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LEGAL UPDATES

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A New Colorado Bill Seeks To Subject More Fees To Consumer Credit Rate Caps

Colorado is in the headlines again. On January 29, a bill was introduced in the Colorado legislature to include certain additional charges in the total amount of finance charges subject to rate limits under the Colorado Consumer Credit Code. See H.B. 24-1148. Similar to “all-in” rate caps in other states, the Colorado bill, if passed, would limit the ability of certain consumer lenders to charge and receive the covered additional charges.

Of particular note, H.B. 24-1148 applies the more inclusive finance charge calculation only to supervised loans and consumer credit sales made by “nondepository institutions.” This term is a misnomer. The bill defines “nondepository institution” to include federally insured state banks chartered by a state other than Colorado. National banks, Colorado banks, and credit unions whose accounts are insured by the Federal Credit Union Act are excluded from the term “nondepository institutions.” As a result, these depository institutions are not subject to the fee limitations set forth in the bill.

The bill provides that if any of the following charges are contracted for or received by a “nondepository institution,” then the total amount of the charges must be included in the calculation of the finance charge subject to the Consumer Credit Code’s rate caps:

Any credit insurance premium or fee, any charge for single premium credit insurance, any fee for a debt cancellation contract, or any fee for a debt suspension agreement.

Any other charges for insurance listed in Section 5-2-202(1)(b) and (3) (the Code’s additional charges provision).

Any fee for a credit-related ancillary product sold in connection with the credit transaction.

Any application fee charged to a consumer who applies for consumer credit.

Charges for other benefits conferred on the consumer as described in Section 5-2-202(1)(d) (the Code's additional charges provision).

H.B. 24-1148 changes the finance charge calculation for certain lenders and consumer credit, but the bill does not change the existing numerical rate caps on finance charges under the Colorado Consumer Credit Code.

Last year, Colorado garnered national attention by passing a law to opt out of federal interest rate exportation for certain consumer loans made in Colorado by federally insured state banks. The unusual definition of "nondepository institution" in H.B. 24-1148 appears to be another effort to target out-of-state state banks lending in Colorado. H.B. 24-1148 has also been introduced at a time when fees are under increased scrutiny on the federal and state level.

Contact us

If you have questions about the proposed Colorado bill or about permissible rates and fees in Colorado or other states, contact Susan Seaman, Marci Kawski, or your Husch Blackwell attorney.