books and records need not be kept in the place of business where regulated loans are made, if the Administrator is given free access to such books and records wherever located. The records pertaining to any loan need not be preserved for more than two (2) years after making the final entry relating to the loan.

§ 3506. Investigations.

For the purpose of discovering violations of this Act or securing information lawfully required by him hereunder, the Administrator may at any time investigate the loans and business and examine the books, accounts, records and files used therein, of every licensee. For such

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purpose the Administrator shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of the licensee. If the licensee's books and records are located outside this Territory the lender shall either make them available to the Administrator at a convenient location within this Territory or pay the reasonable and necessary expenses for the Administrator or his representative to examine them at the place where they are maintained. The Administrator may require the attendance of and examine under oath all persons whose testimony he may require relative to such loans or such business, and in such cases the Administrator shall have power to administer oaths to all persons called as witnesses.

§ 3507. Application of Administrative Procedure [Adjudication] Act.

Except as otherwise provided in this Article, administrative action taken by the Administrator pursuant to this Article is governed by the Administrative Adjudication Act.

§ 3508. Loan Finance Charge: Regulated Loans Other Than Revolving Loan Accounts.

(1) With respect to a regulated loan, other than a loan pursuant to revolving loan account, an authorized lender may contract for and receive a loan finance charge not in excess of that permitted by this Section. With respect to a precomputed loan, the loan finance charge is computed on the amount of the principal for length of the term of the loan, notwithstanding that the loan is payable in installments, and on the assumption that all scheduled payments will be made on time. So long as the loan finance charge does not exceed the equivalent of that permitted of this Section, it may be calculated by way of discount, monthly or annual percentage rate on the unpaid balances, or otherwise.

(2) In the case of a precomputed loan having a schedule of substantially equal and consecutive monthly installments commencing thirty (30) days from the date the loan is made, the loan finance charge may not exceed the greater of either of the following:

(a) the total of

(i) three percent (3%) per month upon that part of the loan not exceeding Three Hundred Dollars (\$300.00);

(ii) one and one-half percent (1 1/2%) per month upon that part of the loan in excess of Three Hundred Dollars (\$300.00)

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and not exceeding Five Hundred Dollars (\$500.00);

(iii) one percent (1%) per month upon that part of the loan exceeding Five Hundred Dollars (\$500.00) and not exceeding One Thousand Five Hundred Dollars (\$1,500.00); or

(b) twenty-four percent (24%) per year calculated on the unpaid balances of the principal according to the United States rule.

(3) With respect to a precomputed loan not governed by Subsection (2) or a loan which is not precomputed, the rate of the loan finance charge may not exceed a rate which, having due regard for the schedule of payments will produce a yield equivalent to that permitted by Subsection (2) for a loan having the same size, the same length of term, and a schedule of substantially equal and consecutive monthly installments commencing thirty (30) days from the date loan is made.

(4) Except as provided in Subsection (5), the term of a loan for the purpose of this Section shall be calculated in terms of calendar months beginning with the date the loan is made. Differences in the lengths of months are disregarded. Fractions of a month are treated as a full month if more than fifteen (15) days, and if fifteen (15) days or less, are disregarded. If a loan is for a period greater than or less than a year, the charges stated in Paragraph (a) of Subsection (2) shall be computed proportionally.

(5) With respect to a premium finance loan, the term of the loan may commence on the date of the inception of the insurance contract obtained for the debtor pursuant to the premium finance loan agreement.

(6) A lender may make the same loan finance charge on all principal amounts within a specified range. In this case the principal amount for the purpose of Subsection (2) is the median amount of the range within which the actual principal amount is included. A charge may be made pursuant to this Subsection only if the same loan finance charge is made for all principal amounts within the specified range and if the charge on the median amount is no more than eight percent (8%) greater than the charge that would have been made on the actual principal amount pursuant to Subsection (2).

(7) The amounts of Three Hundred Dollars (\$300.00), Five Hundred Dollars (\$500.00) and One Thousand Five Hundred Dollars (\$1,500.00) in Subsection (2) are subject to change pursuant to the provisions on adjustment of dollar amounts (§ 1106).

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SOURCE: Subsection (2)(b) amended by P.L. 16-32.

§ 3509. Same: Revolving Loan Accounts.

(1) With respect to a consumer loan made pursuant to a revolving loan account, an authorized lender may contract for and receive a loan finance charge not in excess of that permitted in this Section.

(2) A charge may be made in each billing cycle which is a percentage of an amount no greater than:

(a) the average daily balance of the debt;

(b) the unpaid balance of the debt on approximately the same day of the billing cycle; or

(c) the median amount within a specified range within which the daily average balance or the unpaid balance of the debt, on approximately the same day of the billing cycle, is included. A charge may be made pursuant to this Paragraph only if the same percentage is applied to all balances within the specified range and if the charge calculated on the median amount pursuant to this Paragraph is no more than eight percent (8%) greater than the charge that would have been calculated on the actual unpaid balance pursuant to Paragraphs (a) and (b).

(3) If the billing cycle is monthly, the charge may not exceed two percent (2%) of that part of the amount pursuant to Subsection (2) which is Five Hundred Dollars (\$500.00), or less, and one and one-half percent (1½%) on that part of this amount which is more than Five Hundred Dollars (\$500.00). If the billing cycle is not monthly, the maximum charge is that percentage which bears the same relation to the applicable monthly percentage as the number of days in the billing cycle bears to thirty (30). For the purposes of this Section, a variation of not more than four (4) days from month to month is "approximately the same day of the billing cycle."

(4) If there is an unpaid balance on the date as of which the loan finance charge is applied and the loan finance charge pursuant to this Section is less than the minimum charge, a minimum charge not exceeding Seventy Cents (\$.70) may be made if the billing cycle is monthly, or, if the billing cycle is not monthly, a minimum charge which bears the same relation to Seventy Cents (\$.70) as the number of days in the billing cycle bears to thirty (30) may be made; provided, that no

minimum charge may be made pursuant to this Section if the lender has made a charge for the same period as permitted by Paragraph (c) of Subsection (1) of § 3202 (additional charges).

(5) The amounts of Seventy Cents (\$.70) in Subsection (4) are subject to change pursuant to the provisions on adjustment of dollar amounts (§ 1106).

§ 3510. Use of Multiple Agreements to Obtain Higher Rate.

With respect to a regulated loan, no lender may permit any person, or husband and wife, to become obligated in any way under more than one (1) loan agreement with the lender or with a person related to the lender, with the intent of obtaining a higher rate of loan finance charge than would otherwise be permitted by the provisions on loan finance charge for consumer loans (§ 3508). The excess amount of loan finance charge provided for in agreements in violation of this Section are excess charges for the purposes of the provisions on effect of violations on rights of parties (§ 5201) and the provisions on civil actions by Administrator (§ 6113).

§ 3511. Restrictions on Real Property Security.

(1) With respect to a regulated loan in which the principal is Five Hundred Dollars (\$500.00), or less, a lender may not contract for a security interest in real property. A security interest taken in violation of this Section is void.

(2) The amount of Five Hundred Dollars (\$500.00) in Subsection (1) is subject to change pursuant to the provisions on adjustment of dollar amounts (§ 1106).

§ 3512. Limitation on Attorneys' Fees.

(1) With respect to a regulated loan in which the principal is Five Hundred Dollars (\$500.00), or less, the agreement may not provide for the recovery from the debtor of attorneys' fees. An agreement in violation of this Section is void.

(2) The amount of Five Hundred Dollars (\$500.00) in Subsection (1) is subject to change pursuant to the provisions on adjustment of dollar amounts (§ 1106).

§ 3513. Regular Schedule of Payments; Maximum Loan Term.

(1) Regulated loans payable in installments in which the principal is

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One Thousand Five Hundred Dollars (\$1,500.00), or less, shall be repayable in substantially equal installments which shall be payable at equal periodic intervals, except as may be requested by the debtor by reason of fluctuations in his income because of the nature of his occupation. Regulated loans in which the principal is One Thousand Five Hundred Dollars (\$1,500.00), or less, shall be scheduled to be payable over a period of not more than thirty-six months (36) months.

(2) The amounts of One Thousand Five Hundred Dollars (\$1,500.00) in Subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (§ 1106).

§ 3514. Conduct of Business Other Than Making Loans.

A licensee may carry on another business at the location where he makes regulated loans unless he carries on the business for the purpose of evasion or violation of this Act.

§ 3515. Application of Other Provisions.

Except as otherwise provided, all provisions of this Act applying to consumer loans apply to regulated loans.

ARTICLE 6
LOANS OTHER THAN CONSUMER LOANS

- § 3601. Loans Subject to Act by Agreement of Parties.
- § 3602. Loan Finance Charge for Certain Loans to Individuals.
- § 3603. Applicability of Other Provisions.
- § 3604. Limitation on Default Charges.
- § 3605. Loan Finance Charge for Other Loans.

§ 3601. Loans Subject to Act by Agreement of Parties.

The parties to a loan other than a consumer loan may agree in a writing signed by the parties that the loan is subject to the provisions of this Act applying to consumer loans. If the parties so agree, the loan is a consumer loan for the purposes of this Act.

§ 3602. Loan Finance Charge for Certain Loans to Individuals.

- (1) With respect to a loan other than a consumer loan, the parties

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may contract for the payment by the debtor of a loan finance charge not in excess of that permitted by this Section if:

(a) the principal is Twenty-Five Thousand Dollars (\$25,000.00), or less; and

(b) the debtor is either (i) a person other than an organization or (ii) an organization if the debt is secured primarily by a security interest in one (1) or two (2) family dwelling occupied by a person related to the organization.

(2) With respect to a loan other than one pursuant to a revolving loan account the parties may contract for the payment by the debtor of a loan finance charge not in excess of twenty-four percent (24%) per year calculated on the unpaid balances of the principal according to the United States rule.

(3) With respect to a loan pursuant to a revolving loan account, the parties may contract for the payment by the debtor of a loan finance charge not in excess of that permitted by the provisions on loan finance charge for revolving loan accounts (§ 3509).

(4) The amount of Twenty-Five Thousand Dollars (\$25,000.00) in Subsection (1) is subject to change pursuant to the provisions on adjustment of dollar amounts (§ 1106).

SOURCE: Subsection (2) amended by P.L. 16-32.

§ 3603. Applicability of Other Provisions.

Except for the rate of the loan finance charge, the provisions of Article 2 of this Chapter apply to a loan for which loan finance charge ceilings are set by § 3602 (certain loans to individuals).

§ 3604. Limitation on Default Charges.

The agreement with respect to a loan for which loan finance charge ceilings are set by § 3602 (certain loans to individuals) may not provide for any charges as a result of default by the debtor except for reasonable attorneys' fees and reasonable expenses incurred in realizing on a security interest and charges that could have been made had the loan been a consumer loan. An agreement in violation of this Section is void.

§ 3605. Loan Finance Charge for Other Loans.

With respect to a loan other than a consumer loan or a loan for which loan finance charge ceilings are set by § 3602 (certain loans to

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individuals), the parties may contract for the payment by the debtor of any loan finance charge agreed in writing.
