

GUAM CODE ANNOTATED

TITLE 14

UNIFORM CONSUMER CREDIT CODE

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**CHAPTER 1
GENERAL PROVISIONS AND DEFINITIONS**

- Article 1. Short Title, Construction, and General Provisions.
- Article 2. Scope.
- Article 3. General Definitions.

**ARTICLE 1
SHORT TITLE, CONSTRUCTION, AND GENERAL PROVISIONS**

- § 1101. Short Title.
- § 1102. Purposes; Rules of Construction.
- § 1103. Supplementary General Principles of Law Applicable.
- § 1104. Construction Against Implicit Repeal.
- § 1105. Severability.
- § 1106. Adjustment of Dollar Amounts.
- § 1107. Waiver or Agreement to Forego.
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§ 1101. Short Title.

This Act shall be known and maybe cited as the *Uniform Consumer Credit Code*.

SOURCE: This section, and the remainder of this Title, were added by P.L. 9-253, effective on June 30, 1969. Only later amendments will be noted from here on. The UCCC was reenacted without change as Title 14 of the Guam Code Annotated by P.L. 15-104.

§ 1102. Purposes: Rules of Construction.

(1) This Title shall be liberally construed and applied to promote the underlying purposes and policies.

(2) The underlying purposes and policies of this Act are:

(a) to simplify, clarify and modernize the law governing retail installment sales, consumer credit, small loans and usury;

(b) to further consumer understanding of the terms of credit transactions and to promote competition among suppliers of consumer credit;

(c) to protect consumer buyers, lessees and borrowers against unfair practices by some suppliers of consumer credit, having due

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regard for the interests of legitimate and scrupulous creditors;

(d) to permit and encourage the development of fair and economically sound consumer credit practices; and

(e) to make uniform the law among the various jurisdictions.

§ 1103. Supplementary General Principles of Law Applicable.

Unless displaced by the particular provisions of this Title, the principles of law and equity, including the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause shall supplement its provisions.

§ 1104. Construction Against Implicit Repeal.

This Act being a general act intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

§ 1105. Severability.

If any provision of this Title or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Title which can be given effect without the invalid provision or application, and to this end, the provisions of this Title are severable.

§ 1106. Adjustment of Dollar Amounts.

(1) From time to time the dollar amounts in this title designated as subject to change shall change, as provided in this section, in accordance with and to the extent of changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, 1957-59 = 100, compiled by the Bureau of Labor Statistics, United States Department of Labor, and hereafter referred to as the Index for December 1967, is the Reference Base Index.

(2) The designated dollar amounts shall change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the Index at the end of the preceding year and the Reference Base Index is ten per cent (10%), or more, except that:

(a) the portion of the percentage change in the Index in excess of a multiple of ten per cent (10%) shall be disregarded and the dollar

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amounts shall change only in multiples of ten percent (10%) of the amounts appearing in this Title on June 30, 1969;

(b) the dollar amounts shall not change if the amounts required by this Section are those currently in effect pursuant to this Act and

(c) in no event shall the dollar amounts be reduced below the amounts appearing in this Act on the date of enactment.

(3) On or before April 30 of each year in which dollar amounts change, the Administrator shall issue a rule announcing the changes. Until the Administrator issues the rule required by this subsection, no person is in violation of this Title who acts in reliance upon the dollar amounts appearing in the last rule announcing changes, or, if no changes have been announced, upon the amounts appearing in this Act on the date of enactment.

(4) The designated dollar amount shall change upon the effective date of this Act if the percentage of change between the Index at the end of the odd-numbered year preceding the effective date of this Act and the Reference Base Index would require change pursuant to subsection (2). The Administrator shall promptly issue a rule announcing the changes. Until the Administrator issues the rule required by this subsection, no person is in violation of this Title who acts in reliance upon the dollar amounts appearing in this Title on the date of enactment.

(5) If the Index is revised after December 1967, the percentage of change pursuant to this Section shall be calculated on the basis of the revised Index. If the revision of the Index changes the Reference Base Index, a revised Reference Base Index shall be determined by multiplying the Reference Base Index then applicable by the ratio of the revised Index to the current Index, as each was for the first month in which the revised Index was available. If the Index is superseded, the Index referred to in this Section shall be the one represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for consumers.

§ 1107. Waiver or Agreement to Forego.

(1) Except as provided in Subsection (2), a debtor may not waive or agree to forego rights or benefits under this Title.

(2) After his default in payment and apart from or in connection with a deferment (§ 2204 or § 3204), a refinancing (§ 2205 or § 3205), or a

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consolidation (§ 2206 or § 3206), the debtor may waive or agree to forego rights and benefits under:

(a) the provisions of Chapter 2 (Sales) with respect to balloon payments (§ 2405), liability on consumer leases (§ 2406), security in sales (§ 2407), cross-collateral (§§ 2408-9) and assignment of earnings (§ 2410); and

(b) the provisions of Chapter 3 (Loans) with respect to assignment of earnings (§ 3403), real property security (§ 3511) and maximum loan term (§ 3513).

§ 1108. Effect of Title on Powers of Organizations.

This Title authorizes creditors to make credit service charges, loan finance charges and other charges in certain transactions at rates or in amounts which may vary from those allowed by prior law. The Chapter on Effective Date and Repealer (Chapter 8) provides for the amendment or repeal of certain laws. This title does not otherwise authorize an organization to perform functions which it is not authorized to perform under the laws of Guam or of the United States governing or pertaining to the powers, privileges, restrictions or limitations of the organization.

ARTICLE 2
SCOPE

§ 1201. Territorial Application.

§ 1201. Territorial Application.

(1) This Title applies to sales, leases and loans made in Guam and to refinancings, consolidations and deferrals, made in Guam, of sales, leases and loans, wherever made. For purposes of this Title:

(a) a sale or modification of a sale agreement is made in Guam if the buyer's agreement or offer to purchase or to modify is received by the seller or his representative in Guam;

(b) a lease or modification of a sale agreement is made in Guam if the lessee's agreement or offer to lease or to modify is received by the lessor or his representative in Guam; and

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(c) a loan or modification of a loan agreement is made in Guam if the writing signed by the debtor evidencing the debt is received by the lender or his representative in Guam.

(2) With respect to sales made pursuant to a revolving charge account (§ 2108), this Title applies if the buyer's communication, whether written or oral, of his intention to enter into a revolving charge account with the seller is received by the seller or his representative in Guam. If no communication of intention is given by the buyer, this Title applies if the seller gives the buyer the privilege of using a revolving charge account and the seller's communication notifying the buyer of this privilege is received in Guam.

(3) With respect to loans made pursuant to a credit card or similar arrangement (§ 1301(6)), this Title applies if the debtor's communication, whether written or oral, of the intention to enter into a credit card or similar arrangement with the lender is received by the lender or his representative in Guam. If no communication of intention is given by the debtor, this Title applies if the lender gives the debtor the privilege of using a credit card or similar arrangement and the lender's communication notifying the debtor of this privilege is received by the debtor in Guam.

(4) The Article on Limitations on Creditor's Remedies (Article 1) of Chapter 5 (Remedies and Penalties) applies to actions or other proceedings brought in Guam to enforce rights arising out of sales, leases, or loans, wherever made.

(5) If actions or other proceedings are brought in Guam to enforce rights arising out of sales, leases, loans or modifications thereof, wherever made, to a person who was a resident of Guam when the sale, lease, loan or modification was made the following provisions apply as though the sale, lease, loan or modification had been made in Guam:

(a) a seller, lessor, lender, or transferee of his rights, may not collect charges through actions or other proceedings in excess of those permitted by Chapter 2 (Credit Sales) or by Chapter 3 (Loans); and

(b) a seller, lessor, lender or transferee of his rights, may not enforce rights against the buyer, lessee or debtor, under agreements in violation of the provisions on Contract Limitations (Article 4) of Chapter 2 (Sales) or Chapter 3 (Loans).

(6) Except as provided in subsection (4), a sale, lease, loan or modification thereof, made in another state to a person who was not a

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resident of Guam at the time the sale, lease, loan or modification was made is valid and enforceable in Guam according to its terms, unless it was made in violation of the laws of the state or territory applicable to the transaction.

(7) For the purposes of this Title, the residence of a buyer, lessee, or debtor, is the address given by him as his residence in any writing signed by him in connection with a credit transaction. Until and unless he notifies the creditor of a new or different address, his address is presumed to be unchanged.

(8) With respect to sales, leases, loans or modifications thereof, to which this Title applies, the following agreements by a buyer, lessee or debtor are invalid:

(a) that the law of another territory or state shall apply; and

(b) that the buyer, lessee or debtor consents to the jurisdiction of another territory or state.

(9) The following provisions of this Title specify the applicable law governing certain cases:

(a) Applicability of the Article on Powers and Functions of the Administrator (Article 1) of Chapter 6 (Administration), § 6101.

(b) Applicability of the Article on Notification and Fees (Article 2) of Chapter 6 (Administration), § 6201.

ARTICLE 3
GENERAL DEFINITIONS

§ 1301. Definitions.

§ 1301. Definitions.

In addition to definitions appearing in subsequent articles, in this Title:

(1) *Administrator* means the administrator designated in § 6103.

(2) *Agreement* means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance.

(3) *Agricultural purpose* means a purpose relating to farming in

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all its branches, including but not limited to producing, cultivating, growing or harvesting of any agricultural, horticultural, viticultural, or pomicultural commodities, including crude gum or sap from a living tree, dairying, raising, caring for and managing livestock, bees, domestic and wild fur bearing or other animals, poultry, operating nurseries and greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and any operations (including forestry or lumbering) performed by a farmer or on a farm as an incident to farming, including preparing for market, storing, delivering to storage or to market or to carriers for transportation to market or storage.

(4) *Conspicuous*: A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals is conspicuous. Language in the body of a form is conspicuous if it is in larger or other contrasting type or color. Whether a term or clause is conspicuous is for decision by the court.

(5) *Credit* means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(6) *Credit card or similar arrangement* means an arrangement pursuant to which a lender gives a debtor the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises:

(a) by the lender's honoring the debtor's draft or similar order for the payment of money;

(b) by the lender's payment or agreement to pay the debtor's obligations; or

(c) by the lender's purchase from the obligee of the debtor's obligations.

An arrangement pursuant to which a seller gives to a buyer the privilege of using a credit card, letter of credit, or other credit confirmation or identification for the purchase of goods or services from the seller or his affiliate is not a credit card or similar arrangement.

(7) *Earnings* means compensation paid or payable to an individual or for his account for personal services rendered by him and periodic payments pursuant to a pension or retirement program.

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(8) *Official fees* mean amounts, including taxes, required or authorized by law and actually paid or to be paid to a public official or a government or a governmental subdivision or agency with respect to a grant of credit or to determine the existence of, to perfect, or to release a contractual security interest.

(9) *Organization* means a corporation, government or governmental subdivision or agency, business or other trust, estate, partnership or association.

(10) *Payable in installments* means (a) payable in two or more periodic payments, not including a down payment, with respect to a debt arising from a sale pursuant to which a credit service charge is made, (b) payable in four or more periodic payments, not including a down payment, with respect to a debt arising from a sale pursuant to which no credit service charge is made, (c) payable in four or more periodic payments with respect to a debt arising from a lease, or (d) payable in two or more periodic payments with respect to a debt arising from a loan.

(11) *Person* includes a natural person or an individual, and an organization.

(12) *Person related to* with respect to an individual means (a) the spouse of the individual, (b) a brother, brother-in-law, sister, sister-in-law of the individual, (c) an ancestor or lineal descendant of the individual or his spouse, and (d) any other relative, by blood or marriage, of the individual or his spouse who shares the same home with the individual.

Person related to with respect to an organization means (a) a person directly or indirectly controlling, controlled by or under common control with the organization, (b) an officer or director of the organization or a person performing similar functions with respect to the organization or to a person related to the organization, (c) the spouse of a person related to the organization, and (d) a relative by blood or marriage of a person related to the organization who shares the same home with him.

(13) *Presumed* means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its non-existence.

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(14) *Supervised financial organization* means a person, other than an insurance company or other organization doing an insurance business:

(a) organized, chartered or holding an authorization certificate under the laws of Guam or of the United States which authorizes the person to make loans and to receive deposits, including a savings, share, certificate or deposit account; and

(b) subject to supervision by an official or agency of Guam or of the United States.

(15) *United States rule* means the actuarial method of allocating payments made on a debt between principal or amount financed and loan finance charge or credit service charge, pursuant to which a payment is applied first to the accumulated loan finance charge or credit service charge and the balance is applied to the unpaid principal or amount financed.
